VOLUME II

CODE OF IOWA

2022

CONTAINING

ALL STATUTES OF A GENERAL AND PERMANENT NATURE

Including the Acts of a permanent nature
with January 1, 2022, or earlier effective dates through the
Eighty-ninth General Assembly, 2021 Regular and Extraordinary Sessions

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—

2021

PREFACE TO 2022 IOWA CODE

IOWA CODE — ANNUAL ELECTRONIC PUBLICATIONS — BIENNIAL PRINTED HARDBOUND VOLUMES. The Iowa Code is published pursuant to Iowa Code chapters 2A and 2B by the Legislative Services Agency. An official copy in PDF format and an unofficial and searchable version of the Iowa Code are published following each regular session of a General Assembly on the Internet and on the Iowa Law Infobase. Printed hardbound volumes of the Iowa Code and the Tables and Indexes are published following the second regular session of a General Assembly.

CODE CONTENTS AND EFFECTIVE AND APPLICABILITY DATES. This 2022 Iowa Code includes all enactments with a January 1, 2022, or earlier effective date from the 2021 Regular and Extraordinary Sessions of the Eighty-ninth Iowa General Assembly and includes enactments from prior sessions that were effective on or before that date. Unless otherwise indicated in the text or in a footnote, new sections, amendments, and repeals from the 2021 Regular Session were effective on or before July 1, 2021. New sections, amendments, and repeals from the 2021 Second Extraordinary Session were effective as stated in the enactments. Refer to specific enactments to determine effective and applicability dates. The Table of Contents enumerates the titles and subtitles in this Iowa Code, and each volume contains an analysis by title, subtitle, and chapter. Codified and original versions of the Constitution of the State of Iowa are included at the beginning of Volume I.

EDITORIAL DECISIONS. All duplicative or nonconflicting amendments to a Code section or part of a Code section were harmonized as required under Iowa Code sections 2B.13 and 4.11. A strike or repeal prevailed over an amendment to the same material. If amendments were irreconcilable, the last amendment in the Act, or latest in date of enactment, was codified as provided in Iowa Code sections 2B.13 and 4.8. Code Editor's Notes at the beginning of each Code volume explain editorial decisions. Iowa Code sections 2B.13 and 2B.17A govern editorial changes and their effective dates.

HISTORIES AND NOTES. Bracketed material at the end of Code sections traces the sections' histories up through 1982. Beginning with the 1983 Legislative Session, Code section histories are traced by citing all Iowa Acts amending or enacting the Code sections. The history of a transferred section includes the publication year and the Code section from which the transfer took place. An explanatory note describing the most recent changes in each new, amended, or revised Code section follows the history. Internal reference citations follow Code titles, subtitles, chapters, chapter subunits, or sections.

TABLES AND INDEXES. Tables and Indexes are published online annually, and contain conversion tables of Senate and House files and Joint Resolutions to Iowa Acts chapters, tables of disposition of Iowa Acts, tables of Code sections altered, tables of corresponding sections, an Iowa Constitution Index, a General Index, and a Skeleton Index.

EDITORIAL STAFF. The 2022 Iowa Code senior legal editorial staff included Michael Duster, Senior Legal Counsel; John Heggen, Legal Services Editor; and Nicholas Schroeder, Legal Services Editor. The editorial staff of the Iowa Code welcomes comments and suggestions for improvements.

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Iowa Code Editor

Orders for legal publications, including the Iowa Code and Iowa Law Infobase, should be directed to:

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Des Moines, Iowa 50319
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www.legis.iowa.gov/law/information

CODE EDITOR'S NOTES

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Simple Harmonization Note

The multiple amendments do not conflict, so they were harmonized to give effect to each as required by Code sections 2B.13 and 4.11. In some cases where this note is referenced, the amendments are identical. Under Code section 2B.13, a strike or repeal prevails over an amendment to the same material and does not create a conflict.

15.331C

2021 Acts, ch 86, §1, 6, 7, amends this Code section by changing a tax credit that can be claimed by a corporation to a tax credit that can be claimed by either an eligible business or an individual who is part of a partnership, limited liability company, S corporation, estate, or trust that elects to have income taxed directly to the individual. The amendment took effect May 10, 2021, and applies retroactively to January 1, 2020. 2021 Acts, ch 86, §48, changes the words "goods, wares, or merchandise" to "tangible personal property" in the language of the former corporate tax credit effective July 1, 2021. The amendments conflict and 2021 Acts, ch 86, §1, because it replaces the former corporate tax credit retroactive to January 1, 2020, was codified.

490.901

2021 Acts, ch 165, §263, 266, amends former Code section 490.901 effective June 8, 2021. The amendment to the Code section text includes language repealing the Code section effective January 1, 2022. 2021 Acts, ch 165, §124, 216, 230, enacts and then transfers new Code section 490.901A to become new Code section 490.901 effective January 1, 2022. The repeal of former Code section 490.901 and the transfer of new Code section 490.901A to become Code section 490.901 were both codified, but the amendment to former Code section 490.901 was in effect from June 8, 2021, until January 1, 2022.

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DESIGNATION OF GENERAL ASSEMBLY — OFFICIAL LEGAL PUBLICATIONS — CITATIONS

2.2 Designation of general assembly.

1. Each regular session of the general assembly shall be designated by the year in which it convenes and by a number with a new consecutive number assigned with the session beginning in each odd-numbered year.

2. A special session of the general assembly shall be designated as an extraordinary session in the particular year of a numbered general assembly.

2B.17 Official legal publications — citations.

1. A legal publication designated as official by the legislative services agency as provided in sections 2.42 and 2A.1 is the authoritative and official electronic or print version of the statutes, administrative rules, or court rules of the state of Iowa.

2. *a.* The codified state constitution shall be known as the Constitution of the State of Iowa.

b. For statutes, the official versions of publications shall be known as the Iowa Acts, the Iowa Code, and the Code Supplement for supplements for the years 1979 through 2011.

c. For administrative rules, the official versions of the publications shall be known as the Iowa Administrative Bulletin and the Iowa Administrative Code.

d. For court rules, the official legal publication shall be known as the Iowa Court Rules.

3. The legislative services agency may adopt a style manual providing a uniform system of citing the codified Constitution of the State of Iowa and the official versions of publications listed in subsection 2, including by reference to commonly accepted legal sources. The legislative services agency style manual may provide for a different form of citation for electronic and printed versions of the same publication. Nothing in this section affects rules for style and format adopted pursuant to section 2.42.

4. The codified Constitution of the State of Iowa, and statutes enacted and joint resolutions enacted or passed by the general assembly shall be cited as follows:

a. The codified Constitution of the State of Iowa shall be cited as the Constitution of the State of Iowa, with a reference identifying the preamble or boundaries, or article, section, and subunit of a section. Subject to the legislative services agency style manual, the Constitution of the State of Iowa may be cited as the Iowa Constitution.

b. The Iowa Acts shall be cited as the Iowa Acts with a reference identifying the year of the publication in conformance with section 2.2, and the chapter of a bill enacted or joint resolution enacted or passed during a regular session, or in the alternative the bill or joint resolution chamber designation, and the section of the chapter or bill or subunit of a section. A bill or joint resolution enacted or passed during a special session shall be cited by the extraordinary session designation in conformance with section 2.2. If the Iowa Acts have not been published, a bill or joint resolution may be cited by its bill or joint resolution chamber designation.

c. The Iowa Code shall be cited as the Iowa Code. Supplements to the Iowa Code published for the years 1979 through 2011 shall be cited as the Code Supplement. Subject to the legislative services agency style manual, the Iowa Code may be cited as the Code of Iowa or Code and the Code Supplement may be cited as the Iowa Code Supplement, with references identifying parts of the publication, including but not limited to title or chapter, section, or subunit of a section. If the citation refers to a past edition of the Iowa Code or Code Supplement, the citation shall identify the year of publication. The legislative services agency style manual shall provide for a citation form for any supplements to the Iowa Code published after the year 2013.

5. Administrative rules shall be cited as follows:

a. The Iowa Administrative Bulletin shall be cited as the IAB, with references identifying the volume number which may be based on a fiscal year cycle, the issue number, and the ARC number assigned to the rulemaking document by the administrative rules coordinator pursuant to section 17A.4. Subject to the legislative services agency style manual, the citation may also include the publication's page number.

b. The Iowa Administrative Code shall be cited as the IAC, with references to an agency's identification number placed at the beginning of the citation and with references to parts of the publication, including but not limited to chapter, rule, or subunit of a rule.

6. The Iowa Court Rules shall be cited as the Iowa Court Rules, with references to the rule number and to subunits of the publication, which may include but are not limited to the Iowa Rules of Civil Procedure, the Iowa Rules of Criminal Procedure, the Iowa Rules of Evidence, the Iowa Rules of Appellate Procedure, the Iowa Rules of Professional Conduct, and the Iowa Code of Judicial Conduct. Subject to the legislative services agency style manual, the names of the rules may be abbreviated.

Chapters of the Code are cited as whole numerals; as chapter 135 or chapter 135A.

Sections are cited as decimal numerals; as section 135.101 or section 135A.2. Sections are often divided into subunits. The following is an example of the hierarchical structure of a Code section:

Section: 8C.7A	Subparagraph division: (a)
Subsection: 3	Subparagraph subdivision: (iv)
Paragraph: c	Subparagraph part: (A)
Subparagraph: (3)	Subparagraph subpart: (I)

The above Code section example may be abbreviated as 8C.7A(3)(c)(3)(a)(iv)(A)(I).

ABBREVIATIONS

C51 ..... Code of 1851
R60 ..... Revision of 1860
C73 ..... Code of 1873
C97 ..... Code of 1897
S'02 ..... Supplement of 1902
S'07 ..... Supplement of 1907
S13 ..... Supplement of 1913
SS15 ..... Supplemental Supplement 1915
C24 ..... Code of 1924
C27 ..... Code of 1927
C31 ..... Code of 1931
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C71 ..... Code of 1971
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C75 ..... Code of 1975
C77 ..... Code of 1977
C79 ..... Code of 1979
S79 ..... Supplement of 1979
C81 ..... Code of 1981
S81 ..... Supplement of 1981
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C2014 ..... Code of 2014
C2015 ..... Code of 2015
C2016 ..... Code of 2016
C2017 ..... Code of 2017
C2018 ..... Code of 2018
C2019 ..... Code of 2019
C2020 ..... Code of 2020
C2021 ..... Code of 2021
C2022 ..... Code of 2022
GA ..... General Assembly
§ or Sec. ..... Section
Art. ..... Article
Ch ..... Chapter
1st Ex ..... First Extra Session
2nd Ex ..... Second Extra Session
R (in tables) ..... Repealed
Vol ..... Volume
Ct.R. ..... Court Rule
R.C.P. ..... Rules of Civil Procedure
R.Cr.P. ..... Rules of Criminal Procedure
R.App.P. .... Rules of Appellate Procedure
R.Prob.P. ..... Rules of Probate Procedure
Stat. ..... Statutes at Large (U. S.)
U.S.C. ..... United States Code
U.S.C. App. United States Code Appendix
Pub. L. No. ... Public Law Number (U. S.)
C.F.R. Code of Federal Regulations (U. S.)
Tit. ..... Title in federal Acts
Subtit. ..... Subtitle in federal Acts
Pt. ..... Part in federal Acts
Subpt. ..... Subpart in federal Acts

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TITLE III

PUBLIC SERVICES AND REGULATION

SUBTITLE 1

PUBLIC SAFETY

CHAPTER 80

DEPARTMENT OF PUBLIC SAFETY

Referred to in §10A.601, 152C.5B, 157.4A, 801.4

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80.1 Department created.

There is hereby created a department of the state government which shall be known and designated as the department of public safety, which shall consist of a commissioner of public safety and of such officers and employees as may be required, one of whom shall be an attorney admitted to practice law in this state. Such attorney shall be an assistant attorney general appointed by the attorney general who shall fix the assistant's salary. The department shall reimburse the attorney general for the salary and expense of such assistant attorney general and furnish the assistant a suitable office if requested by the attorney general.

[C39, §**1225.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.1]

Referred to in §7E.5

80.1A Definitions.

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

1. *"Commissioner"* means the commissioner of public safety.
2. *"Controlled substance"* means the same as defined in section 124.101.
3. *"Counterfeit substance"* means the same as defined in section 124.101.
4. *"Department"* means the department of public safety.
5. *"Peace officer"* means a peace officer of the department as defined in section 97A.1.

2005 Acts, ch 35, §1

80.2 Commissioner — appointment.

The chief executive officer of the department of public safety is the commissioner of public safety. The governor shall appoint, subject to confirmation by the senate, a commissioner of public safety, who shall be a person of high moral character, of good standing in the community in which the commissioner lives, of recognized executive and administrative capacity, and who shall not be selected on the basis of political affiliation. The commissioner of public safety shall devote full time to the duties of this office; the commissioner shall not engage in any other trade, business, or profession, nor engage in any partisan or political activity. The commissioner shall serve at the pleasure of the governor, at an annual salary as fixed by the general assembly.

[C39, §**1225.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.2]

88 Acts, ch 1278, §22

Confirmation, see §2.32

80.3 Vacancy.

A commissioner of public safety appointed when the general assembly is not in session shall serve at the pleasure of the governor, but the term shall expire thirty days after the general assembly next convenes in regular session, unless during such thirty days the commissioner be approved by two-thirds of the members of the senate.

[C39, §**1225.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.3]

80.4 General allocation of duties.

1. In general, the allocation of duties of the department shall be as follows:

a. Commissioner's office.
b. Division of administrative services.
c. Division of criminal investigation.
d. Division of state patrol.
e. Division of state fire marshal.
f. Division of narcotics enforcement.

2. The commissioner may appoint a chief, director, a first and second assistant to the director, and all other supervisory officers in each division. All appointments and promotions shall be made on the basis of seniority and a merit examination.

3. The allocation of duties described in this section shall not be interpreted to prevent

flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the commissioner.

[SS15, §147; C24, 27, 31, 35, 39, §**273(4), 1225.21;** C46, 50, 54, 58, 62, 66, 71, §18.2(4), 80.17; C73, §19B.12(2), 80.17; C75, §18.12(2), 80.17; C77, 79, 81, §80.17]

98 Acts, ch 1074, §8; 2000 Acts, ch 1154, §9; 2003 Acts, ch 108, §24; 2005 Acts, ch 35, §12; 2019 Acts, ch 24, §104

C2020, §80.4

2021 Acts, ch 80, §28

Referred to in §99F.1
State fire marshal, chapter 100
Division of criminal investigation, chapter 690
Former §80.4 repealed by 2005 Acts, ch 35, §32
Subsection 3 amended

80.5 Duties of department — duties and powers of peace officers — state patrol.

1. It shall be the duty of the department to prevent crime, to detect and apprehend criminals, and to enforce such other laws as are specified.

2. The state patrol is established in the department. The patrol shall be under the direction of the commissioner. The number of supervisory officers shall be in proportion to the membership of the state patrol. The department shall maintain a vehicle theft unit in the state patrol to investigate and assist in the examination and identification of stolen, altered, or forfeited vehicles.

3. The department shall be primarily responsible for the enforcement of all laws and rules relating to any controlled substance or counterfeit substance, except for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, physicians, hospitals, and health care facilities as defined in section 135C.1, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances.

4. The department shall collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe.

5. The department shall operate such radio broadcasting stations as may be necessary in order to disseminate information which will make possible the speedy apprehension of lawbreakers, as well as such other information as may be necessary in connection with the duties of the department.

6. The department shall provide protection and security for persons and property on the grounds of the state capitol complex.

7. *a.* The department shall assist persons who are responsible for the care of private and public land in identifying growing marijuana plants when the plants are reported to the department. The department shall also provide education to the persons regarding methods of eradicating the plants.

b. Notwithstanding paragraph *"a"*, the department is not required to provide such assistance if the marijuana plants are hemp produced in accordance with the provisions of chapter 204.

c. The department shall adopt rules necessary to carry out this subsection.

8. The department shall receive and review the budget submitted by the state fire marshal and the state fire service and emergency response council. The department shall develop training standards, provide training to fire fighters around the state, and address other issues related to fire service and emergency response as requested by the state fire service and emergency response council.

9. The department shall administer section 100B.31 relating to volunteer emergency services provider death benefits.

[C73, §120; C97, §147, 148; SS15, §65-b, 147; C24, §273, 13410; C27, 31, §273, 5017-a1, 13410; C35, §273, 5018-g6, 13410; C39, §**273, 1225.13;** C46, 50, 54, 58, 62, 66, 71, §18.2(1, 4), 80.9; C73, §19A.3(4), 80.9; C75, §18.3(4), 80.9; C77, 79, 81, §80.9]

90 Acts, ch 1179, §1; 91 Acts, ch 34, §1; 92 Acts, ch 1238, §18; 94 Acts, ch 1154, §1; 95 Acts, ch 191, §2; 98 Acts, ch 1074, §6; 99 Acts, ch 181, §1; 2000 Acts, ch 1117, §4, 5; 2000 Acts, ch 1232, §96; 2005 Acts, ch 35, §4 – 8, 31; 2007 Acts, ch 38, §1 – 3; 2008 Acts, ch 1031, §87; 2019 Acts, ch 24, §104

C2020, §80.5

2019 Acts, ch 130, §21, 33; 2021 Acts, ch 80, §29

Referred to in §8D.13

Department designated as state highway safety agency to receive federal funds; Executive Order No. 23, June 9, 1986

Former §80.5 repealed by 2005 Acts, ch 35, §32

Subsection 1 amended

80.6 Employees and peace officers — salaries and compensation.

1. The commissioner shall employ personnel as may be required to properly discharge the duties of the department.

2. The commissioner may delegate to the peace officers of the department such additional duties in the enforcement of this chapter as the commissioner may deem proper and incidental to the duties now imposed upon them by law.

3. *a.* The salaries of peace officers and employees of the department and the expenses of the department shall be provided for by a legislative appropriation. The compensation of peace officers of the department shall be fixed according to grades as to rank and length of service by the commissioner with the approval of the department of administrative services, unless covered by a collective bargaining agreement that provides otherwise.

b. The peace officers shall be paid additional compensation in accordance with the following formula:

(1) When peace officers have served for a period of five years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period;

(2) When peace officers have served for a period of ten years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service;

(3) When peace officers have served for a period of fifteen years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein;

(4) When peace officers have served for a period of twenty years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein.

c. While on active duty, each peace officer shall also receive a flat daily sum as fixed by the commissioner for meals unless the amount of the flat daily sum is covered by a collective bargaining agreement that provides otherwise.

d. A collective bargaining agreement entered into between the state and a state employee organization under chapter 20 made final after July 1, 1977, shall not include any pay adjustment to longevity pay authorized under this section.

e. Peace officers of the department excluded from the provisions of chapter 20 who are injured in the line of duty shall receive paid time off in the same manner as provided to peace officers of the department covered by a collective bargaining agreement entered into between the state and the employee organization representing such covered peace officers under chapter 20.

4. Should a peace officer become incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance

of duty at some definite time or place, the peace officer shall, upon being found to be temporarily incapacitated following an examination by a workers' compensation physician or other approved physician be entitled to receive the peace officer's fixed pay and allowances, without using the peace officer's sick leave, until reexamined by a workers' compensation physician or other approved physician or examined by the medical board provided for in section 97A.5, and found to be fully recovered or permanently disabled. In addition, a peace officer found to be temporarily incapacitated under this subsection shall be credited with any sick leave used prior to the determination that the peace officer was temporarily incapacitated under this subsection for the period of time sick leave was used. For purposes of this subsection, *"disease"* shall mean as described in section 97A.6, subsection 5.

[C27, 31, §5017-a1; C35, §5018-g9; C39, §**1225.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.8]

98 Acts, ch 1074, §5; 2001 Acts, ch 10, §1; 2001 Acts, ch 190, §18; 2005 Acts, ch 35, §3; 2008 Acts, ch 1032, §166; 2010 Acts, ch 1167, §1; 2019 Acts, ch 24, §104

C2020, §80.6

Referred to in §97A.1

Former §80.6 transferred to §80.16; 2019 Acts, ch 24, §104

80.6A Peace officers — health insurance.

1. *a.* Notwithstanding any provision to the contrary, peace officers employed within the department that are not covered under a collective bargaining agreement who were at any time eligible to be enrolled in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union and who elect to participate in a group health insurance plan provided by the state, shall only be permitted to participate in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union for peace officers subject to the requirements of this subsection. In addition, a peace officer who was covered under a collective bargaining agreement and who becomes a manager or supervisor and is no longer covered by the agreement shall not lose group health insurance benefits as provided by the agreement.

b. Notwithstanding any provision to the contrary, beginning January 1, 2021, a peace officer or surviving spouse who is participating in a group health insurance plan shall have the option, upon retirement or approval for death benefits for an eligible surviving spouse, to participate in the group health insurance plan that is negotiated under chapter 20 between the state and the state police officers council labor union pursuant to section 509A.13 subject to the requirements of this section.

2. The department shall be authorized to retain any savings to the department for peace officers participating in the group health insurance plan pursuant to subsection 1 from moneys appropriated to the department.

2021 Acts, ch 183, §22, 25, 26

Section applies retroactively to January 1, 2021; 2021 Acts, ch 183, §26

NEW section

80.7 Railway special agents. Transferred to §80.25; 2019 Acts, ch 24, §104.

80.8 Employees and peace officers — salaries and compensation. Transferred to §80.6; 2019 Acts, ch 24, §104.

80.9 Duties of department — duties and powers of peace officers — state patrol. Transferred to §80.5; 2019 Acts, ch 24, §104.

80.9A Authority and duties of peace officers of the department.

1. A peace officer of the department when authorized by the commissioner shall have and exercise all the powers of any other peace officer of the state.

2. When a peace officer of the department is acting in cooperation with any other local

peace officer, or county attorney in general criminal investigation work, or when acting on a special assignment by the commissioner, the jurisdiction of the peace officer is statewide.

3. A peace officer may administer oaths, acknowledge signatures, and take voluntary testimony pursuant to the peace officer's duties as provided by law.

4. An authorized peace officer of the department designated to conduct examinations, investigations, or inspections and enforce the laws relating to controlled or counterfeit substances shall have all the authority of other peace officers and may arrest a person without warrant for offenses under this chapter committed in the peace officer's presence or, in the case of a felony, if the peace officer has probable cause to believe that the person arrested has committed or is committing such offense. A peace officer of the department shall have the same authority as other peace officers to seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are in violation of law. Such controlled or counterfeit substances or articles shall be subject to forfeiture.

5. In more particular, the duties of a peace officer shall be as follows:

a. To enforce all state laws.

b. To enforce all laws relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks and buses; to see that proper safety rules are observed; and to give first aid to the injured.

c. To investigate all fires; to apprehend persons suspected of arson; to enforce all safety measures in connection with the prevention of fires; and to disseminate fire-prevention education.

6. A peace officer of the department shall not exercise the general powers of a peace officer within the limits of any city, except as follows:

a. When so ordered by the direction of the governor.

b. When request is made by the mayor of any city, with the approval of the commissioner.

c. When request is made by the sheriff or county attorney of any county with the approval of the commissioner.

d. While in the pursuit of law violators or in investigating law violations.

e. While making any inspection provided by this chapter, or any additional inspection ordered by the commissioner.

f. When engaged in the investigating and enforcing of fire and arson laws.

g. When engaged in the investigation and enforcement of laws relating to narcotic, counterfeit, stimulant, and depressant drugs.

h. When engaged in the investigation of crimes and the enforcement of laws relating to cyber-crime.

7. The limitations specified in subsection 6 shall in no way be construed as a limitation on the power of peace officers when a public offense is being committed in their presence.

8. *a.* A peace officer of the department, when authorized by the commissioner, may act in concert with, under the direction of, or otherwise serve as a state actor for an officer or agent of the federal government.

b. If serving as a state actor for an officer or agent of the federal government as provided in paragraph *"a"*, the peace officer shall be considered acting within the scope of the employee's office or employment as defined in section 669.2, subsection 1.

2008 Acts, ch 1031, §88; 2009 Acts, ch 88, §15; 2021 Acts, ch 80, §30; 2021 Acts, ch 166, §29
Referred to in §9B.17, 80B.13
Subsection 6, unnumbered paragraph 1 amended
Subsection 6, NEW paragraph h

80.9B Human immunodeficiency virus-related information.

1. The provisions of chapter 141A do not apply to the entry of human immunodeficiency virus-related information by criminal or juvenile justice agencies, as defined in section 692.1, into the Iowa criminal justice information system or the national crime information center system.

2. The provisions of chapter 141A also do not apply to the transmission of the same information from either or both information systems to criminal or juvenile justice agencies.

3. The provisions of chapter 141A also do not apply to the transmission of the same

information from either or both information systems to employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the jurisdiction of the department of human services, and employees of city and county jails, if those employees have direct physical supervision over inmates of those facilities or institutions.

4. Human immunodeficiency virus-related information shall not be transmitted over the police radio broadcasting system under chapter 693 or any other radio-based communications system.

5. An employee of an agency receiving human immunodeficiency virus-related information under this section who communicates the information to another employee who does not have direct physical supervision over inmates, other than to a supervisor of an employee who has direct physical supervision over inmates for the purpose of conveying the information to such an employee, or who communicates the information to any person not employed by the agency or uses the information outside the agency is guilty of a class "D" felony.

6. The commissioner shall adopt rules regarding the transmission of human immunodeficiency virus-related information including provisions for maintaining confidentiality of the information. The rules shall include a requirement that persons receiving information from the Iowa criminal justice information system or the national crime information center system receive training regarding confidentiality standards applicable to the information received from the system.

7. The commissioner shall develop and establish, in cooperation with the department of corrections and the department of public health, training programs and program criteria for persons receiving human immunodeficiency virus-related information through the Iowa criminal justice information system or the national crime information center system.

2008 Acts, ch 1031, §89
Referred to in §8D.13, 139A.19, 141A.9

80.10 Peace officers short course. Repealed by 2005 Acts, ch 35, §32.

80.11 Course of instruction.

The course of instruction for peace officers of the department shall, at a minimum, be equal to the course of instruction required by the Iowa law enforcement academy pursuant to chapter 80B.

[C39, §**1225.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.11]
2005 Acts, ch 35, §9

80.12 Attendance at short course. Repealed by 2005 Acts, ch 35, §32.

80.13 Training schools.

The commissioner may hold a training school for peace officer candidates or for peace officers of the department, and may send to recognized training schools peace officers of the department as the commissioner may deem advisable. The candidate shall pay one-third of the costs of such school of training, and the remaining costs shall be paid by the department. The department may pay for all or a portion of the candidate's share of the costs.

[C27, 31, §5017-a1; C35, §5018-g10; C39, §**1225.17;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.13]
2005 Acts, ch 35, §10; 2010 Acts, ch 1031, §416
Referred to in §97A.3

80.14 Diplomas.

To each person satisfactorily completing the course of study prescribed, an appropriate certificate or diploma shall be issued.

[C39, §**1225.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.14]

80.15 Examination — oath — probation — discipline — dismissal.

1. An applicant to be a peace officer in the department shall not be appointed as a peace

officer until the applicant has passed a satisfactory physical and mental examination. In addition, the applicant must be a citizen of the United States and be not less than twenty-two years of age. However, an applicant applying for assignment to provide protection and security for persons and property on the grounds of the state capitol complex or a peace officer candidate shall not be less than eighteen years of age. The mental examination shall be conducted under the direction or supervision of the commissioner and may be oral or written or both. An applicant shall take an oath on becoming a peace officer of the department, to uphold the laws and Constitution of the United States and Constitution of the State of Iowa.

2. During the period of twelve months after appointment, a peace officer of the department is subject to dismissal at the will of the commissioner. After the twelve months' service, a peace officer of the department, who was appointed after having passed the examinations, is not subject to dismissal, suspension, disciplinary demotion, or other disciplinary action resulting in the loss of pay unless charges have been filed with the department of inspections and appeals and a hearing held by the employment appeal board created by section 10A.601, if requested by the peace officer, at which the peace officer has an opportunity to present a defense to the charges. The decision of the appeal board is final, subject to the right of judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. However, these procedures as to dismissal, suspension, demotion, or other discipline do not apply to a peace officer who is covered by a collective bargaining agreement which provides otherwise, and do not apply to the demotion of a division head to the rank which the division head held at the time of appointment as division head, if any. A division head who is demoted has the right to return to the rank which the division head held at the time of appointment as division head, if any.

3. All rules, except employment provisions negotiated pursuant to chapter 20, regarding the enlistment, appointment, and employment affecting the personnel of the department shall be established by the commissioner in consultation with the director of the department of administrative services, subject to approval by the governor.

[C27, 31, §5017-a1; C35, §5018-g3, -g5; C39, §**1225.19;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.15]

86 Acts, ch 1245, §241; 88 Acts, ch 1235, §2; 98 Acts, ch 1074, §7; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286; 2005 Acts, ch 35, §11; 2020 Acts, ch 1062, §20

Referred to in §20.3, 80.25A, 97A.1, 97A.3

80.16 Impersonating peace officer or employee — uniform.

Any person who impersonates a peace officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer or employee, with intent to deceive anyone, shall be guilty of a simple misdemeanor.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.6]

98 Acts, ch 1074, §4; 2005 Acts, ch 35, §2; 2019 Acts, ch 24, §104

C2020, §80.16

80.17 General allocation of duties. Transferred to §80.4; 2019 Acts, ch 24, §104.

80.18 Expenses and supplies — reimbursement.

1. The commissioner shall provide peace officers of the department when on duty, with suitable uniforms, subsistence, arms, equipment, quarters, and other necessary supplies, and also the expense and means of travel and boarding, according to rules adopted by the commissioner, and as may be provided by appropriation.

2. The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's peace officers or employees damaged or destroyed during a peace officer's or employee's course of employment. However, the reimbursement shall not exceed the greater of one hundred fifty

dollars or the amount agreed to under the collective bargaining agreement for each item. The department shall adopt rules in accordance with chapter 17A to administer this subsection.

[SS15, §65-c; C24, §13408; C27, 31, §5017-a1, 13408; C35, §5018-g7, 13408; C39, §**1225.22;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.18]

89 Acts, ch 317, §23; 2005 Acts, ch 35, §13; 2018 Acts, ch 1041, §21

Referred to in §452A.76

80.19 Public safety education.

1. The commissioner may cooperate with any recognized agency in the education of the public in highway safety.

2. Any recognized agency receiving appropriations of state money for public safety shall annually file with the auditor of state an itemized statement of all its receipts and expenditures.

[C39, §**1225.23;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.19]

2005 Acts, ch 35, §14

80.20 Divisional headquarters.

The commissioner may, subject to the approval of the governor, establish divisional headquarters at various places in the state. Supervisory officers may be at all times on duty in each district headquarters.

[C39, §**1225.24;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.20]

2005 Acts, ch 35, §15

80.21 Fees and rewards.

No fees or rewards shall be retained personally by members of the department in addition to their salaries, and any such fees or rewards earned by any members of said department shall be credited to the fund as herein provided to pay the expenses of this department. All salaries herein provided for and all expenses incurred under the provisions of this chapter shall be allowed and audited in the same manner as in other state offices, and shall be payable out of moneys hereafter appropriated.

[C27, 31, §5017-a1; C35, §5018-g11; C39, §**1225.25;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.21]

80.22 Prohibition on other departments.

All other departments and bureaus of the state are hereby prohibited from employing special peace officers or conferring upon regular employees any police powers to enforce provisions of the statutes which are specifically reserved by 1939 Iowa Acts, ch. 120, to the department of public safety. But the commissioner of public safety shall, upon the requisition of the attorney general, from time to time assign for service in the department of justice such of its officers, not to exceed six in number, as may be requisitioned by the attorney general for special service in the department of justice, and when so assigned such officers shall be under the exclusive direction and control of the attorney general.

[C24, 27, 31, 35, §1340.7; C39, §**1225.26;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.22]

2003 Acts, ch 44, §29; 2006 Acts, ch 1010, §43

80.23 Special state agents — meaning.

If the term *"special state agents"* is used in the Code in connection with law enforcement, the term shall be construed to mean a peace officer of the department.

[C39, §**1225.27;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.23]

2005 Acts, ch 35, §16

80.24 Industrial disputes.

A peace officer of the department shall not be used or called upon for service within any municipality involving an industrial dispute unless a threat of imminent violence exists, and then only either by order of the governor or on the request of the chief executive officer of

the municipality or the sheriff of the county where the threat of imminent violence exists if such request is approved by the governor.

[C39, §**1225.28;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.24]

2005 Acts, ch 35, §17; 2006 Acts, ch 1034, §1, 3

80.25 Railway special agents.

The commissioner of public safety may appoint as special agent any person who is regularly employed by a common carrier by rail to protect the property of said common carrier, its patrons, and employees. Such special agents shall not receive any compensation from the state.

[C39, §**1225.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.7]

2019 Acts, ch 24, §104

C2020, §80.25

80.25A Gaming operations investigation and enforcement.

The commissioner of public safety shall direct the chief of the division of criminal investigation to establish a subdivision to be the primary criminal investigative and enforcement agency for the purpose of enforcement of chapters 99D, 99E, and 99F. The commissioner of public safety shall appoint or assign other agents to the division as necessary to enforce chapters 99D, 99E, and 99F. All enforcement officers, assistants, and agents of the division are subject to section 80.15 except clerical workers.

83 Acts, ch 187, §30; 89 Acts, ch 67, §19; 2005 Acts, ch 35, §31; 2019 Acts, ch 132, §24, 45, 46

Referred to in §99D.14, 99F.10

80.26 Designation by department of administrative services.

Notwithstanding the use of the designations "enforcement officer", "officer", "gaming enforcement officer", and "special agent" in this chapter and chapters 97A, 97B, 99D, and 99F, nothing shall prohibit the department of administrative services from officially designating gaming enforcement officers or special agents by another class title for purposes of identifying job classifications. Any official class title designation made by the department of administrative services shall not create or establish any new employee rights with respect to promotional opportunities, compensation, or benefits, or establish any connection that does not exist as of July 1, 2010, between the designation of gaming enforcement officer and any existing job classifications, including special agents, as a result of a change in designation.

2010 Acts, ch 1039, §1

Legislative intent and construction; 2010 Acts, ch 1039, §2

80.27 Drug law enforcement by department. Repealed by 2005 Acts, ch 35, §32. See §80.5.

80.28 Statewide interoperable communications system board — established — members.

1. A statewide interoperable communications system board is established, under the joint purview of the department and the state department of transportation. The board shall develop, implement, and oversee policy, operations, and fiscal components of communications interoperability efforts at the state and local level, and coordinate with similar efforts at the federal level, with the ultimate objective of developing and overseeing the operation of a statewide integrated public safety communications interoperability system. For the purposes of this section and section 80.29, *"interoperability"* means the ability of public safety and public services personnel to communicate and to share data on an immediate basis, on demand, when needed, and when authorized.

2. The board shall consist of nineteen voting members, as follows:

a. The following members representing state agencies:

(1) One member representing the department of public safety.

(2) One member representing the state department of transportation.

(3) One member representing the department of homeland security and emergency management.

(4) One member representing the department of corrections.

(5) One member representing the department of natural resources.

(6) One member representing the Iowa department of public health.

(7) One member representing the office of the chief information officer created in section 8B.2.

(8) One member representing the Iowa law enforcement academy created in section 80B.4.

b. The governor shall solicit and consider recommendations from professional or volunteer organizations in appointing the following members:

(1) Two members who are representatives from municipal police departments.

(2) Two members who are representatives of sheriff's offices.

(3) Two members who are representatives from fire departments. One of the members shall be a volunteer fire fighter and the other member shall be a paid fire fighter.

(4) Two members who are law communication center managers employed by state or local government agencies.

(5) One member representing local emergency management coordinators.

(6) One member representing emergency medical service providers.

(7) One at-large member.

3. In addition to the voting members, the board membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves for a term as provided in section 69.16B in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10.

4. The voting members of the board shall be appointed in compliance with sections 69.16 and 69.16A. Members shall elect a chairperson and vice chairperson from the board membership, who shall serve two-year terms. The members appointed by the governor shall be appointed to three-year staggered terms and the terms shall commence and end as provided by section 69.19. If a vacancy occurs among the voting members, a successor shall be appointed to serve the unexpired term. A successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term. The voting members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties from funds appropriated to the department of public safety and the state department of transportation for that purpose. The departments shall enter into an agreement to provide administrative assistance and support to the board.

2007 Acts, ch 90, §1; 2009 Acts, ch 14, §1 – 4; 2009 Acts, ch 165, §1, 4; 2013 Acts, ch 29, §41; 2015 Acts, ch 120, §38

Referred to in §29C.23, 34A.11, 80.29

80.29 Board duties.

The statewide interoperable communications system board established in section 80.28 shall:

1. Implement and maintain organizational and operational elements of the board, including staffing and program activity.

2. Review and monitor communications interoperability performance and service levels on behalf of agencies.

3. Establish, monitor, and maintain appropriate policies and protocols to ensure that interoperable communications systems function properly.

4. Allocate and oversee state appropriations or other funding received for interoperable communications.

5. Identify sources for ongoing, sustainable, longer-term funding for communications interoperability projects, including available and future assets that will leverage resources and provide incentives for communications interoperability participation, and develop and

obtain adequate funding in accordance with a communications interoperability sustainability plan.

6. Develop and evaluate potential legislative solutions to address the funding and resource challenges of implementing statewide communications interoperability initiatives.

7. Develop a statewide integrated public safety communications interoperability system that allows for shared communications systems and costs, takes into account infrastructure needs and requirements, improves reliability, and addresses liability concerns of the shared network.

8. Investigate data and video interoperability systems.

9. Expand, maintain, and fund consistent, periodic training programs for current communications systems and for the statewide integrated public safety communications interoperability system as it is implemented.

10. Expand, maintain, and fund stakeholder education, public education, and public official education programs to demonstrate the value of short-term communications interoperability solutions, and to emphasize the importance of developing and funding long-term solutions, including implementation of the statewide integrated public safety communications interoperability system.

11. Identify, promote, and provide incentives for appropriate collaborations and partnerships among government entities, agencies, businesses, organizations, and associations, both public and private, relating to communications interoperability.

12. Provide incentives to support maintenance and expansion of regional efforts to promote implementation of the statewide integrated public safety communications interoperability system.

13. In performing its duties, consult with representatives of private businesses, organizations, and associations on technical matters relating to data, video, and communications interoperability; technological developments in private industry; and potential collaboration and partnership opportunities.

14. Submit a report by January 1, annually, to the members of the general assembly regarding communications interoperability efforts, activities, and effectiveness at the local and regional level, and shall include a status report regarding the development of a statewide integrated public safety communications interoperability system, and funding requirements relating thereto.

2007 Acts, ch 90, §2
Referred to in §80.28

80.30 Individual qualifications. Repealed by 2005 Acts, ch 35, §32.

80.31 and 80.32 Reserved.

80.33 Access to drug records by peace officers.

A person required by law to keep records, and a carrier maintaining records with respect to any shipment containing any controlled or counterfeit substances shall, upon request of an authorized peace officer of the department designated by the commissioner, permit such peace officer at reasonable times to have access to and copy such records. For the purpose of examining and verifying such records, an authorized peace officer of the department designated by the commissioner, may enter at reasonable times any place or vehicle in which any controlled or counterfeit substance is held, manufactured, dispensed, compounded, processed, sold, delivered, or otherwise disposed of and inspect such place or vehicle and the contents of such place or vehicle. For the purpose of enforcing laws relating to controlled or counterfeit substances, and upon good cause shown, a peace officer of the department shall be allowed to inspect audits and records in the possession of the board of pharmacy.

[C71, 73, 75, 77, 79, 81, §80.33]
2005 Acts, ch 35, §18; 2006 Acts, ch 1010, §44; 2007 Acts, ch 10, §7

80.34 Peace officer — authority. Repealed by 2008 Acts, ch 1031, §94. See §80.9A.

80.35 Transition. Repealed by 2005 Acts, ch 35, §32.

80.36 Maximum age.

A person shall not be employed as a peace officer in the department after attaining sixty-five years of age.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §97A.6(1, b); C81, §80.36]

92 Acts, ch 1232, §503; 98 Acts, ch 1183, §107; 2002 Acts, ch 1135, §1; 2005 Acts, ch 35, §20

80.37 Reimbursement of defense costs. Repealed by 2016 Acts, ch 1049, §2; 2016 Acts, ch 1138, §29. See §80F.2.

80.38 Reserved.

80.39 Disposition of personal property.

1. Personal property, except for motor vehicles subject to sale pursuant to section 321.89, and seizable property subject to disposition pursuant to chapter 809 or 809A, which personal property is found or seized by, turned in to, or otherwise lawfully comes into the possession of the department or a local law enforcement agency and which the department or agency does not own, shall be disposed of pursuant to this section. If by examining the property the owner or lawful custodian of the property is known or can be readily ascertained, the department or agency shall notify the owner or custodian by certified mail directed to the owner's or custodian's last known address, as to the location of the property. If the identity or address of the owner cannot be determined, notice by one publication in a newspaper of general circulation in the area where the property was found is sufficient notice. A published notice may contain multiple items.

2. The department or agency may return the property to a person if that person or the person's representative does all of the following:

a. Appears at the location where the property is located.

b. Provides proper identification.

c. Demonstrates ownership or lawful possession of the property to the satisfaction of the department or agency.

3. After ninety days following the mailing or publication of the notice required by this section, or if the owner or lawful custodian of the property is unknown or cannot be readily determined, or the department or agency has not turned the property over to the owner, the lawful custodian, or the owner's or custodian's representative, the department or agency may dispose of the property in any lawful way, including but not limited to the following:

a. Selling the property at public auction with the proceeds, less department or agency expenses, going to the general fund of the state if sold by the department, the rural services fund if sold by a county agency, and the general fund of a city if sold by a city agency; however, the department or agency shall be reimbursed from the proceeds for the reasonable expenses incurred in selling the property at the auction.

b. Retaining the property for the department's or agency's own use.

c. Giving the property to another agency of government.

d. Giving the property to an appropriate charitable organization.

e. Destroying the property.

4. Except when a person appears in person or through a representative within the time periods set by this section, and satisfies the department or agency that the person is the owner or lawful custodian of the property, disposition of the property shall be at the discretion of the department or agency. The department or agency shall maintain the receipt and disposition records for all property processed under this section. Good faith compliance with this section is a defense to any claim or action at law or in equity regarding the disposition of the property.

84 Acts, ch 1154, §1; 85 Acts, ch 201, §1; 86 Acts, ch 1140, §1; 86 Acts, ch 1237, §4; 96 Acts, ch 1133, §39; 2000 Acts, ch 1203, §1; 2005 Acts, ch 35, §21

Referred to in §331.652, 364.22

80.40 Bureau of cyber-crime.

1. The bureau of cyber-crime is established within the division of criminal investigation of the department. The purpose of the bureau is to investigate crimes with a nexus to the internet or computer technology including but not limited to crimes involving child exploitation and cyber intrusion.

2. The bureau of cyber-crime shall have the authority to conduct investigations and perform forensic analyses of criminal cases involving computer technology and to provide assistance to governmental agencies involved in the investigation of cyber-crime.

2021 Acts, ch 166, §30
NEW section

80.41 Highway safety patrol fund — future repeal. Repealed by 99 Acts, ch 202, §27.

80.42 Sick leave benefits fund.

1. A sick leave benefits fund is established in the office of the treasurer of state under the control of the department of public safety. The moneys annually credited to the fund are appropriated to the department to pay health and life insurance monthly premium costs for retired departmental employees and beneficiaries who are eligible to receive benefits for accrued sick leave under the collective bargaining agreement with the state police officers council or pursuant to section 70A.23.

2. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys credited to the sick leave benefits fund shall be credited to the sick leave benefits fund. Notwithstanding section 8.33, moneys credited to the sick leave benefits fund at the end of a fiscal year shall not revert to any other fund but shall remain in the fund for purposes of the fund.

3. Notwithstanding section 8.39, if funds are needed to pay monthly premium costs as provided for in subsection 1, sufficient funds may be transferred and credited to the sick leave benefits fund from any moneys appropriated to the department.

2001 Acts, ch 186, §17

80.43 Gaming enforcement — revolving fund.

1. A gaming enforcement revolving fund is created in the state treasury under the control of the department. The fund shall consist of fees collected and deposited into the fund paid by licensees pursuant to section 99D.14, subsection 2, paragraph *"b"*, fees and costs paid by applicants pursuant to section 99E.4, subsection 4, and fees paid by licensees pursuant to section 99F.10, subsection 4, paragraph *"b"*. All costs for agents and officers plus any direct support costs for such agents and officers of the division of criminal investigation's racetrack, excursion boat, gambling structure, and internet fantasy sports contests as defined in section 99E.1 enforcement activities shall be paid from the fund as provided in appropriations made for this purpose by the general assembly.

2. To meet the department's cash flow needs, the department may temporarily use funds from the general fund of the state to pay expenses in excess of moneys available in the revolving fund if those additional expenditures are fully reimbursable and the department reimburses the general fund of the state and ensures all moneys are repaid in full by the close of the fiscal year. Because any general fund moneys used shall be fully reimbursed, such temporary use of funds from the general fund of the state shall not constitute an appropriation for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54.

3. Section 8.33 does not apply to any moneys credited or appropriated to the revolving fund from any other fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the revolving fund shall be credited to the revolving fund.

2010 Acts, ch 1190, §23; 2012 Acts, ch 1134, §14, 21; 2019 Acts, ch 132, §25, 45, 46
Referred to in §99D.14, 99E.4, 99F.10

80.44 Public safety interoperable and broadband communications fund.

1. A statewide public safety interoperable and broadband communications fund is established in the office of the treasurer of state under the control of the department of public safety. Any moneys annually appropriated, granted, or credited to the fund, including

any federal moneys, are appropriated to the department of public safety for the planning and development of a statewide public safety interoperable and broadband communications system.

2. Notwithstanding section 12C.7, subsection 2, interest and earnings on moneys deposited in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys remaining in the fund at the end of the fiscal year shall not revert to any other fund but shall remain available to be used for the purposes specified in subsection 1.

2013 Acts, ch 139, §37, 39

80.45 Office to combat human trafficking.

1. An office to combat human trafficking is established within the department. The purpose of the office is to oversee and coordinate efforts to combat human trafficking in this state.

2. The commissioner shall appoint a coordinator to staff the office. Additional staff may be hired, subject to the availability of funding.

3. The office shall do all of the following:

a. Serve as a point of contact for activities to combat human trafficking in this state.

b. Consult with and work jointly with other governmental agencies and nongovernmental or community organizations that have expertise in the areas of human trafficking prevention, victim protection and assistance, law enforcement, and prosecution for the purpose of combatting human trafficking in this state.

c. Develop a strategy to collect and maintain criminal history data on incidents related to human trafficking.

d. Develop a strategy for sharing victim and offender data among governmental agencies.

e. Apply for or assist other governmental agencies, as assistance is needed, to apply for grants to support human trafficking enforcement, prosecutions, trainings, and victim services.

f. Research and recommend trainings to assist governmental agencies to identify and respond appropriately to human trafficking victims.

g. Take other steps necessary to advance the purposes of the office.

h. By November 1, 2017, and annually thereafter, submit a written report to the general assembly regarding the office's activities related to combatting human trafficking and occurrences of human trafficking within this state.

4. For purposes of this section, "*human trafficking*" means the same as defined in section 710A.1.

2016 Acts, ch 1077, §1; 2017 Acts, ch 29, §30

80.45A Human trafficking prevention training — lodging providers.

1. As used in this section, unless the context otherwise requires:

a. "*Commissioner*" means the commissioner of public safety or the commissioner's designee.

b. "*Human trafficking*" means the same as defined in section 710A.1.

c. "*Lodging*" means the same as defined in section 423A.2.

d. "*Lodging provider*" means the same as defined in section 423A.2.

e. "*Lodging provider's employee*" means an individual who is employed by a lodging provider, including an owner, operator, manager, and temporary employee.

f. "*Public employee*" means an individual employed by a public employer.

g. "*Public employer*" means the same as defined in section 20.3.

h. "*Public funds*" means the same as defined in section 12C.1.

i. "*Temporary employee*" means an individual who is employed by a temporary employment firm to provide services to a lodging provider to supplement the lodging provider's workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

j. "*Temporary employment firm*" means a person engaged in the business of employing temporary employees.

2. *Human trafficking prevention training.*

a. Beginning January 1, 2022, a lodging provider may voluntarily complete and certify to the commissioner that each of the lodging provider's employees have completed human trafficking prevention training.

b. The human trafficking prevention training may be developed and delivered to lodging providers by the office to combat human trafficking, a governmental agency, or nongovernmental or community organization that has expertise in the area of human trafficking. The human trafficking prevention training must be approved by the commissioner.

c. A lodging provider shall maintain training records for each of the lodging provider's employees pursuant to rules adopted by the commissioner.

3. *Human trafficking prevention training content.* The human trafficking prevention training shall focus on the accurate and prompt identification and reporting of, or response to, suspected human trafficking. The human trafficking prevention training shall include, at a minimum, all of the following:

a. A general overview of human trafficking.

b. A general overview of state law on human trafficking.

c. The definition of human trafficking and the commercial exploitation of children.

d. Guidance on the difference between labor trafficking and sex trafficking.

e. Guidance on how to recognize potential human trafficking victims.

f. Guidance on how to recognize potential human traffickers.

g. Guidance on how to identify activities commonly associated with human trafficking.

h. Safe and effective responses to human trafficking situations, including but not limited to how to report suspected human trafficking to proper law enforcement officials.

4. *Certification by the commissioner.* No later than December 31, 2021, the commissioner shall develop and maintain all of the following to certify a lodging provider's voluntary completion of human trafficking prevention training:

a. A certification issued by the commissioner that a lodging provider may display, in an area readily visible to the public, in the following areas of all lodging owned, operated, or owned and operated by the lodging provider:

(1) The front entrance of the lodging.

(2) The check-in area of the lodging.

(3) Any internet site advertising or promoting the lodging.

b. An internet site, readily accessible to the public, that identifies lodging providers in this state that are certified as having completed human trafficking prevention training. The internet site shall be maintained by the department.

5. *Certification for utilization of public funds.*

a. Prior to expending or committing public funds for a purpose described in paragraph "*c*", a public employer or a public employee shall confirm a lodging provider's current certification status on the internet site maintained by the department pursuant to subsection 4, paragraph "*b*".

b. A certification issued pursuant to subsection 4, paragraph "*a*" shall be valid for three years from the date the commissioner issues the certification to a lodging provider.

c. If a lodging provider is not certified as having completed human trafficking prevention training pursuant to subsection 4, paragraph "*a*", a public employer and a public employee shall not use public funds for any of the following purposes:

(1) To procure lodging that is owned, operated, or owned and operated by the lodging provider.

(2) To procure space or services for a conference, meeting, or banquet located at a site where lodging is available that is owned, operated, or owned and operated by the lodging provider.

(3) To host a conference, meeting, or banquet at a site where lodging is available that is owned, operated, or owned and operated by the lodging provider.

d. This section applies to all public funds expended for a purpose described in paragraph "*c*" on or after January 1, 2022.

6. *Immunity.* A lodging provider's employee who acts in good faith shall be immune

from civil liability for reporting suspected human trafficking activities to any law enforcement official.

7. *Rules.* The commissioner shall adopt rules pursuant to chapter 17A as necessary to implement and administer this chapter.

2020 Acts, ch 1112, §1; 2021 Acts, ch 76, §14
Subsection 1, paragraph a amended

80.46 Public safety support trust fund.

1. A public safety support trust fund is established in the state treasury under the control of the department. The department may receive and accept donations, grants, loans, and contributions in accordance with section 565.3 from any public or private source for deposit into the trust fund. Moneys credited to the trust fund are appropriated to the department for the purpose of supporting the activities of the department.

2. Notwithstanding section 8.33, moneys in the trust fund shall not revert. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

2018 Acts, ch 1168, §19

80.47 Public safety survivor benefits fund.

1. A public safety survivor benefits fund is established in the state treasury under the control of the department. The fund shall consist of moneys transferred to the fund pursuant to section 99G.39 and any other moneys appropriated to or deposited in the fund. Moneys in the fund are appropriated to the department for the purposes set forth in subsection 2.

2. *a.* Of the moneys credited to the fund in a fiscal year, the department shall distribute fifty percent in the form of grants to nonprofit organizations that provide resources to assist surviving families of eligible peace officers killed in the line of duty in paying costs associated with accident or health care coverage pursuant to section 509A.13C. In awarding such grants, the department shall give first consideration to concerns of police survivors, inc., and similar nonprofit organizations providing such resources.

b. Of the moneys credited to the fund in a fiscal year, the department shall distribute fifty percent in the form of grants to nonprofit organizations that provide resources to assist surviving families of eligible fire fighters killed in the line of duty in paying costs associated with accident or health care coverage pursuant to section 509A.13C. In awarding such grants, the department shall give first consideration to Iowa professional fire fighters, inc., and similar nonprofit organizations providing such resources.

3. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2019 Acts, ch 163, §38
Referred to in §99G.39

80.48 Public safety equipment fund.

1. A public safety equipment fund is created in the state treasury under the control of the department. The fund shall consist of moneys appropriated to or deposited in the fund. Moneys in the fund are appropriated to the department for the purchase, maintenance, and replacement of equipment used by the department. The department is authorized to designate moneys in the fund for the future purchase, maintenance, and replacement of equipment used by the department.

2. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

3. The department shall submit a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative services agency on or before December 31 of each year which shall contain all of the following:

a. A list of all expenditures from the fund made in the previous fiscal year.

b. The amount of moneys in the fund carried over from the previous fiscal year to the current fiscal year and how the department plans to use those moneys, including any expenditures in the current fiscal year.

c. The amount of moneys in the fund the department intends to carry over from the current fiscal year to the next fiscal year and how the department plans to use those moneys.

d. A list of all the sources of moneys deposited in the fund in the previous fiscal year.

2021 Acts, ch 184, §1
NEW section

CHAPTER 80A

PRIVATE INVESTIGATIVE AGENCIES AND SECURITY AGENTS

Referred to in §556.11, 724.4B, 724.6, 811.8, 811.12

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80A.18 Reciprocity — fee.

80A.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Bail enforcement agent"* means a person engaged in the bail enforcement business, including licensees and persons engaged in the bail enforcement business whose principal place of business is in a state other than Iowa.

2. *"Bail enforcement business"* means the business of taking or attempting to take into custody the principal on a bail bond issued or a deposit filed in relation to a criminal proceeding to assure the presence of the defendant at trial, but does not include such actions that are undertaken by a peace officer or a law enforcement officer in the course of the officer's official duties.

3. *"Chief law enforcement officer"* means the county sheriff, chief of police, or other chief law enforcement officer in the local governmental unit where a defendant is located.

4. *"Commissioner"* means the commissioner of public safety.

5. *"Defendant"* means the principal on a bail bond issued or deposit filed in relation to a criminal proceeding in order to assure the presence of the defendant at trial.

6. *"Department"* means the department of public safety.

7. *"Licensee"* means a person licensed under this chapter.

8. *"Person"* means an individual, partnership, corporation, or other business entity.

9. *"Private investigation business"* means the business of making, for hire or reward, an investigation for the purpose of obtaining information on any of the following matters:

a. Crime or wrongs done or threatened.

b. The habits, conduct, movements, whereabouts, associations, transactions, reputations, or character of a person.

c. The credibility of witnesses or other persons.

d. The location or recovery of lost or stolen property.

e. The cause, origin, or responsibility for fires, accidents, or injuries to property.

f. The truth or falsity of a statement or representation.

g. Detection of deception.

h. The business of securing evidence to be used before authorized investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases.

10. *"Private investigative agency"* means a person engaged in a private investigation business.

11. *"Private security agency"* means a person engaged in a private security business.

12. *"Private security business"* means a business of furnishing, for hire or reward, guards, watch personnel, armored car personnel, patrol personnel, or other persons to protect persons or property, to prevent the unlawful taking of goods and merchandise, or to prevent the misappropriation or concealment of goods, merchandise, money, securities, or other valuable documents or papers, and includes an individual who for hire patrols, watches, or guards a residential, industrial, or business property or district. *"Private security business"* does not include a business for debt collection as defined in section 537.7102.

13. *"Uniform"* means a manner of dress of a particular style and distinctive appearance as distinguished from ordinary clothing customarily used and worn by the general public.

84 Acts, ch 1235, §1; 98 Acts, ch 1149, §1; 2020 Acts, ch 1103, §34, 51

80A.2 Persons exempt.

This chapter does not apply to the following:

1. An officer or employee of the United States, of a state, or a political subdivision of the United States or of a state while the officer or employee is engaged in the performance of official duties.

2. A peace officer engaged in the private security business or the private investigation business with the knowledge and consent of the chief executive officer of the peace officer's law enforcement agency.

3. A person employed full or part-time by one employer in connection with the affairs of the employer.

4. An attorney licensed to practice in Iowa, while performing duties as an attorney.

5. A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons.

6. A person exclusively employed in making investigations and adjustments for insurance companies.

7. A person who is the legal owner of personal property which has been sold under a security agreement or a conditional sales agreement, or a secured party under the terms of a security interest while the person is performing acts relating to the repossession of the property.

8. A person engaged in the process of verifying the credentials of physicians and allied health professionals applying for hospital staff privileges.

9. A person engaged in the business of transporting prisoners under a contract with the Iowa department of corrections or a county sheriff, a similar agency from another state, or the federal government.

10. A certified public accountant authorized to practice pursuant to chapter 542, while performing duties as a certified public accountant.

84 Acts, ch 1135, §1; 84 Acts, ch 1235, §2; 92 Acts, ch 1183, §1; 98 Acts, ch 1131, §1; 2015 Acts, ch 13, §1

Referred to in §811.12

80A.3 License required.

1. A person shall not operate a bail enforcement business, private investigation business, or private security business, or otherwise employ persons in the operation of such a business located within this state unless the person is licensed by the commissioner in accordance with this chapter.

2. A license issued under this chapter expires two years from the date issued.

84 Acts, ch 1235, §3; 98 Acts, ch 1149, §2

80A.3A Notification of and registration with local law enforcement.

1. A bail enforcement agent employed by a licensee shall not take or attempt to take into

custody the principal on a bail bond without notifying the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present. The bail enforcement agent shall disclose the location where the defendant is believed to be and the bail enforcement agent's intended actions.

2. A person or employee of a person who operates a bail enforcement business in a state other than Iowa and who enters Iowa in pursuit of a defendant who has violated the conditions of a bail bond issued in a state other than Iowa or has otherwise violated conditions of bail imposed by a court in a state other than Iowa shall not take or attempt to take the defendant into custody without first registering with the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present.

a. Registration shall require presentation of the following documents:

(1) A license to operate a bail enforcement business in the state of origin, if the state licenses such businesses. Otherwise, the person or employee shall present other documentation relating to the location of the principal place of business of the bail enforcement business.

(2) The bail bond, order from the local prosecuting authority in the state of origin, or other documents relating to the authority of the person under the laws of the state of origin to pursue the defendant.

(3) A copy of any bond for liability for actions of the person or employee.

b. A bail enforcement agent who registers with the chief law enforcement officer of the local governmental subdivision in accordance with this section and complies with requirements, other than licensure, for acts by a bail enforcement agent within this state, including the limitations imposed by sections 811.8 and 811.12, shall not be subject to civil liability in this state other than as prescribed in this chapter, notwithstanding any other provision under the Code or common law.

98 Acts, ch 1149, §3
Referred to in §811.12

80A.4 License requirements.

1. Applications for a license or license renewal shall be submitted to the commissioner in the form the commissioner prescribes. A license or license renewal shall not be issued unless the applicant:

a. Is eighteen years of age or older.

b. Is not a peace officer.

c. Has never been convicted of a felony or aggravated misdemeanor.

d. Is not addicted to the use of alcohol or a controlled substance.

e. Does not have a history of repeated acts of violence.

f. Is of good moral character and has not been judged guilty of a crime involving moral turpitude.

g. Has not been convicted of a crime described in section 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9.

h. Has not been convicted of illegally using, carrying or possessing a dangerous weapon.

i. Has not been convicted of fraud.

j. Provides fingerprints to the department.

k. Complies with other qualifications and requirements the commissioner adopts by rule.

2. If the applicant is a corporation, the requirements of subsection 1 apply to the president and to each officer, commissioner or employee who is actively involved in the licensed business in Iowa. If the applicant is a partnership or association, the requirements of subsection 1 apply to each partner or association member.

3. Each employee of an applicant or licensee shall possess the same qualifications required by subsection 1 for a licensee.

4. The fingerprints required by subsection 1 may be submitted by the department to the federal bureau of investigation through the state criminal history repository for the purpose of a national criminal history check.

84 Acts, ch 1235, §4; 85 Acts, ch 56, §1; 2002 Acts, ch 1044, §1, 11; 2003 Acts, ch 108, §25
Referred to in §80A.12

80A.5 Licensee fee.

1. An applicant for a license or license renewal shall deposit with each application the fee for the license and if necessary the fees associated with processing the fingerprints.

2. If the application is approved, the deposited amount shall be applied on the license fee. If the application is disapproved, the deposited amount excluding the fees associated with the processing of the fingerprints shall be refunded to the applicant.

3. The fee for a two-year license for a bail enforcement business, a private investigative agency, or a private security agency is one hundred dollars.

84 Acts, ch 1235, §5; 98 Acts, ch 1149, §4; 2002 Acts, ch 1044, §2, 11

80A.6 Display of license.

A licensee shall conspicuously display the license in the principal place of business of the agency or business.

84 Acts, ch 1235, §6; 98 Acts, ch 1149, §5

80A.7 Identification cards.

1. The department shall issue to each licensee and to each employee of the licensee an identification card in a form approved by the commissioner. The application for a permanent identification card shall include a temporary identification card valid for fourteen days from the date of receipt of the application by the applicant.

2. The fee for each application for an identification card is ten dollars.

3. It is unlawful for an agency licensed under this chapter to employ a person to act in the bail enforcement business, private investigation business, or private security business unless the person has in the person's immediate possession an identification card issued under this section.

4. The licensee is responsible for the use of identification cards by the licensee's employees and shall return an employee's card to the department upon termination of the employee's service. Identification cards remain the property of the department.

5. An application for an identification card shall include the submission of fingerprints of the person seeking the identification card, which fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for the purpose of a national criminal history check. Fees associated with the processing of fingerprints shall be assessed to the employing licensee.

84 Acts, ch 1235, §7; 85 Acts, ch 56, §2; 89 Acts, ch 112, §1; 98 Acts, ch 1149, §6; 2002 Acts, ch 1044, §3, 4, 11; 2003 Acts, ch 108, §26

80A.8 Duplicate license.

A duplicate license shall be issued by the commissioner upon the payment of a fee in the amount of five dollars and upon receiving for filing, in the form prescribed, a statement under oath that the original license has been lost or destroyed and that, if the original license is recovered, the original or the duplicate will be returned immediately to the director for cancellation.

84 Acts, ch 1235, §8

80A.9 Badges — uniforms.

1. A licensee or an employee of a licensee shall not use a badge in connection with the activities of the licensee's business unless the badge has been prescribed or approved by the commissioner.

2. A licensee or an employee of a licensee shall not use an identification card other than the card issued by the department or make a statement with the intent to give the impression that the licensee or employee is a peace officer.

3. A uniform worn by a licensee or employee of a licensee shall conform with rules adopted by the commissioner.

4. A bail enforcement agent other than a licensee shall not do any of the following:

a. Use a badge or identification card other than one which is in accordance with the laws of the state of origin.

b. Wear a uniform or make a statement that gives the impression that the agent is a peace officer.

84 Acts, ch 1235, §9; 98 Acts, ch 1149, §7

80A.10 Licensee's bond.

1. A license shall not be issued unless the applicant files with the department a surety bond, in a minimum amount as follows:

a. Five thousand dollars in the case of an agency licensed to conduct only a bail enforcement business, private security business, or a private investigation business.

b. Ten thousand dollars in the case of an agency licensed to conduct more than one type of business licensed under this chapter.

2. The bond shall be issued by a surety company authorized to do business in this state and shall be conditioned on the faithful, lawful, and honest conduct of the applicant and those employed by the applicant in carrying on the business licensed.

3. The bond shall provide that a person injured by a breach of the conditions of the bond may bring an action on the bond to recover legal damages suffered by reason of the breach. However, the aggregate liability of the surety for all damages shall not exceed the amount of the bond.

4. Bonds issued and filed with the department shall remain in force and effect until the surety has terminated future liability by a written thirty days' notice to the department.

84 Acts, ch 1235, §10; 85 Acts, ch 56, §3; 98 Acts, ch 1149, §8

Referred to in §80A.10A

80A.10A Licensee's proof of financial responsibility.

Notwithstanding the minimum bond amount that must be filed in accordance with section 80A.10, a license shall not be issued unless the applicant furnishes proof acceptable to the commissioner of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings occurring subsequent to the effective date of the proof, arising out of the ownership and operation of a private security business, private investigation business, or bail enforcement business.

85 Acts, ch 56, §5; 98 Acts, ch 1149, §9

80A.11 Written report.

The licensee shall furnish, upon the client's request, a written report describing all the work performed by the licensee for that client.

84 Acts, ch 1235, §11

80A.12 Refusal, suspension, or revocation.

The commissioner may refuse to issue, or may suspend or revoke a license issued, for any of the following reasons:

1. Fraud in applying for or obtaining a license.
2. Violation of any of the provisions of this chapter.
3. If a licensee or employee of a licensee has been adjudged guilty of a crime involving moral turpitude, a felony, or an aggravated misdemeanor.
4. If a licensee willfully divulges to an unauthorized person information obtained by the licensee in the course of the licensed business.
5. Upon the disqualification or insolvency of the surety on the licensee's bond, unless the licensee files a new bond with sufficient surety within fifteen days of the receipt of notice from the commissioner.
6. If the applicant for a license or licensee or employee of a licensee fails to meet or retain any of the other qualifications provided in section 80A.4.
7. If the applicant for a license or licensee knowingly makes a false statement or knowingly conceals a material fact or otherwise commits perjury in an original application or a renewal application.

8. Willful failure or refusal to render to a client services contracted for and for which compensation has been paid or tendered in accordance with the contract.

84 Acts, ch 1235, §12; 85 Acts, ch 56, §4; 85 Acts, ch 67, §9

80A.13 Campus weapon requirements.

An individual employed by a college or university, or by a private security business holding a contract with a college or university, who performs private security duties on a college or university campus and who carries a weapon while performing these duties shall meet all of the following requirements:

1. File with the sheriff of the county in which the campus is located evidence that the individual has successfully completed approved firearm safety training under section 724.9. This requirement does not apply to armored car personnel.

2. Possess a permit to carry weapons issued by the sheriff of the county in which the campus is located under sections 724.6 through 724.11. This requirement does not apply to armored car personnel.

3. File with the sheriff of the county in which the campus is located a sworn affidavit from the employer outlining the nature of the duties to be performed and justification of the need to go armed.

84 Acts, ch 1235, §13; 85 Acts, ch 56, §7; 2017 Acts, ch 69, §11; 2018 Acts, ch 1041, §22

80A.14 Deposit of fees.

Fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department to offset the cost of administering this chapter. Any unspent balance as of June 30 of each year shall revert to the general fund as provided by section 8.33.

84 Acts, ch 1235, §14

80A.15 Rules.

The commissioner may adopt administrative rules pursuant to chapter 17A to carry out this chapter.

84 Acts, ch 1235, §15

80A.16 Penalties.

1. A person who violates any of the provisions of this chapter where no other penalty is provided is guilty of a simple misdemeanor.

2. A person who does any of the following is guilty of a fraudulent practice:

a. Makes a false statement or representation in an application or statement filed with the commissioner, as required by this chapter.

b. Falsely states, represents, or fails to disclose as required by this chapter, that the person has been or is a private investigator, private security agent, or bail enforcement agent.

c. Falsely advertises that the person is a licensed private investigator, private security agent, or bail enforcement agent.

3. A person who is subject to the licensing requirements of this chapter and who engages in a private investigation or private security business as defined in this chapter, without possessing a current valid license as provided by this chapter, is guilty of a serious misdemeanor.

4. A person who is subject to the licensing requirements of this chapter for a bail enforcement business or bail enforcement agent, and who operates a bail enforcement business or who acts as a bail enforcement agent for a bail enforcement business, without possessing a current valid license, is guilty of a class "D" felony.

84 Acts, ch 1235, §16; 98 Acts, ch 1149, §10

Fraudulent practices, see §714.8 – 714.14

80A.16A Civil liability of bail enforcement agents.

1. A person other than a defendant who is injured in person or property by the actions of a bail enforcement agent in taking or attempting to take a defendant into custody may bring

a civil action for damages against such agent and the bail enforcement business for breach of any applicable standard of care.

2. Notwithstanding the limitation of liability of any surety for the actions of a bail enforcement agent or bail enforcement business, the court shall enter a judgment against a bail enforcement agent or bail enforcement business determined to have breached the applicable standard of care. The judgment shall include an award of treble damages, and recovery of costs and reasonable attorney fees.

98 Acts, ch 1149, §11

80A.17 Confidential records.

1. *a.* All complaint files, investigation files, other investigation reports, and other investigative information in the possession of the department or its employees or agents which relate to licensee discipline are privileged and confidential except that they are subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are admissible in evidence in a judicial or administrative proceeding other than a proceeding involving licensee discipline. In addition, investigative information in the possession of the department's employees or agents which relates to licensee discipline may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of the department indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. A final written decision and finding of fact of the department in a disciplinary proceeding is a public record.

b. Pursuant to section 17A.19, subsection 6, the department, upon an appeal by the licensee of the decision by the department shall transmit the entire record of the contested case to the reviewing court.

c. Notwithstanding section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall order withheld the identity of the individual whose privilege was waived.

2. Lists of employees of a licensed agency and their personal histories shall be held as confidential. However, the lists of the names of the licensed agencies, their owners, corporate officers and directors shall be held as public records. The commissioner may confirm that a specific individual is an employee of a licensed agency upon request and may make lists of licensed agencies' employees available to law enforcement agencies.

85 Acts, ch 56, §6; 2016 Acts, ch 1011, §121

80A.18 Reciprocity — fee.

1. A person who holds a valid license to act as a private investigator or as a private security officer issued by a proper authority of another state, based on requirements and qualifications similar to the requirements of this chapter, may be issued a temporary permit to so act in this state, if the person's licensing jurisdiction extends by reciprocity similar privileges to a person licensed to act as a private investigator or private security officer licensed by this state. Any reciprocal agreement approved by the commissioner shall provide that any misconduct in the state issuing the temporary permit will be dealt with in the licensing jurisdiction as though the violation occurred in that jurisdiction.

2. The commissioner shall adopt by rule a fee for the issuance of a temporary permit under this section. The fee shall be based on the cost of administering this section but shall not exceed one hundred dollars per year.

88 Acts, ch 1056, §1

CHAPTER 80B

LAW ENFORCEMENT ACADEMY

Referred to in §13.12, 80.11, 80D.3, 97B.49B, 331.651, 341A.6, 384.15, 456A.14

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80B.1 Citation.

This chapter shall be known as the *"Iowa Law Enforcement Academy and Council Act"*.

[C71, 73, 75, 77, 79, 81, §80B.1]

80B.2 Intent.

It is the intent of the legislature in creating the academy and the council to maximize training opportunities for law enforcement officers, to coordinate training and to set standards for the law enforcement service, all of which are imperative to upgrading law enforcement to professional status.

[C71, 73, 75, 77, 79, 81, §80B.2]

80B.3 Definitions.

When used in this chapter:

1. *"Academy"* means the Iowa law enforcement academy.
2. *"Council"* means the Iowa law enforcement academy council.
3. *"Law enforcement officer"* means an officer appointed by the director of the department of natural resources, a member of a police force or other agency or department of the state, county, city, or tribal government regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state and all individuals, as determined by the council, who by the nature of their duties may be required to perform the duties of a peace officer.
4. *"Reserve peace officer"* means the same as defined in section 80D.1A.

[C71, 73, 75, 77, 79, 81, §80B.3]

2003 Acts, ch 87, §1; 2020 Acts, ch 1037, §3

Referred to in §13.12, 200.17A, 228.1, 462A.2, 507E.8, 817.3

80B.4 Academy created.

There is hereby created the Iowa law enforcement academy as a central law enforcement training facility, in order to serve the best interests of the state in carrying out the intent and purpose of this chapter. The academy shall be situated at Camp Dodge and the council shall enter into an agreement with the adjutant general which agreement shall provide for the use of certain of the facilities at Camp Dodge, for the remodeling and conversion of

existing structures to classrooms and dormitory space, and for the use of land for the site of an administration building. The agreement shall be on such terms and conditions as are necessary to carry out the purpose of this chapter.

[C71, 73, 75, 77, 79, 81, §80B.4]

Referred to in §80.28

80B.5 Administration — director — deputy director.

1. The administration of this chapter shall be vested in the office of the governor. Except for the director and deputy director of the academy, the staff as may be necessary for the academy to function shall be employed pursuant to the Iowa merit system.

2. The director of the academy shall be appointed by the governor, subject to confirmation by the senate, to serve at the pleasure of the governor, and the director may employ a deputy director.

[C71, 73, 75, 77, 79, 81, §80B.5]

2004 Acts, ch 1086, §19; 2014 Acts, ch 1138, §19, 24; 2015 Acts, ch 30, §33

Confirmation, see §2.32

Merit system, see chapter 8A, subchapter IV

80B.6 Council created — membership.

1. An Iowa law enforcement academy council is created consisting of the following thirteen voting members appointed by the governor, subject to confirmation by the senate, to terms of four years commencing as provided in section 69.19:

a. Three residents of the state.

b. A sheriff of a county with a population of fifty thousand persons or more who is a member of the Iowa state sheriffs and deputies association.

c. A sheriff of a county with a population of less than fifty thousand persons who is a member of the Iowa state sheriffs and deputies association.

d. A deputy sheriff of a county who is a member of the Iowa state sheriffs and deputies association.

e. A member of the Iowa peace officers association.

f. A member of the Iowa state police association.

g. A member of the Iowa police chiefs association.

h. A police officer who is a member of a police department of a city with a population of fifty thousand persons or more.

i. A police officer who is a member of a police department of a city with a population of less than fifty thousand persons.

j. A member of the department of public safety.

k. A member of the office of motor vehicle enforcement of the department of transportation.

2. One senator appointed by the president of the senate after consultation with the majority leader of the senate, one senator appointed by the minority leader of the senate, one representative appointed by the speaker of the house of representatives, and one representative appointed by the minority leader of the house of representatives are also ex officio, nonvoting members of the council who shall serve terms as provided in section 69.16B.

3. In the event a member appointed pursuant to this section is unable to complete a term, the vacancy shall be filled for the unexpired term in the same manner as the original appointment.

[C71, 73, 75, 77, 79, 81, §80B.6]

86 Acts, ch 1245, §2029; 90 Acts, ch 1223, §15; 2008 Acts, ch 1031, §90; 2008 Acts, ch 1156, §24, 58; 2011 Acts, ch 95, §1

Confirmation, see §2.32

80B.7 Officers of council.

The council shall elect from its membership a chairperson and a vice chairperson each of whom shall serve for a term of one year and who may be reelected. Membership on the council shall not constitute holding a public office and members of the council shall not

be required to take and file oaths of office before serving on the council. No member of the council shall be disqualified from holding any public office or employment by reason of appointment or membership on the council, nor shall any member forfeit any such office or employment by reason of appointment to the council, notwithstanding the provisions of any general, special or local law, ordinance or city charter.

[C71, 73, 75, 77, 79, 81, §80B.7]

80B.8 Compensation and expenses.

The members of the council, who are not employees of the state or a political subdivision, shall be paid a per diem as specified in section 7E.6. All members of the council shall be reimbursed for necessary and actual expenses incurred in attending meetings and in the performance of their duties. All per diem and expense moneys paid to nonlegislative members shall be paid from funds appropriated to the Iowa law enforcement academy. Legislative members of the council shall receive payment pursuant to section 2.10 and section 2.12.

[C71, 73, 75, 77, 79, 81, §80B.8]

90 Acts, ch 1256, §27

80B.9 Meetings.

The council shall meet at least four times each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice chairperson, or by the chairperson upon written request of five members of the council. The council shall establish procedures and requirements with respect to quorum, place, and conduct of meetings.

[C71, 73, 75, 77, 79, 81, §80B.9]

80B.10 Annual report.

The council shall make an annual report to the governor, the attorney general, and the commissioner of public safety which shall include pertinent data regarding the standards established and the degree of participation of agencies in the training program. The report required by this section shall specifically include data regarding academy resources devoted to training relating to human trafficking.

[C71, 73, 75, 77, 79, 81, §80B.10]

2014 Acts, ch 1097, §1

80B.11 Rules.

1. The director of the academy, subject to the approval of the council, shall promulgate rules in accordance with the provisions of this chapter and chapter 17A, giving due consideration to varying factors and special requirements of law enforcement agencies relative to the following:

a. Minimum entrance requirements, course of study, attendance requirements, and equipment and facilities required at approved law enforcement training schools. Minimum age requirements for entrance to approved law enforcement training schools shall be eighteen years of age. Minimum course of study requirements shall include a separate domestic abuse curriculum, which may include but is not limited to outside speakers from domestic abuse shelters and crime victim assistance organizations. Minimum course of study requirements shall also include a sexual assault curriculum.

b. Minimum basic training requirements law enforcement officers employed after July 1, 1968, must complete in order to remain eligible for continued employment and the time within which such basic training must be completed. Minimum requirements shall mandate training devoted to the topic of domestic abuse and sexual assault. The council shall submit an annual report to the general assembly by January 15 of each year relating to the continuing education requirements devoted to the topic of domestic abuse, including the number of hours required, the substance of the classes offered, and other related matters.

c. (1) Categories or classifications of advanced in-service training program and minimum courses of study and attendance requirements for such categories or classifications.

(2) In-service training under this paragraph "*c*" shall include the requirement that all law enforcement officers complete a course on investigation, identification, and reporting of public offenses based on the race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, or disability of the victim. The director shall consult with the civil rights commission, the department of public safety, and the prosecuting attorneys training coordinator in developing the requirements for this course and may contract with outside providers for this course.

(3) In-service training under this paragraph "*c*" shall include the requirement that all law enforcement officers complete a course on mental health at least once every four years. In developing the requirements for this training, the director shall seek input from mental health care providers and mental health care consumers.

d. Within the existing curriculum, expanded training regarding racial and cultural awareness and dealing with gang-affected youth.

e. Training standards on the subject of human trafficking, to include curricula on cultural sensitivity and the means to deal effectively and appropriately with trafficking victims. Such training shall encourage law enforcement personnel to communicate in the language of the trafficking victims. The course of instruction and training standards shall be developed by the director in consultation with the appropriate national and state experts in the field of human trafficking.

f. Minimum standards of physical, educational, and moral fitness which shall govern the recruitment, selection, and appointment of law enforcement officers.

g. Minimum standards of mental fitness which shall govern the initial recruitment, selection, and appointment of law enforcement officers. The rules shall include but are not limited to providing a battery of psychological tests to determine cognitive skills, personality characteristics, and suitability of an applicant for a law enforcement career. However, this battery of tests need only be given to applicants being considered in the final selection process for a law enforcement position. Notwithstanding any provision of chapter 400, an applicant shall not be hired if the employer determines from the tests that the applicant does not possess sufficient cognitive skills, personality characteristics, or suitability for a law enforcement career. The director of the academy shall provide for the cognitive and psychological examinations and their administration to the law enforcement agencies or applicants, and shall identify and procure persons who can be hired to interpret the examinations.

h. Grounds for revocation or suspension of a law enforcement officer's certification.

i. Exemptions from particular provisions of this chapter in case of any state, county, or city, if, in the opinion of the council, the standards of law enforcement training established and maintained by the governmental agency are as high or higher than those established pursuant to this chapter; or revocation in whole or in part of such exemption, if in its opinion the standards of law enforcement training established and maintained by the governmental agency are lower than those established pursuant to this chapter.

j. Minimum qualifications for instructors in public safety telecommunicator training schools.

k. Minimum qualifications for instructors in law enforcement and jailer training schools.

l. Certification through examination for individuals who have successfully completed the federal bureau of investigation national academy, have corrected Snellen vision in both eyes of 20/20 or better, and were employed on or before January 1, 1996, as chief of police of a city in this state with a population of twenty thousand or more.

2. A certified course of instruction provided for under this section which occurs at a location other than at the central training facility of the Iowa law enforcement academy shall not be eliminated by the Iowa law enforcement academy.

[C71, 73, 75, 77, 79, 81, §80B.11]

84 Acts, ch 1245, §1 – 3; 84 Acts, ch 1246, §1; 85 Acts, ch 208, §2; 89 Acts, ch 62, §1, 2; 91 Acts, ch 218, §2; 91 Acts, ch 219, §1; 92 Acts, ch 1157, §1; 92 Acts, ch 1238, §20; 93 Acts, ch 169, §15; 94 Acts, ch 1172, §1; 96 Acts, ch 1061, §1; 96 Acts, ch 1201, §1; 99 Acts, ch 70, §1;

2003 Acts, ch 87, §2; 2006 Acts, ch 1074, §1; 2007 Acts, ch 22, §18; 2008 Acts, ch 1031, §25; 2012 Acts, ch 1079, §1; 2020 Acts, ch 1077, §1
Referred to in §80B.13, 80B.13A, 400.8

80B.11A Jailer training standards.

The director of the academy, subject to the approval of the council, and in consultation with the Iowa department of corrections, Iowa state sheriffs' and deputies' association, and the Iowa peace officers association, shall adopt rules in accordance with this chapter and chapter 17A establishing minimum standards for training of jailers.

89 Acts, ch 62, §3; 2012 Acts, ch 1023, §10

80B.11B Examination and attendance fees — training cost — appropriation.

1. The full cost of providing cognitive and psychological examinations of law enforcement officer candidates may be charged by the Iowa law enforcement academy.

2. The Iowa law enforcement academy shall charge to the following entities the following costs to provide the basic training course which is designed to meet the minimum basic training requirements for a law enforcement officer:

a. To the department of natural resources and the department of transportation, the total cost.

b. To a candidate from any other state agency or department of the state, one-third of the total cost, and to the agency or department the remaining cost. The agency or department may pay for all or a portion of the candidate's share of the costs.

c. For a candidate sponsored by a political subdivision and hired by the political subdivision, to the political subdivision, one-third of the total cost; to the candidate, one-third of the total cost; and to the state, the remainder of the total cost. The political subdivision may pay for all or a portion of the candidate's share of the costs.

d. For all other candidates, including a candidate from a tribal government, to the candidate the total costs.

3. The Iowa law enforcement academy may also charge an attendance fee as determined by the director of the academy and approved by the council for courses, schools, and seminars, other than the basic training course specified in subsection 2. Funds generated from attendance fees are appropriated to and shall be used at the direction of the academy to fulfill its responsibilities under this chapter.

4. The director of the academy, subject to the approval of the Iowa state approving agency of the department of education, shall amend its administrative rules pursuant to chapter 17A to require that the academy's courses of study and training programs meet the requirements of nondegree programs under the Post-9/11 Veterans Educational Assistance Act of 2008, 38 U.S.C. §3301 et seq., as amended.

90 Acts, ch 1267, §25; 92 Acts, ch 1238, §21; 94 Acts, ch 1189, §17; 2003 Acts, ch 87, §3; 2010 Acts, ch 1031, §417; 2021 Acts, ch 114, §1, 3
Referred to in §80B.11E
NEW subsection 4

80B.11C Public safety telecommunicator training standards.

The director of the academy, subject to the approval of the council, in consultation with the Iowa state sheriffs' and deputies' association, the Iowa police executive forum, the Iowa peace officers association, the Iowa state police association, the Iowa professional fire fighters, the Iowa emergency medical services association, the joint council of Iowa fire service organizations, the Iowa department of public safety, the Iowa chapter of the association of public-safety communications officials—international, inc., the Iowa chapter of the national emergency number association, the department of homeland security and emergency management, and the Iowa department of public health, shall adopt rules pursuant to chapter 17A establishing minimum standards for training of public safety telecommunicators. *"Public safety telecommunicator"* means a person who serves as a first responder by receiving requests for, or by dispatching requests to, emergency response

agencies which include but are not limited to law enforcement, fire, rescue, and emergency medical services agencies.

96 Acts, ch 1061, §2; 2003 Acts, ch 179, §157; 2012 Acts, ch 1023, §11; 2013 Acts, ch 29, §42; 2020 Acts, ch 1077, §2

80B.11D Training.

1. An individual who is not a certified law enforcement officer may apply for attendance at a short course of study at an approved law enforcement training program if such individual is sponsored by a law enforcement agency. Such individual may be sponsored by a law enforcement agency that either intends to hire or has hired the individual as a law enforcement officer.

2. An individual who submits an application pursuant to subsection 1 shall, at a minimum, meet all minimum hiring standards as established by academy rules, including the successful completion of certain psychological and physical testing examinations. In addition, such individual shall be of good moral character as determined by a thorough background investigation by the hiring law enforcement agency. The academy shall conduct the requisite testing and background investigation for a fee if the law enforcement agency does not do so, and for such purposes, the academy shall be defined as a law enforcement agency and shall have the authority to conduct a background investigation including a fingerprint search of local, state, and national fingerprint files.

3. An individual who submits an application pursuant to subsection 1 shall, at a minimum, submit proof of successful completion of a two-year or four-year police science or criminal justice program at an accredited educational institution in this state approved by the academy.

4. An individual shall not be granted permission to attend an approved law enforcement training program pursuant to subsection 1 if such acceptance would result in the nonacceptance of another qualifying applicant who is a law enforcement officer.

5. This section applies only to individuals who apply for certification through a short course of study as established by rule.

6. An individual who has not been hired by a law enforcement agency must be hired by a law enforcement agency within eighteen months of completing the short course of study in order to obtain certification pursuant to this section.

2003 Acts, ch 67, §1

80B.11E Academy training — application by individual — individual expense.

1. Notwithstanding any other provision of law to the contrary, an individual who is not a certified law enforcement officer may apply for attendance at the law enforcement academy if such individual is sponsored by a law enforcement agency that either intends to hire or has hired the individual as a law enforcement officer on the condition that the individual meets the minimum eligibility standards described in subsection 2. The costs for attendance by such an individual at the law enforcement academy shall be paid as provided in section 80B.11B.

2. An individual who submits an application pursuant to subsection 1 shall, at a minimum, meet all minimum hiring standards as established by academy rules, including the successful completion of certain psychological and physical testing examinations. In addition, such individual shall be of good moral character as determined by a thorough background investigation by the academy for a fee. For such purposes, the academy shall have the authority to conduct a background investigation of the individual, including a fingerprint search of local, state, and national fingerprint files.

3. An individual shall not be granted permission to attend an academy training program if such acceptance would result in the nonacceptance of another qualifying applicant who is a law enforcement officer.

4. An individual who has not been hired by a law enforcement agency must be hired by a law enforcement agency within eighteen months of completing the appropriate coursework at the law enforcement academy in order to obtain certification pursuant to this chapter.

2003 Acts, ch 178, §16; 2004 Acts, ch 1086, §20; 2010 Acts, ch 1031, §418

80B.11F Previous certification in other states.

1. For purposes of this section, *"serious misconduct"* means improper or illegal actions taken by a law enforcement officer in connection with the officer's official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

2. The council may adopt rules pursuant to chapter 17A to establish a process for the certification through examination of law enforcement officers who have been certified in another state.

3. Before beginning employment with an employing agency in this state, a law enforcement officer who has been certified in another state must submit a preliminary application for certification through examination to the council. The application shall be under oath and shall require the applicant to provide any information determined to be necessary by the council, including but not limited to an attestation by the applicant to any of the following:

a. Whether the applicant's certification as a law enforcement officer has been revoked or suspended in another state.

b. Whether the applicant has pled guilty to or been convicted of a felony.

c. Whether the applicant has been discharged for serious misconduct from employment as a law enforcement officer.

d. Whether the applicant left, voluntarily quit, or has been laid off when the applicant knew or believed that disciplinary investigation or action was imminent or pending which could have resulted in the applicant being discharged for serious misconduct.

4. The council shall deny a preliminary application upon a finding that the applicant has done any of the following:

a. Been revoked as a certified law enforcement officer in another state.

b. Pled guilty to or been convicted of a felony.

c. Been discharged for serious misconduct from employment as a law enforcement officer.

d. Left, voluntarily quit, or been laid off when disciplinary investigation or action was imminent or pending which could have resulted in the applicant being discharged for serious misconduct, if the council determines that the applicant engaged in serious misconduct.

5. If the council denies a preliminary application for certification through examination, the applicant shall be prohibited from continued employment as a law enforcement officer in this state.

2020 Acts, ch 1037, §4

80B.11G Annual training — de-escalation techniques and prevention of bias.

1. A law enforcement agency shall provide annual training to every law enforcement officer on issues relating to de-escalation techniques and the prevention of bias. Every law enforcement officer in the state must participate in annual training in accordance with this section.

2. The academy shall develop and disseminate training guidelines for all law enforcement officers consistent with best practice guidelines.

3. Every law enforcement officer shall adhere to the training guidelines developed by the academy pursuant to this section. The training guidelines shall include all of the following:

a. An emphasis on law enforcement officer understanding and respect for diverse communities and the importance of effective, noncombative methods of carrying out law enforcement activities in a diverse community.

b. Instruction on diverse communities in order to foster mutual respect and cooperation between law enforcement and members of all diverse communities.

c. An examination of the patterns, practices, and protocols that cause biased law enforcement actions, and the tools to prevent such actions.

d. An examination and identification of key indices and perspectives that make up differences among residents in a local community.

e. Instruction on implicit bias and consideration of the negative impact of bias, whether intentional or implicit, on effective law enforcement, including examination of how historical perceptions of profiling have harmed community relations.

f. Instruction on the perspectives of diverse local constituency groups from experts on particular cultural and law enforcement-community relations issues in a local area.

g. A presentation of the history and the role of the civil rights movement and the impact on law enforcement.

h. Instruction on de-escalation techniques, including verbal and physical tactics to minimize the need for the use of force and nonlethal methods of applying force.

4. In developing the training guidelines, the academy shall consult with the Iowa civil rights commission, groups and individuals having an interest and expertise in the field of cultural awareness and diversity, and advocacy organizations with an interest and expertise in the field of biased law enforcement actions. The academy shall also consult with local law enforcement agencies to consider challenges and barriers to providing training under the guidelines and methods to ease the burden on such agencies.

2020 Acts, ch 1037, §8

80B.12 Agreements with other agencies.

The director with the approval of the council may enter into agreements with other public and private agencies, colleges and universities to carry out the intent of this chapter.

[C71, 73, 75, 77, 79, 81, §80B.12]

80B.13 Authority of council.

The council may:

1. Designate members to visit and inspect any law enforcement or jailer training schools, or examine the curriculum or training procedures, for which application for approval has been made.

2. Issue certificates to law enforcement training schools qualifying under the regulations of the council.

3. Issue certificates to law enforcement officers, reserve peace officers, and jailers who have met the requirements of this chapter and rules adopted under chapter 17A relative to hiring and training standards.

4. Make recommendations to the governor, the attorney general, the commissioner of public safety and the legislature on matters pertaining to qualification and training of law enforcement officers and jailers and other matters considered necessary to improve law enforcement services and jailer training.

5. Cooperate with federal, state, and local enforcement agencies in establishing and conducting local or area schools, or regional training centers for instruction and training of law enforcement officers and jailers.

6. Direct research in the field of law enforcement and jailer training and accept grants for such purposes.

7. Accept applications for attendance of the academy from persons other than those required to attend.

8. Revoke or suspend a law enforcement officer's or reserve peace officer's certification pursuant to section 80B.13A.

9. In accordance with chapter 17A, conduct investigations, hold hearings, appoint administrative law judges, administer oaths, and issue subpoenas enforceable in district court on matters relating to the revocation or suspension of a law enforcement officer's or reserve peace officer's certification.

10. Secure the assistance of the state division of criminal investigation in the investigation of alleged violations, as provided under section 80.9A, subsection 6, paragraphs "*c*" and "*g*", of the provisions adopted under section 80B.11.

[C71, 73, 75, 77, 79, 81, §80B.13]

84 Acts, ch 1246, §2, 3; 85 Acts, ch 67, §10; 89 Acts, ch 62, §4; 99 Acts, ch 70, §2 – 4; 2007 Acts, ch 22, §19; 2008 Acts, ch 1031, §99; 2008 Acts, ch 1032, §201; 2020 Acts, ch 1037, §5; 2021 Acts, ch 80, §31

Referred to in §321.267A

Subsections 3 and 9 amended

80B.13A Revocation or suspension of certification.

1. For purposes of this section:

a. *"Final"* means that all appeals through a grievance procedure available to the officer or civil service have been exhausted.

b. *"Serious misconduct"* means improper or illegal actions taken by a law enforcement officer or reserve peace officer in connection with the officer's official duties including but not limited to a conviction for a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

2. The council shall revoke the certification of a law enforcement officer or reserve peace officer upon a finding that the law enforcement officer or reserve peace officer has done any of the following:

a. Pled guilty to or been convicted of a felony.

b. Been discharged for serious misconduct from employment as a law enforcement officer or from appointment as a reserve peace officer, as applicable.

c. Left, voluntarily quit, or been laid off when disciplinary investigation or action was imminent or pending which could have resulted in the law enforcement officer being discharged or the reserve peace officer being removed for serious misconduct, if the council determines that the officer engaged in serious misconduct.

3. The council may revoke or suspend the certification of a law enforcement officer or reserve peace officer due to any of the following:

a. For any other grounds authorized by rules adopted pursuant to section 80B.11, subsection 1, paragraph *"h"*, or section 80D.4A.

b. When an employing agency recommends to the council that revocation or suspension would be appropriate with regard to a current or former employee. A recommendation by an employing agency must be in writing and set forth the reasons why the action is being recommended, the findings of the employing agency concerning the matter, the action taken by the employing agency, and that the action by the agency is final.

c. When the attorney general recommends to the council that revocation or suspension would be appropriate pursuant to section 13.12.

4. An employing agency shall notify the council within ten days of any termination of employment of a law enforcement officer or appointment as a reserve peace officer. The notification must state whether the law enforcement officer or reserve peace officer was discharged or removed for serious misconduct or whether the officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer being discharged or removed for serious misconduct. Upon request by the council, the employing agency shall provide any additional information or documentation about the officer including confidential records or information under section 22.7 or other applicable law to the council.

5. Any recommendation, notification, or other record or information provided by an employing agency or the attorney general pursuant to this section shall be confidential except as required by rule or order of the council, an administrative law judge, or a reviewing court. Any employing agency or person who, acting reasonably and in good faith, files a notification or recommendation, releases information, or otherwise cooperates with an investigation under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action.

6. The council shall adopt rules pursuant to chapter 17A establishing a process to challenge and appeal a revocation or suspension made pursuant to this section.

2020 Acts, ch 1037, §6
Referred to in §80B.13

80B.14 Budget submitted to department of management.

The Iowa law enforcement academy council shall annually submit estimates of its expenditure requirements to the department of management, in such form as required

by chapter 8. The estimates shall include the costs of administration, maintenance, and operation, and the cost of any proposed capital improvements or additional programs.

[C71, 73, 75, 77, 79, 81, §80B.14]

2016 Acts, ch 1011, §11

80B.15 Library and media resource center.

1. The academy shall be the principal law enforcement library and media resource center and shall coordinate the use of law enforcement media resources with training centers and educational institutions offering a two-year program in law enforcement to insure for the efficient use of state law enforcement media resources.

2. The academy shall offer state media resource assistance to any law enforcement training center certified by the Iowa law enforcement academy council.

3. The director of the academy shall assess a fee for use of law enforcement media resources supplied or loaned by the academy. The fees shall be established by rules adopted pursuant to chapter 17A. The fees shall be considered as repayment receipts.

[C77, 79, 81, §80B.15; 81 Acts, ch 14, §22]

2017 Acts, ch 54, §76

80B.16 Audiovisual fees established.

The academy may charge state departments, independent agencies, or other governmental offices a fee not to exceed the actual costs, including the cost of equipment, production, and duplication, for audiovisual services provided by the academy. Fees shall be deposited in a separate fund in the state treasury to be known as the audiovisual equipment fund. Funds generated from the audiovisual fees are appropriated and shall be used at the direction of the academy only to maintain and upgrade academy audiovisual equipment. Notwithstanding section 8.33, unencumbered or unobligated moneys in the separate fund at the end of a fiscal year shall not revert to the general fund of the state.

92 Acts, ch 1238, §22

80B.17 Certification required.

The council shall extend the one-year time period in which an officer candidate must become certified for up to one hundred eighty days if the officer candidate is enrolled in training within twelve months of initial appointment.

98 Acts, ch 1124, §1

80B.18 Law enforcement officer — tribal government.

A law enforcement officer who is a member of a police force of a tribal government and who becomes certified through the Iowa law enforcement academy shall be subject to the certification and revocation of certification rules and procedures as provided in this chapter. The certified law enforcement officer shall be subject to the jurisdiction of the courts of this state if an agreement exists between the tribal government and the state or between the tribal government and a county, which grants authority to the law enforcement officer to act in a law enforcement capacity off a settlement or reservation.

2003 Acts, ch 87, §4

80B.19 Academy internal training clearing fund.

1. Activities of the academy shall be accounted for within the general fund of the state, except the academy may establish and maintain an internal training clearing fund in accordance with generally accepted accounting principles, as defined in section 8.57, subsection 4, for activities of the academy which are primarily from billings to governmental entities for services rendered by the academy.

2. Internal training funds in the internal training clearing fund shall be administered by the academy and shall consist of moneys collected by the academy from billings issued in accordance with this chapter, and any other moneys obtained or accepted by the academy, including but not limited to gifts, loans, donations, grants, and contributions, which are obtained or designated to support the activities of the academy.

3. The proceeds of an internal training clearing fund established pursuant to this section shall be used by the academy and expended through the appropriated account of the academy for the operations of the academy consistent with this chapter. However, this usage requirement shall not limit or restrict the academy from using proceeds from gifts, loans, donations, grants, and contributions in conformance with any conditions, directions, limitations, or instructions attached or related thereto.

4. Section 8.33 does not apply to any moneys in the internal training clearing fund established pursuant to this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2017 Acts, ch 167, §22; 2017 Acts, ch 170, §33

CHAPTER 80C

RESERVED

CHAPTER 80D

RESERVE PEACE OFFICERS

Referred to in §13.12, 331.382, 384.15, 422.12, 905.4

80D.1	Establishment of a force of reserve peace officers.	80D.7	Carrying weapons.
80D.1A	Definitions.	80D.8	Supplementary capacity.
80D.2	Personal standards.	80D.9	Supervision of reserve peace officers.
80D.3	Training standards.	80D.10	No reduction of regular force.
80D.4	Training.	80D.11	Employee — pay.
80D.4A	Training and certification requirements — revocation or suspension of certification.	80D.12	Benefits when injured.
		80D.13	Insurance.
80D.5	No exemptions.	80D.14	No participation in a pension fund or retirement system.
80D.6	Status of reserve peace officers.	80D.15	Civil defense auxiliary police exempt. Repealed by 2011 Acts, ch 34, §162.
80D.6A	Status of reserve peace officers of a tribal government.		

80D.1 Establishment of a force of reserve peace officers.

1. The governing body of a city, a county, the state of Iowa, or a judicial district department of correctional services may provide, either separately or collectively through a chapter 28E agreement, for the establishment of a force of reserve peace officers, and may limit the size of the reserve force. In the case of the state, the department of public safety shall act as the governing body.

2. The governing body of a tribal government may provide for the establishment of a force of reserve peace officers and may limit the size of the reserve force.

3. This chapter constitutes the only procedure for appointing reserve peace officers.

[C81, §80D.1]

90 Acts, ch 1092, §1; 2001 Acts, ch 104, §1; 2013 Acts, ch 48, §1

Referred to in §85.61

80D.1A Definitions.

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

1. *"Academy"* means the Iowa law enforcement academy.

2. *"Council"* means the Iowa law enforcement academy council.

3. *"Minimum training course"* means a curriculum of basic training requirements developed by the academy pursuant to the academy's rulemaking authority that a reserve peace officer must complete within a prescribed time period to become state certified as

a reserve peace officer. The minimum training course does not include required weapons training.

4. *"Reserve force"* means an organization of reserve peace officers established as provided in this chapter.

5. *"Reserve peace officer"* means a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation, has regular police powers while functioning as a law enforcement agency's representative, and participates on a regular basis in the law enforcement agency's activities including crime prevention and control, preservation of the peace, and enforcement of law.

90 Acts, ch 1092, §2; 2007 Acts, ch 47, §1

Referred to in §80B.3, 100B.14, 100B.31, 422.12, 724.2A

80D.2 Personal standards.

The director of the law enforcement academy with the approval of the law enforcement academy council may establish minimum standards of physical, educational, mental, and moral fitness for members of the reserve force.

[C81, §80D.2]

80D.3 Training standards.

1. Each person appointed to serve as a reserve peace officer shall satisfactorily complete a minimum training course as established by academy rules. In addition, if a reserve peace officer is authorized to carry weapons, the officer shall satisfactorily complete the same training course in the use of weapons as is required for basic training of regular peace officers by the academy. The minimum training course for reserve peace officers shall be satisfactorily completed within the time period prescribed by academy rules. Academy-approved reserve peace officer training received before July 1, 2007, may be applied to meet the minimum training course requirements established by academy rules.

2. A reserve peace officer who does not carry a weapon shall not be required to complete a weapons training course, but the officer shall comply with all other training requirements.

3. *a.* A person appointed to serve as a reserve peace officer who has received basic training as a peace officer and has been certified by the academy pursuant to chapter 80B and rules adopted pursuant to chapter 80B may be exempted from completing the minimum training course at the discretion of the appointing authority. However, such a person appointed to serve as a reserve peace officer shall meet mandatory in-service training requirements established by academy rules if the person has not served as an active peace officer within one hundred eighty days of appointment as a reserve peace officer.

b. A person appointed to serve as a reserve peace officer who has met the one-hundred-fifty-hour training requirement by obtaining training at a community college or other facility selected by the individual and approved by the law enforcement agency prior to July 1, 2007, shall be exempted from completing the minimum training course at the discretion of the appointing authority and shall continue to hold certification with the appointing authority.

4. The minimum training course required for a reserve peace officer shall be conducted pursuant to sections 80D.4 and 80D.7. If weapons are to be carried, a reserve peace officer shall complete a weapons training course having the same number of hours of training as is required of regular peace officers in basic training pursuant to section 80D.7.

5. A person is eligible for state certification as a reserve peace officer upon satisfactory completion of the training and testing requirements specified by academy rules.

[C81, §80D.3]

90 Acts, ch 1092, §3; 2007 Acts, ch 47, §2; 2008 Acts, ch 1032, §201; 2009 Acts, ch 78, §1; 2009 Acts, ch 179, §33

80D.4 Training.

Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the academy. Upon satisfactory

completion of training required by the academy, the academy shall certify the individual as a reserve peace officer.

[C81, §80D.4]

90 Acts, ch 1092, §4; 90 Acts, ch 1253, §121; 2001 Acts, ch 104, §2; 2007 Acts, ch 47, §3

Referred to in §80D.3

80D.4A Training and certification requirements — revocation or suspension of certification.

The director of the academy, subject to the approval of the council, shall promulgate rules in accordance with the provisions of this chapter and chapter 17A, giving due consideration to varying factors and special requirements of law enforcement agencies relative to the standardized training and state certification of reserve peace officers. The rules shall provide for grounds for revocation or suspension of a reserve peace officer's certification.

2007 Acts, ch 47, §4; 2020 Acts, ch 1037, §7

Referred to in §80B.13A, 321.267A

80D.5 No exemptions.

There shall be no exemptions from the personal and training standards provided for in this chapter except as provided in section 80D.7.

[C81, §80D.5]

2011 Acts, ch 34, §169

80D.6 Status of reserve peace officers.

1. Reserve peace officers shall serve as peace officers on the orders and at the discretion of the chief of police, sheriff, commissioner of public safety or the commissioner's designee, or director of the judicial district department of correctional services or the director's designee, as the case may be.

2. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations, and duties as any other peace officers.

[C81, §80D.6]

2001 Acts, ch 104, §3; 2021 Acts, ch 76, §150

Code editor directive applied

80D.6A Status of reserve peace officers of a tribal government.

Reserve peace officers of a tribal government shall serve as peace officers on the orders and at the discretion of the chief of the police force of the tribal government. While in the actual performance of official duties, reserve peace officers of a tribal government shall be vested with the same rights, privileges, obligations, and duties as any other peace officers of the tribal government.

2013 Acts, ch 48, §2

80D.7 Carrying weapons.

A member of a reserve force shall not carry a weapon in the line of duty until the member has been approved by the governing body and certified by the Iowa law enforcement academy council to carry weapons. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the chief of police, sheriff, commissioner of public safety or the commissioner's designee, or director of the judicial district department of correctional services or the director's designee, as the case may be.

[C81, §80D.7]

90 Acts, ch 1092, §5; 2001 Acts, ch 104, §4

Referred to in §80D.3, 80D.5

80D.8 Supplementary capacity.

Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all requirements for regular peace officers.

[C81, §80D.8]

80D.9 Supervision of reserve peace officers.

1. Reserve peace officers shall be subordinate to regular peace officers, shall not serve as peace officers unless under the direction of regular peace officers, and shall wear a uniform prescribed by the chief of police, sheriff, commissioner of public safety, or director of the judicial district department of correctional services unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigation, civil process, court duties, jail duties, and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

2. Each department for which a reserve force is established shall appoint a certified peace officer as the reserve force coordinating and supervising officer. A reserve peace officer force established in a judicial district department of correctional services must be directly supervised by a certified peace officer who is on duty. That certified peace officer shall report directly to the chief of police, sheriff, commissioner of public safety or the commissioner's designee, or director of the judicial district department of correctional services or the director's designee, as the case may be.

[C81, §80D.9]

2001 Acts, ch 104, §5; 2021 Acts, ch 76, §15
Section amended

80D.10 No reduction of regular force.

The governing body shall not reduce the authorized size of a regular law enforcement department or office because of the establishment or utilization of reserve peace officers.

[C81, §80D.10]

80D.11 Employee — pay.

While performing official duties, each reserve peace officer shall be considered an employee of the governing body which the officer represents and shall be paid a minimum of one dollar per year. The governing body of a city, a county, the state, or a judicial district department of correctional services may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

[C81, §80D.11]

83 Acts, ch 101, §3; 2001 Acts, ch 104, §6

80D.12 Benefits when injured.

1. Hospital and medical assistance and benefits as provided in chapter 85 shall be provided by the governing body to members of the reserve force who sustain injury in the course of performing official duties.

2. For reserve peace officers of a tribal government, hospital and medical assistance and benefits shall be provided by the tribal government to members of the reserve force who sustain injury while performing official duties in the same manner as for a regular peace officer of the tribal government.

[C81, §80D.12]

2013 Acts, ch 48, §3; 2014 Acts, ch 1092, §22

80D.13 Insurance.

Liability and false arrest insurance shall be provided by the governing body to members of the reserve force while performing official duties in the same manner as for a regular peace officer.

[C81, §80D.13]

80D.14 No participation in a pension fund or retirement system.

This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of this state of which regular peace officers may become members.

[C81, §80D.14]

80D.15 Civil defense auxiliary police exempt. Repealed by 2011 Acts, ch 34, §162.

CHAPTER 80E

DRUG ENFORCEMENT AND ABUSE PREVENTION

80E.1 Drug policy coordinator.
80E.2 Drug policy advisory council — membership — duties.
80E.3 Narcotics enforcement advisory council. Repealed by 2000 Acts, ch 1126, §8.
80E.4 Drug abuse resistance education fund.

80E.1 Drug policy coordinator.

1. A drug policy coordinator shall be appointed by the governor, subject to confirmation by the senate, and shall serve at the pleasure of the governor. The governor shall fill a vacancy in the office in the same manner as the original appointment was made. The coordinator shall be selected primarily for administrative ability. The coordinator shall not be selected on the basis of political affiliation and shall not engage in political activity while holding the office. The salary of the coordinator shall be fixed by the governor.

2. The coordinator shall:

a. Direct the governor's office of drug control policy, and coordinate and monitor all statewide narcotics enforcement efforts, coordinate and monitor all state and federal substance abuse treatment grants and programs, coordinate and monitor all statewide substance abuse prevention and education programs in communities and schools, and engage in such other related activities as required by law. The coordinator shall work in coordinating the efforts of the department of corrections, the department of education, the Iowa department of public health, the department of public safety, and the department of human services. The coordinator shall assist in the development and implementation of local and community strategies to fight substance abuse, including local law enforcement, education, and treatment activities.

b. Submit an annual report to the governor and general assembly by November 1 of each year concerning the activities and programs of the coordinator and other departments related to drug enforcement, substance abuse treatment programs, and substance abuse prevention and education programs. The report shall include an assessment of needs with respect to programs related to substance abuse treatment and narcotics enforcement.

c. Submit an advisory budget recommendation to the governor and general assembly concerning enforcement programs, treatment programs, and education programs related to drugs within the various departments. The coordinator shall work with these departments in developing the departmental budget requests to be submitted to the legislative services agency and the general assembly.

3. The governor's office of drug control policy shall be an independent office, located at the same location as the department of public safety. Administrative support services may be provided to the governor's office of drug control policy by the department of public safety.

89 Acts, ch 225, §1; 2000 Acts, ch 1126, §1, 2; 2003 Acts, ch 35, §45, 49; 2012 Acts, ch 1131, §33

Referred to in §124.101
Confirmation, see §2.32

80E.2 Drug policy advisory council — membership — duties.

1. An Iowa drug policy advisory council is established which shall consist of the following fifteen members:

a. The drug policy coordinator, who shall serve as chairperson of the council.

b. The director of the department of corrections, or the director's designee.

c. The director of the department of education, or the director's designee.

d. The director of the Iowa department of public health, or the director's designee.

e. The commissioner of public safety, or the commissioner's designee.

f. The director of the department of human services, or the director's designee.

g. The director of the division of criminal and juvenile justice planning in the department of human rights, or the division director's designee.

h. A prosecuting attorney.

i. A licensed substance abuse treatment specialist.

j. A certified substance abuse prevention specialist.

k. A substance abuse treatment program director.

l. A justice of the Iowa supreme court, or judge, as designated by the chief justice of the supreme court.

m. A member representing the Iowa peace officers association.

n. A member representing the Iowa state police association.

o. A member representing the Iowa state sheriffs' and deputies' association.

2. The prosecuting attorney, licensed substance abuse treatment specialist, certified substance abuse prevention specialist, substance abuse treatment program director, member representing the Iowa peace officers association, member representing the Iowa state police association, and the member representing the Iowa state sheriffs' and deputies' association shall be appointed by the governor, subject to senate confirmation, for four-year terms beginning and ending as provided in section 69.19. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment was made.

3. The council shall make policy recommendations to the appropriate departments concerning the administration, development, and coordination of programs related to substance abuse education, prevention, treatment, and enforcement.

4. The members of the council shall be reimbursed for actual and necessary travel and related expenses incurred in the discharge of official duties. Each member of the council may also be eligible to receive compensation as provided in section 7E.6.

5. The council shall meet at least semiannually throughout the year.

6. A majority of the members of the council constitutes a quorum, and a majority of the total membership of the council is necessary to act in any matter within the jurisdiction of the council.

89 Acts, ch 225, §2; 2000 Acts, ch 1126, §3, 4; 2008 Acts, ch 1032, §167; 2012 Acts, ch 1023, §12, 13; 2013 Acts, ch 68, §1

Confirmation, see §2.32

80E.3 Narcotics enforcement advisory council. Repealed by 2000 Acts, ch 1126, §8.

80E.4 Drug abuse resistance education fund.

A drug abuse resistance education fund is created as a separate fund in the state treasury under the control of the governor's office of drug control policy for use by the drug abuse resistance education program and other programs with a similar purpose. The fund shall consist of appropriations made to the fund and transfers of interest, moneys collected from the crime services surcharge established in section 911.1, and earnings. All moneys in the fund are appropriated to the governor's office of drug control policy. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to any other fund of the state but shall remain available for the purposes described in this section.

2020 Acts, ch 1074, §48, 93

Referred to in §602.8108

CHAPTER 80F

RIGHTS OF PEACE OFFICERS AND PUBLIC SAFETY AND EMERGENCY PERSONNEL

80F.1 Peace officer, public safety, and emergency personnel bill of rights.
80F.2 Reimbursement of defense costs.

80F.1 Peace officer, public safety, and emergency personnel bill of rights.

1. As used in this section, unless the context otherwise requires:

a. *"Complaint"* means a formal written allegation signed by the complainant or a signed written statement by an officer receiving an oral complaint stating the complainant's allegation.

b. *"Formal administrative investigation"* means an investigative process ordered by a commanding officer of an agency or commander's designee during which the questioning of an officer is intended to gather evidence to determine the merit of a complaint which may be the basis for seeking removal, discharge, or suspension, or other disciplinary action against the officer.

c. *"Informal inquiry"* means a meeting by supervisory or command personnel with an officer who is the subject of an allegation, for the purpose of resolving the allegation or determining whether a formal administrative investigation should be commenced.

d. *"Interview"* means the questioning of an officer who is the subject of a complaint pursuant to the formal administrative investigation procedures of the investigating agency, if such a complaint may be the basis for seeking removal, discharge, or suspension, or other disciplinary action against the officer. *"Interview"* does not include questioning as part of any informal inquiry or questioning related to minor infractions of agency rules which will not result in removal, discharge, suspension, or other disciplinary action against the officer.

e. *"Officer"* means a certified law enforcement officer, fire fighter, emergency medical technician, corrections officer, detention officer, jailer, probation or parole officer, communications officer, or any other law enforcement officer certified by the Iowa law enforcement academy and employed by a municipality, county, or state agency.

f. *"Statement"* means the statement of the officer who is the subject of an allegation in response to a complaint.

2. This section is not applicable to a criminal investigation of an officer or where other investigations pursuant to state or federal law require different investigatory procedures.

3. A formal administrative investigation of an officer shall be commenced and completed in a reasonable period of time. An officer shall be immediately notified in writing of the results of the investigation when the investigation is completed.

4. An officer shall not be compelled to submit to a polygraph examination against the will of the officer except as otherwise provided in section 730.4, subsection 3.

5. An officer who is the subject of a complaint, shall at a minimum, be provided a written summary of the complaint prior to an interview. If a collective bargaining agreement applies, the complaint or written summary shall be provided pursuant to the procedures established under the collective bargaining agreement. If the complaint alleges domestic abuse, sexual abuse, workplace harassment, or sexual harassment, an officer shall not receive more than a written summary of the complaint.

6. An officer being interviewed shall be advised by the interviewer that the officer shall answer the questions and be advised that the answers shall not be used against the officer in any subsequent criminal proceeding.

7. An interview of an officer who is the subject of the complaint shall, at a minimum, be audio recorded.

8. *a.* The officer shall have the right to have the assistance of legal counsel, at the officer's expense, during the interview of the officer and during hearings or other disciplinary or administrative proceedings relating to the complaint. In addition, the officer shall have the right, at the officer's expense, to have a union representative present during the interview or, if not a member of a union, the officer shall have the right to have a designee present.

b. The officer's legal counsel, union representative, or employee representative shall not be compelled to disclose in any judicial proceeding, nor be subject to any investigation or punitive action for refusing to disclose, any information received from an officer under investigation or from an agent of the officer, so long as the officer or agent of the officer is an uninvolved party and not considered a witness to any incident. The officer's legal counsel may coordinate and communicate in confidence with the officer's designated union representative or employee representative, and such communications are not subject to discovery in any proceeding.

9. If a formal administrative investigation results in the removal, discharge, or suspension, or other disciplinary action against an officer, copies of any witness statements and the complete investigative agency's report shall be timely provided to the officer upon the request of the officer or the officer's legal counsel upon request at the completion of the investigation.

10. An interview shall be conducted at any facility of the investigating agency.

11. If an interview is conducted while an officer is off duty, the officer shall be compensated as provided by law, or as provided in the applicable collective bargaining agreement.

12. If a complaint is determined by the investigating officer to be a violation of section 718.6, the investigating officer shall be responsible for filing the necessary paperwork with the county attorney's office in order for the county attorney to make a determination as to whether to charge the person with a violation of section 718.6.

13. An officer shall have the right to bring a cause of action against any person, group of persons, organization, or corporation for damages arising from the filing of a false complaint against the officer or any other violation of this chapter including but not limited to actual damages, court costs, and reasonable attorney fees.

14. Notwithstanding any other provision of state law to the contrary, an officer shall not be denied the opportunity to be a candidate for any elected office as long as the officer's candidacy does not violate the federal Hatch Act, 5 U.S.C. §1501 et seq. An officer may be required, as a condition of being a candidate, to take a leave of absence during the campaign. If the officer is subject to chapter 341A and is a candidate for county sheriff, the candidate, upon the candidate's request, shall automatically be given a leave of absence without pay as provided in section 341A.18.

15. An officer shall have the right, as any other citizen, to engage in political activity except while on duty as long as the officer's political activity does not violate the federal Hatch Act, 5 U.S.C. §1501 et seq. An officer shall not be required to engage in political activity by the officer's agency, a representative of the officer's agency, or any other agency.

16. An officer shall not be discharged, disciplined, or threatened with discharge or discipline in retaliation for exercising the rights of the officer enumerated in this section.

17. The rights enumerated in this section are in addition to any other rights granted pursuant to a collective bargaining agreement or other applicable law.

18. A municipality, county, or state agency employing an officer shall not publicly release the officer's official photograph without the written permission of the officer or without a request to release pursuant to chapter 22. An officer's personal information including but not limited to the officer's home address, personal telephone number, personal electronic mail address, date of birth, social security number, and driver's license number shall be confidential and shall be redacted from any record prior to the record's release to the public by the employing agency. Nothing in this subsection prohibits the release of an officer's photograph or unredacted personal information to the officer's legal counsel, union representative, or designated employee representative upon the officer's request.

19. If a formal administrative investigation results in removal, discharge, suspension, or disciplinary action against an officer, and the officer alleges in writing a violation of the provisions of this section, the municipality, county, or state agency employing the officer shall hold in abeyance for a period of ten days any punitive action taken as a result of the investigation, including a reprimand. An allegation of a violation of this section may be raised and given due consideration in any properly authorized grievance or appeal exercised by an officer, including but not limited to a grievance or appeal exercised pursuant to the

terms of an applicable collective bargaining agreement and an appeal right exercised under section 341A.12 or 400.20.

20. The employing agency shall keep an officer's statement, recordings, or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer confidential unless otherwise provided by law or with the officer's written consent. Nothing in this section prohibits the release of an officer's statement, recordings, or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer to the officer or the officer's legal counsel upon the officer's request.

21. An agency employing full-time or part-time officers shall provide training to any officer or supervisor who performs or supervises an investigation under this section, and shall maintain documentation of any training related to this section. The Iowa law enforcement academy shall adopt minimum training standards not inconsistent with this subsection, including training standards concerning interviewing an officer subject to a complaint.

22. Upon written request, the employing agency shall provide to the requesting officer or the officer's legal counsel a copy of the officer's personnel file and training records regardless of whether the officer is subject to a formal administrative investigation at the time of the request.

23. *a.* An officer shall not be discharged, disciplined, or threatened with discharge or discipline by a state, county, or municipal law enforcement agency solely due to a prosecuting attorney making a determination or disclosure that exculpatory evidence exists concerning the officer.

b. This subsection does not prohibit a law enforcement agency from dismissing, suspending, demoting, or taking other disciplinary actions against an officer based on the underlying actions that resulted in the exculpatory evidence being withheld. If a collective bargaining agreement applies, the actions taken by the law enforcement agency shall conform to the rules and procedures adopted by the collective bargaining agreement.

c. This subsection is repealed July 1, 2022.

2007 Acts, ch 160, §1; 2021 Acts, ch 183, §17 – 20
Subsection 1, paragraph a amended
Subsections 3, 5, 8, 9, 13, and 18 amended
NEW subsections 20 – 23

80F.2 Reimbursement of defense costs.

1. If a peace officer, as defined in section 801.4, or a corrections officer is charged with the alleged commission of a public offense, based on acts or omissions within the scope of the officer's lawful duty or authority, and the charge is dismissed or the officer is acquitted of the charge, the presiding magistrate or judge shall enter judgment awarding reimbursement to the officer for any costs incurred in defending against the charge, including but not limited to a reasonable attorney fee, if the court finds the existence of any of the following grounds:

a. The charge was without probable cause.

b. The charge was filed for malicious purposes.

c. The charge was unwarranted in consideration of all of the circumstances and matters of law attending the alleged offense.

2. The officer may apply for review of a failure or refusal to rule or an adverse ruling as to the existence of any of the above grounds. The application shall be to a district judge if the officer is seeking review of the act of a magistrate or district associate judge and the application shall be to a different district judge if review is sought of an act of a district judge.

2016 Acts, ch 1049, §1

CHAPTER 80G

UNDERCOVER LAW ENFORCEMENT OFFICERS — PRIVILEGE — CONFIDENTIALITY

80G.1 Definitions.
80G.2 Law enforcement officer — privilege — confidentiality.
80G.3 Personnel information — undercover law enforcement officer — confidentiality.
80G.4 Court determination.

80G.1 Definitions.

As used in this section except as the context otherwise requires:

1. *"Compensation"* means the same as defined in section 22.7, subsection 11.

2. *"Law enforcement officer"* means the same as *"peace officer"* as defined in section 801.4.

3. *"Undercover law enforcement officer"* means a law enforcement officer who is actively involved with and assigned to investigate alleged violations of state or federal law and whose identity as a law enforcement officer is concealed while conducting an investigation. *"Undercover law enforcement officer"* includes a law enforcement officer actively engaged in undercover law enforcement work whose assignment requires the law enforcement officer to work incognito, or in a situation in which the true identity of the law enforcement officer is intentionally hidden from others. *"Undercover law enforcement officer"* does not include a law enforcement officer participating in undercover law enforcement work that is merely incidental or ancillary to the law enforcement officer's assigned duties.

2017 Acts, ch 122, §3

80G.2 Law enforcement officer — privilege — confidentiality.

1. *a.* A law enforcement officer shall not be examined or be required to give evidence in any criminal proceeding that requires the disclosure of any records or information relating to any of the following:

(1) Identification documents or other documents necessary to conduct a lawful undercover criminal investigation.

(2) Personal identifying information about the law enforcement officer or immediate family member of the law enforcement officer, or other information unrelated to the law enforcement officer's professional duties which could be used to threaten, harm, or intimidate the law enforcement officer or immediate family member of the law enforcement officer, or other information that could reasonably be construed to constitute an unwarranted invasion of privacy of the law enforcement officer or immediate family member of the law enforcement officer. Personal information that is knowingly and voluntarily disclosed by the law enforcement officer or immediate family member of the law enforcement officer may be redisseminated.

b. A law enforcement officer who is called to testify shall not disclose information that is subject to nondisclosure as a result of a court order, statute, contract, or a condition or requirement of a grant.

2. In determining whether nondisclosure of confidential or privileged information about a law enforcement officer may affect a defendant's right to present a defense, the court shall make findings on the record regarding the impact of disclosure on the personal safety of the law enforcement officer or immediate family member of the law enforcement officer if the evidence is disclosed, the probative value of the confidential or privileged information about the law enforcement officer, the impact of disclosure on public safety, the potential for partial or limited disclosure of the privileged information, and the defendant's constitutional right to present a defense. Any privileged information that is admitted for purposes of a pretrial hearing or a preliminary admissibility determination shall remain confidential.

2017 Acts, ch 122, §4

Referred to in §22.7(5)

80G.3 Personnel information — undercover law enforcement officer — confidentiality.

The name, photograph, compensation and benefit records, time records, residential address, or any other personal identifying information of an undercover law enforcement

officer shall be confidential while the undercover law enforcement officer is actively involved with or assigned to investigate violations of state or federal law.

2017 Acts, ch 122, §5
Referred to in §22.7(11)(a)

80G.4 Court determination.

Factual disputes relating to who is an undercover law enforcement officer or what work constitutes undercover law enforcement work shall be determined by the district court.

2017 Acts, ch 122, §6

CHAPTER 80H

BLUE ALERT PROGRAM

80H.1	Definitions.	80H.4	Activation and termination.
80H.2	Blue alert program — creation.	80H.5	Liability.
80H.3	Criteria — blue alert.	80H.6	Rules.

80H.1 Definitions.

As used in this chapter, the following definitions apply:

1. *"Department"* means the department of public safety.

2. *"Law enforcement agency"* means a law enforcement agency with jurisdiction over the search for a suspect in a case involving the death or serious injury of a peace officer in the line of duty, or a law enforcement agency employing a peace officer who is reported missing while on duty under circumstances warranting concern for the peace officer's safety.

3. *"Peace officer"* means the same as defined in section 801.4.

2020 Acts, ch 1104, §1

80H.2 Blue alert program — creation.

A blue alert program is created as a cooperative effort between the department and local law enforcement agencies to aid in the search for a suspect of a crime involving the death or serious injury of a peace officer in the line of duty or a peace officer who is missing while on duty under circumstances warranting concern for the peace officer's safety.

2020 Acts, ch 1104, §2

80H.3 Criteria — blue alert.

1. Upon notification by a law enforcement agency that a suspect in a case involving the death or serious injury of a peace officer in the line of duty has not been apprehended and may be a serious threat to the public, the department of public safety communications center shall activate a blue alert and notify appropriate participants in the blue alert program, as established by department rule, if all of the following criteria apply:

a. A law enforcement agency believes that the suspect has not been apprehended.

b. A law enforcement agency believes that the suspect may be a serious threat to the public.

c. Sufficient descriptive information is available to disseminate to the public that could assist in locating the suspect.

2. Upon notification by a law enforcement agency that a peace officer is missing while on duty under circumstances warranting concern for the peace officer's safety, the department of public safety communications center shall activate a blue alert and notify appropriate participants in the blue alert program, as established by department rule, if sufficient descriptive information is available to disseminate to the public that could assist in locating the missing peace officer.

3. The department of public safety communications center shall not release any information about the identity of a peace officer in a case involving the death or serious injury of the peace officer who is the subject of a blue alert.

4. If a blue alert is issued because a peace officer is missing while on duty, the department of public safety communications center shall defer to the investigating law enforcement agency about the nature and limits of the officer information to be made public.

2020 Acts, ch 1104, §3
Referred to in §80H.4

80H.4 Activation and termination.

1. Upon establishment of the blue alert criteria in section 80H.3, the department shall transmit a blue alert through the emergency alert system to Iowa broadcasters.

2. Upon the transmission of a blue alert, the department shall post the alert on an internet website accessible by the public.

3. After an initial blue alert transmission, additional information may be submitted by the participating law enforcement agency by facsimile transmission, electronic mail, or telephonic means.

4. The bureau chief of the department of public safety communications bureau may direct the transmission of an Iowa blue alert upon request from another state, provided that there is evidence the suspect may be present in Iowa.

5. The blue alert transmission may be directed to a specific geographic location within the state if the department of public safety communications center determines that the nature of the event makes it probable that the suspect or peace officer did not leave a certain geographic location of the state.

6. A blue alert shall terminate if any of the following occur:

a. The suspect or peace officer is located.

b. The department determines that the blue alert is no longer an effective tool for locating the suspect or peace officer.

c. Five hours have elapsed since the transmission of the blue alert.

7. A blue alert may be renewed.

8. Law enforcement agencies shall notify the department immediately upon taking a suspect into custody or upon locating the missing peace officer.

2020 Acts, ch 1104, §4

80H.5 Liability.

No entity or individual shall be liable for any civil damages arising from the activation or termination of a blue alert, provided the entity or individual acts reasonably and in good faith.

2020 Acts, ch 1104, §5

80H.6 Rules.

The department shall adopt rules pursuant to chapter 17A to implement this chapter.

2020 Acts, ch 1104, §6

CHAPTER 81

DNA PROFILING

Referred to in §906.4

81.1 Definitions.
81.2 Persons required to submit a DNA sample.
81.3 Establishment of DNA database and DNA data bank.
81.4 Collecting, submitting, analyzing, identifying, and storing DNA samples and DNA records.
81.5 Civil and criminal liability — limitation.
81.6 Criminal offense.
81.7 Conviction or arrest not invalidated.
81.8 Confidential records.
81.9 Expungement of DNA records.
81.10 Application requirements for DNA profiling after conviction.
81.11 Application for DNA profiling.
81.12 When DNA database comparisons may be ordered.
81.13 Additional DNA profiling provisions.
81.14 Compliance with applicable laws.

81.1 Definitions.

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

1. *"Aggravated misdemeanor"* means an offense classified as an aggravated misdemeanor committed by a person eighteen years of age or older on or after July 1, 2014, other than any of the following offenses:

a. A violation of chapter 321.

b. A second offense violation of section 321J.2, unless the person has more than one previous revocation as determined pursuant to section 321J.2, subsection 8, within the twelve-year period immediately preceding the commission of the offense in question.

c. A violation of chapter 716B.

d. A violation of chapter 717A.

e. A violation of section 725.7.

2. *"DNA"* means deoxyribonucleic acid.

3. *"DNA data bank"* means the repository for DNA samples obtained pursuant to section 81.4.

4. *"DNA database"* means the collection of DNA profiles and DNA records.

5. *"DNA profile"* means the objective form of the results of DNA analysis performed on a forensic sample or an individual's DNA sample. The results of all DNA identification analysis on an individual's DNA sample are also collectively referred to as the DNA profile of an individual. *"DNA profile"* also means the objective form of the results of DNA analysis performed on a forensic sample.

6. *"DNA profiling"* means the procedure for determining a person's genetic identity or for testing a forensic sample, including analysis that might not result in the establishment of a complete DNA profile.

7. *"DNA record"* means the DNA sample and DNA profile, and other records in the DNA database and DNA data bank used to identify a person.

8. *"DNA sample"* means a biological sample provided by any person required to submit a DNA sample or a DNA sample submitted for any other purpose under section 81.4.

9. *"Forensic sample"* means an evidentiary item that potentially contains DNA relevant to a crime.

10. *"Keyboard search"* means a keyboard search as defined in the national DNA index system operational procedures manual.

11. *"National DNA index system"* means a national, searchable DNA database created and maintained by the federal bureau of investigation where DNA profiles are stored and searched at a local, state, or national level.

12. *"Person required to submit a DNA sample"* means a person convicted, adjudicated delinquent, receiving a deferred judgment, or found not guilty by reason of insanity of an offense requiring DNA profiling pursuant to section 81.2. *"Person required to submit a DNA sample"* also means a person determined to be a sexually violent predator pursuant to section 229A.7.

13. *"State DNA index system"* means a state searchable DNA database created and maintained by the department of public safety where DNA profiles are stored and searched at the state level.

2005 Acts, ch 158, §1, 19; 2013 Acts, ch 107, §1, 5; 2019 Acts, ch 149, §1
Referred to in §802.10, 915.11

81.2 Persons required to submit a DNA sample.

1. A person who receives a deferred judgment for a felony or against whom a judgment or conviction for a felony or aggravated misdemeanor has been entered shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4.

2. A person determined to be a sexually violent predator pursuant to chapter 229A shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 prior to discharge or placement in a transitional release program.

3. A person found not guilty by reason of insanity of an offense that requires DNA profiling shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 as part of the person's treatment management program.

4. A juvenile adjudicated delinquent of an offense that requires DNA profiling of an adult offender shall be required to submit a DNA sample for DNA profiling pursuant to section 81.4 as part of the disposition of the juvenile's case.

5. An offender placed on probation shall immediately report to the judicial district department of correctional services after sentencing so it can be determined if the offender has been convicted of an offense requiring DNA profiling. If it is determined by the judicial district that DNA profiling is required, the offender shall immediately submit a DNA sample.

6. A person required to register as a sex offender shall submit a DNA sample for DNA profiling pursuant to section 81.4.

2005 Acts, ch 158, §2, 19; 2007 Acts, ch 38, §4; 2013 Acts, ch 107, §2, 5
Referred to in §81.1, 232.52, 901.5

81.3 Establishment of DNA database and DNA data bank.

1. A state DNA database and a state DNA data bank are established under the control of the division of criminal investigation, department of public safety. The division of criminal investigation shall conduct DNA profiling of a DNA sample submitted in accordance with this section.

2. A DNA sample shall be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for persons required to submit a DNA sample.

3. A DNA sample may be submitted, and the division of criminal investigation shall store and maintain DNA records in the DNA database and DNA data bank for any of the following:

a. Crime scene evidence and forensic casework.

b. A relative of a missing person.

c. An anonymous DNA profile used for forensic validation, forensic protocol development, or quality control purposes, or for the establishment of a population statistics database.

4. A fingerprint record of a person required to submit a DNA sample shall also be submitted to the division of criminal investigation with the DNA sample to verify the identity of the person required to submit a DNA sample.

2005 Acts, ch 158, §3, 19
Referred to in §81.9

81.4 Collecting, submitting, analyzing, identifying, and storing DNA samples and DNA records.

1. The division of criminal investigation shall adopt rules for the collection, submission, analysis, identification, storage, and disposition of DNA records.

2. A supervising agency having control, custody, or jurisdiction over a person shall collect a DNA sample from a person required to submit a DNA sample. The supervising agency shall collect a DNA sample, upon admittance to the pertinent institution or facility, of the person required to submit a DNA sample or at a determined date and time set by the supervising agency. If a person required to submit a DNA sample is confined at the time a DNA sample is

required, the person shall submit a DNA sample as soon as practicable. If a person required to submit a DNA sample is not confined after the person is required to submit a DNA sample, the supervising agency shall determine the date and time to collect the DNA sample.

3. A person required to submit a DNA sample who refuses to submit a DNA sample may be subject to contempt proceedings pursuant to chapter 665 until the DNA sample is submitted.

4. The division of criminal investigation shall conduct DNA profiling on a DNA sample or may contract with a private entity to conduct the DNA profiling.

2005 Acts, ch 158, §4, 19

Referred to in §81.1, 81.2, 81.5, 229A.7, 232.52, 669.14

81.5 Civil and criminal liability — limitation.

A person who collects a DNA sample shall not be civilly or criminally liable for the collection of the DNA sample if the person performs the person's duties in good faith and in a reasonable manner according to generally accepted medical practices or in accordance with the procedures set out in the administrative rules of the department of public safety adopted pursuant to section 81.4.

2005 Acts, ch 158, §5, 19

81.6 Criminal offense.

1. A person who knowingly or intentionally does any of the following commits an aggravated misdemeanor:

a. Discloses any part of a DNA record to a person or agency that is not authorized by the division of criminal investigation to have access to the DNA record.

b. Uses or obtains a DNA record for a purpose other than what is authorized under this chapter.

2. A person who knowingly or intentionally alters or attempts to alter a DNA sample, falsifies the source of a DNA sample, or materially alters a collection container used to collect the DNA sample, commits a class "D" felony.

2005 Acts, ch 158, §6, 19

81.7 Conviction or arrest not invalidated.

The detention, arrest, or conviction of a person based upon a DNA database match is not invalidated if it is determined that the DNA sample or DNA profile was obtained or placed into the DNA database by mistake or error.

2005 Acts, ch 158, §7, 19

81.8 Confidential records.

1. A DNA record shall be considered a confidential record and disclosure of a DNA record is only authorized pursuant to this section.

2. Confidential DNA records under this section may be released to the following agencies for law enforcement identification purposes:

a. Any criminal or juvenile justice agency as defined in section 692.1.

b. Any criminal or juvenile justice agency in another jurisdiction that meets the definition of a criminal or juvenile justice agency as defined in section 692.1.

3. The division of criminal investigation shall share the DNA record information with the appropriate federal agencies for use in a national DNA database.

4. A DNA record or other forensic information developed pursuant to this chapter may be released for use in a criminal or juvenile delinquency proceeding in which the state is a party and where the DNA record or forensic information is relevant and material to the subject of the proceeding. Such a record or information may become part of a public transcript or other public recording of such a proceeding.

5. A DNA record or other forensic information may be released pursuant to a court order for criminal defense purposes to a defendant, who shall have access to DNA samples and DNA profiles related to the case in which the defendant is charged.

2005 Acts, ch 158, §8, 19

81.9 Expungement of DNA records.

1. A person whose DNA record has been included in the DNA database or DNA data bank established pursuant to section 81.3 may request, in writing to the division of criminal investigation, expungement of the DNA record from the DNA database and DNA data bank based upon the person's conviction, adjudication, or civil commitment which caused the submission of the DNA sample being reversed on appeal and the case dismissed. The written request shall contain a certified copy of the final court order reversing the conviction, adjudication, or civil commitment, and a certified copy of the dismissal, and any other information necessary to ascertain the validity of the request.

2. The division of criminal investigation, upon receipt of a written request that validates reversal on appeal of a person's conviction, adjudication, or commitment, and subsequent dismissal of the case, or upon receipt of a written request by a person who voluntarily submitted a DNA sample pursuant to section 81.3, subsection 3, paragraph *"b"*, shall expunge all of the DNA records and identifiable information of the person in the DNA database and DNA data bank. However, if the division of criminal investigation determines that the person is otherwise obligated to submit a DNA sample, the DNA records shall not be expunged. If the division of criminal investigation denies an expungement request, the division shall notify the person requesting the expungement of the decision not to expunge the DNA record and the reason supporting its decision. The division of criminal investigation decision is subject to judicial review pursuant to chapter 17A. The department of public safety shall adopt rules governing the expungement procedure and a review process.

3. The division of criminal investigation is not required to expunge or destroy a DNA record pursuant to this section, if expungement or destruction of the DNA record would destroy evidence related to another person.

2005 Acts, ch 158, §9, 19

81.10 Application requirements for DNA profiling after conviction.

1. A defendant who has been convicted of a felony or aggravated misdemeanor may make an application to the court for an order to require that DNA profiling be performed on a forensic sample collected in the case for which the person stands convicted.

2. The application shall state the following:

a. The specific crimes for which the defendant stands convicted in this case.

b. The facts of the underlying case, as proven at trial or admitted to during a guilty plea proceeding.

c. Whether any of the charges include sexual abuse or involve sexual assault, and if so, whether a sexual assault examination was conducted and forensic samples were preserved, if known.

d. Whether identity was at issue or contested by the defendant.

e. Whether the defendant offered an alibi, and if so, testimony corroborating the alibi and, from whom.

f. Whether eyewitness testimony was offered, and if so from whom.

g. Whether any issues of police or prosecutor misconduct have been raised in the past or are being raised by the application.

h. The type of inculpatory evidence admitted into evidence at trial or admitted to during a guilty plea proceeding.

i. Whether blood testing or other biological evidence testing was conducted previously in connection with the case and, if so, by whom and the result, if known.

j. What biological evidence exists and, if known, the agency or laboratory storing the forensic sample that the defendant seeks to have tested.

k. Why the requested DNA profiling of the forensic sample is material to the issue in the case and not merely cumulative or impeaching.

l. Why the DNA profiling results would have changed the outcome of the trial or invalidated a guilty plea if the requested DNA profiling had been conducted prior to the conviction.

3. *a.* A proceeding for relief filed under this section shall be filed in the county where the defendant was convicted. The proceeding is commenced by filing an application for relief

with the district court in which the conviction took place, without paying a filing fee. The notice of the application shall be served by certified mail upon the county attorney and, if known, upon the state, local agency, or laboratory holding evidence described in subsection 2, paragraph *"k"*. The county attorney shall have sixty days to file an answer to the application.

b. The application shall be heard in and before any judge or the court in which the defendant's conviction or sentence took place. A record of the proceedings shall be made.

4. Any DNA profiling of the defendant or other biological evidence testing conducted by the state or by the defendant shall be disclosed and the results of such profiling or testing described in the application or answer.

5. If the forensic sample requested to be tested was previously subjected to DNA or other biological analysis by either party, the court may order the disclosure of the results of such testing, including laboratory reports, notes, and underlying data, to the court and the parties.

6. The court may order a hearing on the application to determine if the forensic sample should be subjected to DNA profiling.

2005 Acts, ch 158, §10, 19; 2013 Acts, ch 107, §3, 5; 2019 Acts, ch 149, §2
Referred to in §81.13, 822.2, 822.3

81.11 Application for DNA profiling.

1. The court shall grant an application for DNA profiling if all of the following apply:

a. The forensic sample subject to DNA profiling is available and either DNA profiling has not been performed on the forensic sample or DNA profiling has been previously performed on the forensic sample and the defendant is requesting DNA profiling using a new method or technology that is substantially more probative than the DNA profiling previously performed.

b. A sufficient chain of custody has been established for the forensic sample.

c. The identity of the person who committed the crime for which the defendant was convicted was a significant issue in the crime for which the defendant was convicted.

d. The forensic sample subject to DNA profiling is material to, and not merely cumulative or impeaching of, evidence included in the trial record or admitted to at a guilty plea proceeding.

e. The DNA profiling results would raise a reasonable probability that the defendant would not have been convicted if such results had been introduced at trial.

2. Upon the court granting an application filed pursuant to this section, DNA profiling of a forensic sample shall be conducted within the guidelines generally accepted by the scientific community if the testing type or resulting profile is not eligible to be uploaded or searched in the national DNA index system database. The defendant shall provide DNA samples for testing if requested by the state.

2019 Acts, ch 149, §3
Referred to in §81.12

81.12 When DNA database comparisons may be ordered.

1. If DNA profiling ordered under section 81.11 produces an unidentified DNA profile, after notice to the parties, including the department of public safety, the court may order the department of public safety to do any of the following:

a. Compare the DNA profile to the national DNA index system. The profile shall only be compared to the national DNA index system if the combined DNA index system administrator determines all of the following:

(1) The forensic sample is collected contemporaneously from the crime scene, has a nexus to the crime scene, is probative, and is suitable for analysis.

(2) The DNA profile was generated through a technology that complies with all requirements in the national DNA index system operational procedures manual.

(3) The DNA profile meets all the requirements in the national DNA index system operational procedures manual for either uploading the profile or conducting a keyboard search.

b. Compare the DNA profile to the state DNA index system if the profile meets all applicable state requirements.

2. If any provision of a court order under this section results in a violation of federal law,

the federal bureau of investigation's national DNA index system operational procedures manual, or the memorandum of understanding between the federal bureau of investigation laboratory division and the Iowa division of criminal investigation criminalistics laboratory for participation in the national DNA index system, that portion of the order shall be considered unenforceable. The remaining provisions of the order shall remain in effect.

2019 Acts, ch 149, §4

81.13 Additional DNA profiling provisions.

1. The results of DNA profiling conducted pursuant to this section shall be provided to the court, the defendant, the state, and the federal bureau of investigation. DNA samples obtained pursuant to this section may be included in the DNA data bank, and DNA profiles and DNA records developed pursuant to this section may be included in the DNA database.

2. A criminal or juvenile justice agency, as defined in section 692.1, shall maintain DNA samples and forensic samples that could be tested for DNA for a period of three years beyond the limitations for the commencement of criminal actions as set forth in chapter 802. This section does not create a cause of action for damages or a presumption of spoliation in the event a forensic sample is no longer available for testing.

3. If the court determines a defendant who files an application under this section is indigent, the defendant shall be entitled to appointment of counsel as provided in chapter 815.

4. If the court determines after DNA profiling ordered pursuant to the application filed under section 81.10 that the results indicate conclusively that the DNA profile of the defendant matches the profile from the analyzed evidence used against the defendant, the court may order the defendant to pay the costs of these proceedings, including costs of all testing, court costs, and costs of court-appointed counsel, if any.

2019 Acts, ch 149, §5

81.14 Compliance with applicable laws.

A court shall not enter an order under this chapter that would result in a violation of state or federal law or loss of access to a federal system or database.

2019 Acts, ch 149, §6

CHAPTERS 82 to 83A

RESERVED

SUBTITLE 2

EMPLOYMENT SERVICES

CHAPTER 84

RESERVED

CHAPTER 84A

DEPARTMENT OF WORKFORCE DEVELOPMENT

Referred to in §15E.208

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84A.1 Department of workforce development — director — divisions.

1. The department of workforce development is created to administer the laws of this state relating to unemployment compensation insurance, job placement and training, employment safety, labor standards, and workers' compensation.

2. The chief executive officer of the department of workforce development is the director who shall be appointed by the governor, subject to confirmation by the senate under the confirmation procedures of section 2.32.

a. The director of the department of workforce development shall serve at the pleasure of the governor.

b. The governor shall set the salary of the director within the applicable salary range established by the general assembly.

c. The director shall be selected solely on the ability to administer the duties and functions granted to the director and the department and shall devote full time to the duties of the director.

d. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

3. *a.* The director of the department of workforce development shall, subject to the requirements of section 84A.1B, prepare, administer, and control the budget of the department and its divisions and shall approve the employment of all personnel of the department and its divisions.

b. The director of the department of workforce development shall direct the administrative and compliance functions and control the docket of the division of workers' compensation.

4. The department of workforce development shall include the division of labor services, the division of workers' compensation, and other divisions as appropriate.

86 Acts, ch 1245, §901; 87 Acts, ch 234, §424; 90 Acts, ch 1261, §25; 96 Acts, ch 1186, §8; 98 Acts, ch 1061, §1; 2002 Acts, ch 1050, §9; 2008 Acts, ch 1032, §168

Referred to in §7E.5, 88.2, 88A.1, 88B.1, 89A.1, 89B.3, 91.1, 96.1A

84A.1A Workforce development board.

1. An Iowa workforce development board is created, consisting of thirty-three voting members and thirteen nonvoting members.

a. The voting members of the Iowa workforce development board shall include the following:

(1) The governor.

(2) One state senator appointed by the president of the senate after consultation with the majority leader of the senate, who shall serve a term as provided in section 69.16B.

(3) One state representative appointed by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, who shall serve a term as provided in section 69.16B.

(4) The director of the department of workforce development or the director's designee.

(5) The director of the department of education or the director's designee.

(6) The director of the department for the blind or the director's designee.

(7) The administrator of the division of Iowa vocational rehabilitation services of the department of education or the administrator's designee.

(8) The following twenty-six members who shall be appointed by the governor for staggered terms of four years beginning and ending as provided in section 69.19, subject to confirmation by the senate:

(a) Seventeen members who shall be representatives of businesses in the state to whom each of the following applies:

(i) The members shall be owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority, and may, in addition, be members of a local workforce development board described in section 84A.4.

(ii) The members shall represent businesses, including small businesses, or organizations representing businesses described in this subparagraph (a), that provide employment opportunities that, at a minimum, include high quality, work-relevant training and development in in-demand industry sectors or occupations in the state.

(iii) The members shall be appointed from among individuals nominated by state business organizations and business trade associations.

(b) Seven members who shall be representatives of the workforce in the state and who shall include all of the following:

(i) Four representatives of labor organizations who have been nominated by state labor federations.

(ii) One representative of a joint labor-management apprenticeship program in the state who shall be a member of a labor organization or a training director. If such a joint program does not exist in the state, the member shall instead be a representative of an apprenticeship program in the state.

(iii) Two representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §3(24), including but not limited to organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities; or that serve eligible youth, as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §3(18), including representatives of organizations that serve out-of-school youth, as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §129(a)(1)(B).

(c) One city chief elected official, as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §3(9).

(d) One county chief elected official, as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §3(9).

b. The nonvoting members of the Iowa workforce development board shall include the following:

(1) One state senator appointed by the minority leader of the senate, who shall serve for a term as provided in section 69.16B.

(2) One state representative appointed by the minority leader of the house of representatives, who shall serve for a term as provided in section 69.16B.

(3) One president, or the president's designee, of the university of northern Iowa, the university of Iowa, or Iowa state university of science and technology, designated by the state board of regents on a rotating basis.

(4) One president, or the president's designee, of an independent Iowa college, appointed by the Iowa association of independent colleges and universities.

(5) One president or president's designee, of a community college, appointed by the Iowa association of community college presidents.

(6) One representative of the economic development authority, appointed by the director.

(7) One representative of the department on aging, appointed by the director.

(8) One representative of the department of corrections, appointed by the director.

(9) One representative of the department of human services, appointed by the director.

(10) One representative of the United States department of labor, office of apprenticeship.

(11) One representative from the largest statewide public employees' organization representing state employees.

(12) One representative of a statewide labor organization representing employees in the construction industry.

(13) One representative of a statewide labor organization representing employees in the manufacturing industry.

c. The terms of members of the board described in paragraph "*a*", subparagraph (8), shall be staggered so that the terms of no more than nine members expire in a calendar year.

d. The members of the board shall represent diverse geographic areas of the state, including urban, rural, and suburban areas.

e. An individual shall not serve as a member of the board in more than one capacity described in paragraph "*a*".

2. A vacancy on the workforce development board shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

3. The governor shall select a chairperson for the workforce development board from among the members who are representatives of business described in subsection 1, paragraph "*a*", subparagraph (8), subparagraph division (a). The workforce development board shall meet at the call of the chairperson or when a majority of voting members of the workforce development board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the workforce development board. A majority of the voting members constitutes a quorum.

4. Members of the workforce development board and other employees of the department of workforce development shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes and the department of workforce development is subject to the budget requirements of chapter 8. Each member of the workforce development board may also be eligible to receive compensation as provided in section 7E.6.

5. A member of the workforce development board shall not do any of the following:

a. Vote on a matter under consideration by the board that concerns the provision of services by the member or by an entity that the member represents.

b. Vote on a matter under consideration by the board that would provide direct financial benefit to the member or the immediate family of the member.

c. Engage in any other activity determined by the governor to constitute a conflict of interest as specified in the state workforce development plan.

6. *a.* The workforce development board may designate and direct the activities of standing committees of the workforce development board to provide information and to

assist the workforce development board in carrying out its duties. Such standing committees shall be chaired by a member of the workforce development board or a designee of the workforce development board, may include other members of the workforce development board, and shall include other individuals appointed by the workforce development board who are not members of the workforce development board and who the workforce development board determines have appropriate experience and expertise. At minimum, the workforce development board shall designate each of the following:

(1) A standing committee to provide information and assist with operational and other issues relating to the state workforce development system.

(2) A standing committee to provide recommendations regarding policies, procedures, and proven and promising practices regarding workforce development programs, services, and activities.

(3) A standing committee to provide information and to assist with issues relating to the provision of services to youth. The standing committee shall include community-based organizations with a demonstrated record of success in serving eligible youth.

(4) A standing committee to provide information and to assist with issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with applicable state and federal nondiscrimination laws regarding the provision of programmatic and physical access to the services, programs, and activities of the state workforce development system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.

b. The workforce development board may designate standing committees in addition to the standing committees specified in paragraph *"a"*.

7. In addition to meeting the requirements of chapter 22, the workforce development board shall make available to the public, on a regular basis through electronic means and, if applicable, through open meetings in accordance with chapter 21, information regarding the activities of the board, including all of the following:

a. Information regarding the state workforce development plan, as required under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, prior to submission of the state workforce development plan or modification of the plan.

b. Information regarding the membership of the board.

c. The bylaws of the board.

8. Sections 69.16 and 69.16A shall apply only to those members of the board appointed by the governor pursuant to subsection 1, paragraph *"a"*, subparagraph (8).

96 Acts, ch 1186, §9; 97 Acts, ch 110, §1; 2001 Acts, ch 24, §21; 2002 Acts, ch 1050, §10; 2008 Acts, ch 1156, §25, 58; 2009 Acts, ch 3, §1; 2009 Acts, ch 41, §29; 2011 Acts, ch 118, §85, 89; 2016 Acts, ch 1118, §1 – 3, 21; 2017 Acts, ch 74, §1, 2, 6; 2017 Acts, ch 170, §34, 43; 2018 Acts, ch 1143, §1, 2, 9

Confirmation, see §2.32

84A.1B Duties of the workforce development board.

The workforce development board shall do all of the following:

1. Develop and coordinate the implementation of a four-year comprehensive state workforce development plan of specific needs, goals, strategies, and policies for the state. This plan shall be updated every two years and revised as necessary. All other state agencies involved in workforce development activities and the local workforce development boards shall submit to the board for its review and potential inclusion in the plan their needs, goals, strategies, and policies.

2. Develop and coordinate the implementation of statewide workforce development policies, procedures, and guidance to align the state's workforce development programs and activities in an integrated and streamlined state workforce development system that is data driven and responsive to the needs of workers, job seekers, and employers.

3. Develop a method of evaluation of the attainment of needs and goals from pursuing the strategies and policies of the four-year plan.

4. Implement the requirements of chapter 73.

5. Review grants or contracts awarded by the department of workforce development, with respect to the department's adherence to the guidelines and procedures and the impact on the four-year plan.

6. Make recommendations concerning the use of federal funds received by the department of workforce development.

7. Develop and coordinate strategies for technological improvements to facilitate access to, and improve the quality of, the state's workforce development services, including all of the following:

a. Enhance digital literacy skills as defined in 20 U.S.C. §9101.

b. Accelerate the acquisition of skills and recognized postsecondary credentials by participants.

c. Strengthen the professional development of providers and workforce professionals.

d. Ensure such technology is accessible to individuals with disabilities and individuals residing in remote areas.

8. Develop and coordinate strategies for aligning technology and data systems across state agencies in order to improve the integration and coordination of the delivery of workforce development services.

9. Identify and disseminate information on proven and promising practices for meeting the needs of workers, job seekers, and employers, including but not limited to proven and promising practices for the effective operation of workforce centers and systems; the development of effective local workforce development boards; the development of effective training programs; effective engagement with stakeholders in the state's workforce development system; effective engagement with employers; and increasing access to workforce services for all Iowans, in particular for individuals with a barrier to employment as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, section 3(24).

10. Develop and coordinate the implementation of allocation formulas for the distribution of funds available for employment and training activities in local workforce development areas under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, sections 128(b)(3) and 133(b)(3).

11. Provide recommendations to the governor regarding the certification of local workforce development boards.

12. Develop and coordinate the analysis of labor market information in order to identify in-demand industries and occupations.

13. Make recommendations to the governor regarding the designation of local workforce development areas and regions in the state under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, section 106.

14. Create, and update as necessary, a list of high-demand jobs statewide for purposes of the future ready Iowa registered apprenticeship programs created in chapter 15C, the summer youth intern pilot program established under section 84A.12, the Iowa employer innovation program established under section 84A.13, the future ready Iowa skilled workforce last-dollar scholarship program established under section 261.131, the future ready Iowa skilled workforce grant program established under section 261.132, and postsecondary summer classes for high school students as provided under section 261E.8, subsection 8. In addition to the list created by the workforce development board under this subsection, each community college, in consultation with regional career and technical education planning partnerships, and with the approval of the board of directors of the community college, may identify and maintain a list of not more than five regional high-demand jobs in the community college region, and shall share the lists with the workforce development board. The lists submitted by community colleges under the subsection may be used in that community college region for purposes of programs identified under this subsection. The workforce development board shall have full discretion to select and prioritize statewide high-demand jobs after consulting with business and education stakeholders, as appropriate, and seeking public comment. The workforce development board may add to the list of high-demand jobs as it deems necessary. For purposes of this subsection, *"high-demand job"* means a job in the state that the board, or a community

college in accordance with this subsection, has identified in accordance with this subsection. In creating a list under this subsection, the following criteria, at a minimum, shall apply:

a. An entry-level hourly wage of not less than fourteen dollars.

b. Educational attainment of a qualifying credential up to a bachelor's degree.

c. One or both of the following criteria:

(1) Projected annual job openings of at least two hundred fifty or more during the next five years.

(2) Annual job growth of at least one percent.

15. Compile an annual report, in an aggregate form to protect the confidentiality of each eligible program's participants, that includes the number of students receiving scholarships under section 261.131, the number of students receiving grants under section 261.132, the number of scholarship and grant recipients completing a program of study or major annually and in the prescribed time frame under sections 261.131 and 261.132, the number of eligible institutions participating in the scholarship and grant programs established under sections 261.131 and 261.132, the number of written agreements entered into by the volunteer mentor program under section 15H.10, statistics on employment outcomes for future ready Iowa skilled workforce last-dollar scholarship and future ready Iowa skilled workforce grant program participants by industry, and other data as may be deemed pertinent by the department or the college student aid commission. The department shall submit the initial report by January 15, 2021, and by January 15 annually thereafter, to the governor and the general assembly.

16. Make recommendations to the general assembly and governor regarding workforce development services, programs, and activities, including but not limited to allocation of resources.

96 Acts, ch 1186, §10; 2001 Acts, ch 24, §22; 2016 Acts, ch 1118, §4 – 6, 21; 2017 Acts, ch 74, §3, 4, 6; 2018 Acts, ch 1067, §7, 15; 2018 Acts, ch 1143, §3, 9; 2019 Acts, ch 135, §12; 2020 Acts, ch 1063, §40; 2020 Acts, ch 1117, §4

Referred to in §15C.1, 84A.1, 84A.1C, 84A.13, 261.131, 261.132, 261E.8

84A.1C Workforce development corporation.

1. *Nonprofit corporation for receiving and disbursing funds.* The Iowa workforce development board may organize a corporation under the provisions of chapter 504 for the purpose of receiving and disbursing funds from public or private sources to be used to further workforce development in this state and to accomplish the mission of the board.

2. *Incorporators.* The incorporators of the corporation organized pursuant to this section shall be the chairperson of the Iowa workforce development board, the director of the department of workforce development, and a member of the Iowa workforce development board selected by the chairperson.

3. *Board of directors.* The board of directors of the corporation organized pursuant to this section shall be the members of the Iowa workforce development board or their successors in office.

4. *Accepting grants in aid.* The corporation organized pursuant to this section may accept grants of money or property from the federal government or any other source and may upon its own order use its money, property, or other resources for any of the purposes identified in section 84A.1B.

99 Acts, ch 21, §1; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393

84A.2 Definitions.

For purposes of this chapter:

1. *"Chief elected official"* means any of the following:

a. The chief elected executive officer of a unit of general local government in a local workforce development area.

b. If a local workforce development area includes more than one unit of general local government, the individuals designated under the agreement described in section 84A.4, subsection 2, paragraph *"g"*, subparagraph (2).

2. *"Community-based organization"* means a private nonprofit organization, which may

include a faith-based organization, that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

3. *"Competitive integrated employment"* means work that is performed on a full-time or part-time basis, including self-employment, to which all of the following apply:

a. All of the following apply to the individual performing the work:

(1) The individual is compensated at a rate in accordance with all of the following:

(a) If the individual is not self-employed, all of the following apply:

(i) The rate of compensation shall not be less than the higher of the applicable federal or state minimum wage.

(ii) The rate of compensation shall not be less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

(b) If the individual is self-employed, the rate of compensation yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.

(2) The individual is eligible for the level of benefits provided to other employees.

b. The work is at a location where the individual interacts with other persons who are not individuals with disabilities, not including supervisory personnel or individuals who are providing services to such individual, to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons.

c. The work, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

4. *"Cooperative agreement"* means an agreement entered into by a state-designated agency or state-designated unit under section 101(a)(11)(A) of the federal Rehabilitation Act of 1973.

5. *"Core program"* means a program authorized under any of the following:

a. Chapters 2 and 3 of subtitle B of Tit. I of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, relating to youth workforce investment activities and adult and dislocated worker employment and training activities.

b. Tit. II of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, relating to adult education and literacy activities.

c. Sections 1 through 13 of the federal Wagner-Peyser Act, as codified at 29 U.S.C. §49 et seq., relating to employment services.

d. Tit. I of the federal Rehabilitation Act of 1973, as codified at 29 U.S.C. §720 et seq., relating to vocational rehabilitation services, excluding 29 U.S.C. §732 and 741.

6. *a.* *"Demonstrated experience and expertise"*, for purposes of the state workforce development board, means the expertise had by an individual with documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function. *"Demonstrated experience and expertise"* may include individuals with experience in education or training of individuals with a barrier to employment.

b. *"Demonstrated experience and expertise"*, for purposes of a local workforce development board, means the expertise had by an individual to whom any of the following apply:

(1) The individual is a workplace learning advisor.

(2) The individual contributes to the field of workforce development, human resources, training and development, or a core program function.

(3) The individual has been recognized by the local workforce development board for valuable contributions in education or workforce development-related fields.

7. *"Economic development agency"* includes a local workforce development planning or zoning commission or board, a community development agency, or another local agency or institution responsible for regulating, promoting, or assisting in local economic development.

8. *"Eligible youth"* means an in-school or out-of-school youth, except as provided in subtitles C and D of Tit. I of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128.

9. *a. "In-demand industry sector or occupation"* means any of the following:

(1) An industry sector that has a substantial current or potential impact, including through jobs that lead to economic self-sufficiency and opportunities for advancement, on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

(2) An occupation that currently has or is projected to have a number of positions, including positions that lead to economic self-sufficiency and opportunities for advancement, in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

b. The determination of whether an industry sector or occupation is an *"in-demand industry sector or occupation"* shall be made by the state workforce development board or local workforce development board, as appropriate, using state and regional business and labor market projections, including the use of labor market information.

10. *"Individual with a barrier to employment"* means a member of one or more of the following populations:

a. Displaced homemakers.

b. Low-income individuals.

c. Indians, Alaska Natives, and Native Hawaiians, as such terms are defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §166.

d. Individuals with disabilities, including youth who are individuals with disabilities.

e. Individuals fifty-five years of age or older.

f. Ex-offenders.

g. Homeless individuals as defined in 34 U.S.C. §12473, or homeless children and youths as defined in 34 U.S.C. §11434a(2).

h. Youth who are in or have aged out of the foster care system.

i. Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.

j. Eligible migrant and seasonal farmworkers, as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §167(i).

k. Individuals within two years of exhausting lifetime eligibility under part A of Tit. IV of the Social Security Act, as codified in 42 U.S.C. §601 et seq.

l. Single parents and single pregnant women.

m. Long-term unemployed individuals.

n. Such other groups as the governor determines to have a barrier to employment.

11. *"Individual with a disability"* means an individual with a disability as defined in 42 U.S.C. §12102. *"Individuals with disabilities"* means more than one individual with a disability.

12. *a. "Industry or sector partnership"* means a workforce collaborative, convened by or acting in partnership with the state workforce development board or a local workforce development board, that organizes key stakeholders in an industry cluster into a working group that focuses on the shared goals and human resources needs of the industry cluster and that includes, at the appropriate stage of development of the partnership, all of the following:

(1) Representatives of multiple businesses or other employers in the industry cluster, including small and medium-sized employers when practicable.

(2) One or more representatives of a recognized state labor organization or central labor council, or another labor representative, as appropriate.

(3) One or more representatives of an institution of higher education with, or another provider of, education or training programs that support the industry cluster.

b. "Industry or sector partnership" may include representatives of state or local government, state or local economic development agencies, the state workforce development board, local workforce development boards, the department of workforce development or another entity providing employment services, state or local agencies, business

or trade associations, economic development organizations, nonprofit organizations, community-based organizations, philanthropic organizations, industry associations, and other organizations, as determined to be necessary by the members comprising the industry or sector partnership.

13. *"In-school youth"* means youth described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §129(a)(1)(C).

14. *"Institution of higher education"* means the same as defined in 20 U.S.C. §1001 and 1002(a)(1).

15. *"Offender"* means any of the following:

a. An adult or juvenile who is or has been subject to any stage of the criminal or juvenile justice process, and for whom workforce services may be beneficial.

b. An adult or juvenile who requires assistance overcoming an artificial barrier to employment resulting from a record of arrest or conviction.

16. *"One-stop center"* means a site described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §121(e)(2).

17. *"One-stop operator"* means one or more entities designated or certified under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §121(d).

18. *"Optimum policymaking authority"* means the authority of an individual who can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

19. *"Out-of-school youth"* means a youth described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §129(a)(1)(B).

20. *"Unit of general local government"* means a county or city.

21. *"Workforce investment activity"* means an employment and training activity or a youth workforce investment activity.

22. *"Workforce learning advisor"* means an individual employed by an organization who has the knowledge and skills necessary to advise other employees of that organization about the education, skill development, job training, career counseling services, and credentials, including services provided through the workforce development system, required to progress toward career goals of such employees in order to meet employer requirements related to job openings and career advancements that support economic self-sufficiency.

2018 Acts, ch 1143, §4, 9; 2019 Acts, ch 59, §34; 2020 Acts, ch 1063, §41; 2021 Acts, ch 80, §32

Subsection 5, paragraph c amended

84A.3 Local workforce development plans.

1. A local workforce development board shall, in partnership with the chief elected official, develop a comprehensive four-year local workforce development plan. The local workforce development board shall submit the workforce development plan to the department of workforce development in the manner and form determined by the department. The local workforce development plan shall support the strategy described in the state workforce development plan in accordance with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §102(b)(1)(E), and shall otherwise be consistent with the state workforce development plan. If the local workforce development area is part of a planning region as defined in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §3(48), the local workforce development board shall comply with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §106(c), in the preparation and submission of a regional plan.

2. At the end of the first two-year period of the local workforce development plan, a local workforce development board shall review the local workforce development plan and, in partnership with the chief elected official, prepare and submit to the department of workforce development modifications to the local workforce development plan to reflect changes in labor market and economic conditions or in other factors affecting the implementation of the local workforce development plan.

3. The local workforce development plan shall include the contents required by the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §108(b), and such other

information as the department of workforce development or the state workforce development board may require.

2018 Acts, ch 1143, §5, 9
Referred to in §84A.4

84A.4 Local workforce development boards.

1. *Establishment.* Except as provided in subsection 3, paragraph *"a"*, the department of workforce development shall establish and certify a local workforce development board in each local workforce development area of the state to carry out the functions described in subsection 4 and any functions specified for the local workforce development board under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, or the provisions establishing a core program for such local workforce development area.

2. *Membership.*

a. State criteria. The governor, in partnership with the state workforce development board, shall establish criteria for use by chief elected officials in the local workforce development areas for appointment of members of the local workforce development boards in such areas in accordance with the requirements of paragraph *"b"*.

b. Composition. The membership criteria for a local workforce development board shall include, at a minimum, all of the following:

(1) A majority of the membership of each local workforce development board shall be representatives of business in the local workforce development area appointed from among individuals nominated by local business organizations and business trade associations, to whom all of the following shall apply:

(a) The members shall be owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking authority or hiring authority.

(b) The members shall represent businesses, including small businesses, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local workforce development area, or organizations representing such businesses.

(2) (a) Not less than twenty percent of the membership of a local workforce development board shall be representatives of the workforce within the local workforce development area, to whom all of the following shall apply:

(i) For a local workforce development area in which employees are represented by labor organizations, the members shall include representatives of labor organizations or persons who have been nominated by local labor federations. For a local workforce development area in which employees are not represented by such organizations, the members shall include other representatives of employees;

(ii) The members shall include a representative who is a member of a labor organization or a training director, a representative from a joint labor-management apprenticeship program, or, if no such joint program exists in the area, a representative of an apprenticeship program in the area, if such a program exists.

(b) The membership of a local workforce development board described in subparagraph division (a) may include one or more of the following:

(i) Representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with a barrier to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities.

(ii) Representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.

(3) (a) The membership of a local workforce development board shall include representatives of entities administering education and training activities in the local workforce development area, to whom all of the following apply:

(i) The members shall include a representative of eligible providers administering adult

education and literacy activities under Tit. II of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128.

(ii) The members shall include a representative of institutions of higher education, including community colleges, providing workforce investment activities.

(iii) If multiple eligible providers are serving the local workforce development area by administering adult education and literacy activities under Tit. II of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, or multiple institutions of higher education serving the local workforce development area by providing workforce investment activities, each representative thereof on the local workforce development board, respectively, shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively.

(b) The membership may include representatives of local educational agencies and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with a barrier to employment.

(4) (a) The membership of a local workforce development board shall include representatives of governmental and economic and community development entities serving the local workforce development area, to whom all of the following apply:

(i) The members shall include a representative of economic and community development entities.

(ii) The members shall include at least one appropriate representative from the state employment service office under the federal Wagner-Peyser Act, as codified at 29 U.S.C. §49 et seq., serving the local workforce development area and nominated by the director of the department of workforce development.

(iii) The members shall include at least one appropriate representative of the programs carried out under Tit. I of the federal Rehabilitation Act of 1973, as codified at 29 U.S.C. §720 et seq., relating to vocational rehabilitation services, excluding 29 U.S.C. §732 and 741, serving the local workforce development area and nominated by the administrator of the division of vocational rehabilitation services of the department of education or director of the department for the blind, as appropriate.

(b) The members may include one or more of the following:

(i) Representatives of agencies or entities administering programs serving the local workforce development area relating to transportation, housing, and public assistance.

(ii) Representatives of philanthropic organizations serving the local workforce development area.

(5) The membership of a local workforce development board may include such other individuals or representatives of entities as the chief elected official in the local workforce development area may determine to be appropriate.

c. Political affiliation and gender balance. Sections 69.16 and 69.16A shall apply to the total membership of a local workforce development board excluding members required under paragraph *"b"*, subparagraph (4), subparagraph division (a), subparagraph subdivisions (ii) and (iii).

d. Chairperson. The members of a local workforce development board shall elect a chairperson from among the representatives of business described in paragraph *"b"*, subparagraph (1).

e. Standing committees. A local workforce development board may designate and direct the activities of standing committees to provide information and to assist the local workforce development board in carrying out activities under this section. Such standing committees shall be chaired by a member of the local workforce development board. Such standing committees may include other members of the local workforce development board and shall include other individuals appointed by the local workforce development board who are not members of the local workforce development board and who the local workforce development board determines have appropriate experience and expertise. At a minimum, the local workforce development board may designate each of the following standing committees:

(1) A standing committee to provide information and assist with operational and

other issues relating to the one-stop delivery system, which may include as members representatives of the one-stop partners.

(2) A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.

(3) A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with 29 U.S.C. §3248, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990, codified at 42 U.S.C. §12101 et seq., regarding providing programmatic and physical access to the services, programs, and activities of the one-stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.

(4) Additional committees in the discretion of the local workforce development board.

f. Additional membership requirements. Members of the local workforce development board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse geographic areas within the local workforce development area.

g. Chief elected officials.

(1) The chief elected official in a local workforce development area may appoint the members of the local workforce development board for such area, in accordance with the state criteria established by the governor in partnership with the state workforce development board.

(2) (a) If a local workforce development area includes more than one unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials relating to all of the following:

(i) Appointing the members of the local workforce development board from the individuals nominated or recommended to be such members in accordance with the criteria established in this subsection.

(ii) Carrying out any other responsibilities assigned to such officials under Tit. I of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, and this section.

(b) If, after a reasonable effort, the chief elected officials are unable to reach such an agreement, the governor may appoint the members of the local workforce development board from individuals so nominated or recommended.

3. *Certification procedures.*

a. Certification. Once every two years, the department of workforce development shall certify one local workforce development board for each local workforce development area in the state. Such certification shall be based on the extent to which the local workforce development board has ensured that workforce investment activities carried out in the local workforce development area have enabled the local workforce development area to meet the corresponding performance accountability measures and achieve sustained fiscal integrity, as defined in 29 U.S.C. §3121(e)(2).

b. Failure to achieve certification. Failure of a local workforce development board to achieve certification shall result in appointment and certification of a new local workforce development board for the local workforce development area pursuant to the process described in subsection 2 and this subsection.

c. Decertification.

(1) Notwithstanding paragraph *"a"*, the department of workforce development may decertify a local workforce development board for any of the following reasons at any time after providing notice and an opportunity for comment:

(a) Fraud or abuse.

(b) Failure to carry out the functions specified for the local workforce development board in subsection 4.

(2) Notwithstanding paragraph *"a"*, the department of workforce development may

decertify a local workforce development board if the local workforce development area fails to meet the local performance accountability measures for the local workforce development area in accordance with 29 U.S.C. §3141(c) for two consecutive program years.

(3) If the department of workforce development decertifies a local workforce development board for a local workforce development area, the department of workforce development may require that a new local workforce development board be appointed and certified for the local workforce development area pursuant to a reorganization plan developed by the governor, in consultation with the chief elected official in the local workforce development area and in accordance with the criteria established under this section and Tit. I of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128.

4. *Functions.* Consistent with section 84A.3 and section 108 of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, the functions of a local workforce development board shall include all of the following:

a. Local workforce development plan. The local workforce development board, in partnership with the chief elected official for the local workforce development area, shall develop and submit a local workforce development plan to the department of workforce development that meets the requirements of section 84A.3. If the local workforce development area is part of a planning region that includes other local workforce development areas, the local workforce development board shall collaborate with the other local workforce development boards and chief elected officials from such other local workforce development areas in the preparation and submission of a regional plan as described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §106(c).

b. Workforce research and regional labor market analysis. In order to assist in the development and implementation of the local workforce development plan, the local workforce development board shall do all of the following:

(1) Carry out analyses of the economic conditions in the region, the needed knowledge and skills for the region, the workforce in the region, and workforce development activities, including education and training, in the region described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §108(b)(1)(D), and regularly update such information.

(2) Assist the department of workforce development in developing the statewide workforce and labor market information system described in 29 U.S.C. §49l-2(e), specifically in the collection, analysis, and utilization of workforce and labor market information for the region.

(3) Conduct such other research, data collection, and analysis related to the workforce needs of the regional economy as the board, after receiving input from a wide array of stakeholders, determines to be necessary to carry out its functions.

c. Convening, brokering, and leveraging. The local workforce development board shall convene local workforce development system stakeholders to assist in the development of the local workforce development plan under section 84A.3 and in identifying non-federal expertise and resources to leverage support for workforce development activities. The local workforce development board, including its standing committees, may engage such stakeholders in carrying out the functions described in this subsection.

d. Employer engagement. The local workforce development board shall lead efforts to engage with a diverse range of employers and with entities in the region involved to do all of the following:

(1) Promote business representation on the local workforce development board, particularly representatives with optimal policymaking authority or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the region.

(2) Develop effective linkages, including the use of intermediaries, with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities.

(3) Ensure that workforce investment activities meet the needs of employers and support

economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers.

(4) Develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers, such as the establishment of industry or sector partnerships. Such strategies shall provide the skilled workforce needed by employers in the region and expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.

e. Career pathways development. The local workforce development board, with representatives of secondary and postsecondary education programs, shall lead efforts in the local workforce development area to develop and implement career pathways within the local workforce development area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with a barrier to employment.

f. Proven and promising practices. The local workforce development board shall lead efforts in the local workforce development area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, workers, and jobseekers, including individuals with a barrier to employment, in the local workforce development system, including providing physical and programmatic accessibility, in accordance with 29 U.S.C. §3248, if applicable, applicable provisions of chapter 216, and applicable provisions of the Americans with Disabilities Act of 1990, codified at 42 U.S.C. §12101 et seq., to the one-stop delivery system.

g. Technology. The local workforce development board shall develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, workers, and jobseekers, by doing all of the following:

(1) Facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local workforce development area.

(2) Facilitating access to services provided through the one-stop delivery system involved, including facilitating the access in remote areas.

(3) Identifying strategies for better meeting the needs of individuals with a barrier to employment, including strategies that augment traditional service delivery and increase access to services and programs of the one-stop delivery system, such as improving digital literacy skills.

(4) Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with a barrier to employment.

h. Program oversight. The local workforce development board, in partnership with the chief elected official for the local workforce development area, shall do all of the following:

(1) (a) Conduct oversight for local youth workforce investment activities authorized under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §129(c), local employment and training activities authorized under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §134(c) and (d), and the one-stop delivery system in the local workforce development area.

(b) Ensure the appropriate use and management of the funds provided under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Tit. I, subtitle B, for the activities and system described in subparagraph division (a).

(2) For workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §116.

i. Negotiation of local performance accountability measures. The local workforce development board, the chief elected official, and the department of workforce development shall negotiate and reach agreement on local performance accountability measures as described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §116(c).

j. Selection of one-stop operators. Consistent with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §121(d), the local workforce development board, with the agreement of the chief elected official for the local workforce development area, shall

designate or certify one-stop operators as described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §121(d)(2)(A). The local workforce development board, with the agreement of the chief elected official for the local workforce development area, may terminate for cause the eligibility of such operators.

k. Selection of youth providers. Consistent with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §123, the local workforce development board shall identify eligible providers of youth workforce investment activities in the local workforce development area by awarding grants or contracts on a competitive basis, except as provided in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §123(b), based on the recommendations of the youth standing committee, if such a committee is established for the local workforce development area. When identifying eligible providers, the local workforce development board shall consider community-based and governmental organizations as possible eligible providers. The local workforce development board may terminate for cause the eligibility of such providers.

l. Identification of eligible providers of training services. Consistent with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §122, the local workforce development board shall identify eligible providers of training services in the local workforce development area.

m. Identification of eligible providers of career services. If the one-stop operator does not provide career services described in the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §134(c)(2), in a local workforce development area, the local workforce development board shall identify eligible providers of those career services in the local workforce development area by awarding contracts. When identifying eligible providers, the local workforce development board shall consider community-based and governmental organizations as possible eligible providers.

n. Consumer choice requirements. Consistent with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §122 and 134(c)(2) and (3), the local workforce development board shall work with the state to ensure sufficient numbers and types of providers of career services and training services are serving the local workforce development area and providing the services involved in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive integrated employment for individuals with a disability. Such providers shall include eligible providers with expertise in assisting individuals with a disability and eligible providers with expertise in assisting adults in need of adult education and literacy activities.

o. Coordination with education providers.

(1) The local workforce development board shall coordinate activities with education and training providers in the local workforce development area, including providers of workforce investment activities, providers of adult education and literacy activities under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Tit. II, providers of career and technical education as defined in 20 U.S.C. §2302, and local agencies administering plans under Tit. I of the federal Rehabilitation Act of 1973, as codified at 29 U.S.C. §720 et seq., relating to vocational rehabilitation services, excluding 29 U.S.C. §732 and 741.

(2) The coordination described in subparagraph (1) shall include, consistent with the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §232, all of the following:

(a) Reviewing the applications to provide adult education and literacy activities under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Tit. II, for the local workforce development area, submitted under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §232, to the eligible agency by eligible providers, to determine whether such applications are consistent with the local workforce development plan.

(b) Making recommendations to the eligible agency to promote alignment with such plan.

(3) The coordination described in subparagraph (1) shall also include replicating cooperative agreements in accordance with 29 U.S.C. §721(a)(11)(B), and implementing cooperative agreements in accordance with 29 U.S.C. §721(a)(11) with the local agencies administering plans under Tit. I of the federal Rehabilitation Act of 1973, as codified at

29 U.S.C. §720 et seq., relating to vocational rehabilitation services, excluding 29 U.S.C. §732 and 741, and subject to the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §121(f), with respect to efforts that will enhance the provision of services to individuals with a disability and other individuals, such as cross-training of staff, technical assistance, use and sharing of information, cooperative efforts with employers, and other efforts at cooperation, collaboration, and coordination.

p. Budget and administration.

(1) *Budget.* The local workforce development board shall develop a budget for the activities of the local workforce development board in the local workforce development area, consistent with the local workforce development plan and the duties of the local workforce development board under this section, subject to the approval of the chief elected official.

(2) *Administration.*

(a) The chief elected official in a local workforce development area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local workforce development area under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §128 and 133, unless the chief elected official reaches an agreement with the department of workforce development for the department to act as the local grant recipient and bear such liability. In order to assist in administration of the grant funds, the chief elected official or the department, where the department serves as the local grant recipient for a local workforce development area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the department of the liability for any misuse of grant funds. The local grant recipient or designated entity shall disburse the grant funds for workforce investment activities at the direction of the local workforce development board, pursuant to the requirements of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Tit. I. The local grant recipient or designated entity shall disburse the funds immediately upon receiving such direction from the local workforce development board.

(b) The local workforce development board may solicit and accept grants and donations from sources other than federal or state funds.

(c) For purposes of carrying out duties under this section, a local workforce development board may incorporate and may operate as an entity described in section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Internal Revenue Code.

q. Accessibility for individuals with disabilities. The local workforce development board shall annually assess the physical and programmatic accessibility, in accordance with 29 U.S.C. §3248, if applicable, applicable provisions of chapter 216, and applicable provisions of the Americans with Disabilities Act of 1990, codified at 42 U.S.C. §12101 et seq., of all one-stop centers in the local workforce development area.

r. Statewide workforce development initiatives. The local workforce development board shall participate in statewide workforce development initiatives in accordance with guidance and oversight by the state workforce development board or department of workforce development.

5. *Limitations.*

a. Training services.

(1) Except as provided in subparagraph (2), a local workforce development board shall not provide training services.

(2) The department of workforce development may, pursuant to a request from a local workforce development board, grant a written waiver of the prohibition set forth in subparagraph (1) for a program of training services, if the local workforce development board does all of the following:

(a) Submits to the governor a proposed request for the waiver that includes satisfactory evidence that an insufficient number of eligible providers of such a program of training services is available to meet local demand in the local workforce development area; information demonstrating that the board meets the requirements for an eligible provider of training services under section 122 of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128; and information demonstrating that the program of training services

prepares participants for an in-demand industry sector or occupation in the local workforce development area.

(b) Makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than thirty days.

(c) Includes in the final request for the waiver the evidence and information described in subparagraph division (a) and the comments received pursuant to subparagraph division (b).

(3) A waiver granted to a local workforce development board under subparagraph (2) shall apply for a period that shall not exceed the duration of the local workforce development plan. The waiver may be renewed for additional periods under subsequent local plans, not to exceed the durations of such subsequent plans, pursuant to requests from the local workforce development board, if the board meets the requirements of subparagraph (2) in making the requests.

(4) The department of workforce development may revoke the waiver during the appropriate period described in subparagraph (3) if the department determines the waiver is no longer needed or that the local workforce development board involved has engaged in a pattern of inappropriate referrals to training services operated by the local workforce development board.

b. Career services; designation or certification as one-stop operators. A local workforce development board may provide career services described in section 134(c)(2) of the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, through a one-stop delivery system or be designated or certified as a one-stop operator only with the agreement of the chief elected official in the local workforce development area and the department of workforce development.

c. Limitation on authority. This section shall not be construed to provide a local workforce development board with the authority to mandate curricula for schools.

6. *Conflict of interest.* A member of a local workforce development board, or a member of a standing committee, shall not do any of the following:

a. Vote on a matter under consideration by the board or committee that concerns the provision of services by the member or by an entity that the member represents.

b. Vote on a matter under consideration by the board or committee that would provide direct financial benefit to the member or the immediate family of the member.

c. Engage in any other activity determined by the governor to constitute a conflict of interest as specified in the state workforce development plan.

7. *Public information.* In addition to meeting the requirements of chapter 22, local workforce development boards shall make available to the public, on a regular basis through electronic means and, if applicable, through open meetings in accordance with chapter 21, information regarding the activities of the board, including all of the following:

a. Information regarding the local workforce development plan, as required under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, prior to submission of the local workforce development plan or modification of the plan.

b. Information regarding local workforce development board membership, including the name and affiliation of each member.

c. The bylaws of the board.

d. Designation and certification of one-stop operators.

e. Award of grants or contracts to eligible training providers of workforce investment activities, including providers of youth investment activities.

96 Acts, ch 1186, §11; 99 Acts, ch 21, §2; 2001 Acts, ch 24, §23; 2002 Acts, ch 1119, §8; 2016 Acts, ch 1011, §12; 2016 Acts, ch 1118, §7 – 9, 21; 2018 Acts, ch 1041, §23; 2018 Acts, ch 1143, §6, 9; 2018 Acts, ch 1172, §17

Referred to in §84A.1A, 84A.2, 84A.5, 258.14, 260H.2, 260H.4, 260H.8, 260I.6

84A.5 Department of workforce development — primary responsibilities.

The department of workforce development, in consultation with the workforce development board and the local workforce development boards, has the primary responsibilities set out in this section.

1. The department of workforce development shall develop and implement a workforce development system which increases the skills of the Iowa workforce, fosters economic growth and the creation of new high skill and high wage jobs through job placement and training services, increases the competitiveness of Iowa businesses by promoting high performance workplaces, and encourages investment in workers.

a. The workforce development system shall strive to provide high quality services to its customers including workers, families, and businesses. The department of workforce development shall maintain a common intake, assessment, and customer tracking system and to the extent practical provide one-stop services to customers at workforce development centers and other service access points. The department of workforce development shall administer a statewide standard skills assessment to assess the employability skills of adult workers statewide and shall instruct appropriate department staff in the administration of the assessment. The assessment shall be included in the one-stop services provided to customers at workforce development centers and other service access points throughout the state.

b. The system shall include an accountability system to measure program performance, identify accomplishments, and evaluate programs to ensure goals and standards are met. The accountability system shall use information obtained from the customer tracking system, the economic development authority, the department of education, and training providers to evaluate the effectiveness of programs. The economic development authority, the department of education, and training providers shall report information concerning the use of any state or federal training or retraining funds to the department of workforce development in a form as required by the department of workforce development. The accountability system shall evaluate all of the following:

(1) The impact of services on wages earned by individuals.

(2) The effectiveness of training services providers in raising the skills of the Iowa workforce.

(3) The impact of placement and training services on Iowa's families, communities, and economy.

2. The department of workforce development shall make information from the customer tracking and accountability system available to the economic development authority, the department of education, and other appropriate public agencies for the purpose of assisting with the evaluation of programs administered by those departments and agencies and for planning and researching public policies relating to education and economic development.

3. The department of workforce development is responsible for administration of unemployment compensation benefits and collection of employer contributions under chapter 96, providing for the delivery of free public employment services established pursuant to chapter 96, other job placement and training programs established pursuant to section 84A.6, and the delivery of services located throughout the state.

4. The division of labor services is responsible for the administration of the laws of this state under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, and 94A, and sections 73A.21 and 85.68. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

5. The division of workers' compensation is responsible for the administration of the laws of this state relating to workers' compensation under chapters 85, 85A, 85B, 86, and 87. The executive head of the division is the workers' compensation commissioner, appointed pursuant to section 86.1.

6. The director of the department of workforce development shall form a coordinating committee composed of the director of the department of workforce development, the labor commissioner, the workers' compensation commissioner, and other administrators. The committee shall monitor federal compliance issues relating to coordination of functions among the divisions.

7. The department of workforce development shall administer the following programs:

a. The Iowa conservation corps established under section 84A.7.

b. The workforce investment program established under section 84A.8.

c. The statewide mentoring program established under section 84A.9.

d. The Iowa employer innovation program established under section 84A.13.

e. The workforce development centers established under chapter 84B.

8. The department of workforce development shall work with the economic development authority to incorporate workforce development as a component of community-based economic development.

9. The department of workforce development, in consultation with the applicable local workforce development board, shall select service providers, subject to approval by the workforce development board for each service delivery area. A service provider in each service delivery area shall be identified to coordinate the services throughout the service delivery area. The department of workforce development shall select service providers that, to the extent possible, meet or have the ability to meet the following criteria:

a. The capacity to deliver services uniformly throughout the service delivery area.

b. The experience to provide workforce development services.

c. The capacity to cooperate with other public and private agencies and entities in the delivery of education, workforce training, retraining, and workforce development services throughout the service delivery area.

d. The demonstrated capacity to understand and comply with all applicable state and federal laws, rules, ordinances, regulations, and orders, including fiscal requirements.

10. The department of workforce development shall provide access to information and documents necessary for employers and payors of income, as defined in sections 252D.16 and 252G.1, to comply with child support reporting and payment requirements. Access to the information and documents shall be provided at the central location of the department of workforce development and at each workforce development center.

11. The director of the department of workforce development may adopt rules pursuant to chapter 17A to charge and collect fees for enhanced or value-added services provided by the department of workforce development which are not required by law to be provided by the department and are not generally available from the department of workforce development. Fees shall not be charged to provide a free public labor exchange. Fees established by the director of the department of workforce development shall be based upon the costs of administering the service, with due regard to the anticipated time spent, and travel costs incurred, by personnel performing the service. The collection of fees authorized by this subsection shall be treated as repayment receipts as defined in section 8.2.

12. The department of education, in collaboration with the department of workforce development, is responsible for the development and oversight of industry and sector partnerships in the state.

13. The department of workforce development is responsible for the administration of the state list of eligible providers and programs under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, §122.

14. The department of workforce development is responsible for the review of local workforce development plans under section 84A.4. The department may approve a local workforce development plan, conditionally approve a local workforce development plan with requests for additional information and recommended changes, or reject a local workforce development plan and request the submission of a new local workforce development plan. The department may create templates, policies, and procedures regarding the submission, format, and contents of local workforce development plans.

15. The department of workforce development shall provide oversight, guidance, and technical assistance to local workforce development areas, including but not limited to local workforce development boards, local fiscal agents, youth providers, and eligible providers of career services.

86 Acts, ch 1245, §902

C87, §84A.2

93 Acts, ch 180, §53; 96 Acts, ch 1186, §12

C97, §84A.5

98 Acts, ch 1061, §2, 11; 98 Acts, ch 1170, §19; 99 Acts, ch 21, §3; 99 Acts, ch 68, §1; 99 Acts, ch 130, §7; 2001 Acts, ch 61, §13; 2002 Acts, ch 1050, §11; 2007 Acts, ch 211, §33; 2008 Acts,

ch 1191, §43; 2011 Acts, ch 118, §85, 89; 2016 Acts, ch 1118, §10, 11, 21; 2018 Acts, ch 1026, §29; 2018 Acts, ch 1067, §8, 15; 2018 Acts, ch 1143, §7, 9
Referred to in §15.344, 260G.5

84A.6 Job placement and training programs.

1. The department of workforce development, in consultation with the workforce development board and the local workforce development boards, the department of education, and the economic development authority, shall work together to develop policies encouraging coordination between skill development, labor exchange, and economic development activities.

2. *a.* The director of the department of workforce development, in cooperation with the department of human services, shall provide job placement and training to persons referred by the department of human services under the promoting independence and self-sufficiency through employment job opportunities and basic skills program established pursuant to chapter 239B and the food stamp employment and training program.

b. The department of workforce development, in consultation with the department of human services, shall develop and implement departmental recruitment and employment practices that address the needs of former and current participants in the family investment program under chapter 239B.

3. The director of the department of workforce development, in cooperation with the department of human rights and the vocational rehabilitation services division of the department of education, shall establish a program to provide job placement and training to persons with disabilities.

86 Acts, ch 1245, §903
C87, §84A.3
96 Acts, ch 1186, §13
C97, §84A.6
97 Acts, ch 41, §32; 2002 Acts, ch 1050, §12; 2005 Acts, ch 175, §58; 2011 Acts, ch 118, §85, 89; 2012 Acts, ch 1132, §16; 2016 Acts, ch 1118, §12, 21; 2018 Acts, ch 1067, §9, 15
Referred to in §84A.5

84A.7 Iowa conservation corps.

1. *Definitions.* As used in this section, unless the context otherwise requires:

a. "Account" means the Iowa conservation corps account.

b. "Corps" means the Iowa conservation corps.

2. *Iowa conservation corps established.* The Iowa conservation corps is established in this state to provide meaningful and productive public service jobs for youth, unemployed persons, persons with disabilities, disadvantaged persons, and elderly persons, and to provide participants with an opportunity to explore careers, gain work experience, and contribute to the general welfare of their communities and the state. The corps shall provide opportunities in the areas of natural resource and wildlife conservation, park maintenance and restoration, land management, energy savings, community improvement projects, tourism, economic development, and work benefiting human services programs. The department of workforce development shall administer the corps and shall adopt rules pursuant to chapter 17A governing its operation, eligibility for participation, cash contributions, and implementation of an incentive program.

3. *Funding.* Corps projects shall be funded by appropriations to the Iowa conservation corps account and by cash, services, and material contributions made by other state agencies or local public and private agencies. Public and private entities who benefit from a corps project shall contribute at least thirty-five percent of the total project budget. The contributions may be in the form of cash, materials, or services. Materials and services shall be intended for the project and acceptable to the department of workforce development. Minimum levels of contributions shall be prescribed in rules adopted by the department of workforce development pursuant to chapter 17A.

4. *Account created.* The Iowa conservation corps account is established within and administered by the department of workforce development. The account shall include all

appropriations made to programs administered by the corps, and may also include moneys contributed by a private individual or organization, or a public entity for the purpose of implementing corps programs and projects. The department of workforce development may establish an escrow account within the department and obligate moneys within that escrow account for tuition payments to be made beyond the term of any fiscal year. Interest earned on moneys in the Iowa conservation corps account shall be credited to the account.

5. *Participant eligibility.* Notwithstanding any contrary provision of chapter 8A, subchapter IV, and chapter 96, a person employed through an Iowa conservation corps program shall be exempt from merit system requirements and shall not be eligible to receive unemployment compensation benefits.

96 Acts, ch 1186, §14; 97 Acts, ch 23, §8; 99 Acts, ch 21, §4; 2002 Acts, ch 1050, §13; 2003 Acts, ch 145, §157; 2018 Acts, ch 1041, §24
Referred to in §15H.9, 84A.5, 97B.1A

84A.8 Workforce investment program.

A workforce investment program is established to enable more Iowans to enter or reenter the workforce. The workforce investment program shall provide training and support services to population groups that have historically faced barriers to employment. The department of workforce development shall administer the workforce investment program and shall adopt rules pursuant to chapter 17A governing its operation and eligibility guidelines for participation.

96 Acts, ch 1186, §15; 2018 Acts, ch 1041, §25
Referred to in §84A.5

84A.9 Statewide mentoring program.

A statewide mentoring program is established to recruit, screen, train, and match individuals in a mentoring relationship. The department of workforce development shall administer the program in collaboration with the departments of human services, education, and human rights. The availability of the program is subject to the funding appropriated for the purposes of the program.

96 Acts, ch 1186, §16
Referred to in §84A.5

84A.10 New employment opportunity program.

The department of workforce development shall implement and administer a new employment opportunity program to assist individuals in underutilized segments of Iowa's workforce, including but not limited to the persons with physical or mental disabilities, persons convicted of a crime, or minority persons between the ages of twelve and twenty-five, to gain and retain employment. The program shall be designed to complement existing employment and training programs by providing additional flexibility and services that are often needed by individuals in underutilized segments of the workforce to gain and retain employment. Services provided under the program may include, but are not limited to, transportation costs, child care, health care, health care insurance, on-the-job training, career interest inventory assessments, employability skills assessment, short-term basic education, internships, mentoring, assisting businesses with compliance issues related to the federal Americans With Disabilities Act of 1990, and reducing perceived risks that cause these populations to be underutilized. The department shall adopt rules pursuant to chapter 17A to administer the program, including rules relating to eligibility criteria, eligible populations, and services to implement the intent of this section.

2000 Acts, ch 1230, §20

84A.11 Nursing workforce data clearinghouse.

1. *a.* The department of workforce development shall establish a nursing workforce data clearinghouse for the purpose of collecting and maintaining data from all available and appropriate sources regarding Iowa's nursing workforce.

b. The department of workforce development shall have access to all data regarding

Iowa's nursing workforce collected or maintained by any state department or agency to support the data clearinghouse.

c. Information maintained in the nursing workforce data clearinghouse shall be available to any state department or agency.

2. The department of workforce development shall consult with the board of nursing, the department of public health, the department of education, and other appropriate entities in developing recommendations to determine options for additional data collection.

3. The department of workforce development, in consultation with the board of nursing, shall adopt rules pursuant to chapter 17A to administer the data clearinghouse.

4. The nursing workforce data clearinghouse shall be established and maintained in a manner consistent with the health care delivery infrastructure and health care workforce resources strategic plan developed pursuant to section 135.163.

5. The department of workforce development shall submit a report to the governor and the general assembly, annually by January 15, regarding the nursing workforce data clearinghouse, and, following establishment of the data clearinghouse, the status of the nursing workforce in Iowa.

2010 Acts, ch 1147, §1, 13; 2017 Acts, ch 148, §12

84A.12 Summer youth intern pilot program.

1. A summer youth intern pilot program is established within the department of workforce development to provide youths who are at risk of not graduating from high school, who are from low-income households, who are from communities underrepresented in the Iowa workforce, or who otherwise face barriers to success and upward mobility in the labor market, with internship opportunities that allow these youths to explore and prepare for high-demand careers, to gain work experience, and to develop personal attributes necessary to succeed in the workplace.

2. Subject to an appropriation of funds by the general assembly for this purpose, the department of workforce development shall award grants for summer youth intern pilot projects on a competitive basis as provided in this section. The department shall work with employers, nonprofit organizations, and educational institutions to place youth in internships primarily in high-demand career fields.

3. The department of workforce development shall annually issue a request for proposals to the public, specifying the expectations and requirements for summer youth intern pilot project grant qualification, including but not limited to the provision of facilities, programming, staffing, and outcomes.

4. The department of workforce development shall give full and fair consideration to each proposal submitted under subsection 3, and shall award grants after considering, at a minimum, the following:

a. The bidder's history and experience in the community.

b. The capacity to serve a substantial number of youth.

c. The suitability of the available facilities.

d. The bidder's contacts and partnerships in the community that can be leveraged to maximize opportunity for project participants.

e. The capacity to provide employability skills, including but not limited to training relating to soft skills, financial literacy, and career development.

2018 Acts, ch 1067, §10, 15

Referred to in §84A.1B

84A.13 Iowa employer innovation program — fund.

1. For purposes of this section, *"high-demand job"* means a job identified by the workforce development board or a community college pursuant to section 84A.1B, subsection 14, as a high-demand job.

2. Subject to an appropriation of funds by the general assembly for this purpose, the Iowa employer innovation program is established in the department of workforce development. The department shall administer the program in consultation with the workforce development board. The purpose of the Iowa employer innovation program

is to expand opportunities for credit and noncredit education and training leading to high-demand jobs for the residents of Iowa and to encourage Iowa employers, community leaders, and others to provide leadership and support for regional workforce talent pools throughout the state.

3. The department of workforce development shall adopt rules under chapter 17A establishing a program application and award process to match employer moneys and the criteria for the allocation of moneys in the fund established pursuant to subsection 4. An employer, employer consortium, community organization, or other entity seeking matching moneys shall submit an application and a proposal to the department. In awarding matching moneys, the department shall take into account various factors, including but not limited to all of the following:

a. The range of high-demand jobs, innovative measures, and geographic fairness and equity included in the proposal.

b. Whether the proposal increases the number of eligible students receiving financial assistance under the future ready Iowa skilled workforce last-dollar scholarship or future ready Iowa skilled workforce grant programs established under sections 261.131 and 261.132; or increases the donation of books, transportation, child care, and other wrap-around support to assist eligible students receiving financial assistance under section 261.131 or 261.132.

c. Whether the proposal includes performance-based bonuses paid when high school students earn national industry-recognized credentials aligned with high-demand jobs that meet regional workforce needs.

d. Whether the proposal expands internships leading to high-demand jobs.

e. Whether the proposal offers innovative ways of expanding opportunities for credit and noncredit education and training leading to high-demand jobs.

f. Whether the proposal addresses areas of workforce need throughout the region.

4. An Iowa employer innovation fund is created in the state treasury as a separate fund under the control of the department of workforce development, in consultation with the workforce development board. The fund shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department from the federal government. A portion of the moneys deposited in the fund, in an amount to be determined annually by the department of workforce development in consultation with the workforce development board, shall be transferred annually to the Iowa child care challenge fund created pursuant to section 84A.13A. The assets of the Iowa employer innovation fund shall be used by the department in accordance with this section. All moneys deposited or paid into the fund are appropriated and made available to the board to be used in accordance with this section. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section and for transfer in accordance with this section in subsequent fiscal years.

2018 Acts, ch 1067, §11, 15; 2020 Acts, ch 1117, §5; 2021 Acts, ch 76, §16
Referred to in §84A.1B, 84A.5, 84A.13A
Subsection 4 amended

84A.13A Iowa child care challenge program — fund.

1. For purposes of this section, *"consortium"* means a consortium of two or more employers or businesses, at least one of which must be a private employer.

2. The Iowa child care challenge program is established in the department of workforce development. The department shall administer the program in consultation with the workforce development board. The purpose of the Iowa child care challenge program is to encourage and enable businesses, nonprofit organizations, and consortiums to establish local child care facilities and increase the availability of quality, affordable child care for working Iowans.

3. The department of workforce development shall adopt rules under chapter 17A establishing a program application and award process to match business, nonprofit organization, or consortium moneys and the criteria for the allocation of moneys in

the fund established pursuant to subsection 4. A business, nonprofit organization, or consortium seeking matching moneys shall submit an application and a proposal for the new construction of a child care facility, rehabilitation of an existing structure as a child care facility, or the retrofitting and repurposing of an existing structure for use as a child care facility to the department. Proposals shall include a financial statement and a description of funds to be provided by the business, nonprofit organization, or consortium, including in-kind donations, and a plan for sustainability. Match amount awards made by the department that are unclaimed or unused as of June 1 of the fiscal year shall be canceled by the department.

4. An Iowa child care challenge fund is created in the state treasury as a separate fund under the control of the department of workforce development, in consultation with the workforce development board. The fund shall consist of appropriations made to the fund, any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund, and transfers of interest, earnings, and moneys from other funds as provided by law. The assets of the fund shall be used by the department only for purposes of this section. All moneys deposited, transferred to, or paid into the fund are appropriated and made available to the department to be used for purposes of this section. Any unclaimed moneys in the fund by June 1 annually shall be transferred to the Iowa employer innovation fund, created pursuant to section 84A.13, to be used only for purposes of the Iowa employer innovation program established pursuant to section 84A.13. Notwithstanding section 8.33, moneys deposited after May 1 annually in the Iowa child care challenge fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert to the general fund of the state but shall be transferred to the Iowa employer innovation fund created pursuant to section 84A.13 to be used for purposes of the Iowa employer innovation program established pursuant to section 84A.13.

2020 Acts, ch 1117, §6
Referred to in §84A.13

84A.14 Criminal history checks.

A current or prospective contractor, vendor, employee, or any other individual performing work for the department of workforce development who will have access to federal tax information shall be subject to a national criminal history check through the federal bureau of investigation at least once every ten years if such a check is required pursuant to guidance from the federal internal revenue service. The department of workforce development shall request the national criminal history check and shall provide the individual's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The individual shall authorize release of the results of the national criminal history check to the department of workforce development. The department of workforce development shall pay the actual cost of the fingerprinting and national criminal history check, if any. The results of a criminal history check conducted pursuant to this section shall not be considered a public record under chapter 22.

2018 Acts, ch 1080, §1

CHAPTER 84B

WORKFORCE DEVELOPMENT CENTERS

Referred to in §84A.5

84B.1 Workforce development system.
84B.2 Workforce development centers.
84B.3 Workforce development centers — location.

84B.1 Workforce development system.

The departments of workforce development, education, human services, and corrections, the economic development authority, the department on aging, the division of Iowa

vocational rehabilitation services of the department of education, and the department for the blind shall collaborate where possible under applicable state and federal law to align workforce development programs, services, and activities in an integrated workforce development system in the state and in each local workforce development area that is data driven and responsive to the needs of workers, job seekers, and employers. The departments, authority, and division shall also jointly establish an integrated management information system for linking workforce development programs within local workforce development systems and in the state.

2016 Acts, ch 1118, §13, 21

84B.2 Workforce development centers.

The department of workforce development, in consultation with the departments of education, human services, and corrections, the economic development authority, the department on aging, the division of Iowa vocational rehabilitation services of the department of education, and the department for the blind shall establish guidelines for colocating state and federal employment and training programs in centers providing services at the local level. The centers shall be known as workforce development centers. The guidelines shall provide for local design and operation within the guidelines. The core services available at a center shall include but are not limited to all of the following:

1. *Information.* Provision of information shall include labor exchange and labor market information as well as career guidance and occupational information. Training and education institutions which receive state or federal funding shall provide to the centers consumer-related information on their programs, graduation rates, wage scales for graduates, and training program prerequisites. Information from local employers, unions, training programs, and educators shall be collected in order to identify demand industries and occupations. Industry and occupation demand information should be published as frequently as possible and be made available through centers.

2. *Assessment.* Individuals shall receive basic assessment regarding their own skills, interests, and related opportunities for employment and training. Assessments are intended to provide individuals with realistic information in order to guide them into training or employment situations. The basic assessment may be provided by the center or by existing service providers such as community colleges or by a combination of the two.

3. *Training accounts.* Training accounts may be established for both basic skill development and career and technical training. There shall be no training assistance or limited training assistance in those training areas a center has determined are oversupplied or are for general life improvement.

4. *Referral to training programs or jobs.* Based upon individual assessments, a center shall provide individuals with referrals to other community resources, training programs, and employment opportunities.

5. *Job development and job placement.* A center shall be responsible for job development activities and job placement services. A center shall seek to create a strong tie to the local job market by working with both business and union representatives.

93 Acts, ch 97, §12

CS93, §84B.1

96 Acts, ch 1186, §17; 2009 Acts, ch 23, §7; 2011 Acts, ch 118, §87, 89; 2016 Acts, ch 1108, §11; 2016 Acts, ch 1118, §14, 21

C2017, §84B.2

Referred to in §84B.3

Former §84B.2 transferred to §84B.3

84B.3 Workforce development centers — location.

A workforce development center, as provided in section 84B.2, shall be located in each service delivery area. Each workforce development center shall also maintain a presence, through satellite offices or electronic means, in each county located within that service delivery area. For purposes of this section, *"service delivery area"* means the area included within a merged area, as defined in section 260C.2, realigned to the closest county border as

determined by the department of workforce development. However, if the state workforce development board determines that an area of the state would be adversely affected by the designation of the service delivery areas by the department, the department may, after consultation with the applicable local workforce development boards and with the approval of the state workforce development board, make accommodations in determining the service delivery areas, including but not limited to the creation of a new service delivery area. In no event shall the department create more than sixteen service delivery areas.

96 Acts, ch 1186, §18
C97, §84B.2
2016 Acts, ch 1118, §15, 21
C2017, §84B.3

CHAPTER 84C

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

84C.1	Title.	84C.4	Notice — exemptions, special circumstances, wages in lieu of notice.
84C.2	Definitions.		
84C.3	Notice — requirements.	84C.5	Enforcement and penalties.

84C.1 Title.

This chapter shall be known as the *"Iowa Worker Adjustment and Retraining Notification Act"*.

2010 Acts, ch 1085, §1

84C.2 Definitions.

For the purposes of this chapter:

1. *"Aggrieved employee"* means an employee who has worked for the employer ordering the business closing or mass layoff and who, as a result of the failure by the employer to comply with section 84C.3, did not receive timely notice either directly or through the employee's representative.
2. *"Business closing"* means the permanent or temporary shutdown of a single site of employment of one or more facilities or operating units that will result in an employment loss for twenty-five or more employees, other than part-time employees.
3. *"Department"* means the department of workforce development.
4. *"Employee"* means a worker who may reasonably expect to experience an employment loss as a consequence of a proposed business closing or mass layoff by an employer.
5. *"Employer"* means a person who employs twenty-five or more employees, excluding part-time employees.
6. *"Employment loss"* means an employment termination, other than a discharge for cause, voluntary separation, or retirement; a layoff exceeding six months; or a reduction in hours of more than fifty percent of work of individual employees during each month of a six-month period. *"Employment loss"* does not include instances when a business closing or mass layoff is the result of the relocation or consolidation of part or all of the employer's business and, before the business closing or mass layoff, the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a six-month break in employment.
7. *"Mass layoff"* means a reduction in employment force that is not the result of a business closing and results in an employment loss at a single site of employment during any thirty-day period of twenty-five or more employees, other than part-time employees.
8. *"Part-time employee"* means an employee who is employed for an average of fewer than twenty hours per week or an employee, including a full-time employee, who has been employed for fewer than six of the twelve months preceding the date on which notice is

required. However, if an applicable collective bargaining agreement defines a part-time employee, such definition shall supersede the definition in this subsection.

9. *"Representative"* means an exclusive representative of employees within the meaning of section 9(a) of the federal National Labor Relations Act, 29 U.S.C. §151 et seq., and the federal Railway Labor Act, 45 U.S.C. §151 et seq.

10. *"Single site of employment"* refers to a single location or a group of contiguous locations, such as a group of structures that form a campus or business park or separate facilities across the street from each other.

2010 Acts, ch 1085, §2; 2010 Acts, ch 1188, §24

84C.3 Notice — requirements.

1. *a.* An employer who plans a business closing or a mass layoff shall not order such action until the end of a thirty-day period which begins after the employer serves written notice of such action to the affected employees or their representatives and to the department. However, if an applicable collective bargaining agreement designates a different notice period, the notice period in the collective bargaining agreement shall govern. The employer shall provide notice to the department if the worker is covered by a collective bargaining agreement.

b. An employer who has previously announced and carried out a short-term mass layoff of six months or less which is extended beyond six months due to business circumstances not reasonably foreseeable at the time of the initial mass layoff is required to give notice when it becomes reasonably foreseeable that the extension is required. A mass layoff extending beyond six months from the date the mass layoff commenced for any other reason shall be treated as an employment loss from the date of commencement of the mass layoff.

c. In the case of the sale of part or all of a business, the seller is responsible for providing notice of any business closing or mass layoff which will take place up to and on the effective date of the sale. The buyer is responsible for providing notice of any business closing or mass layoff that will take place thereafter.

2. *a.* Notice from the employer to the affected employees or their representatives and to the department shall be in written form and shall contain the following:

(1) The name and address of the employment site where the business closing or mass layoff will occur, and the name and telephone number of a company official to contact for further information.

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire business is to be closed, a statement to that effect.

(3) The expected date of the first employment loss and the anticipated schedule for employment losses.

(4) The job titles of positions to be affected and the names of the employees currently holding the affected jobs. The notice to the department shall also include the addresses of the affected employees. The department shall maintain the confidentiality of the names and addresses of employees received by the department.

b. The notice may include additional information useful to the employees, such as information about available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

3. Any reasonable method of delivery to the affected employees or their representatives, and the department which is designed to ensure receipt of notice of at least thirty days before the planned action is acceptable. In the case of notification directly to affected employees, insertion of notice into pay envelopes is a viable option.

2010 Acts, ch 1085, §3
Referred to in §84C.2, 84C.4, 84C.5

84C.4 Notice — exemptions, special circumstances, wages in lieu of notice.

1. *Strike or lockout.* If a business closing or mass layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this chapter, notice is not required to be given by the employer. This chapter does not require an employer to serve written notice when permanently replacing an employee who is deemed to be an economic

striker under the federal National Labor Relations Act. This chapter shall not be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the federal National Labor Relations Act. If an employer hires temporary workers to replace employees during the course of a strike or lockout and later terminates these temporary workers at the conclusion of the strike or lockout, this chapter does not require an employer to serve written notice on the terminated temporary workers.

2. *Rolling layoffs.*

a. When affected employees will not be terminated on the same date, the date of the first individual employment loss within the thirty-day notice period triggers the notice requirement. An employee's last day of employment is considered the date of that employee's layoff. The first and subsequent groups of terminated employees are entitled to a full thirty days' notice.

b. An employer shall give notice if the number of employment losses of two or more actions in any ninety-day period triggers the notice requirements in section 84C.3 for a business closing or a mass layoff. An employer is not required to give notice if the number of employment losses from one action in a thirty-day period does not meet the requirements of section 84C.3. All employment losses in any ninety-day period shall be aggregated to trigger the notice requirement unless the employer demonstrates to the department that the employment losses during the ninety-day period are the result of separate and distinct actions and causes.

3. *Extended notice.* Additional notice is required if the date or schedule of dates of a planned business closing or mass layoff is extended beyond the date or the ending date of any period announced in the original notice.

a. If the postponement is for less than thirty days, the additional notice shall be given as soon as possible to the affected employees or their representatives and the department and shall include reference to the earlier notice, the date to which the planned action is postponed, and the reasons for the postponement. The notice shall be given in a manner which will provide the information to all affected employees.

b. If the postponement is for more than thirty days, the additional notice shall be treated as new notice subject to the provisions of section 84C.3.

4. *Faltering company.* An exception to the thirty-day notice applies to business closings but not to mass layoffs if the requirements of this subsection are met and the exception shall be narrowly construed.

a. An employer must have been actively seeking capital or business at the time that the thirty-day notice would have been required by seeking financing or refinancing through the arrangement of loans or the issuance of stocks, bonds, or other methods of internally generated financing, or by seeking additional money, credit, or business through any other commercially reasonable method. The employer must identify specific actions taken to obtain capital or business.

b. The employer must, at the time notice is actually given, provide a statement of explanation for reducing the notice period in addition to the other notice requirements in section 84C.3.

c. There must have been a realistic opportunity to obtain the financing or business sought.

d. The financing or business sought must have been sufficient, if obtained, to have enabled the employer to avoid or postpone the shutdown. The employer must be able to objectively demonstrate that the amount of capital or the volume of new business sought would have enabled the company to keep the facility, operating unit, or site open for a reasonable period of time.

e. The employer reasonably and in good faith must have believed that giving the required notice would have precluded the employer from obtaining the needed capital or business. The employer must be able to objectively demonstrate that the employer reasonably thought that a potential customer or source of financing would have been unwilling to provide the new business or capital if notice had been given. This condition may be satisfied if the employer can show that the financing or business source would not choose to do business

with a troubled company or with a company whose workforce would be looking for other jobs.

5. *Unforeseeable business circumstance.* An exception to the thirty-day notice applies to business closings and to mass layoffs if the requirements of this subsection are met.

a. Business circumstances occurred that were not reasonably foreseeable at the time that the thirty-day notice would have been required.

b. The employer must, at the time notice is actually given, provide a statement of explanation for reducing the notice period in addition to the other notice requirements in section 84C.3.

c. An important indicator of a reasonably unforeseeable business circumstance is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employer's control.

d. The employer must exercise commercially reasonable business judgment as would a similarly situated employer in predicting the demands of the employer's particular market. The employer is not required to accurately predict general economic conditions that also may affect demand for products or services.

6. *Natural disaster.* An exception to the thirty-day notice applies to business closings and to mass layoffs if the requirements of this subsection are met.

a. A natural disaster occurred at the time notice would have been required.

b. The employer must, at the time notice is actually given, provide a statement of explanation for reducing the notice period in addition to the other requirements to notice in section 84C.3.

c. Floods, earthquakes, droughts, storms, tornadoes, and similar effects of nature are natural disasters under this subsection.

d. An employer must be able to demonstrate that the business closing or mass layoff is a direct result of the natural disaster.

e. If a business closing or mass layoff occurs as an indirect result of a natural disaster, this exception does not apply but the unforeseeable business circumstance exception may be applicable.

7. *Wages in lieu of notice.* The thirty-day notice requirement in section 84C.3 may be reduced by the number of days for which severance payments or wages in lieu of notice are paid by the employer to the employee for work days occurring during the notice period. A severance payment or wages in lieu of notice shall be at least an amount equivalent to the regular pay the employee would earn for the work days occurring during the notice period.

2010 Acts, ch 1085, §4; 2010 Acts, ch 1188, §25

84C.5 Enforcement and penalties.

1. The department shall adopt rules pursuant to and consistent with chapter 17A regarding investigations to determine whether an employer has violated any provisions of this chapter. A determination by the department that a violation has occurred shall be considered final agency action under chapter 17A.

2. An employer who violates the provisions of section 84C.3 with respect to the department shall be subject to a civil penalty of not more than one hundred dollars for each day of the violation. Any penalties collected by the department shall be forwarded to the treasurer of state and deposited in the general fund of the state.

3. The penalties provided for in this section shall be the exclusive remedies for any violation of this chapter. Under this chapter, a court shall not have authority to enjoin a business closing or mass layoff.

2010 Acts, ch 1085, §5

CHAPTER 85

WORKERS' COMPENSATION

Referred to in §8A.457, 8A.512, 29A.3A, 29C.8, 80D.12, 84A.5, 85B.2, 85B.3, 85B.11, 85B.14, 86.8, 86.9, 86.12, 86.13, 86.17, 86.18, 86.19, 86.24, 86.29, 86.39, 86.44, 87.1, 87.2, 87.11, 87.13, 87.14A, 87.21, 87.22, 163.3A, 207.17, 280.21A, 331.324, 515B.5, 582.1A, 622.10, 627.13, 686C.3, 686D.8, 729.6

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SUBCHAPTER I

GENERAL PROVISIONS

85.1 Inapplicability of chapter.

Except as provided in subsection 6 of this section, this chapter does not apply to:

1. Any employee engaged in any type of service in or about a private dwelling except that after July 1, 1997, this chapter shall apply to such persons who earn one thousand five hundred dollars or more from such employer for whom employed at the time of the injury during the twelve consecutive months prior to the injury, provided the employee is not a regular member of the household. For purposes of this subsection, *"member of the household"* is defined to be the spouse of the employer or relatives of either the employer or spouse residing on the premises of the employer.

2. Persons whose employment is purely casual and not for the purpose of the employer's trade or business, except that after July 1, 1997, this chapter shall apply to such employees who earn one thousand five hundred dollars or more from such employer for whom employed at the time of the injury during the twelve consecutive months prior to the injury.

3. Persons engaged in agriculture, insofar as injuries incurred by employees while engaged in agricultural pursuits or any operations immediately connected therewith whether on or off the premises of the employer, except:

a. This chapter applies to persons not specifically exempted by paragraph *"b"* of this subsection if at the time of injury the person is employed by an employer whose total cash payroll to one or more persons other than those exempted by paragraph *"b"* of this subsection amounted to two thousand five hundred dollars or more during the preceding calendar year.

b. The following persons or employees or groups of employees are specifically included within the exemption from coverage of this chapter provided by this subsection:

(1) The spouse of the employer, parents, brothers, sisters, children, and stepchildren of either the employer or the spouse of the employer, and the spouses of the brothers, sisters, children, and stepchildren of either the employer or the spouse of the employer.

(2) The spouse of a partner of a partnership, the parents, brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, and the spouses of the brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, who are employed by the partnership and actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the partnership. For the purpose of this section, *"partnership"* includes partnerships, limited partnerships, and joint ventures.

(3) Officers of a family farm corporation or members of a limited liability company, spouses of the officers or members, the parents, brothers, sisters, children, and stepchildren of either the officers or members, or the spouses of the officers or members, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or members, or the spouses of the officers or members who are employed by the corporation or limited liability company, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and who are actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the corporation or limited liability company.

(4) A person engaged in agriculture as an owner of agricultural land, as a farm operator, or as a person engaged in agriculture who is exempt from coverage under this chapter by subsection 3, paragraph *"b"*, subparagraph (1), (2), or (3), while exchanging labor with another owner of agricultural land, farm operator, or person engaged in agriculture who is exempt from coverage under this chapter by subsection 3, paragraph *"b"*, subparagraph (1), (2), or (3), for the mutual benefit of all such persons.

4. Persons entitled to benefits pursuant to chapters 410 and 411.

5. The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, not to exceed four officers per corporation, if such an officer

knowingly and voluntarily rejects workers' compensation coverage pursuant to section 87.22.

6. Employers may with respect to an employee or a classification of employees exempt from coverage provided by this chapter pursuant to subsection 1, 2, or 3, other than the employee or classification of employees with respect to whom a rule of liability or a method of compensation is established by the Congress of the United States, assume a liability for compensation imposed upon employers by this chapter, for the benefit of employees within the coverage of this chapter, by the purchase of valid workers' compensation insurance that does not specifically exclude the employee or classification of employees. The purchase of and acceptance by an employer of valid workers' compensation insurance applicable to the employee or classification of employees constitutes an assumption by the employer of liability without any further act on the part of the employer, but only with respect to the employee or classification of employees as are within the coverage of the workers' compensation insurance contract and only for the time period in which the insurance contract is in force. Upon an election of such coverage, the employee or classification of employees shall accept compensation in the manner provided by this chapter and the employer shall be relieved from any other liability for recovery of damage, or other compensation for injury.

[S13, §2477-m; C24, 27, 31, 35, 39, §**1361;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.1; 82 Acts, ch 1161, §1, 2, ch 1221, §1]

83 Acts, ch 36, §1, 2, 8; 84 Acts, ch 1067, §14; 96 Acts, ch 1059, §1; 97 Acts, ch 43, §1, 2; 2007 Acts, ch 128, §1

Referred to in §85.2, 85.61, 85.62, 87.21

85.1A Proprietors, limited liability company members, limited liability partners, and partners.

A proprietor, limited liability company member, limited liability partner, or partner who is actively engaged in the proprietor's, limited liability company member's, limited liability partner's, or partner's business on a substantially full-time basis may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor, limited liability company member, limited liability partner, or partner. The election constitutes an assumption by the employer of workers' compensation liability for the proprietor, limited liability company member, limited liability partner, or partner for the time period in which the insurance contract is in force. The proprietor, limited liability company member, limited liability partner, or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is relieved from any other liability for recovery of damages, or other compensation for injury.

86 Acts, ch 1074, §1; 96 Acts, ch 1059, §2; 2001 Acts, ch 87, §1

Referred to in §85.61, 87.22

85.2 Public employees — chapter compulsory.

Where the state, county, municipal corporation, school corporation, area education agency, or city under any form of government is the employer, the provisions of this chapter for the payment of compensation and amount thereof for an injury sustained by an employee of such employer shall be exclusive, compulsory, and obligatory upon both employer and employee, except as otherwise provided in section 85.1. For the purposes of this chapter, elected and appointed officials shall be employees.

[S13, §2477-m; C24, 27, 31, 35, 39, §**1362;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.2]

85.3 Acceptance presumed — notice to nonresident employers.

1. Every employer, not specifically excepted by the provisions of this chapter, shall provide, secure, and pay compensation according to the provisions of this chapter for any and all personal injuries sustained by an employee arising out of and in the course of the employment, and in such cases, the employer shall be relieved from other liability for recovery of damages or other compensation for such personal injury.

2. Any employer who is a nonresident of this state, for whom services are performed within this state by any employee, is deemed to be doing business in this state by virtue of having such services performed and the employer and employee shall be subject to the jurisdiction of the workers' compensation commissioner and to all of the provisions of this chapter, chapters 85A, 85B, 86, and 87, as to any and all personal injuries sustained by the employee arising out of and in the course of such employment within this state. In addition, every corporation, individual, personal representative, partnership, or association that has the necessary minimum contact with this state shall be subject to the jurisdiction of the workers' compensation commissioner, and the workers' compensation commissioner shall hold such corporation, individual, personal representative, partnership, or association amenable to suit in this state in every case not contrary to the provisions of the Constitution of the United States.

3. *a.* Service of process or original notice upon a nonresident employer may be performed as provided in section 617.3 or as provided in the Iowa rules of civil procedure. In addition, service may be made on any corporation, individual, personal representative, partnership, or association that has the necessary minimum contact with this state as provided in rule of civil procedure 1.305 within or without this state or, if such service cannot be made, in any manner consistent with due process of law prescribed by the workers' compensation commissioner.

b. In addition to those persons authorized to receive personal service as in civil actions as permitted by chapter 17A and this chapter, such employer shall be deemed to have appointed the secretary of state of this state as its lawful attorney upon whom may be served or delivered any and all notices authorized or required by the provisions of this chapter, chapters 85A, 85B, 86, 87, and 17A, and to agree that any and all such services or deliveries of notice on the secretary of state shall be of the same legal force and validity as if personally served upon or delivered to such nonresident employer in this state.

c. This section does not limit or affect the right to serve an original notice upon any corporation, individual, personal representative, partnership, or association within or without this state in any manner otherwise permitted by statute or rule.

4. For purposes of this section, a nonresident employer is any employer that is not a resident of Iowa as defined in section 617.3.

[S13, §2477-m; C24, 27, 31, 35, 39, §**1363;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.3]

98 Acts, ch 1061, §11; 2000 Acts, ch 1007, §1; 2000 Acts, ch 1232, §46; 2008 Acts, ch 1032, §201

85.4 through 85.15 Reserved.

85.16 Willful injury — intoxication.

No compensation under this chapter shall be allowed for an injury caused:

1. By the employee's willful intent to injure the employee's self or to willfully injure another.

2. *a.* By the employee's intoxication, which did not arise out of and in the course of employment but which was due to the effects of alcohol or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug not prescribed by an authorized medical practitioner, if the intoxication was a substantial factor in causing the injury.

b. For the purpose of disallowing compensation under this subsection, both of the following apply:

(1) If the employer shows that, at the time of the injury or immediately following the injury, the employee had positive test results reflecting the presence of alcohol, or another narcotic, depressant, stimulant, hallucinogenic, or hypnotic drug which drug either was not prescribed by an authorized medical practitioner or was not used in accordance with the prescribed use of the drug, it shall be presumed that the employee was intoxicated at the time of the injury and that intoxication was a substantial factor in causing the injury.

(2) Once the employer has made a showing as provided in subparagraph (1), the burden of proof shall be on the employee to overcome the presumption by establishing that the

employee was not intoxicated at the time of the injury, or that intoxication was not a substantial factor in causing the injury.

3. By the willful act of a third party directed against the employee for reasons personal to such employee.

[S13, §2477-m, -m1; C24, 27, 31, 35, 39, §**1376;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.16]

83 Acts, ch 105, §1; 2017 Acts, ch 23, §1, 24

2017 amendment to subsection 2 applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

85.17 Reserved.

85.18 Contract to relieve not operative.

No contract, rule, or device whatsoever shall operate to relieve the employer, in whole or in part, from any liability created by this chapter except as herein provided. This section does not create a private cause of action.

[S13, §2477-m7; C24, 27, 31, 35, 39, §**1378;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.18]

2017 Acts, ch 23, §2, 24

2017 amendment applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

85.19 Reserved.

85.20 Rights of employee exclusive.

The rights and remedies provided in this chapter, chapter 85A, or chapter 85B for an employee, or a student participating in a work-based learning opportunity as provided in section 85.61, on account of injury, occupational disease, or occupational hearing loss for which benefits under this chapter, chapter 85A, or chapter 85B are recoverable, shall be the exclusive and only rights and remedies of the employee or student, the employee's or student's personal or legal representatives, dependents, or next of kin, at common law or otherwise, on account of such injury, occupational disease, or occupational hearing loss against any of the following:

1. Against the employee's employer.

2. Against any other employee of such employer, provided that such injury, occupational disease, or occupational hearing loss arises out of and in the course of such employment and is not caused by the other employee's gross negligence amounting to such lack of care as to amount to wanton neglect for the safety of another.

3. For a student participating in a work-based learning opportunity as provided in section 85.61, against the student's school district of residence, receiving school district if the student is participating in open enrollment under section 282.18, accredited nonpublic school, or community college, and the directors, officers, authorities, and employees of the applicable school corporation or school.

[S13, §2477-m2; C24, 27, 31, 35, 39, §**1380;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.20]

97 Acts, ch 37, §1; 2016 Acts, ch 1108, §12, 13; 2018 Acts, ch 1130, §1, 4

Referred to in §85.22, 258.10, 670.12

85.21 Payments concerning liability disputes.

1. The workers' compensation commissioner may order any number or combination of alleged workers' compensation insurance carriers and alleged employers, which are parties to a contested case or to a dispute which could culminate in a contested case, to pay all or part of the benefits due to an employee or an employee's dependent or legal representative if any of the carriers or employers agree, or the commissioner determines after an evidentiary hearing, that one or more of the carriers or employers is liable to the employee or to the employee's dependent or legal representative for benefits under this chapter or under chapter 85A or 85B, but the carriers or employers cannot agree, or the commissioner has not determined which carriers or employers are liable.

2. Unless waived by the carriers or employers ordered to pay benefits, the workers'

compensation commissioner shall order an employer, which is not ordered to pay benefits and which does not have in force a policy of workers' compensation insurance issued by any carrier which is a party to the case or dispute and covering the claim made by the employee or the employee's dependent or legal representative, to post a bond or to deposit cash with the commissioner equal to the benefits paid or to be paid by the carriers or employers ordered to pay benefits. If any employer is ordered by the commissioner to post bond or to deposit cash, the employers or carriers ordered to pay benefits are not obligated to pay benefits until the bond is posted or the cash is deposited. The commissioner may order the bond or cash deposit to be increased.

3. When liability is finally determined by the workers' compensation commissioner, the commissioner shall order the carriers or employers liable to the employee or to the employee's dependent or legal representative to reimburse the carriers or employers which are not liable but were required to pay benefits. Benefits paid or reimbursed pursuant to an order authorized by this section do not require the filing of a memorandum of agreement. However, a contested case for benefits under this chapter or under chapter 85A or 85B shall not be maintained against a party to a case or dispute resulting in an order authorized by this section unless the contested case is commenced within three years from the date of the last benefit payment under the order. The commissioner may determine liability for the payment of workers' compensation benefits under this section.

[C77, 79, 81, §86.20; 82 Acts, ch 1161, §22]
98 Acts, ch 1061, §11

85.22 Liability of others — subrogation.

When an employee receives an injury or incurs an occupational disease or an occupational hearing loss for which compensation is payable under this chapter, chapter 85A, or chapter 85B, and which injury or occupational disease or occupational hearing loss is caused under circumstances creating a legal liability against some person, other than the employee's employer or any employee of such employer as provided in section 85.20 to pay damages, the employee, or the employee's dependent, or the trustee of such dependent, may take proceedings against the employer for compensation, and the employee or, in case of death, the employee's legal representative may also maintain an action against such third party for damages. When an injured employee or the employee's legal representative brings an action against such third party, a copy of the original notice shall be served upon the employer by the plaintiff, not less than ten days before the trial of the case, but a failure to give such notice shall not prejudice the rights of the employer, and the following rights and duties shall ensue:

1. If compensation is paid the employee or dependent or the trustee of such dependent under this chapter, the employer by whom the same was paid, or the employer's insurer which paid it, shall be indemnified out of the recovery of damages to the extent of the payment so made, with legal interest, except for such attorney fees as may be allowed, by the district court, to the injured employee's attorney or the attorney of the employee's personal representative, and shall have a lien on the claim for such recovery and the judgment thereon for the compensation for which the employer or insurer is liable. In order to continue and preserve the lien, the employer or insurer shall, within thirty days after receiving notice of such suit from the employee, file, in the office of the clerk of the court where the action is brought, notice of the lien.

2. In case the employee fails to bring such action within ninety days, or where a city or a city under special charter is such third party, within thirty days after written notice so to do given by the employer or the employer's insurer, as the case may be, then the employer or the insurer shall be subrogated to the rights of the employee to maintain the action against such third party, and may recover damages for the injury to the same extent that the employee might. In case of recovery, the court shall enter judgment for distribution of the proceeds thereof as follows:

a. A sum sufficient to repay the employer for the amount of compensation actually paid by the employer to that time.

b. A sum sufficient to pay the employer the present worth, computed at the interest

rate provided in section 535.3 for court judgments and decrees, of the future payments of compensation for which the employer is liable, but the sum is not a final adjudication of the future payments which the employee is entitled to receive and if the sum received by the employer is in excess of the amount required to pay the compensation, the excess shall be paid to the employee.

c. The balance, if any, shall be paid over to the employee.

3. Before a settlement shall become effective between an employee or an employer and such third party who is liable for the injury, it must be with the written consent of the employee, in case the settlement is between the employer or insurer and such third person; and the consent of the employer or insurer, in case the settlement is between the employee and such third party; or on refusal of consent, in either case, then upon the written approval of the workers' compensation commissioner.

4. A written memorandum of any settlement, if made, shall be filed by the employer or insurance carrier in the office of the workers' compensation commissioner.

5. For subrogation purposes, any payment made unto an injured employee, the employee's guardian, parent, next friend, or legal representative, by or on behalf of any third party, or the third party's principal or agent liable for, connected with, or involved in causing an injury to such employee shall be considered as having been so paid as damages resulting from and because said injury was caused under circumstances creating a legal liability against said third party, whether such payment be made under a covenant not to sue, compromise settlement, denial of liability or otherwise.

6. When the state of Iowa has paid any compensation or benefits under the provisions of this chapter, the word *"employer"* as used in this section shall mean and include the state of Iowa.

[S13, §2477-m6; C24, 27, 31, 35, 39, §**1382;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.22]

83 Acts, ch 105, §2; 98 Acts, ch 1061, §11; 2018 Acts, ch 1041, §26; 2020 Acts, ch 1063, §42
Referred to in §85.68

85.23 Notice of injury — failure to give.

Unless the employer or the employer's representative shall have actual knowledge of the occurrence of an injury received within ninety days from the date of the occurrence of the injury, or unless the employee or someone on the employee's behalf or a dependent or someone on the dependent's behalf shall give notice thereof to the employer within ninety days from the date of the occurrence of the injury, no compensation shall be allowed. For the purposes of this section, *"date of the occurrence of the injury"* means the date that the employee knew or should have known that the injury was work-related.

[S13, §2477-m8; C24, 27, 31, 35, 39, §**1383;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.23]

2017 Acts, ch 23, §3, 24
Referred to in §85.59, 86.11
2017 amendment applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

85.24 Form of notice.

1. No particular form of notice shall be required, but may be substantially as follows:

> To .....
>
> You are hereby notified that on or about the ..... day of ..... (month), ... (year), personal injury was sustained by ....., while in your employ at ..... (Give name and place employed and point where located when injury occurred.) and that compensation will be claimed therefor.
>
> Signed .....

2. No variation from this form of notice shall be material if the notice is sufficient to

advise the employer that a certain employee, by name, received an injury in the course of employment on or about a specified time, at or near a certain place.

[S13, §2477-m8; C24, 27, 31, 35, 39, §**1384;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.24]

2000 Acts, ch 1058, §56

85.25 Service of notice.

The notice may be served on anyone upon whom an original notice may be served in civil cases. Service may be made by any person, who shall make return verified by affidavit upon a copy of the notice, showing the date and place of service and upon whom served; but no special form of the return of service of the notice shall be required. It shall be sufficient if the facts therefrom can be reasonably ascertained. The return of service may be amended at any time.

[S13, §2477-m8; C24, 27, 31, 35, 39, §**1385;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.25]

Service of notice, R.C.P. 1.305, 1.306

85.26 Limitation of actions — who may maintain action.

1. An original proceeding for benefits under this chapter or chapter 85A, 85B, or 86, shall not be maintained in any contested case unless the proceeding is commenced within two years from the date of the occurrence of the injury for which benefits are claimed or, if weekly compensation benefits are paid under section 86.13, within three years from the date of the last payment of weekly compensation benefits. For the purposes of this section, *"date of the occurrence of the injury"* means the date that the employee knew or should have known that the injury was work-related.

2. An award for payments or an agreement for settlement provided by section 86.13 for benefits under this chapter or chapter 85A or 85B, where the amount has not been commuted, may be reviewed upon commencement of reopening proceedings by the employer or the employee within three years from the date of the last payment of weekly benefits made under the award or agreement. If an award for payments or agreement for settlement as provided by section 86.13 for benefits under this chapter or chapter 85A or 85B has been made and the amount has not been commuted, or if a denial of liability is not filed with the workers' compensation commissioner and notice of the denial is not mailed to the employee, in the form and manner required by the commissioner, within six months of the commencement of weekly compensation benefits, the commissioner may at any time upon proper application make a determination and appropriate order concerning the entitlement of an employee to benefits provided for in section 85.27. The failure to file a denial of liability does not constitute an admission of liability under this chapter or chapter 85A, 85B, or 86.

3. Notwithstanding chapter 17A, the filing with the workers' compensation commissioner of the original notice or petition for an original proceeding or an original notice or petition to reopen an award or agreement of settlement provided by section 86.13, for benefits under this chapter or chapter 85A or 85B is the only act constituting commencement for purposes of this section.

4. No claim or proceedings for benefits shall be maintained by any person other than the injured employee, or the employee's dependent or legal representative if entitled to benefits.

[S13, §2477-m34; C24, 27, 31, 35, 39, §**1386, 1457;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §85.26, 86.34; C79, 81, §85.26; 82 Acts, ch 1161, §3]

83 Acts, ch 105, §3; 84 Acts, ch 1067, §15; 98 Acts, ch 1061, §3, 11; 2017 Acts, ch 23, §4, 24; 2021 Acts, ch 76, §17

Referred to in §85.27, 85.34, 85.35, 85.59, 85.72, 86.13

2017 amendment to subsection 1 applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

Subsection 3 amended

85.27 Services — release of information — charges — payment — debt collection prohibited.

1. The employer, for all injuries compensable under this chapter or chapter 85A, shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical

rehabilitation, nursing, ambulance, and hospital services and supplies therefor and shall allow reasonably necessary transportation expenses incurred for such services. The employer shall also furnish reasonable and necessary crutches, artificial members and appliances but shall not be required to furnish more than one set of permanent prosthetic devices.

2. Any employee, employer, or insurance carrier making or defending a claim for benefits agrees to the release of all information to which the employee, employer, or carrier has access concerning the employee's physical or mental condition relative to the claim and further waives any privilege for the release of the information. The information shall be made available to any party or the party's representative upon request. Any institution or person releasing the information to a party or the party's representative shall not be liable criminally or for civil damages by reason of the release of the information. If release of information is refused, the party requesting the information may apply to the workers' compensation commissioner for relief. The information requested shall be submitted to the workers' compensation commissioner who shall determine the relevance and materiality of the information to the claim and enter an order accordingly.

3. Notwithstanding section 85.26, subsection 4, charges believed to be excessive or unnecessary may be referred by the employer, insurance carrier, or health service provider to the workers' compensation commissioner for determination, and the commissioner may utilize the procedures provided in sections 86.38 and 86.39, or set by rule, and conduct such inquiry as the commissioner deems necessary. Any health service provider charges not in dispute shall be paid directly to the health service provider prior to utilization of procedures provided in sections 86.38 and 86.39 or set by rule. A health service provider rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the workers' compensation commissioner and shall not recover in law or equity any amount in excess of charges set by the commissioner. When a dispute under this chapter, chapter 85A, or chapter 85B regarding reasonableness of a fee for medical services arises between a health service provider and an employer or insurance carrier, the health service provider, employer, or insurance carrier shall not seek payment from the injured employee. A health service provider shall not seek payment for fees in dispute from the insurance carrier or employer until the commissioner finds, pursuant to informal dispute resolution procedures established by rule by the commissioner, that the disputed amount is reasonable. This section does not affect the responsibility of an insurance carrier or an employer to pay amounts not in dispute or a health service provider's right to receive payment from an employee's nonoccupational plan as provided in section 85.38, subsection 2.

4. For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care. If the employer chooses the care, the employer shall hold the employee harmless for the cost of care until the employer notifies the employee that the employer is no longer authorizing all or any part of the care and the reason for the change in authorization. An employer is not liable for the cost of care that the employer arranges in response to a sudden emergency if the employee's condition, for which care was arranged, is not related to the employment. The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care. In an emergency, the employee may choose the employee's care at the employer's expense, provided the employer or the employer's agent cannot be reached immediately. An application made under this subsection shall be considered an original proceeding for purposes of commencement and contested case proceedings under section 85.26. The hearing shall be conducted pursuant to chapter 17A. Before a hearing is scheduled, the parties may choose a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the

in-person hearing would be impractical because of the distance between the parties to the hearing. The workers' compensation commissioner shall issue a decision within ten working days of receipt of an application for alternate care made pursuant to a telephone hearing or within fourteen working days of receipt of an application for alternate care made pursuant to an in-person hearing. The employer shall notify an injured employee of the employee's ability to contest the employer's choice of care pursuant to this subsection.

5. When an artificial member or orthopedic appliance, whether or not previously furnished by the employer, is damaged or made unusable by circumstances arising out of and in the course of employment other than through ordinary wear and tear, the employer shall repair or replace it. When any crutch, artificial member or appliance, whether or not previously furnished by the employer, either is damaged or made unusable in conjunction with a personal injury entitling the employee to disability benefits or services as provided by this section, or is damaged in connection with employee actions taken which avoid such personal injury, the employer shall repair or replace it.

6. While a contested case proceeding for determination of liability for workers' compensation benefits is pending before the workers' compensation commissioner relating to an injury alleged to have given rise to treatment, no debt collection, as defined by section 537.7102, shall be undertaken against an employee or the employee's dependents for the collection of charges for that treatment rendered an employee by any health service provider. If debt collection is undertaken after a creditor receives actual notice that a contested case proceeding for determination of liability for workers' compensation benefits is pending, such debt collection shall constitute a prohibited practice under section 537.7103, and the employee or the employee's dependents are entitled to the remedies provided in section 537.5201. However, the health service provider may send one itemized written bill to the employee setting forth the amount of the charges in connection with the treatment after notification of the contested case proceeding.

7. If, after the third day of incapacity to work following the date of sustaining a compensable injury which does not result in permanent partial disability, or if, at any time after sustaining a compensable injury which results in permanent partial disability, an employee, who is not receiving weekly benefits under section 85.33 or section 85.34, subsection 1, returns to work and is required to leave work for one full day or less to receive services pursuant to this section, the employee shall be paid an amount equivalent to the wages lost at the employee's regular rate of pay for the time the employee is required to leave work. For the purposes of this subsection, *"day of incapacity to work"* means eight hours of accumulated absence from work due to incapacity to work or due to the receipt of services pursuant to this section. The employer shall make the payments under this subsection as wages to the employee after making such deductions from the amount as legally required or customarily made by the employer from wages. Payments made under this subsection shall be required to be reimbursed pursuant to any insurance policy covering workers' compensation. Payments under this subsection shall not be construed to be payment of weekly benefits.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1387;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.27; 82 Acts, ch 1161, §4]

92 Acts, ch 1120, §1; 92 Acts, ch 1181, §1; 94 Acts, ch 1065, §1, 2; 98 Acts, ch 1061, §11; 2001 Acts, ch 87, §2; 2004 Acts, 1st Ex, ch 1001, §9, 18; 2005 Acts, ch 168, §9, 23; 2007 Acts, ch 22, §20; 2007 Acts, ch 128, §2; 2018 Acts, ch 1041, §27

Referred to in §85.26, 85.29, 85.31, 85.34, 85.35, 85.37, 85.38, 85.45, 85.59, 537.7103

85.28 Burial expense.

When death ensues from the injury, the employer shall pay the reasonable expenses of burial of such employee, not to exceed twelve times the statewide average weekly wage paid employees as determined by the department of workforce development under section

96.1A, subsection 35, and in effect at the time of death, which shall be in addition to other compensation or any other benefit provided for in this chapter.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1388;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.28]

92 Acts, ch 1031, §1; 2003 Acts, ch 140, §1; 2008 Acts, ch 1022, §1; 2020 Acts, ch 1062, §76

Referred to in §85.29, 85.31, 85.34, 85.37

85.29 Liability in case of no dependents.

When the injury causes death of an employee who leaves no dependents, then the employer shall pay the reasonable expense of the employee's sickness, if any, and the expense of burial, as provided in sections 85.27 and 85.28, and this shall be the only compensation; provided that if, from the date of the injury until the date of the death, any weekly compensation shall have become due and unpaid up to the time of the death, the same shall be payable to the estate of the deceased employee.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1389;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.29]

85.30 Maturity date and interest.

Compensation payments shall be made each week beginning on the eleventh day after the injury, and each week thereafter during the period for which compensation is payable, and if not paid when due, there shall be added to the weekly compensation payments, interest at the rate provided in section 535.3 for court judgments and decrees.

[C24, 27, 31, 35, 39, §**1391;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.30; 82 Acts, ch 1161, §5]

Referred to in §86.13A, 535.3

85.31 Death cases — dependents.

1. *a.* When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of the injury, during their lifetime, compensation upon the basis of eighty percent per week of the employee's average weekly spendable earnings, commencing from the date of death as follows:

(1) To the surviving spouse for life or until remarriage, provided that upon remarriage two years' benefits shall be paid to the surviving spouse in a lump sum, if there are no children entitled to benefits.

(2) To any child of the deceased until the child shall reach the age of eighteen, provided that a child beyond eighteen years of age shall receive benefits to the age of twenty-five if actually dependent, and the fact that a child is under twenty-five years of age and is enrolled as a full-time student in any accredited educational institution shall be a prima facie showing of actual dependency.

(3) To any child who was physically or mentally incapacitated from earning at the time of the injury causing death for the duration of the incapacity from earning.

(4) To all other dependents as defined in section 85.44 for the duration of the incapacity from earning.

b. The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to two hundred percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.1A, subsection 35, and in effect at the time of the injury. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

2. When the injury causes the death of a minor employee whose earnings were received by the parent and such parent was wholly dependent upon the earnings of the minor employee for support at the time of the injury, the compensation to be paid such parent shall be the weekly compensation for an adult with like earnings. For the purposes of this section a stepparent shall be regarded as a parent only when the stepparent has actually received the stepparent's principal support from the stepchild who died as a result of compensable injuries.

3. If the employee leaves dependents only partially dependent upon the employee's

earnings for support at the time of the injury, the weekly compensation to be paid as provided in subsections 1 and 2 shall be equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of the injury.

4. Where an employee is entitled to compensation under this chapter for an injury received, and death ensues from any cause not resulting from the injury for which the employee was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability therefor shall terminate.

5. Except as otherwise provided by treaty, whenever, under the provisions of this and chapters 86 and 87, compensation is payable to a dependent who is an alien not residing in the United States at the time of the injury, the employer shall pay fifty percent of the compensation herein otherwise provided to such dependent, and the other fifty percent shall be paid into the second injury fund in the custody of the treasurer of state. But if the nonresident alien dependent is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefits of such law in as favorable degree as herein extended to the nonresident alien, then said compensation which would otherwise be payable to such dependent shall be paid into the second injury fund in the custody of the treasurer of state.

[S13, §2477-m9, -m10; C24, 27, 31, 35, 39, §**1392;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.31; 82 Acts, ch 1161, §6]

87 Acts, ch 111, §1; 94 Acts, ch 1065, §3; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §169; 2020 Acts, ch 1062, §77; 2021 Acts, ch 80, §33

Referred to in §85.43, 85.45
Subsection 3 amended

85.32 When compensation begins.

1. Except as to injuries resulting in permanent partial disability, compensation shall begin on the fourth day of disability after the injury.

2. If the period of incapacity extends beyond the fourteenth day following the date of injury, then the compensation due during the third week shall be increased by adding thereto an amount equal to three days of compensation.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1393;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.32]

2018 Acts, ch 1041, §127

Referred to in §85.33

85.33 Temporary total and temporary partial disability.

1. Except as provided in subsection 2 of this section, the employer shall pay to an employee for injury producing temporary total disability weekly compensation benefits, as provided in section 85.32, until the employee has returned to work or is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first.

2. *"Temporary partial disability"* or *"temporarily, partially disabled"* means the condition of an employee for whom it is medically indicated that the employee is not capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, but is able to perform other work consistent with the employee's disability. *"Temporary partial benefits"* means benefits payable, in lieu of temporary total disability and healing period benefits, to an employee because of the employee's temporary partial reduction in earning ability as a result of the employee's temporary partial disability. Temporary partial benefits shall not be considered benefits payable to an employee, upon termination of temporary partial or temporary total disability, the healing period, or permanent partial disability, because the employee is not able to secure work paying weekly earnings equal to the employee's weekly earnings at the time of injury.

3. *a.* If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employer offers the employee suitable

work and the employee refuses to accept the suitable work offered by the employer, the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal. Work offered at the employer's principal place of business or established place of operation where the employee has previously worked is presumed to be geographically suitable for an employee whose duties involve travel away from the employer's principal place of business or established place of operation more than fifty percent of the time. If suitable work is not offered by the employer for whom the employee was working at the time of the injury and the employee who is temporarily, partially disabled elects to perform work with a different employer, the employee shall be compensated with temporary partial benefits.

b. The employer shall communicate an offer of temporary work to the employee in writing, including details of lodging, meals, and transportation, and shall communicate to the employee that if the employee refuses the offer of temporary work, the employee shall communicate the refusal and the reason for the refusal to the employer in writing and that during the period of the refusal the employee will not be compensated with temporary partial, temporary total, or healing period benefits, unless the work refused is not suitable. If the employee refuses the offer of temporary work on the grounds that the work is not suitable, the employee shall communicate the refusal, along with the reason for the refusal, to the employer in writing at the time the offer of work is refused. Failure to communicate the reason for the refusal in this manner precludes the employee from raising suitability of the work as the reason for the refusal until such time as the reason for the refusal is communicated in writing to the employer.

4. If an employee is entitled to temporary partial benefits under subsection 3 of this section, the employer for whom the employee was working at the time of injury shall pay to the employee weekly compensation benefits, as provided in section 85.32, for and during the period of temporary partial disability. The temporary partial benefit shall be sixty-six and two-thirds percent of the difference between the employee's weekly earnings at the time of injury, computed in compliance with section 85.36, and the employee's actual gross weekly income from employment during the period of temporary partial disability. If at the time of injury an employee is paid on the basis of the output of the employee, with a minimum guarantee pursuant to a written employment agreement, the minimum guarantee shall be used as the employee's weekly earnings at the time of injury. However, the weekly compensation benefits shall not exceed the payments to which the employee would be entitled under section 85.36 or section 85.37, or under subsection 1 of this section.

5. If an employee sustains an injury arising out of and in the course of employment while receiving temporary partial disability benefits, the rate of weekly compensation benefits shall be based on the employee's weekly earnings at the time of the injury producing temporary partial disability.

6. For purposes of this section and section 85.34, subsection 1, *"employment substantially similar to the employment in which the employee was engaged at the time of injury"* includes, for purposes of an individual who was injured in the course of performing as a professional athlete, any employment the individual has previously performed.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1394;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.33; 82 Acts, ch 1161, §7]

94 Acts, ch 1065, §4; 97 Acts, ch 48, §1; 2017 Acts, ch 23, §5, 24; 2018 Acts, ch 1041, §28

Referred to in §85.27, 85.34, 85.62, 96.7(2)(a), 96.23, 279.40

2017 amendment to subsection 3 applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

85.34 Permanent disabilities.

Compensation for permanent disabilities and during a healing period for permanent partial disabilities shall be payable to an employee as provided in this section. In the event weekly compensation under section 85.33 had been paid to any person for the same injury producing a permanent partial disability, any such amounts so paid shall be deducted from the amount of compensation payable for the healing period.

1. *Healing period.* If an employee has suffered a personal injury causing permanent partial disability for which compensation is payable as provided in subsection 2 of this

section, the employer shall pay to the employee compensation for a healing period, as provided in section 85.37, beginning on the first day of disability after the injury, and until the employee has returned to work or it is medically indicated that significant improvement from the injury is not anticipated or until the employee is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first.

2. *Permanent partial disabilities.* Compensation for permanent partial disability shall begin when it is medically indicated that maximum medical improvement from the injury has been reached and that the extent of loss or percentage of permanent impairment can be determined by use of the guides to the evaluation of permanent impairment, published by the American medical association, as adopted by the workers' compensation commissioner by rule pursuant to chapter 17A. The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. The compensation shall be based upon the extent of the disability and upon the basis of eighty percent per week of the employee's average spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to one hundred eighty-four percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.1A, subsection 35, and in effect at the time of the injury. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. For all cases of permanent partial disability compensation shall be paid as follows:

a. For the loss of a thumb, weekly compensation during sixty weeks.

b. For the loss of a first finger, commonly called the index finger, weekly compensation during thirty-five weeks.

c. For the loss of a second finger, weekly compensation during thirty weeks.

d. For the loss of a third finger, weekly compensation during twenty-five weeks.

e. For the loss of a fourth finger, commonly called the little finger, weekly compensation during twenty weeks.

f. The loss of the first or distal phalange of the thumb or of any finger shall equal the loss of one-half of such thumb or finger and the weekly compensation shall be paid during one-half of the time but not to exceed one-half of the total amount for the loss of such thumb or finger.

g. The loss of more than one phalange shall equal the loss of the entire finger or thumb.

h. For the loss of a great toe, weekly compensation during forty weeks.

i. For the loss of one of the toes other than the great toe, weekly compensation during fifteen weeks.

j. The loss of the first phalange of any toe shall equal the loss of one-half of such toe and the weekly compensation shall be paid during one-half of the time but not to exceed one-half of the total amount provided for the loss of such toe.

k. The loss of more than one phalange shall equal the loss of the entire toe.

l. For the loss of a hand, weekly compensation during one hundred ninety weeks.

m. The loss of two-thirds of that part of an arm between the shoulder joint and the elbow joint shall equal the loss of an arm and the compensation therefor shall be weekly compensation during two hundred fifty weeks.

n. For the loss of a shoulder, weekly compensation during four hundred weeks.

o. For the loss of a foot, weekly compensation during one hundred fifty weeks.

p. The loss of two-thirds of that part of a leg between the hip joint and the knee joint shall equal the loss of a leg, and the compensation therefor shall be weekly compensation during two hundred twenty weeks.

q. For the loss of an eye, weekly compensation during one hundred forty weeks.

r. For the loss of an eye, the other eye having been lost prior to the injury, weekly compensation during two hundred weeks.

s. (1) For the loss of hearing, other than occupational hearing loss as defined in section 85B.4, weekly compensation during fifty weeks, and for the loss of hearing in both ears, weekly compensation during one hundred seventy-five weeks.

(2) For occupational hearing loss, weekly compensation as provided in chapter 85B.

t. The loss of both arms, or both hands, or both feet, or both legs, or both eyes, or any two

thereof, caused by a single accident, shall equal five hundred weeks and shall be compensated as such; however, if said employee is permanently and totally disabled the employee may be entitled to benefits under subsection 3.

u. For permanent disfigurement of the face or head which shall impair the future usefulness and earnings of the employee in the employee's occupation at the time of receiving the injury, weekly compensation, for such period as may be determined by the workers' compensation commissioner according to the severity of the disfigurement, but not to exceed one hundred fifty weeks.

v. In all cases of permanent partial disability other than those described or referred to in paragraphs "*a*" through "*u*", the compensation shall be paid during the number of weeks in relation to five hundred weeks as the reduction in the employee's earning capacity caused by the disability bears in relation to the earning capacity that the employee possessed when the injury occurred. A determination of the reduction in the employee's earning capacity caused by the disability shall take into account the permanent partial disability of the employee and the number of years in the future it was reasonably anticipated that the employee would work at the time of the injury. If an employee who is eligible for compensation under this paragraph returns to work or is offered work for which the employee receives or would receive the same or greater salary, wages, or earnings than the employee received at the time of the injury, the employee shall be compensated based only upon the employee's functional impairment resulting from the injury, and not in relation to the employee's earning capacity. Notwithstanding section 85.26, subsection 2, if an employee who is eligible for compensation under this paragraph returns to work with the same employer and is compensated based only upon the employee's functional impairment resulting from the injury as provided in this paragraph and is terminated from employment by that employer, the award or agreement for settlement for benefits under this chapter shall be reviewed upon commencement of reopening proceedings by the employee for a determination of any reduction in the employee's earning capacity caused by the employee's permanent partial disability.

w. If it is determined that an injury has produced a disability less than that specifically described in the schedule described in paragraphs "*a*" through "*u*", compensation shall be paid during the lesser number of weeks of disability determined, as will not exceed a total amount equal to the same percentage proportion of said scheduled maximum compensation.

x. In all cases of permanent partial disability described in paragraphs "*a*" through "*u*", or paragraph "*v*" when determining functional disability and not loss of earning capacity, the extent of loss or percentage of permanent impairment shall be determined solely by utilizing the guides to the evaluation of permanent impairment, published by the American medical association, as adopted by the workers' compensation commissioner by rule pursuant to chapter 17A. Lay testimony or agency expertise shall not be utilized in determining loss or percentage of permanent impairment pursuant to paragraphs "*a*" through "*u*", or paragraph "*v*" when determining functional disability and not loss of earning capacity.

y. Compensation for permanent partial disability for an injury shall terminate on the date when compensation for permanent total disability for any injury begins. An employee shall not receive compensation for permanent partial disability if the employee is receiving compensation for permanent total disability.

3. *Permanent total disability.*

a. Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to two hundred percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.1A, subsection 35, and in effect at the time of the injury. The minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. The weekly compensation is payable until the employee is no longer permanently and totally disabled.

b. Such compensation shall be in addition to the benefits provided in sections 85.27 and 85.28. No compensation shall be payable under this subsection for any injury for which compensation is payable under subsection 2 of this section. In the event compensation has

been paid to any person under any provision of this chapter, chapter 85A, or chapter 85B for an injury producing a permanent disability, any such amounts so paid shall be deducted from the total amount of compensation payable for permanent total disability. An employee shall not receive compensation for permanent partial disability if the employee is receiving compensation for permanent total disability.

c. An employee forfeits the employee's weekly compensation for a permanent total disability under this subsection for a week in which the employee is receiving a payment equal to or greater than fifty percent of the statewide average weekly wage from any of the following sources:

(1) Gross earnings from any employer.

(2) Payment for current services from any source.

d. An employee is not entitled to compensation for a permanent total disability under this subsection while the employee is receiving unemployment compensation under chapter 96.

4. *Credits for excess payments.* If an employee is paid weekly compensation benefits for temporary total disability under section 85.33, subsection 1, for a healing period under section 85.34, subsection 1, or for temporary partial disability under section 85.33, subsection 2, in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for any future weekly benefits due for an injury to that employee, provided that the employer or the employer's representative has acted in good faith in determining and notifying an employee when the temporary total disability, healing period, or temporary partial disability benefits are terminated.

5. *Recovery of employee overpayment.* If an employee is paid any weekly benefits in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for any future weekly benefits due pursuant to subsection 2, for any current or subsequent injury to the same employee.

6. *Professional athlete.* For purposes of subsection 2, paragraph *"v"*, a determination of the degree of permanent disability of an individual who was injured in the course of performing as a professional athlete shall not be determined based upon employment as a professional athlete but shall be determined based upon other occupations the individual has previously performed or was reasonably suited to perform at the time of the injury.

7. *Successive disabilities.* An employer is liable for compensating only that portion of an employee's disability that arises out of and in the course of the employee's employment with the employer and that relates to the injury that serves as the basis for the employee's claim for compensation under this chapter, or chapter 85A, 85B, or 86. An employer is not liable for compensating an employee's preexisting disability that arose out of and in the course of employment from a prior injury with the employer, to the extent that the employee's preexisting disability has already been compensated under this chapter, or chapter 85A, 85B, or 86. An employer is not liable for compensating an employee's preexisting disability that arose out of and in the course of employment with a different employer or from causes unrelated to employment.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1394 – 1396;** C46, 50, 54, 58, §85.33 – 85.35; C62, 66, 71, 73, 75, 77, 79, 81, §85.34; 82 Acts, ch 1161, §8 – 11]

87 Acts, ch 111, §2, 3; 94 Acts, ch 1065, §5 – 7; 96 Acts, ch 1186, §23; 97 Acts, ch 48, §2; 98 Acts, ch 1061, §4, 11; 98 Acts, ch 1160, §1; 2004 Acts, 1st Ex, ch 1001, §10, 11, 18; 2005 Acts, ch 19, §26; 2006 Acts, ch 1010, §45; 2008 Acts, ch 1032, §170; 2017 Acts, ch 23, §6 – 14, 24; 2020 Acts, ch 1062, §78, 79; 2021 Acts, ch 80, §34

Referred to in §85.27, 85.33, 85.59, 85.60, 85.62, 85.70, 96.7(2)(a), 96.23, 279.40

2017 amendments to subsections 2 – 5 and 7 apply to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

Subsection 2, paragraph v amended

85.35 Settlements.

1. The parties to a contested case or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under this chapter or chapter 85A, 85B, or 86, providing for disposition of the claim. The settlement shall be in writing on forms prescribed by the workers' compensation commissioner and submitted to the workers' compensation commissioner for approval.

2. The parties may enter into an agreement for settlement that establishes the employer's liability, fixes the nature and extent of the employee's current right to accrued benefits, and establishes the employee's right to statutory benefits that accrue in the future.

3. The parties may enter into a compromise settlement of the employee's claim to benefits as a full and final disposition of the claim.

4. The parties may enter into a settlement that is a combination of an agreement for settlement and a compromise settlement that establishes the employer's liability for part of a claim but makes a full and final disposition of other parts of a claim.

5. A contingent settlement may be made and approved, conditioned upon subsequent approval by a court or governmental agency, or upon any other subsequent event that is expected to occur within one year from the date of the settlement. If the subsequent approval or event does not occur, the contingent settlement and its approval may be vacated by order of the workers' compensation commissioner upon a petition for vacation filed by one of the parties or upon agreement by all parties. If a contingent settlement is vacated, the running of any period of limitation provided for in section 85.26 is tolled from the date the settlement was initially approved until the date that the settlement is vacated, and the claim is restored to the status that the claim held when the contingent settlement was initially approved. The contingency on a settlement lapses and the settlement becomes final and fully enforceable if an action to vacate the contingent settlement or to extend the period of time allowed for the subsequent approval or event to occur is not initiated within one year from the date that the contingent settlement was initially approved.

6. The parties to any settlement made pursuant to this section may agree that the employee has the right to benefits pursuant to section 85.27 under such terms and conditions as agreed to by the parties in the settlement, for a specified period of time after the settlement has been approved by the workers' compensation commissioner. During that specified period of time, the commissioner shall have jurisdiction of the settlement for the purpose of adjudicating the employee's entitlement to benefits provided for in section 85.27 as agreed upon in the settlement.

7. The parties may agree that settlement proceeds, which are paid in a lump sum, are intended to compensate the injured worker at a given monthly or weekly rate over the life expectancy of the injured worker. If such an agreement is reached, neither the weekly compensation rate which either has been paid, or should have been paid, throughout the case, nor the maximum statutory weekly rate applicable to the injury shall apply. Instead, the rate set forth in the settlement agreement shall be the rate for the case.

8. *a.* A settlement shall be approved by the workers' compensation commissioner if the parties show all of the following:

(1) Substantial evidence exists to support the terms of the settlement.

(2) Waiver of the employee's right to a hearing, decision, and statutory benefits is made knowingly by the employee.

(3) The settlement is a reasonable and informed compromise of the competing interests of the parties.

b. If an employee is represented by legal counsel, it is presumed that the required showing for approval of the settlement has been made.

9. Approval of a settlement by the workers' compensation commissioner is binding on the parties and shall not be construed as an original proceeding. Notwithstanding any provisions of this chapter and chapters 85A, 85B, 86, and 87, an approved compromise settlement shall constitute a final bar to any further rights arising under this chapter and chapters 85A, 85B, 86, and 87 regarding the subject matter of the compromise and a payment made pursuant to a compromise settlement agreement shall not be construed as the payment of weekly compensation.

[C75, 77, 79, 81, §85.35]

83 Acts, ch 105, §4; 89 Acts, ch 60, §2; 98 Acts, ch 1061, §11; 2001 Acts, ch 87, §3; 2005 Acts, ch 168, §10, 23; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1137, §1, 3

85.36 Basis of computation.

The basis of compensation shall be the weekly earnings of the injured employee at the time of the injury. Weekly earnings means gross salary, wages, or earnings of an employee to which such employee would have been entitled had the employee worked the customary hours for the full pay period in which the employee was injured, as regularly required by the employee's employer for the work or employment for which the employee was employed, computed or determined as follows and then rounded to the nearest dollar:

1. In the case of an employee who is paid on a weekly pay period basis, the weekly gross earnings.

2. In the case of an employee who is paid on a biweekly pay period basis, one-half of the biweekly gross earnings.

3. In the case of an employee who is paid on a semimonthly pay period basis, the semimonthly gross earnings multiplied by twenty-four and subsequently divided by fifty-two.

4. In the case of an employee who is paid on a monthly pay period basis, the monthly gross earnings multiplied by twelve and subsequently divided by fifty-two.

5. In the case of an employee who is paid on a yearly pay period basis, the weekly earnings shall be the yearly earnings divided by fifty-two.

6. In the case of an employee who is paid on a daily or hourly basis, or by the output of the employee, the weekly earnings shall be computed by dividing by thirteen the earnings, including shift differential pay but not including overtime or premium pay, of the employee earned in the employ of the employer in the last completed period of thirteen consecutive calendar weeks immediately preceding the injury. If the employee was absent from employment for reasons personal to the employee during part of the thirteen calendar weeks preceding the injury, the employee's weekly earnings shall be the amount the employee would have earned had the employee worked when work was available to other employees of the employer in a similar occupation. A week which does not fairly reflect the employee's customary earnings shall be replaced by the closest previous week with earnings that fairly represent the employee's customary earnings.

7. In the case of an employee who has been in the employ of the employer less than thirteen calendar weeks immediately preceding the injury, the employee's weekly earnings shall be computed under subsection 6, taking the earnings, including shift differential pay but not including overtime or premium pay, for such purpose to be the amount the employee would have earned had the employee been so employed by the employer the full thirteen calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation. If the earnings of other employees cannot be determined, the employee's weekly earnings shall be the average computed for the number of weeks the employee has been in the employ of the employer.

8. If at the time of the injury the hourly earnings have not been fixed or cannot be ascertained, the earnings for the purpose of calculating compensation shall be taken to be the usual earnings for similar services where such services are rendered by paid employees.

9. If an employee earns either no wages or less than the usual weekly earnings of the regular full-time adult laborer in the line of industry in which the employee is injured in that locality, the weekly earnings shall be one-fiftieth of the total earnings which the employee has earned from all employment during the twelve calendar months immediately preceding the injury.

a. In computing the compensation to be allowed a volunteer fire fighter, emergency medical care provider, reserve peace officer, or volunteer ambulance driver, the earnings as a fire fighter, emergency medical care provider, reserve peace officer, or volunteer ambulance driver shall be disregarded and the volunteer fire fighter, emergency medical care provider, reserve peace officer, or volunteer ambulance driver shall be paid an amount equal to the compensation the volunteer fire fighter, emergency medical care provider, reserve peace officer, or volunteer ambulance driver would be paid if injured in the normal course of the volunteer fire fighter's, emergency medical care provider's, reserve peace officer's, or volunteer ambulance driver's regular employment or an amount equal to one hundred and forty percent of the statewide average weekly wage, whichever is greater.

b. If the employee was an apprentice or trainee when injured, and it is established under

normal conditions the employee's earnings should be expected to increase during the period of disability, that fact may be considered in computing the employee's weekly earnings.

c. If the employee was an inmate as defined in section 85.59, the inmate's actual earnings shall be disregarded, and the weekly compensation rate shall be as set forth in section 85.59.

10. If a wage, or method of calculating a wage, is used for the basis of the payment of a workers' compensation insurance premium for a proprietor, partner, limited liability company member, limited liability partner, or officer of a corporation, the wage or the method of calculating the wage is determinative for purposes of computing the proprietor's, partner's, limited liability company member's, limited liability partner's, or officer's weekly workers' compensation benefit rate.

11. In computing the compensation to be allowed an elected or appointed official, the official may choose either of the following payment options:

a. The official shall be paid an amount of compensation based on the official's weekly earnings as an elected or appointed official.

b. The earnings of the official as an elected or appointed official shall be disregarded and the official shall be paid an amount equal to one hundred forty percent of the statewide average weekly wage.

12. In the case of an employee injured in the course of performing as a professional athlete, the basis of compensation for weekly earnings shall be one-fiftieth of total earnings which the employee has earned from all employment for the previous twelve months prior to the injury.

[S13, §2477-m15; C24, 27, 31, 35, 39, §**1397;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.36; 82 Acts, ch 1161, §12, 13]

86 Acts, ch 1074, §2; 87 Acts, ch 91, §1; 90 Acts, ch 1046, §1; 95 Acts, ch 41, §2; 95 Acts, ch 140, §1, 2; 96 Acts, ch 1059, §3; 96 Acts, ch 1079, §3; 97 Acts, ch 48, §3; 2000 Acts, ch 1007, §2, 3; 2001 Acts, ch 87, §4; 2004 Acts, 1st Ex, ch 1001, §12, 18; 2008 Acts, ch 1079, §1; 2010 Acts, ch 1149, §1

Referred to in §85.33

85.37 Compensation schedule.

1. If an employee receives a personal injury causing temporary total disability, or causing a permanent partial disability for which compensation is payable during a healing period, compensation for the temporary total disability or for the healing period shall be upon the basis provided in this section. The weekly benefit amount payable to any employee for any one week shall be upon the basis of eighty percent of the employee's weekly spendable earnings, but shall not exceed an amount, rounded to the nearest dollar, equal to two hundred percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.1A, subsection 35, and in effect at the time of the injury. Total weekly compensation for any employee shall not exceed eighty percent per week of the employee's weekly spendable earnings. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less.

2. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

[S13, §2477-m9; C24, 27, 31, 35, 39, §**1390;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.37; 82 Acts, ch 1161, §14]

87 Acts, ch 111, §4; 96 Acts, ch 1186, §23; 2018 Acts, ch 1041, §127; 2019 Acts, ch 59, §35; 2020 Acts, ch 1062, §80; 2021 Acts, ch 80, §35

Referred to in §85.33, 85.34

Subsection 1 amended

85.38 Reduction of obligations of employer.

1. *Contributions or donations.* The compensation herein provided shall be the measure of liability which the employer has assumed for injuries or death that may occur to employees in the employer's employment subject to the provisions of this chapter, and it shall not be in anywise reduced by contribution from employees or donations from any source.

2. *Benefits paid under group plans.*

a. In the event the employee with a disability shall receive any benefits, including medical, surgical, or hospital benefits, under any group plan covering nonoccupational disabilities contributed to wholly or partially by the employer, which benefits should not have been paid or payable if any rights of recovery existed under this chapter, chapter 85A, or chapter 85B, then the amounts so paid to the employee from the group plan shall be credited to or against any compensation payments, including medical, surgical, or hospital, made or to be made under this chapter, chapter 85A, or chapter 85B. The amounts so credited shall be deducted from the payments made under these chapters. Any nonoccupational plan shall be reimbursed in the amount deducted. This section shall not apply to payments made under any group plan which would have been payable even though there was an injury under this chapter or an occupational disease under chapter 85A or an occupational hearing loss under chapter 85B. Any employer receiving such credit shall keep the employee safe and harmless from any and all claims or liabilities that may be made against them by reason of having received the payments only to the extent of the credit.

b. If an employer denies liability under this chapter, chapter 85A, or chapter 85B, for payment for any medical services received or weekly compensation requested by an employee, and the employee is a beneficiary under either an individual or group plan for nonoccupational illness, injury, or disability, the nonoccupational plan shall not deny payment for the medical services received or for benefits under the plan on the basis that the employer's liability under this chapter, chapter 85A, or chapter 85B is unresolved.

3. *Supplementation of workers' compensation benefits.* A public employer shall not supplement an employee's workers' compensation benefits by reducing the employee's sick leave, vacation leave, or earned compensatory time entitlements, unless the employer first notifies the employee of the employee's option to supplement and the employee elects to so supplement.

4. *Lien for hospital and medical services under chapter 249A.* In the event any hospital or medical services as provided in section 85.27 are paid by the state department of human services on behalf of an employee who is entitled to such benefits under the provisions of this chapter or chapter 85A or 85B, a lien shall exist as respects the right of such employee to benefits as described in section 85.27.

[S13, §2477-m12; C24, 27, 31, 35, 39, §**1398;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.38]

83 Acts, ch 96, §160; 83 Acts, ch 153, §1; 84 Acts, ch 1086, §1; 96 Acts, ch 1129, §18; 97 Acts, ch 36, §1; 2002 Acts, ch 1050, §14; 2005 Acts, ch 168, §11, 23; 2009 Acts, ch 41, §263

Referred to in §85.27

85.39 Examination of injured employees.

1. After an injury, the employee, if requested by the employer, shall submit for examination at some reasonable time and place and as often as reasonably requested, to a physician or physicians authorized to practice under the laws of this state or another state, without cost to the employee; but if the employee requests, the employee, at the employee's own cost, is entitled to have a physician or physicians of the employee's own selection present to participate in the examination. If an employee is required to leave work for which the employee is being paid wages to attend the requested examination, the employee shall be compensated at the employee's regular rate for the time the employee is required to leave work, and the employee shall be furnished transportation to and from the place of examination, or the employer may elect to pay the employee the reasonable cost of the transportation. The refusal of the employee to submit to the examination shall forfeit the employee's right to any compensation for the period of the refusal. Compensation shall not be payable for the period of refusal.

2. If an evaluation of permanent disability has been made by a physician retained by the employer and the employee believes this evaluation to be too low, the employee shall, upon application to the commissioner and upon delivery of a copy of the application to the employer and its insurance carrier, be reimbursed by the employer the reasonable fee for a subsequent examination by a physician of the employee's own choice, and reasonably

necessary transportation expenses incurred for the examination. The physician chosen by the employee has the right to confer with and obtain from the employer-retained physician sufficient history of the injury to make a proper examination. An employer is only liable to reimburse an employee for the cost of an examination conducted pursuant to this subsection if the injury for which the employee is being examined is determined to be compensable under this chapter or chapter 85A or 85B. An employer is not liable for the cost of such an examination if the injury for which the employee is being examined is determined not to be a compensable injury. A determination of the reasonableness of a fee for an examination made pursuant to this subsection, shall be based on the typical fee charged by a medical provider to perform an impairment rating in the local area where the examination is conducted.

[S13, §2477-m11; C24, 27, 31, 35, 39, §**1399;** C46, 50, 54, 58, 62, §85.39; C66, 71, 73, 75, §85.34(2), 85.39; C77, 79, 81, §85.39; 82 Acts, ch 1161, §15]

2017 Acts, ch 23, §15, 24

2017 amendment applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

85.40 Statement of earnings.

The employer shall furnish, upon request of an injured employee or dependent or any legal representative acting for such person, a statement of the earnings, wages, or salary and other matters relating thereto during the year or part of the year that such employee was in the employment of such employer for the year preceding the injury; but not more than one report shall be required on account of any one injury.

[C24, 27, 31, 35, 39, §**1400;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.40]

85.41 Refusal to furnish statement.

On failure of the employer to furnish such statement of earnings for thirty days after receiving written request therefor from an injured employee, the employee's agent, attorney, dependent, or legal representative, such employer shall be guilty of a simple misdemeanor.

[C24, 27, 31, 35, 39, §**1401;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.41]

85.42 Conclusively presumed dependent.

The following shall be conclusively presumed to be wholly dependent upon the deceased employee:

1. The surviving spouse, with the following exceptions:

a. When it is shown that at the time of the injury the surviving spouse had willfully deserted the deceased without fault of the deceased, then the surviving spouse shall not be considered as dependent in any degree.

b. When the surviving spouse was not married to the deceased at the time of the injury.

2. A child or children under eighteen years of age, and over said age if physically or mentally incapacitated from earning, whether actually dependent for support or not upon the parent at the time of the parent's death. An adopted child or children shall be regarded the same as issue of the body. A child or children, as used herein, shall also include any child or children conceived but not born at the time of the employee's injury, and any compensation payable on account of any such child or children shall be paid from the date of their birth. A stepchild or stepchildren shall be regarded the same as issue of the body only when the stepparent has actually provided the principal support for such child or children.

[S13, §2477-m16; C24, 27, 31, 35, 39, §**1402;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.42]

2020 Acts, ch 1062, §21; 2020 Acts, ch 1063, §43

Referred to in §85.43

85.43 Payment to spouse.

1. If the deceased employee leaves a surviving spouse qualified under the provisions of section 85.42, the full compensation shall be paid to the surviving spouse, as provided in section 85.31; provided that where a deceased employee leaves a surviving spouse and a dependent child or children the workers' compensation commissioner may make an order of record for an equitable apportionment of the compensation payments.

2. If the spouse dies, the benefits shall be paid to the person or persons wholly dependent

on deceased, if any, share and share alike. If there are none wholly dependent, then such benefits shall be paid to partial dependents, if any, in proportion to their dependency for the periods provided in section 85.31.

3. If the deceased leaves a dependent child or children who was or were such at the time of the injury, and the surviving spouse remarries, then and in such case, the payments shall be paid to the proper compensation trustee for the use and benefit of such dependent child or children for the period provided in section 85.31.

[S13, §2477-m16; C24, 27, 31, 35, 39, §**1403;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.43]

98 Acts, ch 1061, §11; 2017 Acts, ch 54, §76; 2018 Acts, ch 1041, §29

85.44 Payment to actual dependents.

In all other cases, a dependent shall be one actually dependent or mentally or physically incapacitated from earning. Such status shall be determined in accordance with the facts as of the date of the injury. In such cases if there is more than one person, the compensation benefit shall be equally divided among them. If there is no one wholly dependent and more than one person partially dependent, the compensation benefit shall be divided among them in the proportion each dependency bears to their aggregate dependency.

[S13, §2477-m16; C24, 27, 31, 35, 39, §**1404;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.44]

Referred to in §85.31

85.45 Commutation.

1. Future payments of compensation may be commuted to a present worth lump sum payment only upon application of a party to the commissioner and upon written consent of all parties to the proposed commutation or partial commutation, and on the following conditions:

a. When the period during which compensation is payable can be definitely determined.

b. When it shall be shown to the satisfaction of the workers' compensation commissioner that such commutation will be for the best interest of the person or persons entitled to the compensation, or that periodical payments as compared with a lump sum payment will entail undue expense, hardship, or inconvenience upon the employer liable therefor.

c. When the recipient of commuted benefits is a minor employee, the workers' compensation commissioner may order that such benefits be paid to a trustee as provided in section 85.49.

d. When a person seeking a commutation is a surviving spouse, an employee with a permanent and total disability, or a dependent who is entitled to benefits as provided in section 85.31, subsection 1, paragraph "*a*", subparagraphs (3) and (4), the future payments which may be commuted shall not exceed the number of weeks which shall be indicated by probability tables designated by the workers' compensation commissioner for death and remarriage, subject to the provisions of chapter 17A.

2. Future payments of compensation shall not be commuted to a present worth lump sum payment when the employee is an inmate as set forth in section 85.59.

3. The parties to any commutation or partial commutation of future payments agreed to and ordered pursuant to this section may agree that the employee has the right to benefits pursuant to section 85.27 under such terms and conditions as agreed to by the parties, for a specified period of time after the commutation or partial commutation agreement has been ordered by the workers' compensation commissioner. During that specified period of time, the commissioner shall have jurisdiction of the commutation or partial commutation agreement for the purpose of adjudicating the employee's entitlement to benefits provided for in section 85.27 as provided in the agreement.

[S13, §2477-m14; C24, 27, 31, 35, 39, §**1405;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.45]

96 Acts, ch 1129, §19; 98 Acts, ch 1061, §11; 2008 Acts, ch 1032, §171; 2017 Acts, ch 23, §16, 17, 24

Referred to in §87.11, 515B.5

2017 amendments to subsection 1, unnumbered paragraph 1, and subsection 3 apply to commutations for which applications are filed on or after July 1, 2017; 2017 Acts, ch 23, §24

85.46 Reserved.

85.47 Basis of commutation.

When the commutation is ordered, the workers' compensation commissioner shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments capitalized at their present value and upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees. Upon the payment of such amount, the employer shall be discharged from all further liability on account of the injury or death, and be entitled to a duly executed release. Upon the filing of the release, the liability of the employer under any agreement, award, finding, or judgment shall be discharged of record.

[S13, §2477-m14; C24, 27, 31, 35, 39, §**1407;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.47; 82 Acts, ch 1161, §16]

98 Acts, ch 1061, §11; 2018 Acts, ch 1026, §30

85.48 Partial commutation.

When partial commutation is ordered, the workers' compensation commissioner shall fix the lump sum to be paid at an amount which will equal the future payments for the period commuted, capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees. Provisions shall be made for the payment of weekly compensation not included in the commutation with all remaining payments to be paid over the same period of time as though the commutation had not been made by either eliminating weekly payments from the first or last part of the payment period or by a pro rata reduction in the weekly benefit amount over the entire payment period.

[S13, §2477-m15; C24, 27, 31, 35, 39, §**1408;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.48; 82 Acts, ch 1161, §17]

98 Acts, ch 1061, §11; 2003 Acts, ch 140, §2

85.49 Trustees for minors and dependents.

1. When a minor or a dependent who is mentally incompetent is entitled to weekly benefits under this chapter or chapter 85A or 85B, payment shall be made to the parent, guardian, or conservator, who shall act as trustee, and the money coming into the trustee's hands shall be expended for the use and benefit of the person entitled to it under the direction and orders of a district judge. The trustee shall qualify and give bond in an amount as the district judge directs, which may be increased or diminished from time to time.

2. If the domicile or residence of the minor or dependent who is mentally incompetent is outside the state of Iowa, the workers' compensation commissioner may order and direct that benefits to the minor or dependent be paid to a guardian, conservator, or legal representative duly qualified under the laws of the jurisdiction wherein the minor or dependent shall be domiciled or reside. Proof of the identity and qualification of the guardian, conservator, or other legal representative shall be furnished to the workers' compensation commissioner.

[S13, §2477-m13; C24, 27, 31, 35, 39, §**1409;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.49]

83 Acts, ch 186, §10039, 10201; 93 Acts, ch 70, §5; 96 Acts, ch 1129, §20; 98 Acts, ch 1061, §11; 2018 Acts, ch 1041, §30

Referred to in §85.45

85.50 Report of trustee.

The trustee shall, on or before September 30 of each year, make reports, at such times as designated by the court, to the court of all money or property received or expended for the person for whom the parent, guardian, or conservator is acting as trustee.

[S13, §2477-m13; C24, 27, 31, 35, 39, §**1410;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.50]

83 Acts, ch 186, §10040, 10201; 93 Acts, ch 70, §6

85.51 Alien dependents in foreign country.

In case a deceased employee for whose injury or death compensation is payable leaves surviving an alien dependent or dependents residing outside the United States, the consul general, consul, vice consul, or consular agent of the nation of which the said dependent or dependents are citizens, or the duly appointed representative of such consular official resident in the state of Iowa, shall be regarded as the exclusive representative of such dependent or dependents, and said consular officials or their representatives shall have the same rights and powers in all matters of compensation which said nonresident aliens would have if resident in the state of Iowa.

[C24, 27, 31, 35, 39, §**1411;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.51]

85.52 Consular officer as trustee.

Such consular officer or the officer's duly appointed representative resident in the state of Iowa shall file in the district court of the county in which the accident occurred resulting in the death of said employee evidence of the officer's or representative's authority, and thereupon the court shall appoint the officer or representative a trustee for such nonresident alien dependents, and thereafter the officer or representative shall be subject to the jurisdiction of said court until the final report of distribution and payment has been filed and approved. Such consular official or said representative shall qualify as such trustee by giving bond with approved sureties in a sum to be fixed by said court, and the amount of said bond may be increased or decreased from time to time as said court may direct.

[C24, 27, 31, 35, 39, §**1412;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.52]

85.53 Notice to consular officer.

If such consular officer, or the officer's duly appointed representative, shall file with the workers' compensation commissioner evidence of the officer's or representative's authority, the workers' compensation commissioner shall notify such consular officer or representative of the death of all employees leaving an alien dependent or dependents residing in the country of said consular officer that shall come to the commissioner's knowledge.

[C24, 27, 31, 35, 39, §**1413;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.53]

98 Acts, ch 1061, §11; 2018 Acts, ch 1026, §31

85.54 Contracts to avoid compensation.

Any contract of employment, relief benefit, or insurance, or other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this chapter, shall be null and void; and any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a simple misdemeanor.

[S13, §2477-m17; C24, 27, 31, 35, 39, §**1414;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.54]

85.55 Franchisor-franchisee relationship.

1. For purposes of this section, "*franchisee*" and "*franchisor*" mean the same as defined in section 523H.1.

2. For purposes of this chapter and chapters 86 and 87, a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:

a. The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.

b. The franchisor has been found by the workers' compensation commissioner to have exercised a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

2019 Acts, ch 21, §1, 6; 2021 Acts, ch 76, §18

Section applies to work performed on or after July 1, 2019; 2019 Acts, ch 21, §6

Subsection 1 amended

85.56 Employees in interstate commerce.

So far as permitted, or not forbidden, by any Act of Congress, employers engaged in interstate or foreign commerce and their employees working only in this state shall be bound by the provisions of this chapter in like manner and with the same force and effect in every respect as by this chapter provided for other employers and employees.

[S13, §2477-m21; C24, 27, 31, 35, 39, §**1417;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §85.57; C79, 81, §85.56]

85.57 and 85.58 Reserved.

85.59 Benefits for inmates and offenders.

1. For the purposes of this section:

a. "Inmate" includes:

(1) A person confined in a reformatory, state penitentiary, release center, or other state penal or correctional institution while that person works in connection with the maintenance of the institution, in an industry maintained in the institution, or in an industry referred to in section 904.809, or while on detail to perform services on a public works project.

(2) A person who is performing unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232.

b. "Unpaid community service under the direction of the district court" includes but is not limited to community service ordered and performed pursuant to section 598.23A.

2. For purposes of this section, an inmate on a work assignment under section 904.703 working in construction or maintenance at a public or charitable facility, or under assignment to another agency of state, county, or local government, shall be considered an employee of the state.

3. *a.* If an inmate is permanently incapacitated by injury in the performance of the inmate's work in connection with the maintenance of the institution, in an industry maintained in the institution, or in an industry referred to in section 904.809, while on detail to perform services on a public works project, or while performing services authorized pursuant to section 904.809, or is permanently or temporarily incapacitated in connection with the performance of unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232, that inmate shall be awarded only the benefits provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability is equal to the minimum rate as provided in this chapter.

b. Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge. However, if the inmate is awarded benefits for an injury incurred in connection with the performance of unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232, weekly compensation benefits under this section shall be determined and paid as in other workers' compensation cases.

c. If an inmate is receiving benefits under the provisions of this section and is recommitted to an institution covered by this section, the benefits shall immediately cease. If benefits cease because of the inmate's recommitment, the benefits shall resume upon subsequent release from the institution.

d. If death results from the injury, death benefits shall be awarded and paid to the dependents of the inmate as in other workers' compensation cases except that the weekly

rate shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the department of workforce development under section 96.1A, subsection 35, and in effect at the time of the injury.

4. Payment under this section shall be made promptly out of appropriations which have been made for that purpose, if any. An amount or part thereof which cannot be paid promptly from the appropriation shall be paid promptly out of moneys in the state treasury not otherwise appropriated.

5. The time limit for commencing an original proceeding to determine entitlement to benefits under this section is the same as set forth in section 85.26. If an injury occurs to an inmate so as to qualify the inmate for benefits under this section, notwithstanding the fact that payments of weekly benefits are not commenced, an acknowledgment of compensability shall be filed with the workers' compensation commissioner within thirty days of the time the responsible authority receives notice or knowledge of the injury as required by section 85.23.

6. If a dispute arises as to the extent of disability when an acknowledgment of compensability is on file or when an award determining liability has been made, an action to determine the extent of disability must be commenced within one year of the time of the release of the inmate from the institution. This does not bar the right to reopen the claim as provided by section 85.26, subsection 2.

7. Responsibility for the filings required by chapter 86 for injuries resulting in permanent disability or death and as modified by this section shall be made in the same manner as for other employees of the institution.

[C79, 81, §85.59]

83 Acts, ch 101, §4; 84 Acts, ch 1280, §1; 85 Acts, ch 67, §11; 85 Acts, ch 177, §1; 87 Acts, ch 111, §5, 6; 88 Acts, ch 1165, §1; 90 Acts, ch 1251, §3; 93 Acts, ch 46, §1; 94 Acts, ch 1171, §1; 96 Acts, ch 1186, §23; 98 Acts, ch 1061, §11; 2008 Acts, ch 1079, §2; 2009 Acts, ch 133, §21; 2019 Acts, ch 24, §104; 2020 Acts, ch 1062, §81

Referred to in §85.36, 85.45, 85.61, 88.3, 232.13, 669.14, 904.809, 907.13
Additional persons deemed state employees, see §232.13

85.60 Injuries while in work-based learning opportunity, employment training, or evaluation.

A person participating in a work-based learning opportunity referred to in section 85.61, or receiving earnings while engaged in employment training or while undergoing an employment evaluation under the direction of a rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education, who sustains an injury arising out of and in the course of the work-based learning opportunity participation, employment training, or employment evaluation is entitled to benefits as provided in this chapter, chapter 85A, chapter 85B, and chapter 86. Notwithstanding the minimum benefit provisions of this chapter, a person referred to in this section and entitled to benefits under this chapter is entitled to receive a minimum weekly benefit amount for a permanent partial disability under section 85.34, subsection 2, or for a permanent total disability under section 85.34, subsection 3, equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage computed pursuant to section 96.3 and in effect at the time of the injury.

86 Acts, ch 1104, §1; 97 Acts, ch 37, §2; 2016 Acts, ch 1108, §14

Referred to in §85.61

85.61 Definitions.

In this chapter and chapters 86 and 87, unless the context otherwise requires, the following definitions of terms shall prevail:

1. The word *"court"* means the district court.

2. *"Employer"* includes and applies to the following:

a. A person, firm, association, or corporation, state, county, municipal corporation, school corporation, area education agency, township as an employer of volunteer fire fighters and

emergency medical care providers only, benefited fire district, and the legal representatives of a deceased employer.

b. A rehabilitation facility approved for purchase-of-service contracts or for referrals by the department of human services or the department of education.

c. An eligible postsecondary institution as defined in section 261E.2, a school district, or an accredited nonpublic school if a student enrolled in the eligible postsecondary institution, school district, or accredited nonpublic school is providing unpaid services under a work-based learning opportunity offered in accordance with section 256.40. However, if the student participating in a work-based learning opportunity is participating in open enrollment under section 282.18, *"employer"* means the receiving district.

3. *"Gross earnings"* means recurring payments by the employer to the employee for employment, before any authorized or lawfully required deduction or withholding of funds by the employer, excluding irregular bonuses, retroactive pay, overtime, penalty pay, reimbursement of expenses, expense allowances, and the employer's contribution for welfare benefits.

4. The words *"injury"* or *"personal injury"* shall be construed as follows:

a. They shall include death resulting from personal injury.

b. They shall not include a disease unless it shall result from the injury and they shall not include an occupational disease as defined in section 85A.8.

5. *"Pay period"* means that period of employment for which the employer customarily or regularly makes payments to employees for work performed or services rendered.

6. *"Payroll taxes"* means an amount, determined by tables adopted by the workers' compensation commissioner pursuant to chapter 17A, equal to the sum of the following:

a. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal Revenue Code, and regulations pursuant thereto, as amended, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness, and old age to which the employee is entitled on the date on which the employee was injured.

b. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under chapter 422, and any rules pursuant thereto, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness, and old age to which the employee is entitled on the date on which the employee was injured.

c. An amount equal to the amount required on July 1 preceding the injury by the Social Security Act of 1935 as amended, to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which the employee was injured.

7. The words *"personal injury arising out of and in the course of the employment"* shall include injuries to employees whose services are being performed on, in, or about the premises which are occupied, used, or controlled by the employer, and also injuries to those who are engaged elsewhere in places where their employer's business requires their presence and subjects them to dangers incident to the business.

a. Personal injuries sustained by a volunteer fire fighter arise in the course of employment if the injuries are sustained at any time from the time the volunteer fire fighter is summoned to duty as a volunteer fire fighter until the time the volunteer fire fighter is discharged from duty by the chief of the volunteer fire department or the chief's designee.

b. Personal injuries sustained by emergency medical care providers as defined in section 147A.1 arise in the course of employment if the injuries are sustained at any time from the time the emergency medical care providers are summoned to duty until the time those duties have been fully discharged.

c. Personal injuries due to idiopathic or unexplained falls from a level surface onto the same level surface do not arise out of and in the course of employment and are not compensable under this chapter.

8. The words *"reserve peace officer"* shall mean a person defined as such by section 80D.1, subsection 1, who is not a full-time member of a paid law enforcement agency. A person performing such services shall not be classified as a casual employee.

9. *"Spendable weekly earnings"* is that amount remaining after payroll taxes are deducted from gross weekly earnings.

10. *"Volunteer fire fighter"* means any active member of an organized volunteer fire department in this state and any other person performing services as a volunteer fire fighter for a municipality, township, or benefited fire district at the request of the chief or other person in command of the fire department of the municipality, township, or benefited fire district, or of any other officer of the municipality, township, or benefited fire district having authority to demand such service, and who is not a full-time member of a paid fire department. A person performing such services shall not be classified as a casual employee.

11. *"Worker"* or *"employee"* means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or city under any form of government; a member of the state patrol; a conservation officer; and a proprietor, limited liability company member, limited liability partner, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.

a. *"Worker"* or *"employee"* includes the following:

(1) An inmate as defined in section 85.59 and a person described in section 85.60.

(2) An emergency medical care provider as defined in section 147A.1, or a volunteer ambulance driver, only if an agreement is reached between such worker or employee and the employer for whom the volunteer services are provided that workers' compensation coverage under this chapter and chapters 85A and 85B is to be provided by the employer. An emergency medical care provider who is a worker or employee under this subparagraph is not a casual employee. *"Volunteer ambulance driver"* means a person performing services as a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality.

(3) A real estate agent who does not provide the services of an independent contractor. For the purposes of this subparagraph, a real estate agent is an independent contractor if the real estate agent is licensed by the Iowa real estate commission as a salesperson and both of the following apply:

(a) Seventy-five percent or more of the remuneration, whether or not paid in cash, for the services performed by the individual as a real estate salesperson is derived from one company and is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

(b) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee with respect to the services for state tax purposes.

(4) A student enrolled in a school district or accredited nonpublic school who is participating in a work-based learning opportunity offered in accordance with section 256.40.

(5) A student enrolled in a community college as defined in section 260C.2, who is participating in a work-based learning opportunity offered in accordance with section 256.40 that is offered by the community college.

b. The term *"worker"* or *"employee"* shall include the singular and plural. Any reference to a worker or employee who has been injured shall, when such worker or employee is dead, include the worker's or employee's dependents as defined in this chapter or the worker's or employee's legal representatives; and where the worker or employee is a minor or incompetent, it shall include the minor's or incompetent person's guardian, next friend, or trustee. Notwithstanding any law prohibiting the employment of minors, all minor employees shall be entitled to the benefits of this chapter and chapters 86 and 87 regardless of the age of such minor employee.

c. The following persons shall not be deemed *"workers"* or *"employees"*:

(1) A person whose employment is purely casual and not for the purpose of the employer's trade or business except as otherwise provided in section 85.1.

(2) An independent contractor.

(3) (a) For purposes of this subparagraph, *"owns"* includes but is not limited to holding legal title to a vehicle or being a party to an agreement for the conditional sale or lease of the vehicle that includes the party's right to purchase upon performance of conditions stated in the agreement with an immediate right of possession. In the event a mortgagor of a vehicle is entitled to possession of the vehicle, then the conditional vendee or lessee and the mortgagor shall both be deemed to own the vehicle.

(b) An owner-operator who, as an individual or partner, or shareholder of a corporate owner-operator, owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:

(i) The owner-operator is responsible for the maintenance of the vehicle.

(ii) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs, supplies, collision insurance, and personal expenses for the operator while on the road.

(iii) The owner-operator is responsible for supplying the necessary personnel to operate the vehicle, and the personnel are considered the owner-operator's employees.

(iv) The owner-operator's compensation is based on factors related to the work performed, including a percentage of any schedule of rates or lawfully published tariff, and not on the basis of the hours or time expended.

(v) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.

(vi) The owner-operator enters into a contract which specifies the relationship to be that of an independent contractor and not that of an employee.

(4) Directors of a corporation who are not at the same time employees of the corporation; or directors, trustees, officers, or other managing officials of a nonprofit corporation or association who are not at the same time full-time employees of the nonprofit corporation or association.

(5) Proprietors, limited liability company members, limited liability partners, and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.

[S13, §2477-m16; C24, 27, 31, 35, 39, §**1421;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.61; 82 Acts, ch 1161, §18, 19, ch 1221, §2]

83 Acts, ch 36, §3, 7, 8; 85 Acts, ch 46, §1; 85 Acts, ch 195, §9; 86 Acts, ch 1074, §3, 4; 86 Acts, ch 1104, §2, 3; 87 Acts, ch 91, §2 – 5; 89 Acts, ch 89, §1 – 3; 89 Acts, ch 218, §1; 91 Acts, ch 209, §1; 93 Acts, ch 88, §1; 95 Acts, ch 41, §3 – 5; 96 Acts, ch 1059, §4, 5; 96 Acts, ch 1079, §4 – 6; 97 Acts, ch 37, §3, 4; 98 Acts, ch 1060, §1, 2; 98 Acts, ch 1061, §11; 98 Acts, ch 1074, §9; 2001 Acts, ch 87, §5, 6; 2005 Acts, ch 35, §31; 2007 Acts, ch 22, §21; 2008 Acts, ch 1031, §91; 2008 Acts, ch 1032, §9, 10; 2008 Acts, ch 1181, §43; 2010 Acts, ch 1149, §2 – 4; 2013 Acts, ch 48, §4; 2016 Acts, ch 1108, §15 – 17; 2018 Acts, ch 1041, §31; 2019 Acts, ch 38, §1; 2020 Acts, ch 1069, §1; 2021 Acts, ch 80, §36, 37

Referred to in §85.20, 85.60, 87.1, 87.23, 91A.2, 91D.1, 96.1A, 100B.14, 100B.31, 622.71A
Subsection 1 amended
Subsection 11, paragraph b amended

85.62 Inmates of county jail.

The county board of supervisors of any county may elect to include as an employee for purposes of this chapter any person confined as an inmate in a county jail or confined in any other facility in lieu of confinement in a county jail. If such election is made, the provisions of section 85.1, subsection 6, shall apply to such county. If an inmate in the performance of the inmate's work in connection with the maintenance of a county jail or other local facility, or in connection with any industry maintained therein, or with any highway or public works activity outside a county jail or other local facility sustains an injury arising out of and in the

course thereof, the inmate shall be awarded and paid compensation at the minimum rate as provided in this chapter. If death results from such injury, death benefits shall be awarded and paid to the dependents of the inmate. If any such person is awarded weekly compensation under the provisions of this section and is still committed to the county jail or other facility, the inmate's compensation benefits under section 85.33 or section 85.34, subsection 1, shall be paid to the county for so long as the inmate shall remain so committed. Weekly compensation benefits awarded pursuant to section 85.34, subsection 2, shall be held in trust and paid to such person as provided in this chapter upon final discharge or parole, whichever occurs first. In the event such person is recommitted to the county jail or other facility prior to receiving in full, the inmate's weekly benefits pursuant to section 85.33 or section 85.34, subsection 1, such benefits shall again be paid to the county for so long as the inmate shall remain so recommitted. Also, weekly benefits under section 85.34, subsection 2, shall be suspended and again held in trust until such person is again released by final discharge or parole, whichever first occurs. However, the workers' compensation commissioner may, if the commissioner finds that dependents of the person awarded weekly compensation pursuant to section 85.33 or section 85.34, subsections 1 and 2, would require welfare aid as a result of terminating the compensation, order such weekly compensation to be paid to a responsible person for the use of the inmate's dependents.

[C73, 75, 77, 79, 81, §85.62]

98 Acts, ch 1061, §11

SUBCHAPTER II

SECOND INJURY COMPENSATION ACT

85.63 Title of Act.

This subchapter shall be known and referred to as the "*Second Injury Compensation Act*".

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.63]

2014 Acts, ch 1026, §143

Referred to in §86.12

85.64 Limitation of benefits.

1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently disabled by a compensable injury which has resulted in the loss of or loss of use of another such member or organ, the employer shall be liable only for the degree of disability which would have resulted from the latter injury if there had been no preexisting disability. In addition to such compensation, and after the expiration of the full period provided by law for the payments thereof by the employer, the employee shall be paid out of the "Second Injury Fund" created by this subchapter the remainder of such compensation as would be payable for the degree of permanent disability involved after first deducting from such remainder the compensable value of the previously lost member or organ.

2. Any benefits received by any such employee, or to which the employee may be entitled, by reason of such increased disability from any state or federal fund or agency, to which said employee has not directly contributed, shall be regarded as a credit to any award made against said second injury fund as aforesaid.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.64]

2014 Acts, ch 1026, §18

Referred to in §86.12

85.65 Payments to second injury fund.

The employer, or, if insured, the insurance carrier in each case of compensable injury causing death, shall pay to the treasurer of state for the second injury fund the sum of twelve thousand dollars in a case where there are dependents and forty-five thousand dollars in a case where there are no dependents. The payment shall be made at the time compensation payments are begun, or at the time the burial expenses are paid in a case where there are

no dependents. However, the payments shall be required only in cases of injury resulting in death coming within the purview of this chapter and occurring after July 1, 1978. These payments shall be in addition to any payments of compensation to injured employees or their dependents, or of burial expenses as provided in this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.65; 82 Acts, ch 1161, §20]
89 Acts, ch 33, §1; 98 Acts, ch 1113, §1, 7
Referred to in §85.68, 86.12

85.65A Payments to second injury fund — surcharge on employers.

1. For purposes of this section, unless the context otherwise requires:

a. "Insured employers" means employers who are commercially insured for purposes of workers' compensation coverage or who have been self-insured for less than twenty-four months as of the first day of the fiscal year in which a surcharge is imposed pursuant to this section.

b. "Self-insured employers" means employers who have been self-insured for purposes of workers' compensation coverage for at least twenty-four months as of the first day of the fiscal year in which a surcharge is imposed pursuant to this section.

2. Prior to July 1 of each fiscal year, the commissioner of insurance shall conduct an examination of the outstanding liabilities of the second injury fund and shall make a determination as to whether sufficient funds will be available in the second injury fund to pay the liabilities of the fund for each of the next two fiscal years. If the commissioner of insurance determines sufficient funds will be available, the commissioner shall not impose a surcharge on employers during the next succeeding fiscal year. If the commissioner determines sufficient funds will not be available, the commissioner shall impose by rule, pursuant to chapter 17A, a surcharge on employers during the next succeeding fiscal year for payment to the treasurer of state for the second injury fund pursuant to the requirements of this section.

3. If the commissioner of insurance determines that a surcharge on employers shall be imposed during any applicable fiscal year, the surcharge imposed shall comply with and be subject to all of the following requirements:

a. The surcharge shall apply to all workers' compensation insurance policies and self-insurance coverages of employers approved for self-insurance by the commissioner of insurance pursuant to section 87.4 or 87.11, and to the state of Iowa, its departments, divisions, agencies, commissions, and boards, or any political subdivision coverages whether insured or self-insured. The surcharge shall not apply to any reinsurance or retrocessional transaction under section 520.4 or 520.9.

b. In determining the surcharge for any applicable fiscal year, the commissioner of insurance shall provide that all insured and self-insured employers be assessed, in total, an amount the commissioner determines is sufficient, together with the moneys in the second injury fund, to meet the outstanding liabilities of the second injury fund.

c. The total assessment amount used in calculating the surcharge shall be allocated between self-insured employers and insured employers based on paid losses for the preceding calendar year. The portion of the total aggregate assessment that shall be collected from self-insured employers shall be equal to that proportion of total paid losses during the preceding calendar year, which the total compensation payments of all self-insured employers bore to the total compensation payments made by all self-insured employers and insurers on behalf of all insured employers during the preceding calendar year. The portion of the total aggregate assessment that is not to be collected from self-insured employers shall be collected from insured employers.

d. The method of assessing self-insured employers a surcharge shall be based on paid losses. The method of assessing insured employers a surcharge shall be by insurers collecting assessments from insured employers through a surcharge based on premium.

e. Assessments collected through imposition of a surcharge pursuant to this section shall not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance but shall for the purpose of collection be treated as separate costs by insurers. The surcharge is collectible by an insurer and nonpayment of the surcharge

shall be treated as nonpayment of premium and the insurer shall retain all cancellation rights inuring to it for nonpayment of premium. An insurance carrier, its agent, or a third-party administrator shall not be entitled to any portion of the surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes, licenses, or fees. The surcharge is not deemed to be an assessment or tax, but shall be deemed an additional benefit paid for injuries compensable under this subchapter.

4. The commissioner of insurance shall adopt rules, pursuant to chapter 17A, concerning the requirements of this section.

98 Acts, ch 1113, §2, 7; 2003 Acts, ch 140, §3, 6; 2008 Acts, ch 1137, §2, 3; 2014 Acts, ch 1026, §143; 2021 Acts, ch 80, §38

Referred to in §85.67, 86.12
Subsection 2 amended

85.66 Second injury fund — creation — custodian.

1. The second injury fund is hereby established under the custody of the treasurer of state and shall consist of payments to the fund as provided by this subchapter and any accumulated interest and earnings on moneys in the second injury fund.

2. The treasurer of state is charged with the conservation of the assets of the second injury fund. Moneys collected in the second injury fund shall be disbursed only for the purposes stated in this subchapter, and shall not at any time be appropriated or diverted to any other use or purpose. Except for reimbursements to the attorney general provided for in section 85.67, disbursements from the fund shall be paid by the treasurer of state only upon the written order of the workers' compensation commissioner. The treasurer of state shall invest any surplus moneys of the fund in securities which constitute legal investments for state funds under the laws of this state, and may sell any of the securities in which the fund is invested, if necessary, for the proper administration or in the best interests of the fund.

3. The treasurer of state shall quarterly prepare a statement of the fund, setting forth the balance of moneys in the fund, the income of the fund, specifying the source of all income, the payments out of the fund, specifying the various items of payments, and setting forth the balance of the fund remaining to its credit. The statement shall be open to public inspection in the office of the treasurer of state.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.66; 82 Acts, ch 1161, §21]

83 Acts, ch 105, §5; 90 Acts, ch 1071, §1; 98 Acts, ch 1061, §11; 98 Acts, ch 1113, §3, 7; 2004 Acts, ch 1175, §196, 202; 2007 Acts, ch 215, §84; 2009 Acts, ch 133, §22; 2014 Acts, ch 1026, §143

Referred to in §86.12, 86.13A

85.67 Administration of fund — special counsel — payment of award.

The attorney general shall appoint a staff member to represent the treasurer of state and the fund in all proceedings and matters arising under this subchapter. The attorney general shall be reimbursed up to four hundred fifty thousand dollars annually from the fund for services provided related to the fund. The commissioner of insurance shall consider the reimbursement to the attorney general as an outstanding liability when making a determination of funding availability under section 85.65A, subsection 2. In making an award under this subchapter, the workers' compensation commissioner shall specifically find the amount the injured employee shall be paid weekly, the number of weeks of compensation which shall be paid by the employer, the date upon which payments out of the fund shall begin, and, if possible, the length of time the payments shall continue.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.67]

83 Acts, ch 105, §6; 98 Acts, ch 1061, §11; 98 Acts, ch 1113, §4, 7; 2004 Acts, ch 1175, §197, 209; 2007 Acts, ch 215, §85; 2013 Acts, ch 139, §53; 2014 Acts, ch 1026, §143; 2021 Acts, ch 166, §22

Referred to in §85.66, 86.12
Section amended

85.68 Actions — collection of payments — subrogation.

The labor commissioner shall be charged with the collection of contributions and payments to the second injury fund required to be made pursuant to section 85.65. In addition, the

labor commissioner, on behalf of the second injury fund created under this subchapter, shall have a cause of action under section 85.22 to the same extent as an employer against any person not in the same employment by reason of whose negligence or wrong the subsequent injury of the person with the previous disability was caused. The action shall be brought by the labor commissioner on behalf of the fund, and any recovery, less the necessary and reasonable expenses incurred by the labor commissioner, shall be paid to the treasurer of state and credited to the second injury fund.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.68]

83 Acts, ch 105, §7; 96 Acts, ch 1129, §21; 98 Acts, ch 1113, §5, 7; 2014 Acts, ch 1026, §143

Referred to in §84A.5, 86.12, 91.4

85.69 Federal contributions.

The treasurer of state is hereby authorized to receive and credit to the second injury fund any sum or sums that may at any time be contributed to the state by the United States or any agency thereof, under any Act of Congress or otherwise, to which the state may be or become entitled by reason of any payments made to any person with a previous disability out of the fund.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.69]

96 Acts, ch 1129, §22

Referred to in §86.12

SUBCHAPTER III

VOCATIONAL REHABILITATION PROGRAM

85.70 Additional payment for attendance — rehabilitation and training — new career vocational training and education program.

1. An employee who has sustained an injury resulting in permanent partial or permanent total disability, for which compensation is payable under this chapter other than an injury to the shoulder compensable pursuant to section 85.34, subsection 2, paragraph "*n*", and who cannot return to gainful employment because of such disability, shall upon application to and approval by the workers' compensation commissioner be entitled to a one hundred dollar weekly payment from the employer in addition to any other benefit payments, during each full week in which the employee is actively participating in a vocational rehabilitation program recognized by the vocational rehabilitation services division of the department of education. The workers' compensation commissioner's approval of such application for payment may be given only after a careful evaluation of available facts, and after consultation with the employer or the employer's representative. Judicial review of the decision of the workers' compensation commissioner may be obtained in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, and in section 86.26. Such additional benefit payment shall be paid for a period not to exceed thirteen consecutive weeks except that the workers' compensation commissioner may extend the period of payment not to exceed an additional thirteen weeks if the circumstances indicate that a continuation of training will in fact accomplish rehabilitation.

2. *a.* An employee who has sustained an injury to the shoulder resulting in permanent partial disability for which compensation is payable under section 85.34, subsection 2, paragraph "*n*", and who cannot return to gainful employment because of such disability, shall be evaluated by the department of workforce development regarding career opportunities in specific fields aligning with postsecondary career and technical education programs that provide instruction in the areas of agriculture, family and consumer sciences, health occupations, business, industrial technology, and marketing, that allow for accommodation of the employee's disability and to determine if the employee would benefit from participation in the new career vocational training and education program offered through an area community college, that will allow the employee to return to the workforce.

b. Upon completion of the evaluation and a determination by the department that the employee is a candidate for the new career vocational training and education program,

the employee shall be referred by the department to the community college that is in the closest proximity to the employee's residence, or upon agreement of the department and the employee, to the community college that offers a vocational training and education program that best meets the employee's needs, for enrollment in the new career vocational training and education program at the community college for the purpose of providing the employee with occupational training that will result in, at a minimum, the awarding of an associate degree or completion of a certificate program and will enable the employee to return to the workforce. If an employee does not enroll in the new career vocational training and education program at the community college to which the employee has been referred by the department within six months after the referral, the employee is no longer eligible to participate in the program.

c. The employee shall be entitled to financial support from the employer or the employer's insurer for participation in the new career vocational training and education program in a total amount not to exceed fifteen thousand dollars to be used for the payment of tuition and fees and the purchase of required supplies. The community college in which an employee is enrolled pursuant to the program shall bill the employer or the employer's insurer for the employee's tuition and fees each semester, or the equivalent, that the employee is enrolled in the program. The employer or the employer's insurer shall also pay for the purchase of supplies required by the employee to participate in the program, upon receipt of documentation from the employee detailing the cost of the supplies and the necessity for purchasing the supplies. Such documentation may include written course requirements or other documentation from the community college or the course instructor regarding the necessity for the purchase of certain supplies.

d. The employer or the employer's insurer may request a periodic status report each semester from the community college documenting the employee's attendance and participation in and completion of the career vocational training and education program. If an employee does not meet the attendance requirements of the community college at which the employee is enrolled or does not maintain a passing grade in each course in which the employee is enrolled each semester, or the equivalent, the employee's eligibility for continued participation in the program is terminated.

e. The community college shall also provide the employer or the employer's insurer with documentation detailing that the receipt of funds by the community college pursuant to this subsection is for the payment of tuition and fees and the purchase of required supplies.

f. Beginning on or before December 1, 2018, the department of workforce development, in cooperation with the department of education, the insurance division of the department of commerce, and all community colleges that are participating in the new career vocational training and education program, shall prepare an annual report for submission to the general assembly that provides information about the status of the program including but not limited to the utilization of and participants in the program, program completion rates, employment rates after completion of the program and the types of employment obtained by the program participants, and the effects of the program on workers' compensation premium rates.

[C71, 73, 75, 77, 79, 81, §85.70]

96 Acts, ch 1127, §1; 98 Acts, ch 1061, §11; 2003 Acts, ch 44, §114; 2004 Acts, 1st Ex, ch 1001, §13, 18; 2017 Acts, ch 23, §18; 2018 Acts, ch 1041, §32

SUBCHAPTER IV

EXTRATERRITORIAL INJURIES AND BENEFIT CLAIMS

85.71 Injury outside of state.

1. If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of death, the employee's dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, such employee, or in the event of death resulting from such injury, the employee's

dependents, shall be entitled to the benefits provided by this chapter, if at the time of such injury any of the following is applicable:

a. The employer has a place of business in this state and the employee regularly works at or from that place of business.

b. The employee is working under a contract of hire made in this state and the employee regularly works in this state.

c. The employee is working under a contract of hire made in this state and sustains an injury for which no remedy is available under the workers' compensation laws of another state.

d. The employee is working under a contract of hire made in this state for employment outside the United States.

e. The employer has a place of business in Iowa, and the employee is working under a contract of hire which provides that the employee's workers' compensation claims be governed by Iowa law.

2. This section shall be construed to confer personal jurisdiction over an employee or employer to whom this section is applicable.

[C75, 77, 79, 81, §85.71]

97 Acts, ch 106, §1; 2005 Acts, ch 168, §12, 23; 2008 Acts, ch 1091, §1; 2009 Acts, ch 179, §109; 2017 Acts, ch 23, §19, 24

2017 amendment to subsection 1, paragraph a, applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

85.72 Claims for benefits made outside of state — restrictions — credit.

1. An employee, or an employee's dependents, shall not be entitled to benefits under this chapter if the employee or the employee's dependents have initiated a judicial proceeding or a contested case or other similar proceeding for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, and the employee or the employee's dependents receive benefits following final resolution of the proceeding pursuant to a settlement, judgment, or award.

2. If an employee, or an employee's dependents, initiate a judicial proceeding or a contested case or other similar proceeding for benefits pursuant to the laws of another state or country concerning workers' compensation, any proceeding initiated by an employee, or an employee's dependents, for workers' compensation benefits under this chapter for the same injury, disability, or death shall be stayed, without prejudice, pending resolution of the out-of-state claim for benefits.

3. If benefits are paid under this chapter and were payable, at any time, for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, the employer shall have a credit toward the benefits payable under this chapter for any benefits paid in another state or country. Benefits paid in another state or country constitute weekly compensation benefits for the purposes of sections 85.26 and 86.13.

97 Acts, ch 106, §2; 2008 Acts, ch 1091, §2

CHAPTER 85A

OCCUPATIONAL DISEASE COMPENSATION

Referred to in §8A.457, 8A.512, 84A.5, 85.3, 85.20, 85.21, 85.22, 85.26, 85.27, 85.34, 85.35, 85.38, 85.39, 85.49, 85.60, 85.61, 86.8, 86.9, 86.13, 86.17, 86.18, 86.19, 86.24, 86.29, 86.39, 86.44, 87.1, 87.2, 87.11, 87.13, 87.14A, 87.21, 87.22, 331.324, 515B.5, 582.1A, 622.10, 627.13, 669.14, 686C.3, 686D.8, 729.6

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85A.1 Short title.

This chapter shall be known and referred to as the "*Iowa Occupational Disease Law*".

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.1]

85A.2 Employers included.

All employers as defined by the workers' compensation law of Iowa and who are engaged in any business or industrial process hereinafter designated and described are employers within the provisions of this chapter and shall be subject thereto.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.2]

85A.3 Employees covered.

All employees as defined by the workers' compensation law of Iowa employed in any business or industrial process designated and described in this chapter and who in the course of their employment are exposed to an occupational disease as defined in this chapter are subject to the provisions of this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.3]

2021 Acts, ch 80, §39

Section amended

85A.4 Disablement defined.

As used in this chapter, "*disablement*" means the event or condition where an employee becomes actually incapacitated from performing the employee's work or from earning equal wages in other suitable employment because of an occupational disease as defined in this chapter in the last occupation in which such employee is injuriously exposed to the hazards of such disease.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.4]

2021 Acts, ch 76, §19

Section amended

85A.5 Compensation payable.

1. All employees subject to the provisions of this chapter who shall become disabled from injurious exposure to an occupational disease designated and defined in this chapter and within the conditions, limitations, and requirements provided in this chapter, shall receive compensation, reasonable surgical, medical, osteopathic, chiropractic, physical rehabilitation, nursing, and hospital services and supplies therefor, and burial expenses as

provided in the workers' compensation law of Iowa except as otherwise provided in this chapter.

2. If, however, an employee incurs an occupational disease for which the employee would be entitled to receive compensation if the employee were disabled as provided in this chapter, but is able to continue in employment and requires medical treatment for said disease, then the employee shall receive reasonable medical services therefor.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.5]

2020 Acts, ch 1063, §44

85A.6 Dependents — defined.

Dependents of a deceased employee whose death has been caused by an occupational disease as defined in this chapter and under the provisions, conditions, and limitations of this chapter shall be those persons defined as dependents under the workers' compensation law of Iowa and such dependents shall receive compensation benefits as provided by said law.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.6]

2020 Acts, ch 1063, §45

85A.7 Limitations and exceptions.

The provisions of this chapter providing payment of workers' compensation on account of occupational disease as defined and set out in this chapter, shall be subject to the following limitations and exceptions:

1. No compensation shall be payable if the employee, at the time of entering the employment of the employer in writing falsely represented to said employer that the employee had not been previously disabled, laid off or compensated, or lost time by reason of an occupational disease.

2. No compensation for death because of an occupational disease shall be payable to any person whose relationship to the deceased employee arose subsequent to the beginning of the first compensable disability, except only after-born children of a marriage existing at the beginning of such disability.

3. When such occupational disease causes the death of an employee and there are no dependents entitled to compensation, then the employer shall pay the medical, hospital and burial expenses as is provided by the workers' compensation law, and shall also pay to the treasurer of the state for the use and benefit of the second injury compensation fund such amount as is required by the second injury compensation law.

4. Where such occupational disease is aggravated by any other disease or infirmity not of itself compensable, or where disability or death results from any other cause not of itself compensable but is aggravated, prolonged or accelerated by such an occupational disease, and disability results such as to be compensable under the provisions of this chapter, the compensation payable shall be reduced and limited to such proportion only of the compensation that would be payable if the occupational disease was the sole cause of the disability or death, as such occupational disease bears to all the causes of such disability or death. Such reduction or limitation in compensation shall be effected by reducing either the number of weekly payments or the amount of such payments as the workers' compensation commissioner may determine is for the best interests of the claimant or claimants.

5. No compensation shall be allowed or payable for any disease or death intentionally self-inflicted by the employee or due to the employee's intoxication, or due to the employee being a narcotic drug addict, or the employee's commission of a misdemeanor or felony, refusal to use a safety appliance or health protective, refusal to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work, or failure or refusal to perform or obey any statutory duty. The burden of establishing any such ground shall rest upon the employer.

6. No compensation shall be payable or allowed in any case where the last injurious exposure to the hazards of such occupational disease occurred prior to the effective date of this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.7]

98 Acts, ch 1061, §11

85A.8 Occupational disease defined.

Occupational diseases shall be only those diseases which arise out of and in the course of the employee's employment. Such diseases shall have a direct causal connection with the employment and must have followed as a natural incident thereto from injurious exposure occasioned by the nature of the employment. Such disease must be incidental to the character of the business, occupation or process in which the employee was employed and not independent of the employment. Such disease need not have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have resulted from that source as an incident and rational consequence. A disease which follows from a hazard to which an employee has or would have been equally exposed outside of said occupation is not compensable as an occupational disease.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.8]

Referred to in §85.61

85A.9 Reserved.

85A.10 Last exposure — employer liable.

If compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of the disease is liable for the compensation. The notice of injury and claim for compensation shall be given and made to the employer as required under this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.10]

86 Acts, ch 1101, §1

85A.11 Diagnosis for brucellosis.

1. If any employee is clinically diagnosed as having brucellosis, the employee shall not be considered to have the disease unless the clinical diagnosis is confirmed by either of the following:

a. A positive blood culture for brucella organisms.

b. A positive agglutination test which must be verified by not less than two successive positive agglutination tests, each of which tests shall be positive in a titer of one to one hundred sixty or higher. The subsequent agglutination tests must be made of specimens taken not less than seven nor more than ten days after each preceding test.

2. The specimens for the tests required by this section must be taken by a licensed practicing physician or osteopathic physician, and immediately delivered to the state hygienic laboratory of the Iowa department of public health at Iowa City. Each specimen shall be in a container upon which is plainly printed the name and address of the subject, the date when the specimen was taken, the name and address of the subject's employer, and a certificate by the physician or osteopathic physician that the physician took the specimen from the named subject on the date stated over the physician's signature and address.

3. The state hygienic laboratory shall immediately make the test and upon completion thereof it shall send a report of the result of such test to the physician or osteopathic physician from whom the specimen was received and also to the employer.

4. In the event of a dispute as to whether the employee has brucellosis, the matter shall be determined as any other disputed case.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.11]

2008 Acts, ch 1032, §201; 2010 Acts, ch 1069, §9; 2021 Acts, ch 80, §40

Subsections 1 and 2 amended

85A.12 Disablement or death following exposure — limitations.

1. An employer shall not be liable for any compensation for an occupational disease unless such disease shall be due to the nature of an employment in which the hazards of such disease actually exist, and which hazards are characteristic thereof and peculiar to the trade, occupation, process, or employment, and such disease actually arises out of the employment, and unless disablement or death results within three years in case of pneumoconiosis, or within one year in case of any other occupational disease, after the last injurious exposure to such disease in such employment, or in case of death, unless death

follows continuous disability from such disease commencing within the period above limited for which compensation has been paid or awarded or timely claim made as provided by this chapter and results within seven years after such exposure.

2. In any case where disablement or death was caused by latent or delayed pathological conditions, blood, or other tissue changes or malignancies due to occupational exposure to X rays, radium, radioactive substances or machines, or ionizing radiation, the employer shall not be liable for any compensation unless claim is filed within ninety days after disablement or death or after the employee had knowledge or in the exercise of reasonable diligence should have known the disablement was caused by overexposure to ionizing radiation or radioactive substances, and its relation to employment.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.12]

2020 Acts, ch 1062, §94

85A.13 Provisions relating to pneumoconiosis.

1. *Pneumoconiosis defined.* Whenever used in this chapter, *"pneumoconiosis"* shall mean the characteristic fibrotic condition of the lungs caused by the inhalation of dust particles.

2. *Presumptions.* In the absence of conclusive evidence in favor of the claim, disability or death from pneumoconiosis shall be presumed not to be due to the nature of any occupation within the provisions of this chapter unless during the ten years immediately preceding the disablement of the employee who has been exposed to the inhalation of dust particles over a period of not less than five years, two years of which shall have been in employment in this state.

3. *Pneumoconiosis complicated with other diseases.* In case of disability or death from pneumoconiosis complicated with tuberculosis of the lungs, compensation shall be payable as for uncomplicated pneumoconiosis, provided, however, that the pneumoconiosis was an essential factor in causing such disability or death. In case of disability or death from pneumoconiosis complicated with any other disease, or from any other disease complicated with pneumoconiosis, the compensation shall be reduced as provided in this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.13]

84 Acts, ch 1053, §1; 2021 Acts, ch 80, §41

Subsection 3 amended

85A.14 Restriction on liability.

No compensation shall be payable under this chapter for any condition of physical or mental ill-being, disability, disablement, or death for which compensation is recoverable on account of injury under the workers' compensation law.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.14]

85A.15 Employers limit of liability.

Payments of compensation and compliance with other provisions herein by the employer or the employer's insurance carrier in accordance with the findings and orders of the workers' compensation commissioner or the court in judicial review proceedings shall discharge such employer from any and all further obligation.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.15]

98 Acts, ch 1061, §11

85A.16 Reference to compensation law.

The provisions of the workers' compensation law, so far as applicable, and not inconsistent with this chapter, shall apply in cases of compensable occupational diseases as specified and defined in this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.16]

2020 Acts, ch 1063, §46

85A.17 Disability — compensation.

Compensation payable under this chapter for temporary disability, permanent total disability, or permanent partial disability shall be such amounts as are provided under the workers' compensation law.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.17]

Referred to in §96.7(2)(a), 96.23

85A.18 Notice of disability or death — filing of claims.

Except as otherwise provided in this chapter, procedure with respect to notice of disability or death, as to the filing of claims and determination of claims shall be the same as in cases of injury or death arising out of and in the course of employment under the workers' compensation law. Written notice shall be given to the employer of an occupational disease by the employee within ninety days after the first distinct manifestation thereof, and in the case of death from such an occupational disease, written notice of such claim shall also be given to the employer within ninety days thereafter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.18]

2020 Acts, ch 1063, §47

85A.19 Autopsy.

1. Upon the filing of a claim for compensation for death from an occupational disease where an autopsy is necessary in order to accurately and scientifically ascertain and determine the cause of death, such autopsy shall be ordered by the workers' compensation commissioner and shall be made under the supervision of the medical examiner of the county in which death occurs or in any county where the body of such employee may be taken.

2. The workers' compensation commissioner may designate a duly licensed physician to perform or attend such autopsy and to certify the findings thereon. Such findings shall be filed in the office of the workers' compensation commissioner. The workers' compensation commissioner may also exercise such authority on the commissioner's own motion or on application made to the commissioner at any time, upon the presentation of facts showing that a controversy may exist in regard to the cause of death or the existence of any occupational disease. All proceedings for compensation shall be suspended upon refusal of a claimant or claimants to permit such autopsy when so ordered and no compensation shall be payable.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.19]

98 Acts, ch 1061, §11; 2020 Acts, ch 1062, §94

85A.20 Investigation.

The workers' compensation commissioner may designate the industrial hygiene physician of the Iowa department of public health and two physicians selected by the dean of the university of Iowa college of medicine, from the staff of the college, who shall be qualified to diagnose and report on occupational diseases. For the purpose of investigating occupational diseases, the physicians shall have the use, without charge, of all necessary laboratory and other facilities of the university of Iowa college of medicine and of the university hospital at the state university of Iowa, and of the Iowa department of public health in performing the physicians' duties.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.20]

86 Acts, ch 1245, §905; 98 Acts, ch 1061, §11; 2001 Acts, ch 74, §1; 2002 Acts, ch 1119, §9

Referred to in §85A.21, 85A.22, 85A.23, 85A.24, 85A.25

85A.21 Controversial medical questions.

Controversial medical questions may be referred by the workers' compensation commissioner to the physicians designated in section 85A.20 for investigation and report to the workers' compensation commissioner when agreed to by the parties or on the commissioner's own motion. No award shall be made in any case where controversial medical questions have been referred to the physicians until the physicians have duly

investigated the case and made a report with respect to all such medical questions. The date of disablement, if in dispute, shall be deemed a medical question.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.21]

86 Acts, ch 1245, §906; 98 Acts, ch 1061, §11

85A.22 Examination of employee by physicians.

The physicians designated in section 85A.20, upon reference to them by the workers' compensation commissioner of a claim for occupational disease, shall notify the claimant or claimants and the employer or the employer's insurance carrier to appear before the physicians at a time and place stated in the notice. If the employee is alive, the employee shall appear before the physicians at the time and place specified to submit to such clinical and x-ray examinations as the physicians may require. The claimant and the employer shall each be entitled, at the claimant's or employer's own expense, to have present at all examinations conducted by the physicians, a physician admitted to practice in the state, who shall be given every reasonable opportunity for participating in all examinations. If a physician admitted to practice in the state certifies that the employee is physically unable to appear at the time and place specified, the physicians shall, on notice to the parties, change the time and place of examination to another time and place as may reasonably facilitate the examination of the employee. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee refuses to submit to such examination.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.22]

86 Acts, ch 1245, §907; 98 Acts, ch 1061, §11

85A.23 Report — date of disablement.

The physicians designated in section 85A.20 shall, as soon as practicable after the physicians have completed consideration of the case, report in writing the findings and conclusions on every medical question in controversy. If the date of disablement is controverted and cannot be fixed exactly, the physicians shall fix the most probable date in light of all the circumstances of the case. The physicians shall also include in the report the name and address of the physician or physicians, if any, who appeared before the physicians and the medical reports and X rays, if any, which were considered by the physicians.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.23]

86 Acts, ch 1245, §908

85A.24 Findings and report.

The physicians designated in section 85A.20 shall file the report in triplicate with the workers' compensation commissioner who shall mail or deliver a certified copy of the report to the claimant and to the employer. The report shall become a part of the record of the case. The workers' compensation commissioner shall make the decision or award in the case based upon the entire record. The report of the physicians in any case may be returned by the commissioner to the physicians for reconsideration and further report. The physicians shall not be prohibited from testifying before the workers' compensation commissioner, board of arbitration, or any other person, commission, or court as to the results of the examination or the condition of any employee examined.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.24]

86 Acts, ch 1245, §909; 98 Acts, ch 1061, §11

85A.25 Existing diseases barred.

1. There shall be no liability for the payment of compensation under the provisions of this chapter to any person who on October 1, 1947, is suffering with an occupational disease. An employer may at the employer's own expense require the employer's employees to submit to a physical examination prior to October 1, 1947, and in the case of new employees employed after July 4, 1947, within ninety days of the commencement of the employment of such new employees, for the purpose of determining whether any such person is affected with or has an occupational disease. In the event it is determined by such examination that any employee is suffering from or is affected with an occupational disease, the employer may require the

employee to waive in writing any claim for compensation under the provisions of this chapter on account thereof as a condition to continuing in the employment of the employer.

2. In cases of dispute as to the existence of the disease the controversy may be referred to the workers' compensation commissioner who shall decide the matter and who may, upon the commissioner's own motion or by agreement of the parties, submit the controverted question to the physicians designated in section 85A.20 for investigation and report, and the physicians shall immediately proceed with the investigation and with the examination of the employee and forthwith make the report to the workers' compensation commissioner. The examination shall be made and the investigation conducted in the same manner as is provided in this chapter as to other controverted medical questions. The workers' compensation commissioner shall then make the decision on the matter, and the decision shall have the same force and effect and be subject to all the other provisions of law applicable the same as any other decision of the workers' compensation commissioner.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.25]

86 Acts, ch 1245, §910; 98 Acts, ch 1061, §11; 2019 Acts, ch 24, §104

85A.26 Insurance contracts.

No policy of insurance in effect on October 1, 1947, covering the liability of an employer under the workers' compensation law, shall be construed to cover the liability of such employer under this chapter for any occupational disease unless such liability is expressly accepted by the insurance carrier issuing such policy and is endorsed on the policy. The insurance or security in force to cover compensation liability under this chapter shall be separate and distinct from the insurance or security under the workers' compensation law and any insurance contract covering liability under either this chapter or the workers' compensation law need not cover any liability under the other.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.26]

2019 Acts, ch 59, §36

85A.27 Administration.

The workers' compensation commissioner shall have jurisdiction over the operation and administration of the compensation provisions of this chapter and said commissioner shall perform all of the duties imposed upon the commissioner by this chapter and such further duties as may hereafter be imposed by law.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85A.27]

98 Acts, ch 1061, §11

CHAPTER 85B

OCCUPATIONAL HEARING LOSS

Referred to in §8A.457, 8A.512, 84A.5, 85.3, 85.20, 85.21, 85.22, 85.26, 85.27, 85.34, 85.35, 85.38, 85.39, 85.49, 85.60, 85.61, 86.8, 86.9, 86.13, 86.17, 86.29, 86.39, 86.44, 87.1, 87.2, 87.11, 87.13, 87.14A, 87.21, 87.22, 515B.5, 582.1A, 622.10, 627.13, 686D.8, 729.6

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85B.1 Citation.

This chapter shall be known as the *"Iowa Occupational Hearing Loss Act"*.

[C81, §85B.1]

85B.2 Workers' compensation — employers subject.

All employers as defined in chapter 85 are subject to this chapter.

[C81, §85B.2]

85B.3 Loss in course of employment.

All employees as defined in chapter 85 who incur an occupational hearing loss arising out of and in the course of employment, are subject to this chapter.

[C81, §85B.3]

85B.4 Definitions.

As used in this chapter, unless the context otherwise provides:

1. *"Excessive noise exposure"* means exposure to sound capable of producing occupational hearing loss.

2. *"Hearing level"* means the measured threshold of hearing sensitivity using audiometric instruments properly calibrated to the American national standards institute audiometric zero reference level.

3. *"Occupational hearing loss"* means that portion of a permanent sensorineural loss of hearing in one or both ears that exceeds an average hearing level of twenty-five decibels for the frequencies five hundred, one thousand, two thousand, and three thousand Hertz, arising out of and in the course of employment caused by excessive noise exposure. *"Occupational hearing loss"* does not include loss of hearing attributable to age or any other condition or exposure not arising out of and in the course of employment.

[C81, §85B.4]

98 Acts, ch 1160, §2

Referred to in §85.34

85B.5 Excessive noise exposure.

1. An excessive noise exposure is sound which exceeds the times and intensities listed in the following table:

Duration per day hours	Sound level, dBA slow response	Duration per day minutes	Sound level, dBA slow response
8	90	52	106
7	91	45	107
6	92	37	108
5	93	33	109
4 1/2	94	30	110
4	95	26	111
3 1/2	96	22	112
3	97	18	113
2 1/2	98	16	114
2 1/4	99	15	115
2	100	No exposure greater	
1 3/4	101	than 115 permitted	
1 1/2	102		
1 1/4	103		
1 1/8	104		
1	105		

2. The workers' compensation commissioner may promulgate rules pursuant to chapter 17A to amend this table based upon changes recommended in nationally recognized consensus standards.

3. An employer shall immediately inform an employee if the employer learns that the employee is being subjected to sound levels and duration in excess of those indicated in the above table. In instances of occupational hearing loss alleged to have occurred, either in whole or in part prior to January 1, 1981, an employer shall provide upon request by an affected employee whatever evidence is available to the employer of the date, duration, and intensities of noise to which the employee was subjected in employment.

[C81, §85B.5]

98 Acts, ch 1061, §11; 98 Acts, ch 1160, §3; 2009 Acts, ch 41, §263

85B.6 Maximum compensation.

Compensation is payable for a maximum of one hundred seventy-five weeks for total occupational hearing loss. For partial occupational hearing loss compensation is payable for a period proportionate to the relation which the calculated binaural, both ears, hearing loss bears to one hundred percent, or total loss of hearing.

[C81, §85B.6]

85B.7 Periodic examination.

Compensation is not payable to an employee who willfully fails to submit for reasonable periodic physical and audiometric examinations. Reasonable written notice of the dates and times of examinations required by the employer shall be given the employee. Examinations shall be scheduled during times the employee, examining personnel, and examination facilities are reasonably available. Physical and audiometric examinations shall be at the expense of the employer. The employee shall be compensated for any time lost from work occasioned by employer examinations. Compensation is not payable to an employee if the employee fails or refuses to use employer-provided hearing protective devices required by the employer and communicated in writing to the employee at the time the employee is employed or at the time the protective devices are provided by the employer.

[C81, §85B.7]

85B.8 Date of occurrence.

1. A claim for occupational hearing loss due to excessive noise exposure may be filed beginning one month after separation from the employment in which the employee was

subjected to excessive noise exposure. The date of the injury shall be the date of occurrence of any one of the following events:

a. Transfer from excessive noise exposure employment by an employer.

b. Retirement.

c. Termination of the employer-employee relationship.

2. The date of injury for a layoff which continues for a period longer than one year shall be six months after the date of the layoff. However, the date of the injury for any loss of hearing incurred prior to January 1, 1981, shall not be earlier than the occurrence of any one of the above events.

[C81, §85B.8]

98 Acts, ch 1160, §4, 5; 2008 Acts, ch 1032, §201

85B.9 Measuring hearing loss.

1. Audiometric instruments, properly calibrated to the American national standards institute specifications, shall be used for measuring hearing levels and in such tests necessary to establish total hearing loss, if any. The hearing tests and examinations shall be conducted in environments which comply with accepted national standards.

2. Audiometric examinations shall be administered by persons who are certified by the council for accreditation in occupational hearing conservation or by persons licensed as audiologists under chapter 154F, or as physicians or osteopathic physicians and surgeons under chapter 148, provided the licensed persons are trained in audiometry.

3. In calculating the total amount of hearing loss, the hearing levels at each of the four frequencies, five hundred, one thousand, two thousand, and three thousand Hertz, shall be added together and divided by four to determine the average decibel hearing level for each ear. If the resulting average decibel hearing level in either ear is twenty-five decibels or less, the percentage hearing loss for that ear shall be zero. For each resulting average decibel hearing level exceeding twenty-five decibels, an allowance of one and one-half percent shall be made up to the maximum of one hundred percent which is reached at an average decibel hearing level of ninety-two decibels. In determining the total binaural percentage hearing loss, the percentage hearing loss for the ear with better hearing shall be multiplied by five and added to the percentage hearing loss for the ear with worse hearing and the sum of the two divided by six.

4. *a.* The assessment of the proportion of the total binaural percentage hearing loss that is due to occupational noise exposure shall be made by the employer's regular or consulting physician or licensed audiologist who is trained and has had experience with such assessment. If several audiometric examinations are available for assessment, the physician or audiologist shall determine which examinations shall be used in the final assessment of occupational hearing loss.

b. If the employee disputes the assessment, the employee may select a physician or licensed audiologist similarly trained and experienced to give an assessment of the audiometric examinations.

5. This section is applicable in the event of partial permanent or total permanent occupational hearing loss in one or both ears.

[C81, §85B.9; 81 Acts, ch 42, §1]

98 Acts, ch 1160, §6; 2008 Acts, ch 1088, §81

Referred to in §85B.9A

85B.9A Apportionment of occupational hearing loss.

Apportionment of the total hearing loss between occupational and nonoccupational loss, for purposes of determining occupational hearing loss, may be made by an audiologist or physician with qualifications set forth in section 85B.9. In determining occupational hearing loss, consideration shall be given to all probable employment and nonemployment sources of loss. The apportionment of age-related loss shall be made by reducing the total binaural percentage hearing loss as calculated pursuant to section 85B.9, subsection 3, by the same percentage as the decibels of age-related loss occurring during the period of employment bears to the total decibel hearing level in each ear. The decibels of age-related loss shall

be calculated according to tables adopted by the workers' compensation commissioner consistent with tables of the national institute for occupational safety and health existing on July 1, 1998, and consistent with section 85B.9, subsection 3.

98 Acts, ch 1160, §7

85B.10 Employer's notice of results of test.

The employer shall communicate to the employee, in writing, the results of an audiometric examination or physical examination of an employee which reflects an average hearing level in one or both ears in excess of twenty-five decibels for the test frequencies of five hundred, one thousand, two thousand, and three thousand Hertz, as soon as practicable after the examination. The communication shall include the name and qualifications of the person conducting the audiometric examination or physical examination, the site of the examination, the kind or type of test or examinations given, the results of each and the average decibel hearing level, for the four frequencies, in each ear, and, if known to the employer, whether the hearing loss is sensorineural and, if the hearing loss resulted from another cause, the cause.

[C81, §85B.10]

98 Acts, ch 1160, §8

85B.11 Previous hearing loss excluded.

An employer is liable, as provided in this chapter and subject to the provisions of chapter 85, for an occupational hearing loss to which the employment has contributed, but if previous hearing loss, whether occupational or not, is established by an audiometric examination or other competent evidence, whether or not the employee was subjected to excessive noise exposure within six months preceding the test, the employer is not liable for the previous loss, nor is the employer liable for a loss for which compensation has previously been paid or awarded. The employer is liable only for the difference between the percent of occupational hearing loss determined as of the date of the audiometric examination used to determine occupational hearing loss and the percentage of loss established by the preemployment audiometric examination. An amount paid to an employee for occupational hearing loss by any other employer shall be credited against compensation payable by an employer for the hearing loss. An employee shall not receive in the aggregate greater compensation from all employers for occupational hearing loss than that provided in this section for total occupational hearing loss. A payment shall not be made to an employee unless the employee has worked in excessive noise exposure employment for a total period of at least ninety days for the employer from whom compensation is claimed.

[C81, §85B.11]

98 Acts, ch 1160, §9; 99 Acts, ch 96, §7

85B.12 Hearing aid provided.

A reduction of the compensation payable to an employee for occupational hearing loss shall not be made because the employee's ability to communicate may be improved by the use of a hearing aid. An employer who is liable for occupational hearing loss of an employee is required to provide the employee with a hearing aid for each affected ear unless it will not materially improve the employee's ability to communicate.

[C81, §85B.12]

98 Acts, ch 1160, §10

85B.13 Payment of compensation discharges employer.

Payments of compensation and compliance with other provisions of this chapter by the employer or the employer's insurance carrier in accordance with the findings and orders of the workers' compensation commissioner or a court making a final adjudication in appealed cases, discharges the employer from further obligation.

[C81, §85B.13]

98 Acts, ch 1061, §11

85B.14 Applicable chapters.

Chapters 17A, 85, and 86, so far as applicable, and not inconsistent with this chapter, apply in cases of compensable occupational hearing loss.

[C81, §85B.14]

85B.15 Workers' compensation commissioner to enforce.

The workers' compensation commissioner has jurisdiction over the operation and administration of the compensation provisions of this chapter.

[C81, §85B.15]

98 Acts, ch 1061, §11

CHAPTER 86

DIVISION OF WORKERS' COMPENSATION

Referred to in §8A.457, 8A.512, 22.7(31), 84A.5, 85.3, 85.26, 85.31, 85.34, 85.35, 85.55, 85.59, 85.60, 85.61, 85B.14, 87.1, 87.2, 87.11, 87.13, 87.14A, 87.21, 331.324, 515B.5, 729.6

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86.1 Workers' compensation commissioner — term.

The governor shall appoint, subject to confirmation by the senate, a workers' compensation commissioner whose term of office shall be six years beginning and ending as provided in section 69.19. The workers' compensation commissioner shall maintain an office at the seat of government. The workers' compensation commissioner must be a lawyer admitted to practice in this state.

[S13, §2477-m22; C24, 27, 31, 35, 39, §**1423;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.1]

98 Acts, ch 1061, §11

Referred to in §84A.5

Confirmation, see §2.32

86.2 Appointment of deputies.

1. The commissioner may appoint:

a. Chief deputy workers' compensation commissioners for whose acts the commissioner

is responsible, who are exempt from the merit system provisions of chapter 8A, subchapter IV, and who shall serve at the pleasure of the commissioner.

b. Deputy workers' compensation commissioners for whose acts the commissioner is responsible and who shall serve at the pleasure of the commissioner.

2. All chief deputies and deputies must be lawyers admitted to practice in this state.

3. The commissioner may appoint one or more chief deputy workers' compensation commissioners and one or more deputy workers' compensation commissioners. A chief deputy workers' compensation commissioner or a deputy workers' compensation commissioner shall perform such additional administrative responsibilities as are deemed reasonably necessary and assigned by the commissioner.

[C24, 27, 31, 35, 39, §**1424;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.2]

89 Acts, ch 60, §3; 90 Acts, ch 1261, §26; 98 Acts, ch 1061, §11; 2003 Acts, ch 145, §158; 2008 Acts, ch 1031, §26

86.3 Duties of deputies.

Notwithstanding the provisions of chapter 17A, in the absence or disability of the workers' compensation commissioner, or when written delegation of authority to perform specified functions is made by the commissioner, the deputies shall have any necessary specified powers to perform any necessary or specified duties of the workers' compensation commissioner pertaining to the commissioner's office. Notwithstanding the definitions and terms of chapter 17A, pertaining to the issuance of final decisions, when the above circumstances exist a deputy commissioner shall have the power to issue a final decision as if issued by the agency.

[C24, 27, 31, 35, 39, §**1425;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.3]

98 Acts, ch 1061, §11

86.4 Political activity and contributions.

It shall be unlawful for the commissioner, or a chief deputy workers' compensation commissioner while in office, to espouse the election or appointment of any candidate to any political office, and any person violating the provisions of this section shall be guilty of a simple misdemeanor.

[S13, §2477-m23, -m37; C24, 27, 31, 35, 39, §**1427;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.4]

90 Acts, ch 1261, §27; 98 Acts, ch 1061, §11

86.5 Political promises.

Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom the person may recommend to any office within the power of the commissioner to appoint, shall be guilty of a simple misdemeanor.

[S13, §2477-m38; C24, 27, 31, 35, 39, §**1428;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.5]

86.6 Recommendations of commissioner.

All recommendations to the governor of any person asking the appointment of another as commissioner shall be reduced to writing, signed by the person presenting the same, which shall be filed by the governor in the governor's office and open at all reasonable times for public inspection, and all recommendations made by any person to the commissioner for the appointment of another within the power of the commissioner to appoint, shall be reduced to writing, signed by the person presenting the same, and filed by the commissioner and open for public inspection at all reasonable times. If any person recommending the appointment of another within the contemplation of this section refuses to reduce the same to writing, it shall be the duty of the person to whom the recommendation is made, to make a memorandum thereof, stating the name of the person recommended and the name of the person who made

the same, which shall be filed in the office of the governor or the commissioner as the case may be.

[S13, §2477-m39; C24, 27, 31, 35, 39, §**1429;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.6]

86.7 Interest in affected business.

It shall be unlawful for the commissioner to be financially interested in any business enterprise coming under or affected by this chapter during the commissioner's term of office, and if the commissioner violates this statute, it shall be sufficient grounds for removal from office, and in such case the governor shall at once declare the office vacant and appoint another to fill the vacancy.

[S13, §2477-m39; C24, 27, 31, 35, 39, §**1430;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.7]

86.8 Duties.

1. The commissioner shall:

a. Adopt and enforce rules necessary to implement this chapter and chapters 85, 85A, 85B, and 87.

b. Prepare and distribute the necessary blanks relating to computation, adjustment, and settlement of compensation.

c. Prepare and publish statistical reports and analyses regarding the cost, occurrence, and sources of employment injuries.

d. Administer oaths and examine books and records of parties subject to the workers' compensation laws.

e. Provide a seal for the authentication of orders and records and for other purposes as required.

2. Subject to the approval of the director of the department of workforce development, the commissioner may enter into contracts with any state agency, with or without reimbursement, for the purpose of obtaining the services, facilities, and personnel of the agency and with the consent of any state agency or political subdivision of the state, accept and use the services, facilities, and personnel of the agency or political subdivision, and employ experts and consultants or organizations in order to expeditiously, efficiently, and economically effectuate the purposes of this chapter. The agreements under this subsection are subject to approval by the executive council if approval is required by law.

[S13, §2477-m24; C24, 27, 31, 35, 39, §**1431;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.8]

86 Acts, ch 1245, §911; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §172

86.9 Reports.

1. The director of the department of workforce development, in consultation with the commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of workers' compensation for the preceding year, the number of claims processed by the division and the disposition of the claims, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 85, 85A, 85B, and 87, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

2. The commissioner, after consultation with the director of the department of workforce development, may compile an annual report setting forth the final decisions, rulings, and orders of the division for the preceding year and setting forth other matters or information which the commissioner considers desirable for publication.

3. These annual reports may be distributed by the state on request to public officials as

set forth in chapter 7A. Members of the public may obtain an annual report upon payment of its cost as set by the commissioner.

[S13, §2477-m24; C24, 27, 31, 35, 39, §**1432;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.9; 81 Acts, ch 6, §13]

84 Acts, ch 1067, §16; 86 Acts, ch 1245, §912; 96 Acts, ch 1186, §23; 98 Acts, ch 1061, §5; 2018 Acts, ch 1026, §32

86.10 Records of employer — right to inspect.

1. All books, records, and payrolls of the employers, showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the workers' compensation commissioner or any of the commissioner's representatives presenting a certificate of authority from said commissioner for the purpose of ascertaining the correctness of the wage expenditure, the number of persons employed, and such other information as may be necessary for the uses and purposes of the commissioner in the administration of the law.

2. Information so obtained shall be used for no other purpose than to advise the commissioner or insurance association with reference to such matters.

3. Upon a refusal on the part of the employer to submit the employer's books, records, or payrolls for the inspection of the commissioner or the commissioner's authorized representatives presenting written authority from the commissioner, the commissioner may enter an order requiring the employer to do so.

[S13, §2477-m36; C24, 27, 31, 35, 39, §**1433;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.10]

98 Acts, ch 1061, §11; 2017 Acts, ch 54, §76

Referred to in §86.12

86.11 Reports of injuries.

Every employer shall keep a record of all injuries, fatal or otherwise, alleged by an employee to have been sustained in the course of the employee's employment and resulting in incapacity for a longer period than one day. If the injury results only in temporary disability, causing incapacity for a longer period than three days, then within four days thereafter, not counting Sundays and legal holidays, the employer or insurance carrier having had notice or knowledge of the occurrence of such injury and resulting disability shall file a report with the workers' compensation commissioner in the form and manner required by the commissioner. If such injury to the employee results in permanent total disability, permanent partial disability, or death, then the employer or insurance carrier, upon notice or knowledge of the occurrence of the employment injury, shall file a report with the workers' compensation commissioner within four days after having notice or knowledge of the permanent injury to the employee or the employee's death. The report to the workers' compensation commissioner of injury shall be without prejudice to the employer or insurance carrier and shall not be admitted in evidence or used in any trial or hearing before any court, the workers' compensation commissioner, or a deputy workers' compensation commissioner except as to the notice under section 85.23.

[S13, §2477-m36; C24, 27, 31, 35, 39, §**1434;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.11]

98 Acts, ch 1061, §6, 11; 2000 Acts, ch 1007, §4; 2019 Acts, ch 59, §37

Referred to in §86.12

86.12 Failure to report.

1. The workers' compensation commissioner may require any employer to supply the information required by section 86.10 or to file a report required by section 86.11 or 86.13 or by agency rule, by written demand sent to the employer's last known address. Upon failure to supply such information or file such report within thirty days, the employer may be ordered to appear and show cause why the employer should not be subject to assessment of one thousand dollars for each occurrence. Upon such hearing, the workers' compensation commissioner shall enter a finding of fact and may enter an order requiring such assessment to be paid into the second injury fund created by sections 85.63 through 85.69. In the

event the assessment is not voluntarily paid within thirty days, the workers' compensation commissioner may file a certified copy of such finding and order with the clerk of the court for the district in which the employer maintains a place of business. If the employer maintains no place of business in this state, service shall be made as provided in chapter 85 for nonresident employers. In such case the finding and order may be filed in any court of competent jurisdiction within this state.

2. The workers' compensation commissioner may thereafter petition the court for entry of judgment upon such order, serving notice of such petition on the employer and any other person in default. If the court finds the order valid, the court shall enter judgment against the person or persons in default for the amount due under the order. No fees shall be required for the filing of the order or for the petition for judgment, or for the entry of judgment or for any enforcement procedure thereupon. No supersedeas shall be granted by any court to a judgment entered under this section.

3. When a report is required under section 86.11 or 86.13 or by agency rule, and the employer's insurance carrier possesses the information necessary to file the report, the insurance carrier shall be responsible for filing the report in the same manner and to the same extent as an employer under this section.

[S13, §2477-m36; C24, 27, 31, 35, 39, §**1435;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.12]

98 Acts, ch 1061, §11; 2003 Acts, 1st Ex, ch 1, §122, 124, 133

[2003 Acts, 1st Ex, ch 1, §122, 124, 133, amendments to this section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §14, 19; 2017 Acts, ch 54, §76; 2021 Acts, ch 80, §42
Subsection 1 amended

86.13 Compensation payments.

1. If an employer or insurance carrier pays weekly compensation benefits to an employee, the employer or insurance carrier shall file with the workers' compensation commissioner in the form and manner required by the workers' compensation commissioner a notice of the commencement of the payments. The payments establish conclusively that the employer and insurance carrier have notice of the injury for which benefits are claimed but the payments do not constitute an admission of liability under this chapter or chapter 85, 85A, or 85B.

2. If an employer or insurance carrier fails to file the notice required by this section, the failure stops the running of the time periods in section 85.26 as of the date of the first payment. If commenced, the payments shall be terminated only when the employee has returned to work, or upon thirty days' notice stating the reason for the termination and advising the employee of the right to file a claim with the workers' compensation commissioner.

3. This section does not prevent the parties from reaching an agreement for settlement regarding compensation. However, the agreement is valid only if signed by all parties and approved by the workers' compensation commissioner.

4. *a.* If a denial, a delay in payment, or a termination of benefits occurs without reasonable or probable cause or excuse known to the employer or insurance carrier at the time of the denial, delay in payment, or termination of benefits, the workers' compensation commissioner shall award benefits in addition to those benefits payable under this chapter, or chapter 85, 85A, or 85B, up to fifty percent of the amount of benefits that were denied, delayed, or terminated without reasonable or probable cause or excuse.

b. The workers' compensation commissioner shall award benefits under this subsection if the commissioner finds both of the following facts:

(1) The employee has demonstrated a denial, delay in payment, or termination of benefits.

(2) The employer has failed to prove a reasonable or probable cause or excuse for the denial, delay in payment, or termination of benefits.

c. In order to be considered a reasonable or probable cause or excuse under paragraph *"b"*, an excuse shall satisfy all of the following criteria:

(1) The excuse was preceded by a reasonable investigation and evaluation by the employer or insurance carrier into whether benefits were owed to the employee.

(2) The results of the reasonable investigation and evaluation were the actual basis upon

which the employer or insurance carrier contemporaneously relied to deny, delay payment of, or terminate benefits.

(3) The employer or insurance carrier contemporaneously conveyed the basis for the denial, delay in payment, or termination of benefits to the employee at the time of the denial, delay, or termination of benefits.

[S13, §2477-m25; C24, 27, 31, 35, 39, §**1436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.13; 82 Acts, ch 1161, §23]

98 Acts, ch 1061, §7, 11; 2009 Acts, ch 179, §110

Referred to in §85.26, 85.72, 86.12, 86.14

86.13A Compliance monitoring and enforcement.

1. The workers' compensation commissioner shall monitor the rate of compliance of each employer and each insurer with the requirement to commence benefit payments within the time specified in section 85.30. The commissioner shall determine the percentage of reported injuries where the statutory standard was met and the average number of days that commencement of voluntary benefits was delayed for each employer and each insurer individually, and for all employers and all insurers as separate groups.

2. If during any fiscal year commencing after June 30, 2006, the general business practices of an employer or insurer result in the delay of the commencement of voluntary weekly compensation payments after the date specified in section 85.30 more frequently and for a longer number of days than the average number of days for the entire group of employers or insurers, the commissioner may impose an assessment on the employer or insurer payable to the second injury fund created in section 85.66. The amount of the assessment shall be ten dollars, multiplied by the average number of days that weekly compensation payments were delayed after the date specified in section 85.30, and multiplied by the number of injuries the employer or insurer reported during the fiscal year. Notwithstanding the foregoing, an assessment shall not be imposed if the employer or insurer commenced voluntary weekly compensation benefits within the time specified in section 85.30 for more than seventy-five percent of the injuries reported by the employer or insurer.

3. The commissioner may waive or reduce an assessment under this section if an employer or insurer demonstrates to the commissioner that atypical events during the fiscal year, including but not limited to a small number of cases, made the statistical data for that employer or insurer unrepresentative of the actual payout practices of the employer or insurer for that year.

2003 Acts, 1st Ex, ch 1, §123, 124, 133

[2003 enactment of section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §15, 16, 19; 2017 Acts, ch 54, §76

86.14 Contested cases.

1. In an original proceeding, all matters relevant to a dispute are subject to inquiry.

2. In a proceeding to reopen an award for payments or agreement for settlement as provided by section 86.13, inquiry shall be into whether or not the condition of the employee warrants an end to, diminishment of, or increase of compensation so awarded or agreed upon.

[S13, §2477-m26, -m28; C24, 27, 31, 35, 39, §**1437, 1438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.14]

86.15 and 86.16 Reserved.

86.17 Hearings — presiding officer — venue.

1. Notwithstanding the provisions of section 17A.11, the workers' compensation commissioner or a deputy workers' compensation commissioner shall preside over any contested case proceeding brought under this chapter, chapter 85, 85A, or 85B in the manner provided by chapter 17A. The deputy commissioner or the commissioner may make such inquiries in contested case proceedings as shall be deemed necessary, so long as such inquiries do not violate any of the provisions of section 17A.17.

2. Hearings in contested case proceedings under chapters 85, 85A and this chapter shall be held in the judicial district where the injury occurred. By written stipulation of the parties or by the order of a deputy workers' compensation commissioner or the commissioner, a hearing may be held elsewhere. If the injury occurred outside this state, or if the proceeding is not one for benefits resulting from an injury, hearings shall be held in Polk county or as otherwise stipulated by the parties or by order of a deputy workers' compensation commissioner or the workers' compensation commissioner.

[S13, §2477-m29; C24, 27, 31, 35, 39, §**1437, 1440, 1460;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §86.15, 86.17; C77, §86.17, 86.37; C79, 81, §86.17]

98 Acts, ch 1061, §11; 98 Acts, ch 1202, §29, 46; 2000 Acts, ch 1058, §12

Referred to in §86.26

86.18 Hearings — evidence.

1. Evidence, process and procedure in contested case proceedings or appeal proceedings within the agency under this chapter, chapters 85 and 85A shall be as summary as practicable consistent with the requirements of chapter 17A.

2. The deposition of any witness may be taken and used as evidence in any pending proceeding or appeal within the agency.

[C24, 27, 31, 35, 39, §**1441, 1444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §86.18, 86.21; C79, 81, §86.18]

86.19 Reporting of proceedings.

1. The workers' compensation commissioner, or a deputy commissioner, may appoint or may direct a party to furnish at the party's initial expense a certified shorthand reporter to be present and report, or to furnish mechanical means to record, and if necessary, transcribe proceedings of any contested case under this chapter, chapters 85 and 85A and fix the reasonable amount of compensation for such service. The charges shall be taxed as costs and the party initially paying the expense of the presence or transcription shall be reimbursed. The reporter shall faithfully and accurately report the proceedings.

2. Notwithstanding the requirements of section 17A.12, subsection 7, a certified shorthand reporter, appointed by the presiding officer in a contested case proceeding or by the workers' compensation commissioner in an appeal proceeding, may maintain and thus have the responsibility for the recording or stenographic notes for the period required by section 17A.12, subsection 7.

[C24, 27, 31, 35, 39, §**1442;** C46, 50, 54, 58, 62, 66, 71, 73, §86.19; C75, 77, §86.19, 86.28; C79, 81, §86.19]

98 Acts, ch 1061, §11

Taxation of costs, §86.40

86.20 through 86.23 Reserved.

86.24 Appeals within the agency.

1. Any party aggrieved by a decision, order, ruling, finding or other act of a deputy commissioner in a contested case proceeding arising under this chapter or chapter 85 or 85A may appeal to the workers' compensation commissioner in the time and manner provided by rule. The hearing on an appeal shall be in Polk county unless the workers' compensation commissioner shall direct the hearing be held elsewhere.

2. In addition to the provisions of section 17A.15, the workers' compensation commissioner may affirm, modify, or reverse the decision of a deputy commissioner or the commissioner may remand the decision to the deputy commissioner for further proceedings.

3. In addition to the provisions of section 17A.15, the workers' compensation commissioner, on appeal, may limit the presentation of evidence as provided by rule.

4. A transcript of a contested case proceeding shall be provided to the workers' compensation commissioner by an appealing party at the party's cost.

5. The decision of the workers' compensation commissioner is final agency action.

[S13, §2477-m29, -m32; C24, 27, 31, 35, 39, §**1447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.24; 82 Acts, ch 1161, §24]

86 Acts, ch 1238, §46; 86 Acts, ch 1245, §913; 88 Acts, ch 1158, §10; 98 Acts, ch 1061, §11; 2005 Acts, ch 168, §13, 23

86.25 Reserved.

86.26 Judicial review.

1. Judicial review of decisions or orders of the workers' compensation commissioner may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hearing under section 86.17 was held, the workers' compensation commissioner shall transmit to the reviewing court the original or a certified copy of the entire record of the contested case which is the subject of the petition within thirty days after receiving written notice from the party filing the petition that a petition for judicial review has been filed, and an application for stay of agency action during the pendency of judicial review shall not be filed in the division of workers' compensation of the department of workforce development but shall be filed with the district court. Such a review proceeding shall be accorded priority over other matters pending before the district court.

2. Notwithstanding section 17A.19, subsection 5, a timely petition for judicial review filed pursuant to this section shall stay execution or enforcement of a decision or order of the workers' compensation commissioner if the party seeking judicial review posts a bond securing any compensation awarded pursuant to the decision or order with the district court within thirty days of filing the petition, in a reasonable amount as fixed and approved by the court. Unless either the party posting the bond files an objection with the court, within twenty days from the date that the bond is fixed and approved by the court, that the amount of the bond is not reasonable, or the party whose interests are protected by the bond files an objection with the court, within twenty days from the date that the amount of the bond is fixed and approved by the court, that the amount of the bond is not reasonable or adequate, the amount of the bond shall be deemed reasonable and adequate. If, upon objection, the district court orders the amount of the bond posted to be modified, the party seeking judicial review shall repost the bond in the amount ordered, within twenty days of the date of the order modifying the bond, in order to continue the stay of execution or enforcement of the decision or order of the workers' compensation commissioner.

[S13, §2477-m33; C24, 27, 31, 35, 39, §**1449, 1451;** C46, 50, 54, 58, 62, 66, 71, 73, §86.26, 86.28; C75, 77, 79, 81, §86.26]

86 Acts, ch 1238, §47; 88 Acts, ch 1158, §11; 95 Acts, ch 140, §3; 98 Acts, ch 1061, §11; 2001 Acts, ch 87, §7; 2017 Acts, ch 23, §20, 24

Referred to in §85.70, 86.42

2017 amendment applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

86.27 Settlement of controversy.

Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, no party to a contested case under any provision of the "Workers' Compensation Act" may settle a controversy without the approval of the workers' compensation commissioner.

[C75, 77, 79, 81, §86.27]

98 Acts, ch 1061, §11; 2003 Acts, ch 44, §114

86.28 Reserved.

86.29 The judicial review petition.

Notwithstanding chapter 17A, the Iowa administrative procedure Act, in a petition for judicial review of a decision of the workers' compensation commissioner in a contested case

under this chapter or chapter 85, 85A, 85B, or 87, the opposing party shall be named the respondent, and the agency shall not be named as a respondent.

[C75, 77, 79, 81, §86.29]

83 Acts, ch 105, §8; 86 Acts, ch 1238, §48; 88 Acts, ch 1158, §12; 98 Acts, ch 1061, §11

86.30 and 86.31 Reserved.

86.32 Costs of judicial review.

In proceedings for judicial review of compensation cases the clerk shall charge no fee for any service rendered except the filing fee and transcript fees when the transcript of a judgment is required. The taxation of costs on judicial review shall be in the discretion of the court.

[C24, 27, 31, 35, 39, §**1455;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.32]

86 Acts, ch 1238, §49; 88 Acts, ch 1158, §13

86.33 through 86.35 Reserved.

86.36 Notice and service — resident and nonresident employers. Repealed by 2000 Acts, ch 1007, §6. See §85.3.

86.37 Reserved.

86.38 Examination by physician — fee.

The workers' compensation commissioner may appoint a duly qualified, impartial physician to examine the injured employee and make report. The fee for this service shall be five dollars, to be paid by the workers' compensation commissioner, together with traveling expenses, but the commissioner may allow additional reasonable amounts in extraordinary cases. Any physician so examining any injured employee shall not be prohibited from testifying before the workers' compensation commissioner, or any other person, commission, or court, as to the results of the examination or the condition of the injured employee.

[S13, §2477-m30; C24, 27, 31, 35, 39, §**1461;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.38]

98 Acts, ch 1061, §11

Referred to in §85.27

86.39 Fees — approval.

1. All fees or claims for legal, medical, hospital, and burial services rendered under this chapter and chapters 85, 85A, 85B, and 87 are subject to the approval of the workers' compensation commissioner. For services rendered in the district court and appellate courts, the attorney fee is subject to the approval of a judge of the district court.

2. An attorney shall not recover fees for legal services based on the amount of compensation voluntarily paid or agreed to be paid to an employee for temporary or permanent disability under this chapter, or chapter 85, 85A, 85B, or 87. An attorney shall only recover a fee based on the amount of compensation that the attorney demonstrates would not have been paid to the employee but for the efforts of the attorney. Any disputes over the recovery of attorney fees under this subsection shall be resolved by the workers' compensation commissioner.

[S13, §2477-m20, -m35; C24, 27, 31, 35, 39, §**1462;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.39]

86 Acts, ch 1238, §50; 88 Acts, ch 1158, §14; 98 Acts, ch 1061, §11; 2000 Acts, ch 1007, §5; 2017 Acts, ch 23, §21, 24

Referred to in §85.27

2017 amendment applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

86.40 Costs.

All costs incurred in the hearing before the commissioner shall be taxed in the discretion of the commissioner.

[S13, §2477-m31; C24, 27, 31, 35, 39, §**1463;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.40]

86.41 Witness fees.

Witness fees and mileage on hearings before the workers' compensation commissioner shall be the same as in the district court.

[S13, §2477-m24; C24, 27, 31, 35, 39, §**1464;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.41]

98 Acts, ch 1061, §11

Witness fees and mileage, §622.69 – 622.75

86.42 Judgment by district court on award.

Any party in interest may present a file-stamped copy of an order or decision of the commissioner, from which a timely petition for judicial review has not been filed or if judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, or section 86.26, subsection 2, or an order or decision of a deputy commissioner from which a timely appeal has not been taken within the agency and which has become final by the passage of time as provided by rule and section 17A.15, or an agreement for settlement approved by the commissioner, and all papers in connection therewith, to the district court where judicial review of the agency action may be commenced. The court shall render a decree or judgment and cause the clerk to notify the parties. The decree or judgment, in the absence of a petition for judicial review or if judicial review has been commenced, in the absence of a stay of execution or enforcement of the decision or order of the workers' compensation commissioner as provided in section 17A.19, subsection 5, or section 86.26, subsection 2, or in the absence of an act of any party which prevents a decision of a deputy workers' compensation commissioner from becoming final, has the same effect and in all proceedings in relation thereto is the same as though rendered in a suit duly heard and determined by the court.

[S13, §2477-m33; C24, 27, 31, 35, 39, §**1465;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.42; 82 Acts, ch 1161, §25]

86 Acts, ch 1238, §51; 88 Acts, ch 1158, §15; 98 Acts, ch 1061, §11; 2003 Acts, ch 140, §4; 2017 Acts, ch 23, §22, 24

2017 amendment applies to injuries occurring on or after July 1, 2017; 2017 Acts, ch 23, §24

86.43 Judgment — modification.

Upon the presentation to the court of a file-stamped copy of a decision of the workers' compensation commissioner, ending, diminishing, or increasing the compensation under the provisions of this chapter, the court shall revoke or modify the decree or judgment to conform to such decision.

[S13, §2477-m33; C24, 27, 31, 35, 39, §**1466;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.43]

98 Acts, ch 1061, §11; 2003 Acts, ch 140, §5

86.44 Confidentiality.

1. All verbal or written information relating to the subject matter of an agreement and transmitted between any party to a dispute and a mediator to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, during any stage of a mediation or a dispute resolution process conducted by a mediator as provided in this section, whether reflected in notes, memoranda, or other work products in the case files, is a confidential communication except as otherwise expressly provided in this chapter. Mediators involved in a mediation or a dispute resolution process shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

2. For purposes of this section, "*mediator*" means a chief deputy workers' compensation

commissioner or deputy workers' compensation commissioner acting in the capacity to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, or an employee of the division of workers' compensation involved during any stage of a process to resolve a dispute.

94 Acts, ch 1064, §2; 98 Acts, ch 1061, §8, 11; 2019 Acts, ch 24, §104
Referred to in §22.7(31)

86.45 Confidential information.

1. "*Confidential information*", for the purposes of this section, means all information that is filed with the workers' compensation commissioner as a result of an employee's injury or death that would allow the identification of the employee or the employee's dependents. Confidential information includes first reports of injury and subsequent reports of claim activity. Confidential information does not include pleadings, motions, decisions, opinions, or applications for settlement that are filed with the workers' compensation commissioner.

2. The workers' compensation commissioner shall not disclose confidential information except as follows:

a. Pursuant to the terms of a written waiver of confidentiality executed by the employee or the dependents of the employee whose information is filed with the workers' compensation commissioner.

b. To another governmental agency, or to an advisory, rating, or research organization, for the purpose of compiling statistical data, evaluating the state's workers' compensation system, or conducting scientific, medical, or public policy research, where such disclosure will not allow the identification of the employee or the employee's dependents.

c. To the employee or to the agent or attorney of the employee whose information is filed with the workers' compensation commissioner.

d. To the person or to the agent of the person who submitted the information to the workers' compensation commissioner.

e. To an agent, representative, attorney, investigator, consultant, or adjuster of an employer, or insurance carrier or third-party administrator of workers' compensation benefits, who is involved in administering a claim for such benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

f. To all parties to a contested case proceeding before the workers' compensation commissioner in which the employee or a dependent of the employee, whose information is filed with the workers' compensation commissioner, is a party.

g. In compliance with a subpoena.

h. To an agent, representative, attorney, investigator, consultant, or adjuster of the employee, employer, or insurance carrier or third-party administrator of insurance benefits, who is involved in administering a claim for insurance benefits related to the injury or death of the employee whose information is filed with the workers' compensation commissioner.

i. To another governmental agency that is charged with the duty of enforcing liens or rights of subrogation or indemnity.

3. This section does not create a cause of action for a violation of its provisions against the workers' compensation commissioner or against the state or any governmental subdivision of the state.

2005 Acts, ch 168, §14, 23
Referred to in §22.7(49)

CHAPTER 87

WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY INSURANCE

Referred to in §84A.5, 85.3, 85.31, 85.35, 85.55, 85.61, 86.8, 86.9, 86.29, 86.39, 93.2, 331.324, 515B.5, 669.14

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87.21 Employer failing to insure.
87.22 Exclusion from workers' compensation or employers' liability coverage — corporate officers, proprietors, limited liability company members, limited liability partners, and partners.
87.23 Compensation liability insurance not required.
87.24 Insurance trade practices covered.

87.1 Insurance of liability required.

1. Every employer subject to the provisions of this chapter and chapters 85, 85A, 85B, and 86, unless relieved as hereinafter provided from the requirements imposed under this chapter and chapters 85, 85A, 85B, and 86, shall insure the employer's liability under this chapter and chapters 85, 85A, 85B, and 86 in some corporation, association, or organization approved by the commissioner of insurance.

2. A motor carrier who contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 11, paragraph "*c*", shall not be required to insure the motor carrier's liability for the owner-operator. A motor carrier may procure compensation liability insurance coverage for these owner-operators, and may charge the owner-operator for the costs of the premiums. A motor carrier shall require the owner-operator to provide and maintain a certificate of workers' compensation insurance covering the owner-operator's employees. An owner-operator shall remain responsible for providing compensation liability insurance for the owner-operator's employees.

3. Every such employer shall exhibit, on demand of the workers' compensation commissioner, evidence of the employer's compliance with this section; and if such employer refuses, or neglects to comply with this section, the employer shall be liable in case of injury to any worker in the employer's employ under the common law as modified by statute.

[S13, §2477-m41; C24, 27, 31, 35, 39, §**1467;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.1]

91 Acts, ch 209, §2; 94 Acts, ch 1066, §1; 98 Acts, ch 1061, §11; 2007 Acts, ch 22, §22; 2008 Acts, ch 1031, §27, 100

Referred to in §87.4

87.2 Notice of failure to insure.

1. An employer who fails to insure the employer's liability as required by this chapter shall keep posted a sign of sufficient size and so placed as to be easily seen by the employer's employees in the immediate vicinity where working, which sign shall read as follows:

NOTICE TO EMPLOYEES

You are hereby notified that the undersigned employer has failed to insure the employer's liability to pay compensation as required by law, and that because of such failure the employer is liable to the employer's employees in damages for personal injuries sustained by the employer's employees.

(Signed) .....

2. An employer coming under the provisions of this chapter and chapters 85, 85A, 85B, and 86 who fails to comply with this section, or to post and keep the above notice in the manner and form required, shall be guilty of a simple misdemeanor.

[C24, 27, 31, 35, 39, §**1468;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.2]

94 Acts, ch 1066, §2; 2008 Acts, ch 1032, §11

87.3 Maximum commission for renewal.

No insurer of any obligation under this chapter shall either by itself or through another, either directly or indirectly, charge or accept as a commission or compensation for placing or renewing any insurance under this chapter, more than fifteen percent of the premium charged.

[S13, §2477-m46; C24, 27, 31, 35, 39, §**1469;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.3]

87.4 Group and self-insured plans — tax exemption — plan approval.

1. For the purpose of complying with this chapter, groups of employers by themselves or in an association with any or all of their workers, may form insurance associations as hereafter provided, subject to such reasonable conditions and restrictions as may be fixed by the insurance commissioner; and membership in such mutual insurance organization as approved, together with evidence of the payment of premiums due, shall be evidence of compliance with this chapter.

2. A self-insurance association formed under this section and an association comprised of cities or counties, or both, or the association of Iowa fairs or a fair as defined in section 174.1, or community colleges as defined in section 260C.2 or school corporations, or both, or other political subdivisions, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

3. A plan shall be submitted to the commissioner of insurance for review and approval prior to its implementation. The commissioner shall adopt rules for the review and approval of a self-insured group plan provided under this section. The rules shall include but are not limited to the following:

a. Procedures for submitting a plan for approval including the establishment of a fee schedule to cover the costs of conducting the review.

b. Establishment of minimum financial standards to ensure the ability of the plan to adequately cover the reasonably anticipated expenses.

4. A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities or counties, or both, or the association of Iowa fairs or a fair as defined in section 174.1, or community colleges, as defined in section 260C.2, or other political subdivisions, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

5. The workers' compensation premium written on a municipality which is a member of an insurance pool which provides workers' compensation insurance coverage to a

statewide group of municipalities, as defined in section 670.1, shall not be considered in the determination of any assessments levied pursuant to an agreement established under section 515A.15.

[S13, §2477-m42; C24, 27, 31, 35, 39, §**1470;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.4]

85 Acts, ch 251, §1; 88 Acts, ch 1112, §201, 202; 89 Acts, ch 83, §19; 90 Acts, ch 1067, §1, 2; 95 Acts, ch 185, §1; 97 Acts, ch 37, §5; 2000 Acts, ch 1023, §1, 2; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1139, §1; 2008 Acts, ch 1191, §121, 122

Referred to in §85.65A, 258.10, 507E.2A, 515A.15

87.5 Benefit insurance.

Subject to the approval of the workers' compensation commissioner, any employer or group of employers may enter into or continue an agreement with the workers of the employer or group of employers to provide a scheme of compensation, benefit, or insurance in lieu of compensation and insurance; but such scheme shall in no instance provide less than the benefits provided and secured, nor vary the period of compensation provided for disability or for death, or the provisions of law with respect to periodic payments, or the percentage that such payments shall bear to weekly wages, except that the sums required may be increased; and the approval of the workers' compensation commissioner shall be granted, if the scheme provides for contribution by workers, only when it confers benefits, in addition to those required by law, commensurate with such contributions.

[S13, §2477-m43; C24, 27, 31, 35, 39, §**1471;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.5]

98 Acts, ch 1061, §11

87.6 Certificate of approval.

When such scheme or plan is approved by the workers' compensation commissioner, the commissioner shall issue a certificate to that effect, whereupon it shall be legal for such employer, or group of employers, to contract with any or all of the workers of the employer or group of employers to substitute such scheme or plan for the provisions relating to compensation and insurance during a period of time fixed by said department.

[S13, §2477-m44; C24, 27, 31, 35, 39, §**1472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.6]

98 Acts, ch 1061, §11

87.7 Termination of plan — appeal.

Such scheme or plan may be terminated by the workers' compensation commissioner on reasonable notice to the interested parties if it shall appear that the same is not fairly administered, or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter; but from any such order of said workers' compensation commissioner judicial review may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, upon the giving of proper bond to protect the interests involved.

[S13, §2477-m45; C24, 27, 31, 35, 39, §**1473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.7]

98 Acts, ch 1061, §11; 2003 Acts, ch 44, §114

87.8 Insolvency clause prohibited.

No policy of insurance issued under this chapter shall contain any provision relieving the insurer from payment if the insured becomes insolvent or discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is unpaid.

[S13, §2477-m48; C24, 27, 31, 35, 39, §**1474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.8]

87.9 Policy clauses required.

Every policy shall provide that the worker shall have a first lien upon any amount becoming due on account of such policy to the insured from the insurer, and that in case of the legal incapacity, inability, or disability of the insured to receive the amount due and pay it over to the insured worker, or the worker's dependents, said insurer shall pay the same directly to such worker, the worker's agent, or to a trustee for the worker or the worker's dependents, to the extent of any obligation of the insured to said worker or the worker's dependents.

[S13, §2477-m48; C24, 27, 31, 35, 39, §**1475;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.9]

87.10 Other policy requirements.

Every policy issued by an insurance corporation, association, or organization to insure the payment of compensation shall contain a clause providing that between any employer and the insurer, notice to and knowledge of the occurrence of injury or death on the part of the insured shall be notice and knowledge on the part of the insurer; and jurisdiction of the insured shall be jurisdiction of the insurer, and the insurer shall be bound by every agreement, adjudication, award or judgment rendered against the insured.

[S13, §2477-m47; C24, 27, 31, 35, 39, §**1476;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.10]

87.11 Relief from insurance — procedures upon employer's insolvency.

1. *a.* When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner. Such security shall be held in trust for the sole purpose of paying compensation and benefits and is not subject to attachment, levy, execution, garnishment, liens, or any other form of encumbrance. However, the insurance commissioner shall be reimbursed from the security for all costs and fees incurred by the insurance commissioner in resolving disputes involving the security. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

b. If an approved self-insured employer discontinues its self-insured status or enters bankruptcy proceedings, the self-insured employer or its successor in interest may petition the commissioner of insurance for release of its security. The commissioner shall release the security upon a finding of both of the following:

(1) The employer has not been self-insured pursuant to this chapter for at least four years.

(2) Ten years have elapsed from the date of the last open claim, claim activity, or claim payment involving the self-insured employer or its successor in interest, whichever is later.

c. The commissioner shall release the security upon a finding that a self-insured employer presents acceptable replacement security.

2. An employer seeking relief from the insurance requirements of this chapter shall pay to the insurance division of the department of commerce the following fees:

a. A fee of one hundred dollars, to be submitted annually along with an application for relief.

b. A fee of one hundred dollars for issuance of the certificate relieving the employer from the insurance requirements of this chapter.

c. A fee of fifty dollars, to be submitted with each filing required by the commissioner of insurance, including but not limited to the annual and quarterly financial statements, and material change statements.

3. *a.* If an employer becomes insolvent and a debtor under 11 U.S.C., on or after January 1, 1990, the commissioner of insurance may request of the workers' compensation

commissioner that all future payments of workers' compensation weekly benefits, medical expenses, or other payments pursuant to this chapter or chapter 85, 85A, 85B, or 86, be commuted to a present lump sum. The workers' compensation commissioner shall fix the lump sum of probable future medical expenses and weekly compensation benefits, or other benefits payable pursuant to this chapter or chapter 85, 85A, 85B, or 86, capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees. The commissioner of insurance shall be discharged from all further liability for the commuted workers' compensation claim upon payment of the present lump sum to either the claimant, or a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant.

b. The commissioner of insurance shall not be required to pay more for all claims of an insolvent self-insured employer than is available for payment of such claims from the security given under this section.

4. Notwithstanding contrary provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payments by the commissioner of insurance from the security given under this section, pursuant to this chapter or chapter 85, 85A, 85B, or 86, shall be deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection 1, paragraph *"b"*.

5. Financial statements provided to the commissioner of insurance pursuant to this section may be held as confidential, proprietary trade secrets pursuant to section 22.7, subsection 3, upon the request of the employer, subject to rules adopted by the commissioner of insurance, and are not subject to disclosure or examination under chapter 22.

[S13, §2477-m49; C24, 27, 31, 35, 39, §**1477;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.11; 82 Acts, ch 1003, §1]

91 Acts, ch 160, §3, 4; 98 Acts, ch 1061, §11; 99 Acts, ch 114, §4; 2001 Acts, ch 69, §1; 2005 Acts, ch 168, §15, 23; 2007 Acts, ch 137, §1; 2008 Acts, ch 1032, §196

Referred to in §85.65A, 87.11D, 87.11E, 87.21, 91C.2, 507.14, 507E.2A

87.11A Examination required.

The commissioner of insurance may at any time examine or inquire into the affairs of any self-insured employer. A domestic self-insured employer, or a self-insured employer not subject to periodic examination in its state of origin, shall be examined at least once during each three-year period.

91 Acts, ch 160, §5; 92 Acts, ch 1163, §18

Referred to in §87.11E

87.11B Obligation to assist an examination — oaths.

If a self-insured employer is being examined, the officers, employees, or agents of the employer shall produce for inspection all books, documents, papers, and other information concerning the affairs of the employer and shall otherwise assist in the examination to the extent possible. The commissioner of insurance, or the commissioner's legally authorized representative in charge of the examination, may administer oaths and take testimony bearing upon the affairs of an employer under examination.

91 Acts, ch 160, §6; 92 Acts, ch 1163, §19

Referred to in §87.11E

87.11C Self-insurance examiners.

The commissioner of insurance shall appoint one or more self-insurance examiners. An examiner while conducting an examination, possesses all the powers conferred upon the commissioner for such purposes. A self-insurance examiner is subject to the same powers and conditions as imposed under sections 507.4 through 507.7.

91 Acts, ch 160, §7

87.11D Payment of examination expenses by the self-insured employer.

The commissioner of insurance, upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, shall prepare an account of the

costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the self-insured employer examined, and upon failure or refusal of any self-insured employer to pay such a charge, the amount of the charge may be recovered in an action brought in the name of the state, and the commissioner may also revoke the employer's exemption under section 87.11. All fees collected in connection with an examination shall be paid into the general fund.

91 Acts, ch 160, §8; 94 Acts, ch 1107, §5

87.11E Penalties for filing false financial statements.

1. It is unlawful for any person to make or cause to be made, in any document filed with the commissioner of insurance under this chapter, any statement of material fact which is, at the time and in the light of circumstances under which it is made, false or misleading, or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

2. The following persons shall not commit any of the acts or omissions prohibited by subsection 3:

a. An employer.

b. A person administering a self-insurance program, in whole or in part, on behalf of an employer.

c. A partner of the employer or administrator.

d. An officer of the employer or administrator.

e. A director of the employer or administrator.

f. A person occupying a similar status or performing similar functions as persons described in paragraphs *"a"* through *"e"*.

g. A person directly or indirectly controlling the employer or administrator.

3. A person listed under subsection 2 shall not do any of the following:

a. File an application for relief under section 87.11 which as of its effective date, or as of any date after filing in the case of an order denying relief, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. Willfully violate or willfully fail to comply with any provision of sections 87.11, 87.11A, and 87.11B, or any rule or order adopted or issued pursuant to such sections.

4. The commissioner of insurance may deny, suspend, or revoke a certificate of relief issued pursuant to section 87.11, or may impose a civil penalty for a violation of this section.

5. A civil penalty levied under subsection 4 shall not exceed one thousand dollars per violation per person, and shall not exceed ten thousand dollars in a single proceeding against any one person. All civil penalties shall be deposited pursuant to section 505.7.

6. A person who willfully and knowingly violates this section, or a rule or order adopted or issued pursuant to this section, is guilty of a class "D" felony. The commissioner of insurance may refer such evidence as is available concerning violations of this section to the attorney general or the proper county attorney who may, with or without such reference, institute appropriate criminal proceedings under this section. This section does not limit the power of the state to punish a person for conduct which constitutes a crime under any other statute.

91 Acts, ch 160, §9; 2009 Acts, ch 181, §43

87.12 Reserved.

87.13 Interpretative clause.

All provisions in chapters 85, 85A, 85B, 86, and this chapter relating to compensation for injuries sustained arising out of and in the course of employment in the operation of coal mines or production of coal under any system of removing coal for sale are exclusive, compulsory and obligatory upon the employer and employee in such employment.

[C35, §1477-g2; C39, §**1477.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.13]

83 Acts, ch 101, §5

87.14 Reserved.

87.14A Insurance required.

An employer subject to this chapter and chapters 85, 85A, 85B, and 86 shall not engage in business without first obtaining insurance covering compensation benefits or obtaining relief from insurance as provided in this chapter. A person who willfully and knowingly violates this section is guilty of a class "D" felony.

94 Acts, ch 1066, §3; 2005 Acts, ch 168, §16, 23
Referred to in §87.15, 87.19

87.15 Injunctions.

If a violation of section 87.14A has been committed or there is reason to believe a violation of section 87.14A is about to be committed, the attorney general or the county attorney from the county in which a violation has occurred or is about to occur shall, or any person may, bring an action to enjoin such person from committing the violation and the court or judge before whom the action is brought shall, if the facts warrant, issue a temporary or permanent writ of injunction without bond.

[C35, §1477-g4; C39, §**1477.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.15]
94 Acts, ch 1066, §4

87.16 and 87.17 Repealed by 2005 Acts, ch 168, §22, 23.

87.18 Reserved.

87.19 Failure to comply — proceedings.

1. Upon the receipt of information by the workers' compensation commissioner of any employer failing to comply with section 87.14A, the commissioner shall at once notify such employer by certified mail that unless such employer comply with the requirements of law, legal proceedings will be instituted to enforce such compliance.

2. Unless such employer comply with the provisions of the law within fifteen days after the giving of such notice, the workers' compensation commissioner shall report such failure to the attorney general, whose duty it shall be to bring an action in a court of equity to enjoin the further violation. Upon decree being entered for a temporary or permanent injunction, a violation shall be a contempt of court and punished as provided for contempt of court in other cases.

[C31, 35, §1477-c4; C39, §**1477.8;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.19]
98 Acts, ch 1061, §11; 2005 Acts, ch 168, §17, 23; 2021 Acts, ch 76, §150
Contempts, generally, chapter 665
Code editor directive applied

87.20 Revocation of release from insurance.

The insurance commissioner may, at any time, upon reasonable notice to such employer and upon hearing, revoke for cause any order theretofore made relieving any employer from carrying insurance as provided by this chapter.

[S13, §2477-m49; C24, 27, 31, 35, 39, §**1478;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.20]
98 Acts, ch 1061, §11; 2005 Acts, ch 168, §18, 23

87.21 Employer failing to insure.

Any employer, except an employer with respect to an exempt employee under section 85.1, who has failed to insure the employer's liability in one of the ways provided in this chapter, unless relieved from carrying such insurance as provided in section 87.11, is liable to an employee for a personal injury in the course of and arising out of the employment, and the employee may enforce the liability by an action at law for damages, or may collect compensation as provided in chapters 85, 85A, 85B, and 86. In actions by the employee for damages under this section, the following rules apply:

1. It shall be presumed:

a. That the injury to the employee was the direct result and growing out of the negligence of the employer.

b. That such negligence was the proximate cause of the injury.

2. The burden of proof shall rest upon the employer to rebut the presumption of negligence, and the employer shall not be permitted to plead or rely upon any defense of the common law, including the defenses of contributory negligence, assumption of risk and the fellow servant rule.

3. In an action at law for damages the parties have a right to trial by jury.

[C24, 27, 31, §1479; C35, §1479, 1481-e1; C39, §**1479, 1481.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.21, 87.24; 82 Acts, ch 1161, §26, ch 1221, §3]

83 Acts, ch 36, §4, 8

87.22 Exclusion from workers' compensation or employers' liability coverage — corporate officers, proprietors, limited liability company members, limited liability partners, and partners.

1. The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation, may exclude themselves from workers' compensation coverage under chapters 85, 85A, and 85B by knowingly and voluntarily rejecting workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy a written rejection, or if such a policy is not issued, by signing a written rejection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the workers' compensation commissioner. The workers' compensation commissioner shall maintain a list of those corporations that have filed a written rejection pursuant to this subsection or a written termination of that rejection pursuant to subsection 5, paragraph *"a"*, and that list shall be a public record open to public inspection.

2. A proprietor, limited liability company member, limited liability partner, or partner who does not elect to be covered by the workers' compensation law of this state pursuant to section 85.1A by purchasing valid workers' compensation insurance specifically including that person, shall file a nonelection of workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy a written nonelection, or if such a policy is not issued, by signing a written nonelection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the employer and which is filed by the employer with the workers' compensation commissioner. The workers' compensation commissioner shall maintain a list of those employers that have filed a written nonelection pursuant to this subsection or a written termination of that nonelection pursuant to subsection 5, paragraph *"b"*, and that list shall be a public record open to public inspection.

3. *a.* The written rejection made pursuant to subsection 1 shall be in substantially the following form:

REJECTION OF WORKERS'
COMPENSATION OR EMPLOYERS'
LIABILITY COVERAGE

I understand that by signing this statement I reject the coverage of chapters 85, 85A, and 85B of the Code of Iowa relating to workers' compensation.

I understand that my rejection of the coverage of chapters 85, 85A, and 85B is not a waiver of any rights or remedies available to me or to others on my behalf in a civil action related to personal injuries sustained by me arising out of and in the course of my employment with the corporation.

I also understand that by signing this statement and checking alternative (1) below I reject employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of

my employment with the corporation. [Check either alternative (1) or (2):]

(1) I reject the employers' liability coverage.

(2) I decline to reject the employers' liability coverage.

Signed .....
Corporate Office .....
Date .....
City, County, State of Residence .....
Witness .....
Witness .....

I also understand that the signing of this statement and checking of alternative (1) below by an authorized agent of the corporation rejects for the corporation employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the corporation. [Check either alternative (1) or (2):]

(1) The corporation rejects the employers' liability coverage.

(2) The corporation declines to reject the employers' liability coverage.

Signed .....
Relationship to Corporation .....
Date .....
City, County, State of Residence .....
Witness .....
Witness .....

b. The written nonelection of coverage made pursuant to subsection 2 shall be in substantially the following form:

NONELECTION OF WORKERS' COMPENSATION OR EMPLOYERS' LIABILITY COVERAGE

I acknowledge that I am a proprietor, limited liability company member, limited liability partner, or partner and that I am not required to be covered by the workers' compensation law of this state pursuant to section 85.1A. I understand that by signing this statement I am not electing the coverage of chapters 85, 85A, and 85B of the Code of Iowa relating to workers' compensation.

I understand that my nonelection of the coverage of chapters 85, 85A, and 85B is not a waiver of any rights or remedies available to me or to others on my behalf in a civil action related to personal injuries sustained by me arising out of and in the course of my employment with the employer.

I also understand that by signing this statement and checking alternative (1) below I am not electing employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the employer. [Check either alternative (1) or (2):]

(1) I am not electing the employers' liability coverage.

(2) I am electing the employers' liability coverage by purchasing valid workers' compensation insurance specifically including me.

Signed .....
Employer's Office .....
Date .....
City, County, State of Residence .....
Witness .....
Witness .....

I also understand that the signing of this statement and checking of alternative (1) below by an authorized agent of the employer is a nonelection for the employer of the employers' liability coverage for bodily injuries or death sustained by me arising out of and in the course of my employment with the employer. [Check either alternative (1) or (2):]

(1) The employer does not elect the employers' liability coverage.

(2) The employer elects the employers' liability coverage by purchasing valid workers' compensation insurance specifically including me.

Signed .....
Relationship to Employer .....
Date .....
City, County, State of Residence .....
Witness .....
Witness .....

4. The rejection or nonelection of workers' compensation coverage is not enforceable if it is required as a condition of employment.

5. *a.* A corporate officer who signs a written rejection filed with the workers' compensation commissioner pursuant to subsection 1 may terminate the rejection by signing a written notice of termination which is witnessed by two disinterested individuals, who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the workers' compensation commissioner. Following the filing of a notice of termination pursuant to this paragraph, the status of the person signing the notice of termination shall be the same as if the rejection of coverage had not been made, except that the notice of termination shall not be effective as to any injury sustained or disease incurred less than one week after the notice is filed.

b. A proprietor, limited liability company member, limited liability partner, or partner who signs a written nonelection with the workers' compensation commissioner pursuant to subsection 2 may terminate the nonelection by signing a written notice of termination which is witnessed by two disinterested individuals, who are not, formally or informally, affiliated with the employer and which is filed by the employer with the workers' compensation commissioner. Following the filing of a notice of termination pursuant to this paragraph, the status of the person signing the notice of termination shall be the same as if the nonelection of coverage had not been made and the person may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including that person as provided in section 85.1A, except that the election of coverage shall not be effective as to any injury sustained or disease incurred less than one week after the notice is filed.

83 Acts, ch 36, §5, 7, 8; 97 Acts, ch 186, §1; 98 Acts, ch 1061, §11; 2008 Acts, ch 1031, §28; 2015 Acts, ch 47, §1

Referred to in §85.1, 517.6

87.23 Compensation liability insurance not required.

A corporation, association, or organization approved by the commissioner of insurance to provide compensation liability insurance shall not require a motor carrier that contracts with an owner-operator who is acting as an independent contractor pursuant to section 85.61, subsection 11, paragraph "*c*", to purchase compensation liability insurance for the employer's liability for the owner-operator or its employees.

91 Acts, ch 209, §3; 2007 Acts, ch 22, §23; 2008 Acts, ch 1031, §101

87.24 Insurance trade practices covered.

A workers' compensation coverage plan regulated under this chapter shall be considered a person for purposes of chapter 507B.

93 Acts, ch 88, §2

CHAPTER 88

OCCUPATIONAL SAFETY AND HEALTH

Referred to in §10A.601, 84A.5, 89A.2, 89B.8, 91.4, 154F.2, 331.324, 455B.135, 455B.390, 730.5

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88.1 Public policy.

It is the policy of this state to assure so far as possible every working person in the state safe and healthful working conditions and to preserve human resources by:

1. Encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and perfect existing programs for providing safe and healthful working conditions.

2. Providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions.

3. Authorizing the labor commissioner to set mandatory occupational safety and health standards applicable to businesses, and by providing for an adjudicatory process through the employment appeal board within the department of inspections and appeals for carrying out adjudicatory functions under this chapter.

4. Building upon advances already made through employer and employee initiative for providing safe and healthful working conditions.

5. Providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

6. Exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety.

7. Providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity or life expectancy as a result of the employee's work experience.

8. Providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health.

9. Providing for the development and promulgation of occupational safety and health standards.

10. Providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for an individual violating this prohibition.

11. Providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this chapter and accurately describe the nature of the occupational safety and health problem.

12. Encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

13. Devoting adequate funds to the administration and enforcement of occupational safety and health standards and rules promulgated by the labor commissioner.

[C66, 71, §88A.1; C73, 75, 77, 79, 81, §88.1]

86 Acts, ch 1245, §519; 2018 Acts, ch 1026, §33; 2019 Acts, ch 59, §38

88.2 Administration — personnel — contracts — grants.

1. The labor commissioner, appointed pursuant to section 91.2, and the division of labor services of the department of workforce development created in section 84A.1 shall administer this chapter.

2. The necessary legal authority and qualified personnel shall be provided for the administration and enforcement of this chapter and such standards adopted pursuant to this chapter.

3. Personnel administering the chapter shall be employed pursuant to chapter 8A, subchapter IV.

4. Subject to the approval of the director of the department of workforce development, the labor commissioner may enter into contracts with any state agency, with or without reimbursement, for the purpose of obtaining the services, facilities, and personnel of the agency, and with the consent of any state agency or any political subdivision of the state, accept and use the services, facilities, and personnel of the agency or political subdivision, and employ experts and consultants or organizations, in order to expeditiously, efficiently, and economically effectuate the purposes of this chapter. The agreements under this subsection are subject to approval of the executive council if approval is required by law.

5. The commissioner, the governor, and the director of the department of management may obtain and accept federal grants to the state to be used in connection with the funds appropriated for the administration of this chapter and federal funds available to the division.

[SS15, §4999-a5; C24, 27, 31, 35, 39, §**1482;** C46, 50, 54, 58, 62, 66, 71, §88.1; C73, 75, 77, 79, 81, §88.2]

86 Acts, ch 1244, §14; 86 Acts, ch 1245, §914; 96 Acts, ch 1186, §23; 2003 Acts, ch 145, §159; 2015 Acts, ch 29, §114

88.3 Definitions.

Wherever used in this chapter, unless the context clearly requires a different meaning:

1. *"Appeal board"* means the employment appeal board created under section 10A.601.

2. *"Commissioner"* means the labor commissioner appointed pursuant to section 91.2, or the commissioner's designee.

3. *"Emergency temporary standards"* means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the commissioner that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, and was formulated in a manner which afforded an opportunity for diverse views to be considered or is an emergency temporary standard provided by the secretary pursuant to and in conformance with the provisions of the federal law.

4. *"Employee"* means an employee of an employer who is employed in a business of the employer. *"Employee"* also means an inmate as defined in section 85.59, when the inmate works in connection with the maintenance of the institution, in an industry maintained in the institution, or while otherwise on detail to perform services for pay. *"Employee"* also means a volunteer involved in responses to hazardous waste incidences. The employer of a volunteer is that entity which provides or which is required to provide workers' compensation coverage for the volunteer.

5. *"Employer"* means a person engaged in a business who has one or more employees and also includes the state of Iowa, its various departments and agencies, and any political subdivision of the state.

6. *"Federal law"* means the Act of Congress approved December 29, 1970, 84 Stat. 1590, officially cited as the "Occupational Safety and Health Act of 1970", codified at 29 U.S.C. §651 – 678.

7. *"Imminent danger"* means a condition or practice in any place of employment which is such that a danger exists which will reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures of this chapter, exclusive of the procedures set forth in section 88.11.

8. *"Occupational safety and health standard"* means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

9. *"Person"* means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

10. *"Secretary"* means the secretary of labor of the United States.

[C66, 71, §88A.2; C73, 75, 77, 79, 81, §88.3]

86 Acts, ch 1245, §520; 90 Acts, ch 1136, §1; 99 Acts, ch 68, §2; 2001 Acts, ch 24, §24; 2019 Acts, ch 24, §13

88.4 Duties.

1. Each employer shall furnish to each of the employer's employees employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employer's employees and comply with occupational safety and health standards promulgated under this chapter.

2. Each employee shall comply with occupational safety and health standards and all rules and orders issued pursuant to this chapter which are applicable to the employee's own actions and conduct.

[C66, 71, §88A.1; C73, 75, 77, 79, 81, §88.4]

Referred to in §88.7, 88.14

88.5 Occupational safety and health standards.

1. *Promulgation of rules.* The commissioner shall, by rule, promulgate standards as needed to conform state occupational safety and health standards to federal occupational safety and health standards. The commissioner shall follow the rulemaking procedures of chapter 17A, and shall file a notice of intended action within ninety days of federal publication of a new, amended, or revoked federal standard.

2. *Toxic materials and other harmful physical agents.* The commissioner, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of the employee's working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate, but in any event shall conform with the provisions of subsection 1 of this section. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, a standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

3. *Temporary variances.*

a. Any employer may apply to the commissioner for a temporary order granting a variance from a standard or any provision thereof promulgated under this section. Such temporary order shall be granted only if the employer files an application which meets the requirements of paragraph *"b"* of this subsection and establishes that the employer is unable to comply with the standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standards or because necessary construction or operation of the facilities cannot be completed by the effective date, that the employer is taking all available steps to safeguard the employer's employees against the hazards that are covered by the standard, and that the employer has an effective program for coming into compliance with this standard as

quickly as practicable. Any temporary order issued under this paragraph shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use while the order is in effect and state in detail the employer's program for coming into compliance with the standard. Such a temporary order may be granted only after notice to employees and an opportunity for a hearing, provided that the commissioner may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect longer than the period needed by the employer to achieve compliance with the standard, or one year, whichever is shorter except that such an order may be renewed not more than twice so long as the requirements of this paragraph are met and an application for renewal is filed at least ninety days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than one hundred and eighty days.

b. An application for a temporary order under this subsection shall contain:

(1) A specification of the standard or portion thereof from which the employer seeks a variance.

(2) A representation by the employer, supported by representations from qualified persons having firsthand knowledge of the fact represented, that the employer is unable to comply with the standard or portion thereof and a detailed statement of those reasons therefor.

(3) A statement of the steps the employer has taken and will take, with specific dates, to protect employees against the hazard covered by the standard.

(4) A statement of when the employer expects to be able to comply with the standard and what steps the employer has taken and what steps the employer will take, with dates specified, to come into compliance with the standard.

(5) A certification that the employer has informed the employer's employees of any application by giving a copy thereof to their authorized employee representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other reasonably appropriate means as may be directed by the commissioner.

(6) A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the commissioner for a hearing.

4. *Labels, warnings, protective equipment.* Any standard promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at the employer's cost, to employees exposed to such hazard in order to most effectively determine whether the health of such employee is adversely affected by such exposure. The results of such examinations or tests shall be furnished to the commissioner, and if released by the employee, shall be furnished to the employee's physician and the employer's physician.

5. *Emergency temporary standards.* The commissioner shall provide for an emergency temporary standard to take immediate effect if the commissioner determines that employees are exposed to grave danger from exposure from substances or agents determined to be toxic or physically harmful or from new hazards and if such emergency temporary standard is necessary to protect the employees from such danger. Such emergency standard shall cease to be effective and shall no longer be applicable after the lapse of six months following the effective date thereof unless the commissioner has initiated the procedures provided for under this chapter, for the purpose of promulgating a permanent standard as provided in subsection 1 of this section in which case the emergency temporary standard will remain in

effect until the permanent standard is adopted and becomes effective. Abandonment of the procedure for such promulgation by the commissioner shall terminate the effectiveness and applicability of the emergency temporary standard.

6. *Permanent variance.* Any affected employer may apply to the commissioner for a rule or order for a permanent variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The commissioner shall issue such rule or order if the commissioner determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to the employer's employees which are as safe and healthful as those which would prevail if the employer complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which the employer must adopt and utilize to the extent that they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the commissioner on the commissioner's own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

7. *Special variance.* Where there are conflicts with standards, rules, or regulations promulgated by any federal agency other than the United States department of labor, special variances from standards, rules, or regulations promulgated under this chapter may be granted to avoid such regulatory conflicts. Such variances shall take into consideration the safety of the employees involved. Notwithstanding any other provision of this chapter, and with respect to this subsection, any employer seeking relief under this provision must file an application with the commissioner and the commissioner shall forthwith hold a hearing at which employees or other interested persons, including representatives of the federal regulatory agencies involved, may appear and, upon the showing that such a conflict indeed exists, the commissioner may issue a special variance until the conflict is resolved.

8. *Priority for setting standards.* In determining the priorities for establishing standards under this section, the commissioner shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments.

9. *Product safety.* Standards promulgated under this chapter shall not be different from federal standards applying to products distributed or used in interstate commerce unless such standards are required by compelling local conditions and do not unduly burden interstate commerce. This provision does not apply to customized products or parts not normally available on the open market, or to optional parts or additions to products which are ordinarily available with such optional parts or additions.

10. *Judicial review before enforcement.* The provisions of the Iowa administrative procedure Act, chapter 17A, shall apply to judicial review of standards issued under this section. Notwithstanding any provision of the Iowa administrative procedure Act, chapter 17A, to the contrary, a person who is aggrieved or adversely affected by a standard issued under this section must seek judicial review of such standard prior to the sixtieth day after such standard becomes effective. All determinations of the commissioner shall be conclusive if supported by substantial evidence in the record as a whole.

11. *Railway sanitation and shelter.* A railway corporation within the state shall provide adequate sanitation and shelter for all railway employees. The commissioner shall adopt rules requiring railway corporations within the state to provide a safe and healthy workplace. The commissioner shall enforce the requirements of this subsection upon the receipt of a written complaint.

[C66, 71, §88A.11 – 88A.13; C73, 75, 77, 79, 81, §88.5]

86 Acts, ch 1245, §521; 88 Acts, ch 1042, §1; 93 Acts, ch 180, §54; 94 Acts, ch 1023, §84; 2001 Acts, ch 24, §25; 2002 Acts, ch 1119, §10; 2003 Acts, ch 44, §114; 2007 Acts, ch 36, §1; 2010 Acts, ch 1015, §1; 2011 Acts, ch 34, §18; 2014 Acts, ch 1026, §19

Referred to in §88.6, 88.7, 88.14

88.6 Inspections, investigations, and recordkeeping.

1. *Entrance and inspections.* In order to carry out the purposes of this chapter, the commissioner or the commissioner's representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized:

a. To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer.

b. To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and within a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

2. *Subpoena of witness and evidence.* In making inspections and investigations under this chapter, the commissioner may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the district courts of this state. In case of contumacy, failure, or refusal of any person to obey such an order, any appropriate district court within the jurisdiction of which such person is found, or resides, or transacts business, upon the application by the commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear, to produce evidence, if, as, and when so ordered and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

3. *Accident and illness records.*

a. Each employer shall make, keep and preserve, and make available to the commissioner such records regarding the employer's activities relating to this chapter as the commissioner may prescribe by regulation as necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this paragraph such regulations may include provisions requiring employers to conduct periodic inspections. The commissioner shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter, including the provisions of applicable standards.

b. The commissioner shall prescribe regulations requiring an employer to maintain accurate records of, and to make periodic reports on, work related deaths, injuries, and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

c. The commissioner shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 88.5, subsection 2. Such regulations shall provide employees or their authorized employee representative with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each employee or former employee to have access to such records that will indicate the employee's own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 88.5, subsection 2, and shall inform any employee who is being thus exposed of the corrective action being taken.

d. All employers in the state of Iowa are required to make all reports to the secretary required by federal law as if this chapter were not in effect.

e. The commissioner will make such reports to the secretary in such form and containing such information, as the secretary shall from time to time require pursuant to federal law.

f. The regulations referred to in this subsection shall not prescribe requirements different from those provided by the federal law and regulations.

4. *Representatives of employers and employees.* Subject to regulations issued by the

commissioner, a representative of the employer and an authorized employee representative shall be given an opportunity to accompany the commissioner or the commissioner's authorized representative during the physical inspection of any workplace under subsection 1 of this section, for the purpose of aiding such inspection. Where there is no authorized employee representative, the commissioner or the commissioner's authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

5. *Special inspections.* Any employees or authorized employee representative who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the commissioner or the commissioner's authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or authorized employee representative, and a copy shall be provided the employer or the employer's agent no later than at the time of inspection, except that upon the request of the person giving such notice the person's identifying information and the identifying information of individual employees referred to in the notice shall not appear in such copy or on any record published, released, or made available. If, upon receipt of such notification, the commissioner determines that there are reasonable grounds to believe that such violation or danger exists, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the commissioner determines that there are no reasonable grounds to believe that a violation or danger exists, the commissioner shall notify the employees or authorized employee representative in writing of such determination. For purposes of this subsection, "*identifying information*" means specific personal information including, but not limited to, the person's name, home address, telephone number, social security number, and handwriting and language idiosyncrasies. In circumstances when the release of any fact may be used to identify the person, that fact shall not be released.

6. *Notice of violations.* During any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the commissioner or any representative of the commissioner responsible for conducting the inspection, in writing, of any violation of this chapter which they have reason to believe exists in such workplace. The commissioner shall, by regulation, establish procedures for an informal review of any refusal by a representative of the commissioner to issue a citation with respect to any such alleged violation and shall furnish the employees or authorized employee representative requesting such review a written statement of the reason for the commissioner's final disposition of the case.

7. *General.* Any information obtained by the commissioner under this chapter shall be obtained with a minimum burden upon employers. Except for the purpose of administration of this chapter, no information received by the commissioner or the commissioner's representative from an employer, in compliance with and pursuant to this chapter, shall be admissible in any action brought by or for the benefit of any person. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

8. *Confidentiality.* Notwithstanding chapter 22, records prepared or obtained by the commissioner relating to an enforcement action conducted pursuant to this chapter shall be kept confidential until the enforcement action is complete.

a. For purposes of this subsection, an enforcement action is complete when any of the following occurs:

(1) An inspection file is closed without the issuance of a citation.

(2) A citation or noncompliance notice resulting from an inspection becomes a final order of the employment appeal board and all applicable courts pursuant to sections 88.8 and 88.9, and abatement is verified.

(3) A determination and any subsequent action is final in an occupational safety and health discrimination case.

b. A citation or noncompliance notice shall remain a confidential record until received by the appropriate employer.

c. This subsection shall not affect the discovery rights of any party to a contested case.

9. *Reports — fire fighters.* Reports of inspections and investigations involving the occupational safety and health for fire fighters shall be presented to the state fire service and emergency response council.

[C66, 71, §88.11, 88.12, 88A.10, 88A.14; C73, 75, 77, 79, 81, §88.6]

98 Acts, ch 1105, §1, 2; 2000 Acts, ch 1117, §6; 2000 Acts, ch 1232, §47; 2008 Acts, ch 1032, §173

88.7 Citations.

1. *Issuance by commissioner.*

a. If, upon inspection or investigation, the commissioner or the commissioner's authorized representative believes that an employer has violated the requirements of section 88.4, of any standard, rule or rules promulgated pursuant to section 88.5, or of any regulations prescribed pursuant to this chapter, the commissioner shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the chapter, standard, rules or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The commissioner shall prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety and health.

b. If, upon inspection or investigation, the commissioner or the commissioner's authorized representative believes that an employee, under the employee's own volition, has violated the requirements of section 88.4, of any standard, rule or rules promulgated pursuant to section 88.5, or of any regulations prescribed pursuant to this chapter, the commissioner shall with reasonable promptness issue a citation to the employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the chapter, standard, rules, regulations or order alleged to have been violated. The commissioner shall prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety and health.

2. *Posting of citation.* Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the commissioner, at or near each place a violation referred to in the citation occurred.

3. *Statute of limitations.* No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

[C66, 71, §88A.15; C73, 75, 77, 79, 81, §88.7]

2018 Acts, ch 1041, §33

Referred to in §88.8, 88.14, 88.15

88.8 Procedure for enforcement.

1. *Postinspection penalty notice.* If, after an inspection or an investigation, the commissioner issues a citation under section 88.7, the commissioner shall, within a reasonable time after the termination of the inspection or investigation, notify the employer by service in the same manner as an original notice or by certified mail of the penalty, if any, proposed to be assessed under section 88.14 and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalties. If, within fifteen working days from the receipt of the notice issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employees or authorized employee representative under subsection 3 of this section within the time specified, the citation and the assessment, as proposed, shall be deemed a final order of the appeal board and not subject to review by any court or agency.

2. *Noncompliance notice.* If the commissioner has reason to believe that an employer has failed to correct the violation for which a citation has been issued within the period permitted for its correction, which period shall not begin to run until the entry of a final order by the appeal board in the case of any review proceedings under this section initiated by the

employer in good faith and not solely for delay or avoidance of penalties, the commissioner shall notify the employer by service in the same manner as an original notice or by certified mail of the failure and of the penalty proposed to be assessed under section 88.14 by reason of the failure, and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the commissioner's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed the final order of the appeal board and not subject to review by any court or agency.

3. *Contested notice.*

a. If an employer notifies the commissioner that the employer intends to contest a citation issued under section 88.7, or notification issued under subsection 1 or 2 of this section or if, within fifteen working days of the issuance of a citation under section 88.7, any employee or authorized employee representative files a notice with the commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the commissioner shall immediately advise the appeal board of such notification, and the appeal board shall afford an opportunity for a hearing.

b. At the hearing, the appeal board shall act as an adjudicatory body. The appeal board shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and such order shall become final thirty days after its issuance.

c. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond the employer's reasonable control, the commissioner, after an opportunity for a hearing shall issue an order affirming or modifying the abatement requirements in such citation.

d. The rules of procedure prescribed by the appeal board shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection, and shall conform to rules of procedure adopted under the federal law by federal authorities insofar as the federal rules of procedure do not conflict with state law.

4. *Withdrawal of citation or settlement.* The commissioner has unreviewable discretion to withdraw a citation charging an employer with violating this chapter. If the parties enter into a settlement agreement prior to a hearing, the employment appeal board shall enter an order affirming the agreement.

[C66, 71, §88A.15, 88A.16; C73, 75, 77, 79, 81, §88.8]

88 Acts, ch 1025, §2; 89 Acts, ch 321, §25; 93 Acts, ch 180, §55; 99 Acts, ch 68, §3; 2008 Acts, ch 1031, §92; 2013 Acts, ch 30, §18

Referred to in §88.6, 88.9, 88.14

88.9 Judicial review.

1. *Aggrieved persons.*

a. Judicial review of any order of the appeal board issued under section 88.8, subsection 3, may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county in which the violation is alleged to have occurred or where the employer has its principal office and may be filed within sixty days following the issuance of such order. The appeal board's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the appeal board's orders.

b. The commissioner may obtain judicial review or enforcement of any final order or decision of the appeal board by filing a petition in the district court of the county in which the alleged violation occurred or in which the employer has its principal office. The judicial review provisions of chapter 17A shall govern such proceedings to the extent applicable.

c. Notwithstanding section 10A.601, subsection 7, and chapter 17A, the commissioner has the exclusive right to represent the appeal board in any judicial review of an appeal board

decision under this chapter in which the commissioner does not appeal the appeal board decision, except as provided by section 88.17.

2. *Uncontested appeal board orders.* If no petition for judicial review is filed within sixty days after service of the appeal board's order, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the commissioner which has become a final order of the appeal board under section 88.8, subsection 1 or 2, the clerk of the district court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the appeal board and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a district court entered pursuant to this subsection or subsection 1, the district court may assess the penalties provided in section 88.14 in addition to invoking any other available remedies.

3. *Discrimination and discharge.*

a. (1) A person shall not discharge or in any manner discriminate against an employee because the employee has filed a complaint or instituted or caused to be instituted a proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of the employee or others of a right afforded by this chapter.

(2) A person shall not discharge or in any manner discriminate against an employee because the employee, who with no reasonable alternative, refuses in good faith to expose the employee's self to a dangerous condition of a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury; provided the employee, where possible, has first sought through resort to regular statutory enforcement channels, unless there has been insufficient time due to the urgency of the situation, or the employee has sought and been unable to obtain from the person, a correction of the dangerous condition.

b. (1) An employee who believes that the employee has been discharged or otherwise discriminated against by a person in violation of this subsection may, within thirty days after the violation occurs, file a complaint with the commissioner alleging discrimination.

(2) Upon receipt of the complaint, the commissioner shall conduct an investigation as the commissioner deems appropriate. If, upon investigation, the commissioner determines that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against the person. In any such action, the district court has jurisdiction to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay.

(3) Within ninety days of the receipt of a complaint filed under this subsection, the commissioner shall notify the complainant of the commissioner's determination under this subsection.

[C66, 71, §88A.16; C73, 75, 77, 79, 81, §88.9]

88 Acts, ch 1107, §1; 93 Acts, ch 180, §56, 57; 2003 Acts, ch 44, §114; 2008 Acts, ch 1032, §174

Referred to in §88.6, 602.8102(23)

88.10 Reserved.

88.11 Procedures to counteract imminent dangers.

1. *Imminent danger orders.* The district court of the county in which the imminent danger is alleged to exist shall have jurisdiction, upon petition of the commissioner, to restrain any conditions or practices in any place of employment which are such that a danger exists which will reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this chapter. In the event the appropriate trial judge is not available, any judge of the judicial district in which such county is located shall have authority to issue orders under this section. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove

such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

2. *Imminent danger proceedings.* Upon the filing of any such petition the said district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this chapter. The proceedings shall be as provided by the Iowa rules of civil procedure. No temporary restraining order issued without notice shall be effective for a period longer than five days.

3. *Notification.* Whenever and as soon as an inspector concludes that the conditions or practices described in subsection 1 of this section exist in any place of employment, the inspector shall inform the affected employees and employers of the danger and that the inspector is recommending to the commissioner that relief be sought. The commissioner shall adopt rules prescribing the procedures in enforcing imminent danger orders which procedures shall reasonably conform to those promulgated under the federal law insofar as the same do not conflict with state law.

4. *Employee's rights.* If the commissioner arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the authorized employee representative, may bring an action against the said commissioner in the district court of the county in which the imminent danger is alleged to exist or in which the employer's principal office is located, for a writ of mandamus to compel the commissioner to seek such an order and for such further relief as may be appropriate.

[C66, 71, §88A.17; C73, 75, 77, 79, 81, §88.11]
Referred to in §88.3

88.12 Confidentiality of trade secrets.

Notwithstanding any provisions of this chapter, all information reported to or otherwise obtained by the commissioner or the commissioner's representative in connection with any inspection or proceeding under this chapter which contains or might reveal a trade secret shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant to any proceeding under this chapter. In any such proceeding the commissioner, the appeal board, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

[C73, 75, 77, 79, 81, §88.12]
Referred to in §88.14

88.13 Variations, tolerances, and exemptions.

When the secretary grants variations, tolerances, and exemptions to avoid serious impairment of the national defense as provided under authority of section 16 of the federal law, the commissioner shall grant the same variations, tolerances, and exemptions in the Iowa law, rules and standards to be effective immediately.

[C73, 75, 77, 79, 81, §88.13]

88.14 Penalties.

1. *Willful violations.* Any employer who willfully or repeatedly violates the requirements of section 88.4, any standard, rule, or order adopted or issued pursuant to section 88.5, or rules adopted pursuant to this chapter, may be assessed a civil penalty of not less than the minimum penalty amount and not more than the maximum penalty amount set by the United States department of labor pursuant to the federal Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, §17, codified at 29 U.S.C. §666, as amended, and the federal Bipartisan Budget Act of 2015, Pub. L. No. 114-74, §701, for each willful violation. The commissioner shall adopt rules pursuant to chapter 17A, in accordance with this subsection, that contain the minimum and maximum penalty amounts for each willful violation.

2. *Serious violations.* Any employer who has received a citation for a serious violation of

the requirements of section 88.4, of any standard, rule, or order adopted or issued pursuant to section 88.5, or of any rules adopted pursuant to this chapter, shall be assessed a civil penalty of not more than the maximum penalty amount set by the United States department of labor pursuant to the federal Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, §17, codified at 29 U.S.C. §666, as amended, and the federal Bipartisan Budget Act of 2015, Pub. L. No. 114-74, §701, for each such violation. The commissioner shall adopt rules pursuant to chapter 17A, in accordance with this subsection, that contain the maximum penalty amount for each serious violation.

3. *Nonserious violations.* Any employer who has received a citation for a violation of the requirements of section 88.4, of any standard, rule, or order adopted or issued pursuant to section 88.5, or of rules adopted pursuant to this chapter and the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than the maximum penalty amount set by the United States department of labor pursuant to the federal Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, §17, codified at 29 U.S.C. §666, as amended, and the federal Bipartisan Budget Act of 2015, Pub. L. No. 114-74, §701, for each violation. The commissioner shall adopt rules pursuant to chapter 17A, in accordance with this subsection, that contain the maximum penalty amount for each nonserious violation.

4. *Failure to correct.* Any employer who fails to correct a violation for which a citation has been issued under section 88.7, subsection 1, within the period permitted for its correction, may be assessed a civil penalty of not more than the maximum penalty amount set by the United States department of labor pursuant to the federal Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, §17, codified at 29 U.S.C. §666, as amended, and the federal Bipartisan Budget Act of 2015, Pub. L. No. 114-74, §701, for each day during which the failure or violation continues. The commissioner shall adopt rules pursuant to chapter 17A, in accordance with this subsection, that contain the maximum penalty amount for each day during which the failure or violation continues. The period for correction shall not begin until the date of the final order of the appeal board of any review proceeding under section 88.8 initiated by the employer in good faith and not solely for delay or avoidance of penalties.

5. *Willful violations causing death.* Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 88.5, or of any regulations prescribed pursuant to this chapter, and that violation caused death to any employee, shall, upon conviction, be guilty of a serious misdemeanor; except that if the conviction is for a violation committed after a first conviction of such person, the person shall be guilty of an aggravated misdemeanor.

6. *Advance notice of inspections.* Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the commissioner or the commissioner's designees, shall, upon conviction, be guilty of a serious misdemeanor.

7. *Filing false documents.* Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be guilty of a serious misdemeanor.

8. *Disclosure of confidential information.* Whoever violates the provisions of section 88.12 shall be guilty of a serious misdemeanor; and shall be removed from office or employment.

9. *Violation of posting requirements.* Any employer who violates any of the posting, reporting, or recordkeeping requirements under this chapter, shall be assessed a civil penalty of not more than the maximum penalty amount set by the United States department of labor pursuant to the federal Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, §17, codified at 29 U.S.C. §666, as amended, and the federal Bipartisan Budget Act of 2015, Pub. L. No. 114-74, §701, for each violation. The commissioner shall adopt rules pursuant to chapter 17A, in accordance with this subsection, that contain the maximum penalty amount for each violation of any of the posting, reporting, or recordkeeping requirements under this chapter.

10. *Assessment of penalties.* The appeal board shall have the authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

11. *Definition of serious violation.* For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

12. *Collection of penalties.* Civil penalties owed under this chapter shall be paid to the commissioner for deposit with the treasurer of state and shall accrue to the state and may be recovered in a civil action in the name of the state brought in the district court of the county where the violation is alleged to have occurred or where the employer has its principal office.

[C73, §4064; C97, §4999, 5025, 5026; S13, §2477-1a, 4999-a1, -a2; SS15, §4999-a5; C24, 27, 31, 35, 39, §**1494;** C46, 50, 54, 58, 62, §88.13; C66, 71, §88.13, 88A.15, 88A.17; C73, 75, 77, 79, 81, §88.14]

91 Acts, ch 136, §1; 92 Acts, ch 1098, §1; 2017 Acts, ch 56, §1, 2

Referred to in §88.8, 88.9

88.15 Appeal procedures for employees.

In the event an employee is issued a citation as provided in section 88.7, the procedures for appeal as provided for employers in this chapter shall apply.

[C73, 75, 77, 79, 81, §88.15]

88.16 Training and employee and employer education.

1. The commissioner shall conduct directly or by contract, educational programs to provide an adequate supply of qualified personnel to administer this chapter and informational programs on the importance of and proper use of adequate safety and health equipment.

2. The commissioner is authorized to conduct directly or by grants or contracts, short term training of personnel engaged in work related to the commissioner's responsibilities under this chapter.

3. The commissioner shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by this chapter, and consult with and advise employers, employees, and organizations representing employers and employees, as to effective means of preventing occupational injuries and illnesses.

4. Notwithstanding chapter 22, consultation records prepared or obtained by the commissioner pursuant to this section and which relate to specific employers or specific workplaces shall be kept confidential. For purposes of this subsection, *"consultation record"* means a record created when an employer requests and receives from the labor commissioner direct assistance in the recognition and correction of workplace hazards.

[C73, 75, 77, 79, 81, §88.16]

98 Acts, ch 1105, §3

88.17 Representation in civil litigation.

The attorney general of the state shall upon request by the commissioner represent the commissioner in any civil litigation brought under this chapter.

[C73, 75, 77, 79, 81, §88.17]

Referred to in §88.9

88.18 Statistics.

In order to further the purposes of this chapter, the commissioner shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this chapter. The commissioner shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries

requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

[C73, 75, 77, 79, 81, §88.18]

88.19 Annual report.

Within one hundred twenty days following the convening of each session of each general assembly, the commissioner shall prepare and submit to the governor for transmittal to the general assembly a report upon the subject matter of this chapter, the progress toward achievement of the purpose of this chapter, the needs and requirements in the field of occupational safety and health, and any other relevant information. The reports may include information regarding the following:

1. Occupational safety and health standards, and criteria for such standards, developed during the preceding year.
2. Evaluation of standards and criteria previously developed under this chapter, defining areas of emphasis for new criteria and standards.
3. Evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken.
4. Analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship.
5. An analysis of major occupational diseases.
6. Evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year.
7. A description of cooperative efforts undertaken between government agencies and other interested parties in the implementation of this chapter during the preceding year.
8. A progress report on the development of an adequate supply of trained personnel in the field of occupational safety and health, including estimates of future needs and the efforts being made by government and others to meet those needs.
9. A listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established.
10. Such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this chapter.

[C73, 75, 77, 79, 81, §88.19]

2007 Acts, ch 16, §1; 2010 Acts, ch 1015, §2; 2011 Acts, ch 25, §10; 2013 Acts, ch 30, §19

88.20 Effect of chapter.

Nothing in this chapter shall be construed to supersede or in any manner affect any workers' compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

[C73, 75, 77, 79, 81, §88.20]

88.21 Conflicts resolved.

The provisions of this chapter will prevail wherever the same conflicts with any other chapter of the Code.

[C73, 75, 77, 79, 81, §88.21]

CHAPTER 88A

SAFETY INSPECTION OF AMUSEMENT RIDES

Referred to in §84A.5, 91.4

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88A.18 Amusement ride attendants — minimum age — training.

88A.1 Definitions.

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

1. *"Amusement device"* means any equipment or piece of equipment, appliance or combination thereof designed or intended to entertain or amuse a person.

2. *"Amusement ride"* means any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. *"Amusement ride"* does not include a device or structure that is devoted principally to exhibitions related to agriculture, the arts, education, industry, religion, or science.

3. *"Carnival"* means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

4. *"Commissioner"* means the labor commissioner or the labor commissioner's designee.

5. *"Concession booth"* means a structure, or enclosure, used at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days, from which amusements are offered to the public.

6. *"Division"* means the division of labor services of the department of workforce development created under section 84A.1.

7. *"Fair"* means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of amusement rides or devices or concession booths.

8. *"Operator"* means a person, or the agent of a person, who owns or controls or has the duty to control the operation of an amusement device or ride, a concession booth, or related electrical equipment at a carnival or fair. *"Operator"* includes an agency of the state or any of its political subdivisions.

9. *"Parent or guardian"* means a parent, custodian, or guardian or person responsible for the control, safety, training, or education of a rider who is a minor or person with a disability.

10. *"Related electrical equipment"* means any electrical apparatus or wiring used at a carnival or fair.

11. *"Rider"* means a person waiting in the immediate vicinity of an amusement ride to get on the amusement ride, getting on an amusement ride, using an amusement ride, getting off an amusement ride, or leaving an amusement ride and still in the immediate vicinity of the amusement ride. *"Rider"* does not include an employee, agent, or servant of the amusement ride owner while engaged in the duties of their employment.

12. *"Sign"* means any symbol or language reasonably calculated to communicate information to a rider or the rider's parent or guardian, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, video, verbal information, and visual signals.

[C73, 75, 77, 79, 81, §88A.1]

86 Acts, ch 1245, §915; 90 Acts, ch 1136, §2; 96 Acts, ch 1186, §23; 98 Acts, ch 1135, §1, 2, 7; 99 Acts, ch 96, §8

Referred to in §135.185

88A.2 Permit required.

1. No amusement device or ride, concession booth, or any related electrical equipment shall be operated at a carnival or fair in this state without a permit having been issued by the commissioner to an operator of such equipment. On or before the first of May of each year, any person required to obtain a permit by this chapter shall apply to the division for a permit on a form furnished by the commissioner which form shall contain such information as the commissioner may require. The commissioner may waive the requirement that an application for a permit must be filed on or before the first of May of each year if the applicant gives satisfactory proof to the commissioner that the applicant could not reasonably comply with the date requirement and if the applicant immediately applies for a permit after the need for a permit is first determined. For the purpose of determining if an amusement ride, amusement device, concession booth, or any related electrical equipment is in safe operating condition and will provide protection to the public using such ride, device, booth, or related electrical equipment, each amusement ride, amusement device, concession booth, or related electrical equipment shall be inspected by the commissioner before it is initially placed in operation in this state, and shall thereafter be inspected at least once each year.

2. If, after inspection, an amusement device or ride, concession booth, or related electrical equipment is found to comply with the rules adopted under this chapter, the commissioner shall, upon payment of the permit fee and the inspection fee, permit the operation of the amusement device or ride or concession booth or to use any related electrical equipment.

3. If, after inspection, additions or alterations are contemplated which change a structure, mechanism, classification, or capacity, the operator shall notify the commissioner of the operator's intentions in writing and provide any plans or diagrams requested by the commissioner.

[C73, 75, 77, 79, 81, §88A.2]

2017 Acts, ch 54, §76

88A.3 Rules.

1. The commissioner shall adopt rules pursuant to chapter 17A for the safe installation, repair, maintenance, use, operation, and inspection of amusement devices, amusement rides, concession booths, and related electrical equipment at carnivals and fairs to the extent necessary for the protection of the public. The rules shall be based on generally accepted engineering standards and shall be concerned with, but not necessarily limited to, engineering force stresses, safety devices, and preventive maintenance. If standards are available in suitable form, the standards may be incorporated by reference. The rules shall provide for the reporting of accidents and injuries incurred from the operation of amusement devices or rides, concession booths, or related electrical equipment.

2. The commissioner may modify or repeal any rule adopted under the provisions of this chapter.

[C73, 75, 77, 79, 81, §88A.3]

88 Acts, ch 1042, §2; 2008 Acts, ch 1056, §1; 2018 Acts, ch 1041, §34

88A.4 Permit and inspection fees.

Annual inspection fees under this chapter shall be as follows:

1. Permit fees.

a. One through ten rides, or devices or concessions, thirty dollars.

b. Eleven or more rides, or devices or concessions, forty dollars.

2. Mechanical and electrical inspection fees for amusement rides and devices.

a. For rides which are designed for seventy-five pounds or less per passenger unit, seventy-five dollars for each inspection.

b. For rides which are designed for seventy-five pounds or more and for which the manufacturer's recommended assembly time is less than forty work hours, one hundred ten dollars for each inspection.

c. For rides for which the manufacturer's recommended assembly time is forty work hours or more, two hundred fifty dollars for each inspection.

3. Electrical inspection of concession booths, and amusement devices fees, forty dollars each.

[C73, 75, 77, 79, 81, §88A.4]

92 Acts, ch 1098, §2; 2008 Acts, ch 1056, §2, 3

88A.5 Fees to general fund.

All fees collected by the division under the provisions of this chapter shall be transmitted to the treasurer of state and credited by the treasurer to the general fund of the state.

[C73, 75, 77, 79, 81, §88A.5]

88A.6 Personnel.

The commissioner may employ inspectors and any other personnel deemed necessary to carry out the provisions of this chapter, subject to the provisions of chapter 8A, subchapter IV.

[C73, 75, 77, 79, 81, §88A.6]

2003 Acts, ch 145, §160

88A.7 Cessation order.

The commissioner may order, in writing, a temporary cessation of operation of any amusement device or ride, concession booth, or related electrical equipment if it has been determined after inspection to be hazardous or unsafe. Operation of the amusement device or ride, concession booth or related electrical equipment shall not resume until the unsafe or hazardous condition is corrected to the satisfaction of the commissioner.

[C73, 75, 77, 79, 81, §88A.7]

88A.8 Judicial review.

Judicial review of action of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C73, 75, 77, 79, 81, §88A.8]

2003 Acts, ch 44, §114

88A.9 Insurance.

No person shall be issued a permit under this chapter unless the person first obtains an insurance policy in an amount of not less than one million dollars for bodily injury, death, or property damage in any one occurrence.

[C73, 75, 77, 79, 81, §88A.9]

2009 Acts, ch 85, §1

88A.10 Penalties.

1. Any person who operates an amusement device or ride, concession booth or related electrical equipment at a carnival or fair without having obtained a permit from the commissioner or who violates any order or rule issued by the commissioner under this chapter is guilty of a serious misdemeanor.

2. A person who interferes with, impedes, or obstructs in any manner the commissioner in the performance of the commissioner's duties under this chapter is guilty of a simple misdemeanor. A person who bribes or attempts to bribe the commissioner is subject to section 722.1.

3. A person who fails to obey a safety-related requirement listed on a sign displayed at an amusement ride pursuant to section 88A.16, subsection 2, is subject to a civil penalty of one hundred dollars.

[C73, 75, 77, 79, 81, §88A.10]

87 Acts, ch 111, §7; 98 Acts, ch 1135, §3, 7

88A.11 Exemptions.

The following amusement devices or rides or concession booths are exempt from the provisions of this chapter:

1. Nonmechanized playground equipment including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, trampolines, swinging gates and physical fitness devices except where an admission fee is charged for usage or an admission fee is charged to areas where such equipment is located.

2. A concession booth, amusement device or ride which is owned and operated by a nonprofit religious, educational or charitable institution or association if such booth, device or ride is located within a building subject to inspection by the state fire marshal or by any political subdivisions of the state under its building, fire, electrical, and related public safety ordinances.

3. The commissioner may exempt amusement devices from the provisions of this chapter that have self-contained wiring installed by the manufacturer, that are operated manually by the use of hands or feet, that operate on less than one hundred twenty volts of electrical power, and that are fixtures or appliances within or part of a structure subject to the building code of this state or any political subdivision of this state.

4. The commissioner may exempt playground equipment owned, maintained, and operated by any political subdivision of this state.

5. Vessels inspected by officers appointed by the director of the department of natural resources under chapter 462A.

[C73, 75, 77, 79, 81, §88A.11; 82 Acts, ch 1028, §1]
97 Acts, ch 40, §2

88A.12 Local regulation.

Nothing contained in this chapter shall prevent any political subdivision of this state from licensing or regulating any amusement ride or device, concession booth, electrical equipment, carnival, or circus as otherwise provided by law.

[C73, 75, 77, 79, 81, §88A.12]

88A.13 Waiver of inspection.

The commissioner may waive the requirement that an amusement device or ride or any part thereof be inspected before being operated in this state if an operator gives satisfactory proof to the commissioner that the amusement device or ride or any part thereof has passed an inspection conducted by a public or private agency whose inspection standards and requirements are at least equal to those requirements and standards established by the commissioner under the provisions of this chapter. The annual permit and inspection fees shall be paid before the commissioner may waive this requirement.

[C73, 75, 77, 79, 81, §88A.13]

88A.14 Injunction.

In addition to any and all other remedies, if an owner, operator, or person in charge of any amusement device or ride, concession booth, or related electrical equipment covered by this chapter, continues to operate any amusement device or ride, concession booth, or related electrical equipment covered by this chapter, after receiving a notice of defect as provided by this chapter, without first correcting the defects or making replacements, the commissioner may petition the district court in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective amusement device or ride, concession booth, or related electrical equipment.

88 Acts, ch 1042, §3

88A.15 Rider safety — required report.

1. A rider or the rider's parent or guardian shall report in writing to the operator or the operator's designee, on forms provided by the operator or the operator's designee, any injury sustained on an amusement ride before leaving the operator's premises. The report shall include all of the following information:

a. The name, address, and phone number of the injured person.

b. A brief description of the incident, the injury claimed, and the location, date, and time of the injury.

c. The cause of the injury, if known.

d. The name, address, and phone number of any witness to the incident.

2. If the rider or the rider's parent or guardian is unable to file a report because of the severity of the rider's injuries, the rider or the rider's parent or guardian shall file the report as soon as reasonably possible. The failure of a rider or the rider's parent or guardian to report an injury under this section does not affect the rider's right to commence a civil action related to the incident.

3. A rider shall, at a minimum, do all of the following:

a. Obey the reasonable safety rules posted in accordance with this chapter and oral instructions for an amusement ride issued by the operator or the operator's employee or agent, unless the safety rules or oral instructions are contrary to the safety rules of this chapter.

b. Refrain from acting in any manner that may cause or contribute to injuring the rider or others, including all of the following:

(1) Exceeding the limits of the rider's ability.

(2) Interfering with safety devices that are provided.

(3) Failing to engage safety devices that are provided.

(4) Disconnecting or disabling a safety device except at the express instruction of the operator.

(5) Altering or enhancing the intended speed, course, or direction of an amusement ride.

(6) Using the controls of an amusement ride designed solely to be operated by the operator.

(7) Extending arms and legs beyond the carrier or seating area except at the express direction of the operator.

(8) Throwing, dropping, or expelling an object from or toward an amusement ride except as permitted by the operator.

(9) Getting on or off an amusement ride except at the designated time and area, if any, at the direction of the operator or in an emergency.

(10) Not reasonably controlling the speed or direction of the rider's person or an amusement ride that requires the rider to control or direct the rider's person or a device.

4. A rider shall not get on or attempt to get on an amusement ride unless the rider or the rider's parent or guardian reasonably determines that, at a minimum, the rider meets all of the following criteria:

a. Has sufficient knowledge to use, get on, and get off the amusement ride safely without instruction or has requested and received sufficient information to get on, use, and get off the amusement ride safely prior to getting on the amusement ride.

b. Has located, read, and understood any signs in the vicinity of the amusement ride and meets any posted height, medical, or other requirements.

c. Knows the range and limits of the rider's ability and knows the requirements of the amusement ride will not exceed those limits.

d. Is not under the influence of alcohol or any drug that affects the rider's ability to safely use the amusement ride or obey the posted rules or oral instructions.

e. Is authorized by the operator or the operator's employee, agent, or servant to get on the amusement ride.

98 Acts, ch 1135, §4, 7
Referred to in §88A.16, 88A.17

88A.16 Notice to riders.

1. An operator shall display signs indicating the applicable rider safety responsibilities provided in section 88A.15 and the location of stations to report injuries. The signs must be located in all of the following locations:

a. Each station for reporting an injury.

b. Each first aid station.

c. Any of the following locations:

(1) At least two other locations on the premises, including any premises entrance or exit most commonly used by riders, if there are no more than four entrances or exits for riders.

(2) At least four other locations on the premises, including the four premises entrances and exits most commonly used by riders, if there are more than four entrances and exits for riders.

(3) Every amusement ride.

2. An operator shall post a sign at each amusement ride. Any sign required by this subsection must be prominently displayed at a conspicuous location, clearly visible to the public, and bold and legible in design. The sign must include all of the following that apply:

a. Operational instructions.

b. Safety guidelines for riders.

c. Restrictions on the use of the amusement ride.

d. Behavior or activities that are prohibited.

e. A legend stating the following:

> State law requires riders to obey all warnings and directions for this amusement ride and behave in a manner that will not cause or contribute to the injury of themselves or others. Riders must report injuries prior to leaving the premises. Failure to comply is punishable by fine.

98 Acts, ch 1135, §5, 7; 2019 Acts, ch 24, §14
Referred to in §88A.10, 88A.17

88A.17 Construction.

Sections 88A.15 and 88A.16 shall not be construed to preclude a criminal prosecution or civil action available under any other provision of law.

98 Acts, ch 1135, §6, 7

88A.18 Amusement ride attendants — minimum age — training.

1. An attendant who controls patron restraints or the operation, starting, stopping, or speed of an amusement ride shall be at least sixteen years of age.

2. An operator shall require that a person complete training as provided in this subsection prior to beginning work as an attendant. The training shall consist of, at minimum, the following topics:

a. The operating procedures specific to any amusement ride the attendant will control, including the specific duties applicable to each of the amusement ride's assigned positions.

b. The general procedures of the carnival or fair.

c. The general safety procedures, and safety procedures specific to any amusement ride the attendant will control, that the attendant must follow in the event of an unusual condition, interruption in operation, injury, emergency, or evacuation.

2021 Acts, ch 71, §1; 2021 Acts, ch 174, §42 – 44
NEW section

CHAPTER 88B

ASBESTOS REMOVAL AND ENCAPSULATION

Referred to in §84A.5, 91.4

88B.1 Definitions.
88B.2 Jurisdiction of other agencies.
88B.3 Administration — rules — fees — inspections.
88B.3A Permit required — application, qualifications, and exceptions.
88B.4 Permit — term, renewal, and records required.
88B.5 Waivers and alternative procedures.
88B.6 Licensing of asbestos workers.
88B.7 Repealed by 96 Acts, ch 1074, §8.
88B.8 Denials, suspensions, and revocations.
88B.9 and 88B.10 Repealed by 96 Acts, ch 1074, §8.
88B.11 Bids for governmental projects.
88B.12 Penalties.
88B.13 Repealed by 96 Acts, ch 1074, §8.

88B.1 Definitions.

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

1. *"Asbestos project"* means an activity involving the removal or encapsulation of asbestos and affecting a building or structure. *"Asbestos project"* includes the preparation of the project site and all activities through the transportation of the asbestos-containing materials off the premises. *"Asbestos project"* includes the removal or encapsulation of building materials containing asbestos from the site of a building or structure renovation, demolition, or collapse.

2. *"Business entity"* means a partnership, firm, association, corporation, sole proprietorship, or other business concern.

3. *"Commissioner"* means the labor commissioner or the commissioner's designee.

4. *"Division"* means the division of labor services of the department of workforce development created under section 84A.1.

5. *"License"* means an authorization issued by the division permitting an individual person, including a supervisor or contractor, to work on an asbestos project, to inspect buildings for asbestos-containing building materials, to develop management plans, and to act as an asbestos project designer.

6. *"Permit"* means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

7. *"Public or commercial building"* means a building that is not a residential apartment building of fewer than ten units or a school building.

84 Acts, ch 1062, §1; 86 Acts, ch 1245, §916; 89 Acts, ch 38, §1; 96 Acts, ch 1074, §1; 96 Acts, ch 1186, §23; 2007 Acts, ch 125, §1

88B.2 Jurisdiction of other agencies.

This chapter shall not be construed to prevent the department of natural resources from implementing and enforcing the federal national emission standard for asbestos under 40 C.F.R. pt. 61, subpt. M, and other relevant provisions of environmental law.

2007 Acts, ch 125, §3

88B.3 Administration — rules — fees — inspections.

1. The commissioner shall administer this chapter.

2. The commissioner shall adopt, in accordance with chapter 17A, rules necessary to carry out the provisions of this chapter.

3. The commissioner shall prescribe fees for the issuance and renewal of licenses and permits. The fees shall be based on the costs of licensing, permitting, and administering this chapter, including time spent by personnel of the division in performing duties and any travel expenses incurred. All fees provided for in this chapter shall be collected by the commissioner and remitted to the treasurer of state for deposit in the general fund of the state.

4. At least once a year, during an actual asbestos project, the division shall conduct an on-site inspection of each permittee's procedures for removing and encapsulating asbestos.

84 Acts, ch 1062, §3; 86 Acts, ch 1245, §917; 92 Acts, ch 1163, §20; 94 Acts, ch 1057, §1; 96 Acts, ch 1074, §3

88B.3A Permit required — application, qualifications, and exceptions.

1. To qualify for a permit, a business entity shall submit an application to the division in the form required by the division and pay the prescribed fee.

2. A business entity engaging in the removal or encapsulation of asbestos shall hold a permit for that purpose unless the business entity is removing or encapsulating asbestos at its own facilities.

84 Acts, ch 1062, §2
C85, §88B.2
89 Acts, ch 38, §2; 90 Acts, ch 1136, §3; 96 Acts, ch 1074, §2, 9
C97, §88B.3A
Referred to in §88B.6

88B.4 Permit — term, renewal, and records required.

1. A permit expires on the first anniversary of its effective date, unless it is renewed for a one-year term as provided in this section.

2. At least one month before the permit expires, the division shall send to the permittee, at the last known address of the permittee, a renewal notice that states all of the following:

a. The date on which the current permit expires.

b. The date by which the renewal application must be received by the division for the renewal to be issued and mailed before the permit expires.

c. The amount of the renewal fee.

3. Before the permit expires, the permittee may renew it for an additional one-year term, if the business entity meets the following conditions:

a. Is otherwise entitled to a permit.

b. Submits a renewal application to the division in the form required by the division.

c. Pays the renewal fee prescribed by the division.

4. The permittee shall keep a record of each asbestos project it performs and shall make the record available to the division at any reasonable time. Records shall contain information and be kept for a time prescribed in rules adopted by the division.

84 Acts, ch 1062, §4; 89 Acts, ch 38, §3; 96 Acts, ch 1074, §4; 96 Acts, ch 1219, §19

88B.5 Waivers and alternative procedures.

1. In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirement for a permit.

2. If the business entity is not primarily engaged in the removal or encapsulation of asbestos, the commissioner may waive the requirement for a permit if worker protection requirements are met.

3. The division shall not approve any waivers on work conducted at a school, public, or commercial building unless the request is accompanied by a recommendation from an asbestos project designer.

84 Acts, ch 1062, §5; 89 Acts, ch 38, §4; 94 Acts, ch 1057, §2; 96 Acts, ch 1074, §5

88B.6 Licensing of asbestos workers.

1. *Application.*

a. To apply for a license, an individual shall submit an application to the division in the form required by the division and shall pay the prescribed fee.

b. The application shall include information prescribed by rules adopted by the commissioner.

c. A license is valid for one year from the completion date of the required training and may be renewed by providing information as required in subsection 2, paragraphs "*b*" and "*c*".

2. *Qualifications.*

a. An individual is not eligible to be or do any of the following unless the person obtains a license from the division:

(1) A contractor or supervisor, or to work on an asbestos project.

(2) An inspector for asbestos-containing building material in a school or a public or commercial building.

(3) An asbestos management planner for a school building.

(4) An asbestos project designer for a school or a public or commercial building.

b. To qualify for a license, the applicant must have successfully completed training as established by the United States environmental protection agency, paid a fee, and met other requirements as specified by the division by rule.

c. To qualify for a license as an asbestos abatement worker, supervisor, or contractor, the applicant must have been examined by a physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator.

3. *Exception.* A license is not required of an employee employed by an employer exempted from the permit requirement of section 88B.3A, subsection 2, if the employee is trained on appropriate removal or encapsulation procedures, safety, and health issues regarding asbestos removal or encapsulation, and federal and state standards applicable to the asbestos project.

84 Acts, ch 1062, §6; 89 Acts, ch 38, §5; 96 Acts, ch 1074, §6; 97 Acts, ch 40, §3

88B.7 Repealed by 96 Acts, ch 1074, §8.

88B.8 Denials, suspensions, and revocations.

The division may deny, suspend, or revoke a permit or license, in accordance with chapter 17A, if the permittee or licensee does any of the following:

1. Fraudulently or deceptively obtains or attempts to obtain a permit or license.

2. Fails at any time to meet the qualifications for a permit or license or to comply with a rule adopted by the commissioner under this chapter.

3. Fails to meet any applicable federal or state standard for removal or encapsulation of asbestos.

4. Employs or permits an unlicensed or untrained person to work on an asbestos project.

84 Acts, ch 1062, §8; 89 Acts, ch 38, §7; 96 Acts, ch 1074, §7

88B.9 and 88B.10 Repealed by 96 Acts, ch 1074, §8.

88B.11 Bids for governmental projects.

A state agency or political subdivision shall not accept a bid in connection with any asbestos project from a business entity that does not hold a permit from the division at the time the bid is submitted, unless the business entity provides the state agency or political subdivision with written proof that ensures that the business entity has contracted to have the asbestos removal or encapsulation performed by a licensed asbestos contractor.

84 Acts, ch 1062, §11; 94 Acts, ch 1057, §4; 2007 Acts, ch 125, §2

88B.12 Penalties.

1. A person or business entity who willfully violates a provision of this chapter or a rule adopted pursuant to this chapter shall be assessed a civil penalty of not more than five thousand dollars for each violation.

2. A person or business entity who previously has been assessed a civil penalty under this section, and who willfully violates a provision of this chapter or a rule adopted pursuant to this chapter:

a. For a first offense, is guilty of a simple misdemeanor and shall be fined not to exceed twenty thousand dollars.

b. For a second or subsequent offense, is guilty of an aggravated misdemeanor and shall

be fined not to exceed twenty-five thousand dollars or imprisoned for not to exceed two years, or both.

84 Acts, ch 1062, §12

88B.13 Repealed by 96 Acts, ch 1074, §8.

CHAPTER 89

BOILERS AND UNFIRED STEAM PRESSURE VESSELS

Referred to in §84A.5, 91.4, 135I.4

89.1 Authority.
89.2 Definitions.
89.3 Inspection made.
89.4 Exemptions.
89.5 Rules — records.
89.6 Notice to commissioner.
89.7 Special inspectors.
89.7A Certificates.
89.8 Boiler and pressure vessel safety fund — fees appropriated.
89.9 Disposal of fees.
89.10 Penalty.
89.11 Injunction.
89.12 Hearing — notice — decree.
89.13 Civil penalty allowed.
89.14 Boiler and pressure vessel board — created — duties.

89.1 Authority.

1. The labor commissioner shall enforce the provisions of this chapter and may employ qualified personnel under the provisions of chapter 8A, subchapter IV, to administer the provisions of this chapter.

2. The provisions of this chapter shall apply to all boilers and unfired steam pressure vessels in this state, except as otherwise provided in this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §89.1]

2003 Acts, ch 145, §161

89.2 Definitions.

For the purpose of this chapter unless the context otherwise requires:

1. *"ASME code"* means the boiler and pressure vessel code published by the American society of mechanical engineers.

2. *"Board"* means the boiler and pressure vessel board created in section 89.14.

3. *"Boiler"* means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat.

4. *"Commissioner"* means the labor commissioner or the labor commissioner's designee.

5. *"Exhibition boiler"* means a boiler which is operated in the state for nonprofit purposes including, but not limited to, exhibitions, fairs, parades, farm machinery shows, or any other event of an historical or educational nature. An *"exhibition boiler"* includes steam locomotives, traction and portable steam engines, and stationary boilers of the firetube, watertube, and returntube class, model or miniature, and may be riveted, riveted and welded, or all welded construction, if used within the state solely for nonprofit purposes.

6. *"Object"* means a boiler or pressure vessel.

7. *"Power boiler"* means a boiler in which steam or other vapor is generated at a pressure of more than fifteen pounds per square inch or a water boiler intended for operation at pressures in excess of one hundred sixty pounds per square inch or temperatures in excess of 250 degrees Fahrenheit.

8. *a. "Public assembly"* means the assembly of people in any of the following:

(1) A building or structure primarily used as a theater, motion picture theater, museum, arena, exhibition hall, school, college, dormitory, bowling alley, physical fitness center, family entertainment center, lodge hall, union hall, pool hall, casino, place of worship, funeral home, institution of health and custodial care, hospital, or child care or adult day services facility.

(2) A building or structure, a portion of which is primarily used for amusement, entertainment, or instruction.

(3) A building or structure owned by or leased to the state or any of its agencies or political subdivisions.

b. However, for purposes of this chapter, *"public assembly"* does not include the assembly of people in buildings or structures containing only eating and drinking establishments or in any building used exclusively by an employer for training or instruction of its own employees.

9. *"Special inspector"* means an inspector who holds a commission from the commissioner and who is not a state employee.

10. *"Steam heating boiler"* means a boiler operating at not more than fifteen pounds per square inch; or a hot water heating boiler operating at not more than one hundred sixty pounds per square inch and not more than 250 degrees Fahrenheit at the boiler outlet.

11. *"Unfired steam pressure vessel"* means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source.

[C62, 66, 71, 73, 75, 77, §89.12; C79, 81, §89.2]

89 Acts, ch 321, §26; 92 Acts, ch 1098, §3; 2000 Acts, ch 1097, §1; 2001 Acts, ch 24, §26; 2001 Acts, ch 64, §1; 2004 Acts, ch 1107, §2, 30; 2008 Acts, ch 1032, §201; 2009 Acts, ch 94, §1

89.3 Inspection made.

1. It shall be the duty of the commissioner to inspect or cause to be inspected internally and externally, at least once every twelve months, except as otherwise provided in this section, in order to determine whether all such equipment is in a safe and satisfactory condition, and properly constructed and maintained for the purpose for which it is used, all boilers and unfired steam pressure vessels operating in excess of fifteen pounds per square inch, all low pressure heating boilers and unfired steam pressure vessels located in places of public assembly and other appurtenances used in this state for generating or transmitting steam for power, or for using steam under pressure for heating or steaming purposes.

2. The commissioner may enter any building or structure, public or private, for the purpose of inspecting any equipment covered by this chapter or gathering information with reference thereto.

3. The commissioner may inspect boilers and tanks and other equipment stamped with the American society of mechanical engineers code symbol for other than steam pressure, manufactured in Iowa, when requested by the manufacturer.

4. *a.* An object that meets all of the following criteria shall be inspected at least once every two years internally and externally while not under pressure, and at least once every two years externally while under pressure, unless the commissioner determines that an earlier inspection is warranted.

(1) The object is a boiler with one hundred thousand pounds per hour or more capacity, or the object is an unfired steam pressure vessel or a regulated appurtenance that is part of the same system as a boiler with one hundred thousand pounds per hour or more capacity.

(2) The object contains only water subject to internal continuous water treatment under the direct supervision of a graduate engineer or chemist, or one having equivalent experience in the treatment of boiler water.

(3) The water treatment is for the purpose of controlling and limiting serious corrosion and other deteriorating factors.

b. The owner or user of an object meeting the criteria in paragraph *"a"* shall do the following:

(1) At any time the commissioner, a special inspector, or the supervisor of water treatment deems a hydrostatic test is necessary to determine the safety of an object, conduct the test under the supervision of the commissioner.

(2) Keep available for examination by the commissioner accurate records showing the date and actual time the object is out of service and the reason it is out of service.

(3) Keep available for examination by the commissioner chemical physical laboratory analyses of samples of the object water taken at regular intervals of not more than forty-eight hours of operation as will adequately show the condition of the water and any elements or

characteristics of the water which are capable of producing corrosion or other deterioration of the object or its parts.

5. *a.* An object that meets all of the following criteria shall be inspected at least once each year externally while under pressure and at least once every four years internally while not under pressure, unless the commissioner determines an earlier inspection is warranted:

(1) The object is a boiler with one hundred thousand pounds per hour or more capacity, or the object is an unfired steam pressure vessel or a regulated appurtenance that is part of the same system as a boiler with one hundred thousand pounds per hour or more capacity.

(2) The object contains only water subject to internal continuous water treatment under the direct supervision of a graduate engineer or chemist, or one having equivalent experience in the treatment of boiler water.

(3) The water treatment is for the purpose of controlling and limiting serious corrosion and other deteriorating factors.

(4) Either of the following:

(a) The owner or user is a participant in good standing in the Iowa occupational safety and health voluntary protection program and has achieved star status within the program, which is administered by the division of labor in the department of workforce development.

(b) The object is an unfired steam pressure vessel and is part of or integral to the continuous operation of a process covered by and compliant with the occupational safety and health administration process safety management standard contained in 29 C.F.R. §1910.119 and the owner demonstrates such compliance to a special inspector or the commissioner. The unfired steam pressure vessel must also be included as process safety management process equipment in the owner of the unfired steam pressure vessel's process safety management program.

b. The owner or user of an object that meets the criteria in paragraph *"a"* shall do the following:

(1) At any time the commissioner, a special inspector, or the supervisor of the water treatment deems a hydrostatic test necessary to determine the safety of an object, conduct the test under the supervision of the commissioner.

(2) Keep available for examination by the commissioner accurate records showing the date and actual time the object is out of service and the reason it is out of service.

(3) Arrange for an internal inspection of the object during each planned outage by a special inspector or the commissioner.

(4) Keep for examination by the commissioner accurate records showing the chemical physical laboratory analyses of samples of the object's water taken at regular intervals of not more than forty-eight hours of operation adequate to show the condition of the water and any elements or characteristics of the water that are capable of producing corrosion or other deterioration of the object or its parts.

6. Internal inspections of cast aluminum steam, cast aluminum hot water heating, sectional cast iron steam, and cast iron hot water heating boilers shall be conducted only as deemed necessary by the commissioner. External operating inspections shall be conducted annually.

7. Internal inspections of steel hot water boilers shall be conducted once every six years. External operating inspections shall be conducted annually in years other than the year in which internal inspections are conducted.

8. Inspections of unfired steam pressure vessels operating in excess of fifteen pounds per square inch and low pressure steam boilers shall be conducted at least once each calendar year. The inspections conducted within each two-year period shall include an external inspection conducted while the boiler is operating and an internal inspection, where construction permits. No more than one inspection shall be conducted per six-month period. An internal inspection of an unfired steam pressure vessel or low pressure steam boiler may be required at any time by the commissioner upon the observation by an inspector of conditions, enumerated by the commissioner through rules, warranting an internal inspection. If a low pressure steam boiler is in dry lay-up, an internal inspection shall be conducted in lieu of an external inspection. For purposes of this subsection, *"dry lay-up"*

means a process whereby a boiler is taken out of service for a period of six months or longer, drained, dried, and cleaned, and measures to prevent corrosion are performed on the boiler.

9. An internal inspection shall not be required on an unfired steam pressure vessel that was manufactured without an inspection opening.

10. An exhibition boiler does not require an annual inspection certificate but special inspections may be requested by the owner or an event's management to be performed by the commissioner. Upon the completion of an exhibition boiler inspection a written condition report shall be prepared by the commissioner regarding the condition of the exhibition boiler's boiler or pressure vessel. This report will be issued to the owner and the management of all events at which the exhibition boiler is to be operated. The event's management is responsible for the decision on whether the exhibition boiler should be operated and shall inform the division of labor of the event's management's decision. The event's management is responsible for any injuries which result from the operation of any exhibition boiler approved for use at the event by the event's management. A repair symbol, known as the "R" stamp, is not required for repairs made to exhibition boilers pursuant to the rules regarding inspections and repair of exhibition boilers as adopted by the commissioner, pursuant to chapter 17A.

11. An inspection report created pursuant to this chapter that requires modification, alteration, or change shall be in writing and shall cite the state law or rule or the ASME code section allegedly violated.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.2; C79, 81, §89.3]

85 Acts, ch 105, §1; 89 Acts, ch 321, §27; 97 Acts, ch 27, §1; 2004 Acts, ch 1107, §3, 30; 2007 Acts, ch 135, §1 – 3; 2009 Acts, ch 94, §2; 2009 Acts, ch 179, §34; 2010 Acts, ch 1015, §3; 2011 Acts, ch 34, §19; 2012 Acts, ch 1043, §1; 2013 Acts, ch 66, §1, 5; 2014 Acts, ch 1092, §23; 2018 Acts, ch 1098, §1

Referred to in §89.4, 89.7, 89.7A, 89.14

89.4 Exemptions.

1. The provisions of this chapter shall not apply to the following boilers:

a. Boilers of railway locomotives subject to federal inspection.

b. Boilers operated and regularly inspected by railway companies operating in interstate commerce.

c. Boilers under the jurisdiction and subject to inspection by the United States government.

d. Steam heating boilers and unfired steam pressure vessels associated therewith and mobile power boilers used exclusively for agricultural purposes.

e. Heating boilers in residences.

f. Fire engine boilers brought into the state for temporary use in times of emergency.

g. Low pressure heating boilers used in buildings other than those for public assembly.

h. Hot water heating boilers used for heating pools or spas regulated by the department of public health pursuant to chapter 135I.

i. Water heaters used for potable water if the capacity is less than or equal to one hundred twenty gallons, the burner input is less than or equal to two hundred thousand British thermal units, and the maximum allowable working pressure is less than one hundred sixty pounds per square inch.

j. An electric boiler with a water capacity of six gallons or less that is used as an integral part of an espresso coffee machine, cappuccino coffee machine, or cleaning machine.

k. Continuous coil-type hot water boilers used only for steam vapor cleaning, to which all of the following apply:

(1) The size of the tubing or pipe, with no drums or headers attached, does not exceed three-fourths of one inch in diameter.

(2) Nominal water capacity of the boiler does not exceed six gallons.

(3) Water temperature in the boiler does not exceed 350 degrees Fahrenheit.

(4) Steam is not generated within the coil.

2. Unfired steam pressure vessels not exceeding the following limitations are not

required to be reported to the commissioner and shall be exempt from regular inspection under provisions of this chapter:

a. A vessel not greater than five cubic feet in volume and not having a pressure greater than two hundred fifty pounds per square inch.

b. A vessel not greater than one and one-half cubic feet in volume with no limit on pressure.

3. Jacketed direct or indirect fired vessels built and installed in accordance with the American society of mechanical engineers code, section VIII, division 1, appendix 19, shall not be considered boilers or power boilers for purposes of this chapter and shall not be required to meet the American society of mechanical engineers standard for controls and safety devices for automatically fired boilers. However, jacketed direct or indirect fired vessels as described in this subsection shall be subject to inspection under section 89.3 as pressure vessels.

4. An object shall not be considered under pressure and shall not be within the scope of this chapter when there is clear evidence that the manufacturer did not intend the object to be operated at more than three pounds per square inch and the object is operating at three pounds per square inch or less.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.3; C79, 81, §89.4]

92 Acts, ch 1098, §4; 98 Acts, ch 1222, §21, 28; 2005 Acts, ch 47, §1; 2007 Acts, ch 135, §4; 2010 Acts, ch 1015, §4; 2013 Acts, ch 66, §2, 3, 5; 2014 Acts, ch 1026, §20; 2018 Acts, ch 1098, §2

89.5 Rules — records.

1. The commissioner shall investigate and record the cause of any boiler explosion that may occur in the state, the loss of life, injuries sustained, and estimated loss of property, if any; and such other data as may be of benefit in preventing a recurrence of similar explosions.

2. The commissioner shall keep a complete and accurate record of the name of the owner or user of each steam boiler or other equipment subject to this chapter, giving a full description of the equipment, including the type, dimensions, age, condition, the amount of pressure allowed, and the date when last inspected.

3. A rule adopted pursuant to this chapter which adopts standards by reference to another publication shall be exempt from the requirements of section 17A.6, subsection 2, if the following conditions exist:

a. The cost of the publication is an unreasonable expense when compared to the anticipated usage of the publication.

b. A copy of the publication is available from an entity located within the state capitol complex.

c. The rule identifies the location where the publication is available.

d. The administrative rules coordinator approves the exemption.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.4; C79, 81, §89.5]

96 Acts, ch 1149, §1; 2004 Acts, ch 1107, §4, 5, 30; 2010 Acts, ch 1031, §54; 2011 Acts, ch 34, §20

See §256.53

89.6 Notice to commissioner.

1. Before any equipment included under the provisions of this chapter is installed by any owner, user, or lessee thereof, a ten days' written notice of intention to install the equipment shall be given to the commissioner. The notice shall designate the proposed place of installation, the type and capacity of the equipment, the use to be made thereof, the name of the company which manufactured the equipment, and whether the equipment is new or used.

2. Before any power boiler is converted to a low pressure boiler, the owner or user shall give to the commissioner ten days' written notice of intent to convert the boiler. The notice

shall designate the boiler location, the uses of the building, and other information specified by rule by the board.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.5; C79, 81, §89.6]

2010 Acts, ch 1015, §5; 2011 Acts, ch 25, §11

89.7 Special inspectors.

1. The inspection required by this chapter shall not be made by the commissioner if an owner or user of equipment specified by this chapter obtains an inspection by a representative of a reputable insurance company and obtains a policy of insurance upon the equipment from that insurance company.

2. The representative conducting the inspection shall be commissioned by the commissioner as a special inspector for the year during which the inspection occurs and shall meet such other requirements as the commissioner may by rule establish. The commission shall be valid for one year and the special inspector shall pay a fee for the issuance of the commission. The commissioner shall establish the amount of the fee by rule. The commissioner shall establish rules for the issuance and revocation of special inspector commissions. The rules are subject to the requirements of chapter 17A.

3. The insurance company shall file a notice of insurance coverage on forms approved by the commissioner stating that the equipment is insured and that inspection shall be made in accordance with section 89.3.

4. The special inspector shall provide the user and the commissioner with an inspection report including the nature and extent of all defects and violations, in a format approved by the labor commissioner.

5. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.6; C79, 81, §89.7]

85 Acts, ch 102, §1; 87 Acts, ch 15, §1; 90 Acts, ch 1136, §4, 5; 91 Acts, ch 136, §2; 2004 Acts, ch 1107, §6, 30; 2007 Acts, ch 135, §5

89.7A Certificates.

1. The commissioner shall issue a certificate of inspection valid for the period specified in section 89.3 after the payment of a fee, the filing of an inspection report, and the correction or other appropriate resolution of any defects identified in the inspection report. The certificate shall be posted at a place near the location of the equipment.

2. The owner or user of any equipment covered in this chapter, or persons in charge of such equipment, shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the commissioner.

3. The commissioner shall indicate to the user whether or not the equipment may be used without making repair or replacement of defective parts, or whether or how the equipment may be used in a limited capacity before repairs or replacements are made, and the commissioner may permit the user a reasonable time to make such repairs or replacements.

2007 Acts, ch 135, §6; 2008 Acts, ch 1031, §29

89.8 Boiler and pressure vessel safety fund — fees appropriated.

A boiler and pressure vessel safety revolving fund is created within the state treasury under the control of the commissioner and shall consist of moneys collected by the commissioner as fees. Moneys in the fund are appropriated and shall be used by the commissioner to pay the actual costs and expenses necessary to operate the board and administer the provisions of this chapter. All salaries and expenses properly chargeable to the fund shall be paid from the fund. Section 8.33 does not apply to any moneys in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.7; C79, 81, §89.8]

85 Acts, ch 102, §2; 2004 Acts, ch 1107, §7, 30; 2008 Acts, ch 1023, §1

Referred to in §89.9

89.9 Disposal of fees.

All fees provided for in this chapter shall be collected by the commissioner and remitted to the treasurer of state, to be deposited in the boiler and pressure vessel safety fund pursuant to section 89.8, together with an itemized statement showing the source of collection.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.8; C79, 81, §89.9]

2004 Acts, ch 1107, §8, 30

89.10 Penalty.

Any person or persons, corporations and directors, managers and superintendents, and officers thereof, violating any of the provisions of this chapter, shall be guilty of a simple misdemeanor.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.9; C79, 81, §89.10]

89.11 Injunction.

1. In addition to all other remedies, if any owner, user, or person in charge of any equipment covered by this chapter continues to use any equipment covered by this chapter, after receiving an inspection report identifying defects and exhausting appeal rights as provided by this chapter without first correcting the defects or making replacements, the commissioner may apply to the district court by petition in equity, in an action brought in the name of the state, for a writ of injunction to restrain the use of the alleged defective equipment.

2. If the commissioner believes that the continued operation of equipment constitutes an imminent danger that could seriously injure or cause death to any person, in addition to all other remedies, the commissioner may apply to the district court in the county in which the imminently dangerous condition exists for a temporary order to enjoin the owner, user, or person in charge from operating the equipment before the owner's, user's, or person's rights to administrative appeals have been exhausted.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.10; C79, 81, §89.11]

2004 Acts, ch 1107, §9, 30; 2007 Acts, ch 135, §7; 2009 Acts, ch 133, §23

89.12 Hearing — notice — decree.

The commissioner shall notify in writing the owner or user of the equipment of the time and place of hearing of the petition as fixed by the court or judge, and shall serve the notice on the defendant at least five days prior to the hearing in the same manner as original notices are served. The general provisions relating to civil practice and procedure as may be applicable, shall govern the proceedings, except as herein modified. In the event the defendant does not appear or plead to the action, default shall be entered against the defendant. The action shall be tried in equity, and the court or judge shall make such order or decree as the evidence warrants.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §89.11; C79, 81, §89.12]

89.13 Civil penalty allowed.

If upon notice and hearing the commissioner determines that an owner has operated a facility in violation of a safety order, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil penalty is subject to appeal to the employment appeal board and to judicial review. The commissioner may commence an action in the district court to enforce payment of a civil penalty. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the general fund of the state.

90 Acts, ch 1136, §6

89.14 Boiler and pressure vessel board — created — duties.

1. A boiler and pressure vessel board is created within the division of labor services of the department of workforce development to formulate definitions and rules requirements for the safe and proper installation, repair, maintenance, alteration, use, and operation of boilers and pressure vessels in this state.

2. The boiler and pressure vessel board is composed of nine members as follows:

a. The commissioner or the commissioner's designee.

b. The following eight members who shall be appointed by the governor, subject to confirmation by the senate, to four-year staggered terms beginning and ending as provided in section 69.19.

(1) One member shall be a special inspector who is employed by an insurance company that is licensed and actively writing boiler and machinery insurance in this state and who is commissioned to inspect boiler and pressure vessels in this state.

(2) One member shall be appointed from a certified employee organization and shall represent steamfitters.

(3) One member shall be appointed from a certified employee organization and shall represent boilermakers.

(4) Two members shall be mechanical engineers who regularly practice in the area of boilers and pressure vessels.

(5) One member shall be a boiler and pressure vessel distributor in this state.

(6) One member shall represent boiler and pressure vessel manufacturers.

(7) One member shall be a mechanical contractor engaged in the business of installation, renovation, and repair of boilers and pressure vessels.

3. A vacancy in membership shall be filled in the same manner as the original appointment. The members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of official duties as a member.

4. The members of the board shall select a chairperson, vice chairperson, and secretary from their membership. However, neither the commissioner nor the commissioner's designee shall serve as chairperson. The board shall meet at least quarterly but may meet as often as necessary. Meetings shall be set by a majority of the board or upon the call of the chairperson, or in the chairperson's absence, upon the call of the vice chairperson. A majority of the board members shall constitute a quorum.

5. The board shall adopt rules pursuant to chapter 17A necessary to administer the duties of the board. Rules adopted by the board shall be in accordance with accepted engineering standards and practices. The board shall adopt rules relating to the equipment covered by this chapter that are in accordance with the ASME code, which may include addenda, interpretations, and code cases, as soon as reasonably practical following publication by the American society of mechanical engineers. The board shall adopt rules to require that operation of equipment cease in the event of imminent danger.

6. A notice of defect or inspection report issued by the commissioner pursuant to this chapter may, within thirty days after the making of the order, be appealed to the board. Board action constitutes final agency action for purposes of chapter 17A.

7. Not later than July 1, 2005, and every three years thereafter, the board shall conduct a comprehensive review of existing boiler rules, regulations, and standards, including but not limited to those relating to potable hot water supply boilers and water heaters.

8. The board shall establish fees for examinations, inspections, annual statements, shop inspections, and other services. The fees shall reflect the actual costs and expenses necessary to operate the board and perform the duties of the commissioner.

9. The board may adopt rules governing the conversion of power boilers to low pressure boilers.

10. The board may adopt rules establishing an internal inspection interval of up to four years for objects that are subject to inspection pursuant to section 89.3, subsection 4, and are owned and operated by electric public utilities subject to rate regulation under chapter 476.

2004 Acts, ch 1107, §10, 30; 2007 Acts, ch 135, §8; 2009 Acts, ch 94, §3; 2010 Acts, ch 1015, §6; 2013 Acts, ch 66, §4, 5

Referred to in §89.2

Confirmation, see §2.32

CHAPTER 89A

ELEVATORS

Referred to in §84A.5, 91.4

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89A.1 Definitions.

As used in this chapter, except as otherwise expressly provided:

1. *"Alteration"* means any change made to an existing conveyance, other than the repair or replacement of damaged, worn, or broken parts necessary for normal maintenance.

2. *"Commissioner"* means the labor commissioner, appointed pursuant to section 91.2, or the labor commissioner's designee.

3. *"Conveyance"* means an elevator, dumbwaiter, escalator, moving walk, lift, or inclined or vertical wheelchair lift subject to regulation under this chapter, and includes hoistways, rails, guides, and all other related mechanical and electrical equipment.

4. *"Division"* means the division of labor services of the department of workforce development created under section 84A.1.

5. *"Dormant conveyance"* means a conveyance whose power feed lines have been disconnected from the mainline disconnect switch and is one of the following:

a. An electric elevator, material lift, or dumbwaiter whose suspension ropes have been removed, whose car and counterweight rest at the bottom of the hoistway, and whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side.

b. A hydraulic elevator, material lift, or dumbwaiter whose car rests at the bottom of the hoistway, whose pressure piping has been disassembled and a section removed from the premises; whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side; and, if provided, whose suspension ropes have been removed and the counterweights landed at the bottom of the hoistway.

c. An escalator or moving walk whose entrances have been permanently barricaded.

d. A rack and pinion or screw column elevator, whose motor has been removed, platform lowered to the bottom, and entrances barricaded.

6. *"Dumbwaiter"* means a hoisting and lowering mechanism equipped with a car which moves in guides in a substantially vertical direction, when the floor area does not exceed nine square feet, the total compartment height does not exceed four feet, the capacity does not exceed five hundred pounds, and which is used exclusively for carrying materials.

7. *"Elevator"* means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction, and which serves two or more floors of a building or structure. *"Elevator"* does not include a dumbwaiter, endless belt, conveyor, chain or bucket hoist, construction hoist, or other device used for the primary purpose of elevating or lowering building or other materials and not used as a means of conveyance for individuals, and does not include tiering, piling, feeding, or other machines or devices giving service within only one story.

8. *"Escalator"* means a power-driven, inclined, continuous stairway used for raising or lowering passengers.

9. *"Freight elevator"* means an elevator used for carrying freight and on which only the operator and persons necessary for unloading and loading the freight are permitted to ride.

10. *"Inclined or vertical wheelchair lift"* means a lift used to transport a wheelchair as specified in the American society of mechanical engineers safety standard for platform lifts and stairway chairlifts, A18.1.

11. *"Inspector"* means an inspector employed by the division for the purpose of administering this chapter.

12. *"Lift"* means a device consisting of a power-driven endless belt, provided with steps or platforms and handholds attached to it for the transportation of persons from floor to floor.

13. *"Material lift elevator"* means an elevator limited in use to the movement of materials.

14. *"Moving walk"* means a type of passenger-carrying device on which passengers stand or walk, and in which the passenger-carrying surface remains parallel to its direction in motion and is uninterrupted.

15. *"New installation"* means a conveyance the construction or relocation of which is begun, or for which an application for a new installation permit is filed, on or after the effective date of rules relating to those permits adopted by the commissioner under authority of this chapter. All other installations are existing installations.

16. *"Owner"* means the owner of a conveyance, unless the conveyance is a new installation or is undergoing major alterations, in which case the owner shall be considered the person responsible for the installation or alteration of the conveyance until the conveyance has passed final inspection by the division.

17. *"Passenger elevator"* means an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading.

18. *"Safety board"* means the elevator safety board created in section 89A.13.

19. *"Special inspector"* means an inspector commissioned by the labor commissioner, and not employed by the division.

[C75, 77, 79, 81, §104.1]

84 Acts, ch 1094, §1; 86 Acts, ch 1157, §1, 2; 86 Acts, ch 1245, §937

C87, §89A.1

88 Acts, ch 1025, §3; 96 Acts, ch 1186, §23; 99 Acts, ch 68, §4; 2000 Acts, ch 1097, §2; 2004 Acts, ch 1107, §11, 12, 30; 2007 Acts, ch 16, §2; 2008 Acts, ch 1029, §1

89A.2 Scope of chapter.

1. The provisions of this chapter shall not apply to any of the following:

a. Any conveyance installed in any single private dwelling residence.

b. Material hoists subject to regulation under 875 IAC 26.1 and 29 C.F.R. §1926.552.

c. Lifts subject to regulation under chapter 88.

d. Material lift elevators existing in the same location since prior to January 1, 1975.

e. Conveyances over which an agency of the federal government is asserting similar enforcement jurisdiction.

f. An elevator installed in a building in a federally designated national historic district as long as each of the following conditions is met:

(1) The owner of the building owns a commercial enterprise that occupies the first story of the building.

(2) The building has no more than two stories above the first story of the building.

(3) The owner of the building lives in the upper stories of the building.

(4) The building has sufficient physical barriers or safety protocols to ensure that only the owner, the owner's guests, or a government official acting in an official capacity can access the elevator.

2. Provisions of this chapter supersede conflicting provisions contained in building codes of this state or any subdivision of this state.

[C75, 77, 79, 81, §104.2]

C87, §89A.2

2007 Acts, ch 16, §3; 2008 Acts, ch 1029, §2; 2020 Acts, ch 1043, §1; 2021 Acts, ch 80, §43, 44

State building code, see chapter 103A

Subsection 1, paragraph f, unnumbered paragraph 1 amended
Subsection 2 amended

89A.3 Rules.

1. The safety board may adopt rules governing maintenance, construction, alteration, and installation of conveyances, and the inspection and testing of new and existing installations as necessary to provide for the public safety, and to protect the public welfare.

2. The safety board shall adopt, amend, or repeal rules pursuant to chapter 17A as it deems necessary for the administration of this chapter, which shall include but not be limited to rules providing for:

a. Classifications of types of conveyances.

b. Maintenance, inspection, testing, and operation of the various classes of conveyances.

c. Construction of new conveyances.

d. Alteration of existing conveyances.

e. Minimum safety requirements for all existing conveyances.

f. Control or prevention of access to conveyances or dormant conveyances.

g. The reporting of accidents and injuries arising from the use of conveyances.

h. The adoption of procedures for the issuance of variances.

i. The amount of fees charged and collected for inspection, permits, and commissions. Fees shall be set at an amount sufficient to cover costs as determined from consideration of the reasonable time required to conduct an inspection, reasonable hourly wages paid to inspectors, and reasonable transportation and similar expenses. The safety board shall also be authorized to consider setting reduced fees for nonprofit associations and nonprofit corporations, as described in chapters 501B and 504.

j. Submission of information such as plans, drawings, and measurements concerning new installations and alterations.

3. The safety board shall adopt rules for conveyances according to the applicable provisions of the American society of mechanical engineers safety codes for elevators and escalators, A17.1 and A17.3, as the safety board deems necessary. In adopting rules the safety board may adopt the American society of mechanical engineers safety codes, or any part of the codes, by reference.

4. The safety board may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators.

5. A rule adopted pursuant to this section which adopts standards by reference to another publication shall be exempt from the requirements of section 17A.6, subsection 2, if the following conditions exist:

a. The cost of the publication is an unreasonable expense when compared to the anticipated usage of the publication.

b. A copy of the publication is available from an entity located within the state capitol complex.

c. The rule identifies the location where the publication is available.

d. The administrative rules coordinator approves the exemption.

6. The commissioner shall furnish copies of the rules adopted pursuant to this chapter to any person who requests them, without charge, or upon payment of a charge not to exceed the actual cost of printing of the rules.

7. The safety board may adopt rules permitting inclined or vertical wheelchair lifts in churches and houses of worship to service more than one floor.

8. The commissioner may adopt rules pursuant to chapter 17A relating to the denial, issuance, revocation, and suspension of special inspector commissions.

[C24, 27, 31, 35, 39, §**1678;** C46, 50, 54, 58, 62, 66, 71, 73, §104.1; C75, 77, 79, 81, §104.3]

84 Acts, ch 1094, §2; 86 Acts, ch 1157, §3

C87, §89A.3

88 Acts, ch 1042, §4; 99 Acts, ch 68, §5, 6; 2004 Acts, ch 1107, §13 – 17, 30; 2007 Acts, ch 16, §4; 2009 Acts, ch 85, §2; 2010 Acts, ch 1031, §55; 2011 Acts, ch 34, §21; 2020 Acts, ch 1103, §35, 51

State publications; see §256.53

89A.4 Commissioner's duties and personnel.

The commissioner shall enforce the provisions of this chapter. The commissioner shall employ personnel for the administration of this chapter pursuant to chapter 8A, subchapter IV.

[C75, 77, 79, 81, §104.4]
C87, §89A.4
2003 Acts, ch 145, §162

89A.5 Registration of conveyances.

The owner of every existing conveyance, whether or not dormant, shall register the conveyance with the commissioner, giving type, contract load and speed, name of manufacturer, its location, and the purpose for which it is used, and other information the commissioner may require. Registration shall be made in a format required by the division.

[C75, 77, 79, 81, §104.5]
C87, §89A.5
99 Acts, ch 68, §7; 2007 Acts, ch 16, §5

89A.6 Inspections — reports — nonliability.

All new and existing conveyances, except dormant conveyances, shall be tested and inspected in accordance with the following schedule:

1. Every new or altered conveyance shall be inspected and tested before the operating permit is issued.
2. Every existing conveyance registered with the commissioner shall be inspected within one year after the effective date of the registration, except that the safety board may extend by rule the time specified for making inspections.
3. Every conveyance shall be inspected not less frequently than annually, except that the safety board may adopt rules providing for inspections of conveyances at intervals other than annually.
4. The inspections required by subsections 1 through 3 shall be made only by inspectors or special inspectors. An inspection by a special inspector may be accepted by the commissioner in lieu of a required inspection by an inspector.
5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, in a format required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the conveyance is in compliance with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the conveyance has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.
6. In addition to the inspections required by subsections 1 through 3, the safety board may provide by rule for additional inspections as the safety board deems necessary to enforce the provisions of this chapter.

[C75, 77, 79, 81, §104.6; 82 Acts, ch 1077, §1]
C87, §89A.6
92 Acts, ch 1098, §5; 99 Acts, ch 68, §8; 2004 Acts, ch 1107, §18, 30; 2007 Acts, ch 16, §6; 2021 Acts, ch 80, §45
Referred to in §89A.9, 89A.15
Subsections 4 and 6 amended

89A.7 Alteration permits.

The owner shall submit to the commissioner detailed plans, specifications, and other information the commissioner may require for each conveyance to be altered, together with an application for an alteration permit, in a format required by the commissioner. Repairs or replacements necessary for normal maintenance are not alterations, and may be made on existing installations with parts equivalent in material, strength, and design to those replaced and no plans or specifications or application need be filed for the repairs or

replacements. However, this section does not authorize the use of any conveyance contrary to an order issued pursuant to section 89A.10, subsections 2 and 3.

[C75, 77, 79, 81, §104.7]
C87, §89A.7
99 Acts, ch 68, §9; 2007 Acts, ch 16, §7

89A.8 New installation permits.

1. The installation or relocation of a conveyance shall not begin until an installation permit has been issued by the commissioner.

2. An application for an installation permit shall be submitted in a format determined by the commissioner.

3. *a.* If the application or any accompanying materials indicates a failure to comply with applicable rules, the commissioner shall give notice of the compliance failures to the person filing the application.

b. If the application indicates compliance with applicable rules or after compliance failures have been remedied, the commissioner shall issue an installation permit for relocation or installation, as applicable.

[C75, 77, 79, 81, §104.8]
C87, §89A.8
99 Acts, ch 68, §10; 2008 Acts, ch 1032, §201; 2009 Acts, ch 85, §3

89A.9 Operating permits.

1. Operating permits shall be issued by the commissioner to the owner of every conveyance when the inspection report indicates compliance with the applicable provisions of this chapter. However, a permit shall not be issued if the fees required by this chapter have not been paid. Permits shall be issued within thirty days after filing of the inspection report required by section 89A.6, unless the time is extended for cause by the division. A conveyance shall not be operated after the thirty days or after an extension granted by the commissioner has expired, unless an operating permit has been issued.

2. The operating permit shall indicate the type of equipment for which it is issued, and in the case of elevators shall state whether passenger or freight, and also shall state the contract load and speed for each conveyance. The permit shall be posted conspicuously in the car of an elevator, or on or near a dumbwaiter, escalator, moving walk, or inclined or vertical wheelchair lift.

[C75, 77, 79, 81, §104.9]
84 Acts, ch 1067, §20
C87, §89A.9
2004 Acts, ch 1107, §19, 30; 2007 Acts, ch 16, §8; 2008 Acts, ch 1029, §3

89A.10 Enforcement orders by commissioner — injunction.

1. If an inspection report indicates a failure to comply with applicable rules, or with the detailed plans and specifications approved by the commissioner, the commissioner may, upon giving notice, order the owner thereof to make the changes necessary for compliance.

2. If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the conveyance. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by service in the same manner as an original notice or by certified mail. An owner may appeal the commissioner's initial decision to the safety board. The decision of the safety board shall be considered final agency action pursuant to chapter 17A.

3. If the commissioner has reason to believe that the continued operation of a conveyance constitutes an imminent danger which could reasonably be expected to seriously injure or cause death to any person, in addition to any other remedies, the commissioner may apply to the district court in the county in which such imminently dangerous condition exists for a temporary order for the purpose of enjoining such imminently dangerous conveyance.

Upon hearing, if deemed appropriate by the court, a permanent injunction may be issued to ensure that such imminently dangerous conveyance be prevented or controlled. Upon the elimination or rectification of such imminently dangerous condition, the temporary or permanent injunction shall be vacated.

[C75, 77, 79, 81, §104.10]

86 Acts, ch 1245, §526

C87, §89A.10

88 Acts, ch 1109, §7, 8; 99 Acts, ch 68, §11; 2004 Acts, ch 1107, §20, 21, 30; 2007 Acts, ch 16, §9; 2021 Acts, ch 76, §20

Referred to in §89A.7, 89A.11, 89A.18, 602.8102(25)

Subsection 3 amended

89A.11 Nonconforming conveyances.

The safety board, pursuant to rule, may grant exceptions and variances from the requirements of rules adopted for any conveyance. Exceptions or variations shall be reasonably related to the age of the conveyance, and may be conditioned upon a repair or modification of the conveyance deemed necessary by the safety board to assure reasonable safety. However, an exception or variance shall not be granted except to prevent undue hardship. Such conveyances shall be subject to orders issued pursuant to section 89A.10.

[C75, 77, 79, 81, §104.11; 81 Acts, ch 50, §1]

C87, §89A.11

2004 Acts, ch 1107, §22, 30; 2007 Acts, ch 16, §10

89A.12 Access to conveyances.

Every owner of a conveyance subject to regulation by this chapter shall grant access to that conveyance to the commissioner and personnel of the division. Inspections shall be permitted at reasonable times, with or without prior notice.

[C75, 77, 79, 81, §104.12]

C87, §89A.12

99 Acts, ch 68, §12; 2007 Acts, ch 16, §11

89A.13 Elevator safety board.

1. An elevator safety board is created within the division of labor services in the department of workforce development to formulate definitions and rules for the safe and proper installation, repair, maintenance, alteration, use, and operation of conveyances in this state.

2. The safety board is composed of nine members, one of whom shall be the commissioner or the commissioner's designee. The governor shall appoint the remaining eight members of the board, subject to senate confirmation, to staggered four-year terms which shall begin and end as provided in section 69.19. The members shall be as follows: two representatives from an elevator manufacturing company or its authorized representative; two representatives from elevator servicing companies; one building owner or manager; one representative employed by a local government in this state who is knowledgeable about building codes in this state; one representative of workers actively involved in the installation, maintenance, and repair of elevators; and one licensed mechanical engineer.

3. A vacancy in membership shall be filled in the same manner as the original appointment. The members shall serve without salary, but shall be reimbursed for actual and necessary expenses incurred in the performance of official duties as a member.

4. The members of the safety board shall select a chairperson, vice chairperson, and a secretary from their membership. However, neither the commissioner nor the commissioner's designee shall serve as chairperson. The safety board shall meet at least quarterly but may meet as often as necessary. Meetings shall be set by a majority of the safety board or upon the call of the chairperson, or in the chairperson's absence, upon the call of the vice chairperson. A majority of the safety board members shall constitute a quorum.

5. The owner or user of equipment regulated under this chapter may appeal a notice of defect or an inspection report to the safety board within thirty days after the issuance of the

notice or report. Safety board action constitutes final agency action for purposes of chapter 17A.

6. The safety board shall adopt rules pursuant to chapter 17A necessary to administer the duties of the board.

7. Not later than July 1, 2005, and every three years thereafter, the safety board shall conduct a comprehensive review of existing conveyance rules, regulations, and standards.

[C75, 77, 79, 81, §104.13]
C87, §89A.13
88 Acts, ch 1042, §5; 2004 Acts, ch 1107, §23, 30; 2007 Acts, ch 16, §12
Referred to in §89A.1
Confirmation, see §2.32

89A.14 Continuing duty of owner.

Every conveyance shall be maintained by the owner in a safe operating condition and in conformity with the rules adopted by the safety board.

[C75, 77, 79, 81, §104.14]
C87, §89A.14
2004 Acts, ch 1107, §24, 30; 2007 Acts, ch 16, §13

89A.15 Inspections by local authorities.

A city or other governmental subdivision shall not make or maintain any ordinance, bylaw, or resolution providing for the licensing of special inspectors. An ordinance or resolution relating to the inspection, construction, installation, alteration, maintenance, or operation of conveyances within the limits of the city or governmental subdivision which conflicts with this chapter or with rules adopted pursuant to this chapter is void. The commissioner, in the commissioner's discretion, may accept inspections by local authorities in lieu of inspections required by section 89A.6, but only upon a showing by the local authority that applicable laws and rules will be consistently and literally enforced and that inspections will be performed by special inspectors.

[C75, 77, 79, 81, §104.15]
C87, §89A.15
2004 Acts, ch 1107, §25, 30; 2007 Acts, ch 16, §14
Referred to in §331.304

89A.16 Prosecution of offenses.

The division shall cause prosecution for the violation of the provisions of this chapter to be instituted by the attorney general in the county in which the violation occurred.

[C75, 77, 79, 81, §104.16]
C87, §89A.16

89A.17 Penalties.

1. Any owner who violates any of the provisions of this chapter shall be guilty of a simple misdemeanor, unless otherwise specifically provided in this chapter.

2. Any person who bribes or attempts to bribe an inspector shall be subject to criminal proceedings under section 722.1.

[C75, 77, 79, 81, §104.17]
C87, §89A.17

89A.18 Civil penalty.

If upon notice and hearing the commissioner determines that an owner has operated a conveyance after an order of the commissioner that suspends, revokes, or refuses to issue an operating permit for the conveyance has become final under section 89A.10, subsection 2, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil penalty is subject to appeal under section 89A.10, subsection 2, in the same manner and to the same extent as decisions referred to in that subsection. The commissioner may commence an action in the district court to enforce payment of the civil penalty. A record of assessment

against or payment of a civil penalty by any person for a violation of this section shall not be admissible as evidence in any court in any civil action. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the state general fund.

[82 Acts, ch 1077, §2]
C87, §89A.18
2004 Acts, ch 1107, §26, 30; 2007 Acts, ch 16, §15

89A.19 Elevator safety fund — fees appropriated.

A revolving elevator safety fund is created in the state treasury under the control of the commissioner and shall consist of moneys collected by the commissioner as fees. Moneys in the fund are appropriated to and shall be used by the commissioner to pay the actual costs and expenses necessary to operate the safety board and perform the duties of the commissioner as described in this chapter. All fees collected by the commissioner pursuant to this chapter shall be remitted to the treasurer of state to be deposited in the elevator safety fund. All salaries and expenses properly chargeable to the fund shall be paid from the fund. Section 8.33 does not apply to any moneys in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2004 Acts, ch 1107, §27, 30; 2008 Acts, ch 1023, §2

89A.20 through 89A.24 Reserved.

89A.25 Short title.

This chapter shall be known as the *"Iowa State Elevator Code"*.

[C75, 77, 79, 81, §104.18]
C83, §104.25
C87, §89A.25

CHAPTER 89B

HAZARDOUS CHEMICALS RISKS — RIGHT TO KNOW

Referred to in §84A.5, 91.4, 669.14

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SUBCHAPTER I

GENERAL PROVISIONS

89B.1 Short title.

This chapter may be cited as the *"Hazardous Chemicals Risks Right to Know Act"*.

84 Acts, ch 1085, §1
C85, §455D.1
C87, §89B.1

89B.2 Legislative findings.

The general assembly finds as follows:

1. The proliferation of hazardous chemicals in the environment poses a growing threat to the public health, safety, and welfare.

2. The constantly increasing number and variety of hazardous chemicals and the many routes of exposure to them make it difficult and expensive to adequately monitor and detect any adverse health effects attributable to the hazardous chemicals.

3. Individuals are often able to detect and thus minimize effects of exposure to hazardous chemicals if they are aware of the identity of the chemicals and the early symptoms of unsafe exposure.

4. Individuals have an inherent right to know the full range of the risks they face so that they can make reasoned decisions and take informed action concerning their employment and their living conditions.

5. Local fire and other government emergency response departments require detailed information about the identity, characteristics, and quantities of hazardous chemicals used and stored in communities within their jurisdictions, in order to adequately plan for, and respond to, emergencies, and enforce compliance with applicable laws and regulations concerning these chemicals.

6. The extent of the toxic contamination of the air, water, and land has caused a high degree of concern and much of this concern is needlessly aggravated by the unfamiliarity of the chemicals.

7. There is a need to coordinate the existing regulatory and reporting responsibilities on hazardous chemical users and producers and to provide uniform access to information.

84 Acts, ch 1085, §2
C85, §455D.2
C87, §89B.2

89B.3 Definitions.

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

1. *"Division"* means the division of labor services of the department of workforce development created under section 84A.1.

2. *"Emergency response department"* means any governmental department which might be reasonably expected to be required to respond to an emergency involving a hazardous chemical, including, but not limited to, local fire, police, medical rescue, emergency management, and public health departments.

84 Acts, ch 1085, §3
C85, §455D.3
86 Acts, ch 1245, §939, 1899E
C87, §89B.3
92 Acts, ch 1139, §22; 96 Acts, ch 1186, §23

89B.4 and 89B.5 Repealed by 88 Acts, ch 1042, §8.

89B.6 Liability of state or political subdivision.

The state or any of its political subdivisions is not liable for damages in any claim pursuant to chapter 669 or chapter 670 based upon an act or omission of an employee of the state or political subdivision when the employee exercised due care in the execution of this chapter or a rule adopted under this chapter. Any duty created in this chapter is a duty to the public generally and not to any person or group of persons.

84 Acts, ch 1085, §6
C85, §455D.6
C87, §89B.6

89B.7 Repealed by 88 Acts, ch 1042, §8.

SUBCHAPTER II

WORKER RIGHT TO KNOW

Referred to in §89B.12, 89B.15

89B.8 Information required.

1. An employee in this state has the right to be informed about the hazardous chemicals to which the employee may be exposed in the workplace, the potential health hazards of the hazardous chemicals, and the proper handling techniques for the hazardous chemicals. An employer shall provide or make available to an employee information as required by this chapter. Except as explicitly exempted, this chapter applies to all employers in the state.

2. The division of labor services shall administer this subchapter. The division may exercise the enforcement powers set out in chapter 88 and the rules adopted pursuant to chapter 88 to enforce this subchapter.

3. The commissioner shall adopt rules based upon the occupational safety and health standards which have been adopted as permanent standards by the United States secretary of labor in accordance with federal law. If the hazardous communication regulation, 29 C.F.R. §1910.1200, is amended or repealed, the commissioner shall review the amendment or repeal and take action with respect to the state standards, including the amendment or repeal of the state standards, which will conform the state standards to the new federal standards.

4. In addition to the chemical information required to be reported under the federal hazard

communication standard, 29 C.F.R. §1910.1200, the labor commissioner may adopt by rule additional hazardous chemical information to be regulated.

84 Acts, ch 1085, §8
C85, §455D.8
86 Acts, ch 1135, §2; 86 Acts, ch 1245, §940, 1899F
C87, §89B.8
88 Acts, ch 1042, §6; 89 Acts, ch 100, §1; 2016 Acts, ch 1011, §13

89B.9 Employee rights.

An employer shall not discharge or in any other manner discriminate against an employee because the employee has filed a complaint or brought an action under this section or has cooperated in bringing an action against an employer. An employee may file a complaint with the labor commissioner alleging discharge or discrimination within thirty days after an alleged violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent the commissioner deems appropriate. If the commissioner determines from the investigation that this section has been violated, the commissioner shall bring an action in the appropriate district court against the person. The district court has jurisdiction, for cause shown, to restrain violations of this section and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. This section applies to an employee of a person otherwise exempt from this chapter.

84 Acts, ch 1085, §9
C85, §455D.9
C87, §89B.9
88 Acts, ch 1042, §7

89B.10 and 89B.11 Repealed by 88 Acts, ch 1042, §8.

SUBCHAPTER III

COMMUNITY RIGHT TO KNOW

89B.12 Community information and complaints on hazardous chemicals.

1. The public has a right to be informed about the presence of hazardous chemicals in the community and the potential health and environmental hazards that the chemicals pose.

2. The division of labor services shall receive and handle requests for information and complaints under this subchapter which involve employer information covered under subchapter II. The labor commissioner shall adopt rules pursuant to chapter 17A regarding requests for information and the investigation and adjudication of complaints.

3. Requests for information under this subchapter are confidential.

84 Acts, ch 1085, §12
C85, §455D.12
86 Acts, ch 1245, §941
C87, §89B.12
2016 Acts, ch 1011, §14

89B.13 Accessibility of records.

1. Except as provided in subsection 2, records that are required to be kept by employers under this chapter shall be accessible to the public. As used in this section *"accessible to the public"* means either of the following:

a. The records are filed with the division.

b. The records are available for inspection at the principal place of employment of the employer during normal working hours.

2. Records do not need to be accessible to the public if any of the following apply:

a. The information is trade secret information under this chapter and any rules regarding the release of the information.

b. Under recommendation pursuant to section 89B.17, the labor commissioner has adopted rules specifying that certain classes or categories of records required to be kept by employers are confidential information.

c. The employer has notified the division in writing that certain information should not be accessible to the public for the reasons that the information is not relevant to public health and safety or that release of the information is proven to cause damage to the employer. After giving the employer notice and an opportunity to be heard, the division may release the information if it determines that the impact on public health and safety outweighs the damage that release of the information would cause the employer. The division may limit its release of information to areas relevant to public health and safety and may restrict the release of information which will cause damage to the employer.

84 Acts, ch 1085, §13
C85, §455D.13
86 Acts, ch 1245, §1899G
C87, §89B.13

SUBCHAPTER IV

PUBLIC SAFETY — EMERGENCY RESPONSE RIGHT TO KNOW

89B.14 Signs identifying hazardous chemicals.

If a building or structure has a floor space of five thousand square feet or less, an employer shall post signs on the outside of the building or structure identifying the type of each hazardous chemical contained in the building or structure. If the building has more than five thousand square feet, the employer shall post a sign at the place within the building where each hazardous chemical is permanently stored to identify the type of hazardous chemical. If the hazardous chemical or a portion of the hazardous chemical is moved within the building, the employer shall also move the sign or post an additional sign at the location where the hazardous chemical is moved. All letters and figures on signs required by this section shall be at least three inches in height. However, upon the written application of an employer, the division may permit less stringent sign posting requirements. The signs shall comply with the national fire protection association's standard system for the identification of fire hazards of materials, based upon NFPA 704-1980. The division shall adopt rules exempting employers from the requirements of this section when a building or structure or a portion of a building or structure does not contain significant amounts of a hazardous chemical.

84 Acts, ch 1085, §14
C85, §455D.14
C87, §89B.14

89B.15 Information for emergency response departments.

1. At the same time that an employer provides the information to employees required under subchapter II, the employer shall submit to the local fire department a list of hazardous chemicals which are consistently generated by, used by, stored at, or transported from the employer's facility. The information shall be provided in sufficient specificity that the local fire department is informed of the nature of the hazardous chemicals, the hazards presented by the chemicals, and the appropriate response in dealing with an emergency involving the hazardous chemicals. The information shall conform to guidelines adopted by the labor commissioner. The employer shall send the information by certified mail. The labor commissioner shall adopt rules exempting employers from this requirement when buildings or structures do not contain significant amounts of a hazardous chemical.

2. A local fire department receiving information pursuant to subsection 1 shall make the information available only to other emergency response departments.

84 Acts, ch 1085, §15

C85, §455D.15
86 Acts, ch 1245, §942, 1899H
C87, §89B.15
2016 Acts, ch 1011, §121

89B.16 Reserved.

SUBCHAPTER V

RECOMMENDATIONS

89B.17 Recommendations.

1. The director of public health, the labor commissioner, and the director of the department of natural resources or the director's designee under written signatures of all these parties may recommend any of the following actions:

a. Expansion of the federal occupational safety and health administration's list of hazardous chemicals or reporting required under this chapter. The division shall adopt rules pursuant to chapter 17A to expand the list of information required if the division decides to follow the recommendation.

b. Expansion of the list of hazardous wastes reported to the department of natural resources under 42 U.S.C. §6921 – 6934 as amended to January 1, 1981, or information required concerning the wastes. The department of natural resources shall adopt rules pursuant to chapter 17A to expand the list or information if the department decides to follow the recommendation.

2. However, the recommendations shall be made only upon scientific evidence that there may be a significant threat to public health and safety without the action.

84 Acts, ch 1085, §17
C85, §455D.17
86 Acts, ch 1245, §1899I, 1899J
C87, §89B.17
2002 Acts, ch 1162, §31; 2008 Acts, ch 1032, §201
Referred to in §89B.13

CHAPTER 90

RESERVED

CHAPTER 90A

BOXING, MIXED MARTIAL ARTS, AND WRESTLING

Referred to in §84A.5, 91.4

90A.1 Definitions.
90A.2 License.
90A.3 Professional boxer registration.
90A.4 Promoter responsibility.
90A.5 Emergency suspensions.
90A.6 Suspensions, denials, and revocations.
90A.7 Rules.
90A.8 Required conditions for boxing matches.
90A.9 Written report filed — tax due — penalty.
90A.10 Grants — appropriation.
90A.11 License penalties — cease and desist order.
90A.12 Age requirement for amateur boxing and mixed martial arts contestants.

90A.1 Definitions.

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

1. *"Boxer registry"* means an entity certified by the association of boxing commissions for the purpose of maintaining records and identification of boxers.

2. *"Commissioner"* means the state commissioner of athletics, who is also the labor commissioner appointed pursuant to section 91.2, or the labor commissioner's designee.

3. *"Mixed martial arts match"* means a professional or amateur mixed martial arts match or event that is open to the public and an admission fee is charged, a donation is requested from those in attendance, or merchandise or refreshments are available for purchase.

4. *"Official"* means a person who is employed as a referee, judge, timekeeper, or match physician for a match or event covered by this chapter.

5. *"Participant"* means a person involved in a match or event covered by this chapter, and includes contestants, seconds, managers, and similar event personnel.

6. *"Professional boxing or wrestling match"* means a boxing or wrestling contest or exhibition open to the public in this state for which the contestants are paid or awarded a prize for their participation.

7. *"Promoter"* means a person or business that does at least one of the following:

a. Organizes, holds, advertises, or otherwise conducts a professional boxing or wrestling match.

b. Charges admission for the viewing of a professional boxing or wrestling match received through a closed-circuit, pay-per-view, or similarly distributed signal.

c. Organizes, holds, advertises, or otherwise conducts a mixed martial arts match.

[C71, 73, 75, 77, §727A.1; C79, 81, §99C.1]
86 Acts, ch 1245, §944
C87, §90A.1
91 Acts, ch 137, §1; 97 Acts, ch 29, §1; 99 Acts, ch 68, §13; 2010 Acts, ch 1122, §1 – 3
Referred to in §90A.4

90A.2 License.

1. A person shall not act as a promoter of a professional boxing or wrestling match or a mixed martial arts match without first obtaining a license from the commissioner. This subsection shall not apply to a person distributing a closed-circuit, pay-per-view, or similarly distributed signal to a person acting as a promoter or to a person viewing the signal in a private residence.

2. The license application shall be in the form prescribed by the commissioner and shall contain information that is substantially complete and accurate. Any change in the information provided in the application shall be reported promptly to the commissioner. The application shall be submitted no later than seven days prior to the intended date of the match.

3. Each application for a license shall be accompanied by a surety or cash bond in the

sum of five thousand dollars, payable to the state of Iowa, which shall be conditioned upon the payment of the tax and any penalties imposed pursuant to this chapter.

[C71, 73, 75, 77, §727A.2; C79, 81, §99C.2]
86 Acts, ch 1245, §936, 944
C87, §90A.2
97 Acts, ch 29, §2; 2010 Acts, ch 1122, §4
Referred to in §90A.6, 90A.9, 90A.11

90A.3 Professional boxer registration.

1. Each professional boxer residing in Iowa shall register with the commissioner. The registration application shall be in the form prescribed by the commissioner and shall be accompanied by the fee established by rule by the commissioner. The information required by the commissioner shall include, but is not limited to, the following:

a. The boxer's name and address.

b. The boxer's gender.

c. The boxer's date of birth.

d. The boxer's social security number or, if a foreign boxer, any similar citizen identification number or professional boxer number from the country of residence of the boxer.

e. The boxer's personal identification number assigned to the boxer by a professional boxing registry certified by the association of boxing commissions if the boxer is registered with a registry.

f. Two copies of a recent photograph of the boxer.

g. An official government-issued photo identification containing the boxer's photograph and social security number or similar foreign identification number.

2. The commissioner shall issue an identification card to a boxer registered pursuant to this chapter. The identification card shall contain a recent photograph, the boxer's social security number or similar foreign identification number, and a personal identification number assigned to the boxer by a boxing registry.

3. A registration issued pursuant to this section shall be valid for two years from the date of issue.

4. This section does not apply to professional wrestlers or contestants in boxing elimination tournaments.

[C71, 73, 75, 77, §727A.3; C79, 81, §99C.3]
86 Acts, ch 1245, §944
C87, §90A.3
97 Acts, ch 29, §3; 97 Acts, ch 40, §5
Referred to in §90A.6, 90A.8

90A.4 Promoter responsibility.

A promoter shall be responsible for the conduct of all officials and participants at a match or event covered by this chapter. The commissioner may reprimand, suspend, deny, or revoke the participation of any promoter, official, or participant for violations of rules adopted by the commissioner. Rulings or decisions of a promoter or an official are not decisions of the commissioner and are not subject to procedures under chapter 17A. The commissioner may take action based upon the rulings or decisions of a promoter or an official. This section shall not apply to a promoter as defined in section 90A.1, subsection 7, paragraph *"b"*.

[C71, 73, 75, 77, §727A.4; C79, 81, §99C.4]
86 Acts, ch 1245, §944
C87, §90A.4
91 Acts, ch 137, §2; 97 Acts, ch 29, §4; 2010 Acts, ch 1122, §5

90A.5 Emergency suspensions.

1. Notwithstanding the procedural requirements of chapter 17A, the commissioner may orally suspend a license, registration, or participation immediately if the commissioner determines that any of the following have occurred:

a. A license or registration was fraudulently or deceptively obtained.

b. The holder of a license or registration fails at any time to meet the qualifications for issuance.

c. A contestant fails to pass a prefight physical examination.

d. A match promoter permits a nonregistered boxer to participate in a professional boxing match.

e. A match promoter permits a person whose license, registration, or authority, issued pursuant to this chapter, is under suspension to participate in a boxing event.

f. A match promoter or professional boxer is under suspension by any other state boxing regulatory organization.

g. A match promoter or professional boxer is under suspension in any state.

h. A match promoter, contestant, or participant is in violation of rules adopted pursuant to section 90A.7.

i. A contestant does not present adequate proof of age pursuant to section 90A.12.

2. A written notice of a suspension issued pursuant to this section shall be given to the person suspended within seven days of the emergency suspension. The provisions of chapter 17A shall apply once the written notice is given.

[C71, 73, 75, 77, §727A.5; C79, 81, §99C.5]
86 Acts, ch 1245, §944
C87, §90A.5
97 Acts, ch 29, §5; 2010 Acts, ch 1122, §6, 7
Referred to in §90A.6

90A.6 Suspensions, denials, and revocations.

1. The commissioner may suspend, deny, revoke, annul, or withdraw a license, registration, or authority to participate in a professional boxing or wrestling match or mixed martial arts match if any of the following occur:

a. Any of the reasons enumerated in section 90A.5.

b. Failure to pay fees or penalties due pursuant to section 90A.2, 90A.3, or 90A.9.

2. The provisions of chapter 17A shall apply to actions under this section.

[C71, 73, 75, 77, §727A.6; C79, 81, §99C.6]
86 Acts, ch 1245, §944
C87, §90A.6
91 Acts, ch 137, §3; 97 Acts, ch 29, §6; 2010 Acts, ch 1122, §8

90A.7 Rules.

1. The commissioner shall adopt rules, pursuant to chapter 17A, that the commissioner determines are reasonably necessary to administer and enforce this chapter.

2. The commissioner shall adopt rules establishing an event fee to cover the costs of the administration of this chapter.

3. The commissioner may adopt the rules of a recognized national or world boxing organization that sanctions a boxing match in this state to regulate the match if the organization's rules provide protection to the boxers participating in the match which is equal to or greater than the protections provided by this chapter or by rules adopted pursuant to this chapter. As used in this paragraph, "*recognized national or world boxing organization*" includes, but is not limited to, the international boxing federation, the world boxing association, and the world boxing council.

[C71, 73, 75, 77, §727A.7; C79, 81, §99C.7]
86 Acts, ch 1245, §944
C87, §90A.7
90 Acts, ch 1266, §38; 91 Acts, ch 137, §4; 92 Acts, ch 1032, §1; 97 Acts, ch 29, §7; 2013 Acts, ch 137, §33
Referred to in §90A.5

90A.8 Required conditions for boxing matches.

1. A boxing match shall be not more than fifteen rounds in length and the contestants shall wear gloves weighing at least eight ounces during such contests. The commissioner may adopt rules requiring more stringent procedures for specific types of boxing.

2. A contestant shall not take part in a boxing match unless the contestant has presented a valid registration identification card issued pursuant to section 90A.3 to the commissioner prior to the weigh-in for the boxing match. The contestant shall pass a rigorous physical examination to determine the contestant's fitness to engage in any such match within twenty-four hours of the start of the match. The examination shall be conducted by a licensed practicing physician designated or authorized by the commissioner.

[C71, 73, 75, 77, §727A.8; C79, 81, §99C.8]
86 Acts, ch 1245, §944
C87, §90A.8
91 Acts, ch 137, §5; 97 Acts, ch 29, §8; 2021 Acts, ch 76, §150
Code editor directive applied

90A.9 Written report filed — tax due — penalty.

1. The promoter of a professional boxing or wrestling match or event or a mixed martial arts match shall, within twenty days after the match or event, furnish to the commissioner a written report stating the number of tickets sold, the gross amount of admission proceeds of the match or event, and other matters the commissioner may prescribe by rule. The value of complimentary tickets in excess of five percent of the number of tickets sold shall be included in the gross admission receipts. Within twenty days of the match or event, the promoter shall pay to the treasurer of state a tax of five percent of its total gross admission receipts, after deducting state sales tax, from the sale of tickets of admission to the match or event.

2. If the promoter fails to make a timely report within the time prescribed, or if the report is unsatisfactory to the commissioner, the commissioner may examine or cause to be examined the books and records of the promoter, and subpoena and examine under oath witnesses, for the purpose of determining the total amount of the gross admission receipts for any match and the amount of tax due pursuant to the provisions of this chapter. The commissioner may, as the result of such examination, fix and determine the tax, and may also assess the promoter the reasonable cost of conducting the examination. If a promoter defaults in the payment of any tax due or the costs incurred in making such examination, the promoter shall forfeit to the state the sum of five thousand dollars, which may be recovered by the attorney general pursuant to the bond required under section 90A.2, subsection 3.

[C71, 73, 75, 77, §727A.9; C79, 81, §99C.9]
86 Acts, ch 1245, §944
C87, §90A.9
97 Acts, ch 29, §9; 2010 Acts, ch 1122, §9
Referred to in §90A.6, 90A.10, 90A.11

90A.10 Grants — appropriation.

1. Moneys collected pursuant to section 90A.9 from a professional boxing event are appropriated to the department of workforce development and shall be used by the commissioner to award grants to organizations that promote amateur boxing matches in this state. All other moneys collected by the commissioner pursuant to this chapter are appropriated to the department of workforce development and shall be used by the commissioner to administer this chapter. Section 8.33 applies only to moneys in excess of the first twenty thousand dollars appropriated each fiscal year.

2. The commissioner shall adopt rules pursuant to chapter 17A to establish application procedures and criteria for the review and approval of grants awarded pursuant to this section.

3. An advisory committee composed of three members of the golden gloves association of America, incorporated — Iowa branch, who shall be appointed by the association, and three members of the United States of America amateur boxing federation — Iowa branch, who shall be appointed by the federation, shall advise the commissioner regarding the awarding of grants pursuant to this section.

84 Acts, ch 1106, §1
C85, §99C.10
86 Acts, ch 1245, §944

C87, §90A.10
87 Acts, ch 26, §1; 90 Acts, ch 1004, §1; 93 Acts, ch 15, §1; 97 Acts, ch 29, §10; 2013 Acts, ch 137, §34

90A.11 License penalties — cease and desist order.

1. A person who acts as a promoter without first obtaining a license commits a serious misdemeanor and shall be liable to the state for the taxes and penalties pursuant to section 90A.9.

2. *a.* Notwithstanding the procedural requirements of chapter 17A, the commissioner may issue an order to cease and desist a match or event if the criteria of this subsection are met. The county sheriff shall assist with service and enforcement of the commissioner's order to cease and desist if requested by the commissioner. The provisions of chapter 17A shall apply after enforcement of the order to cease and desist.

b. The commissioner may issue an order to cease and desist a match or event if all of the following have occurred:

(1) The commissioner conducted an investigation and determined a promoter is organizing, advertising, holding, or conducting an event or match that is within the scope of section 90A.2.

(2) The promoter has not applied for or has been denied a license.

(3) The deadline to file a timely license application has passed.

3. *a.* A person who acts as a promoter without first obtaining a license is subject to a civil penalty of not more than ten thousand dollars for each violation.

b. The commissioner shall notify the unlicensed promoter of a proposed civil penalty by service in the same manner as an original notice or by certified mail. If within fifteen business days from the receipt of the notice, the unlicensed promoter fails to file a notice of contest in accordance with rules adopted by the commissioner pursuant to chapter 17A, the penalty as proposed shall be deemed final agency action for purposes of judicial review.

c. The commissioner shall notify the department of revenue upon final agency action regarding the assessment of a civil penalty against an unlicensed promoter. Interest shall be calculated on the penalty from the date of final agency action.

d. Judicial review of final agency action pursuant to this section may be sought in accordance with the terms of section 17A.19. If no petition for judicial review is filed within sixty days after service of the final agency action of the commissioner, the commissioner's findings of fact and final agency action shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. The clerk of court, unless otherwise ordered by the court, shall enter a decree enforcing the final agency action and shall transmit a copy of the decree to the commissioner and the unlicensed promoter named in the petition.

e. Civil penalties recovered pursuant to this subsection shall be remitted by the commissioner to the treasurer of state for deposit in the general fund of the state.

97 Acts, ch 29, §11; 2010 Acts, ch 1122, §10; 2011 Acts, ch 34, §22

90A.12 Age requirement for amateur boxing and mixed martial arts contestants.

1. A person shall not participate as a contestant in an organized amateur boxing contest unless each contestant participating in the contest meets the age requirements of USA boxing incorporated, or its successor organization. A birth certificate, or similar document validating the contestant's date of birth, must be submitted at the time of the prefight physical examination in order to determine eligibility.

2. Subsection 1 does not apply to contestants in regional, national, or international organized amateur boxing contests or to organized amateur boxing contests involving contestants who are serving in the military service.

3. A person shall not be a contestant in a mixed martial arts match unless the contestant is eighteen years of age or older. Each contestant shall submit to the commissioner a certified

birth certificate, or similar document, validating the contestant's date of birth prior to the match in order to verify the contestant's eligibility.

97 Acts, ch 29, §12; 2001 Acts, ch 188, §23; 2010 Acts, ch 1122, §11
Referred to in §90A.5

CHAPTER 91

LABOR SERVICES DIVISION

Referred to in §84A.5, 455B.135, 455B.390

91.1 Labor commissioner.
91.2 Appointment.
91.3 Reserved.
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91.5 Other duties — jurisdiction in general.
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91.9 Right to enter premises.
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91.11 Prosecutions for violations.
91.12 Reports and records to division of labor services.
91.13 and 91.14 Reserved.
91.15 Definition of terms.
91.16 Violations — penalties.

91.1 Labor commissioner.

The division of labor services of the department of workforce development, created under section 84A.1, is under the control of a labor commissioner, who shall have an office at the seat of government and shall devote the commissioner's entire time to the duties of the office.

[C97, §2469; S13, §2469; C24, 27, 31, 35, 39, §**1510;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.1]

86 Acts, ch 1245, §918; 96 Acts, ch 1186, §23

91.2 Appointment.

The governor shall appoint, subject to confirmation by the senate, a labor commissioner who shall serve for a period of six years beginning and ending as provided in section 69.19.

[C97, §2469; S13, §2470; C24, 27, 31, 35, 39, §**1511;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 82, §91.2]

85 Acts, ch 51, §1, 2; 86 Acts, ch 1245, §919
Referred to in §73A.21, 84A.5, 88.2, 88.3, 89A.1, 90A.1, 91E.1, 94A.1, 626.76
Confirmation, see §2.32

91.3 Reserved.

91.4 Duties and powers.

1. The duties of said commissioner shall be:

a. To safely keep all records, papers, documents, correspondence, and other property pertaining to or coming into the commissioner's hands by virtue of the office, and deliver the same to the commissioner's successor, except as otherwise provided.

b. To collect, assort, and systematize statistical details relating to programs of the division of labor services.

c. To issue from time to time bulletins containing information of importance to the industries of the state and to the safety of wage earners.

d. To conduct and to cooperate with other interested persons and organizations in conducting educational programs and projects on employment safety.

e. To serve as an ex officio member of the state fire service and emergency response council, or appoint a designee to serve as an ex officio member of such council, to assist the council in the development of rules relating to fire fighting training standards and any other issues relating to occupational safety and health standards for fire fighters.

2. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor

setting forth in appropriate form the business and expense of the division of labor services for the preceding year, the number of remedial actions taken under chapter 89A, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, and 94A, and section 85.68, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

3. The commissioner, with the assistance of the office of the attorney general if requested by the commissioner, may commence a civil action in any court of competent jurisdiction to enforce the statutes under the commissioner's jurisdiction.

4. The division of labor services may sell documents printed by the division at cost according to rules established by the labor commissioner pursuant to chapter 17A. Receipts from the sale shall be deposited to the credit of the division and may be used by the division for administrative expenses.

5. Except as provided in chapter 91A, the commissioner may recover interest, court costs, and any attorney fees incurred in recovering any amounts due. The recovery shall only take place after final agency action is taken under chapter 17A, or upon judicial review, after final disposition of the case by the court. Attorney fees recovered in an action brought under the jurisdiction of the commissioner shall be deposited in the general fund of the state. The commissioner is exempt from the payment of any filing fee or other court costs including but not limited to fees paid to county sheriffs.

6. The commissioner may establish rules pursuant to chapter 17A to assess and collect interest on fees, penalties, and other amounts due the division. The commissioner may delay or, following written notice, deny the issuance of a license, commission, registration, certificate, or permit authorized under chapter 88A, 89, 89A, 90A, 91C, or 94A if the applicant for the license, commission, registration, certificate, or permit owes a liquidated debt to the commissioner.

[C97, §2469, 2470; S13, §2469, 2470; C24, 27, 31, 35, 39, §**1513;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.4]

86 Acts, ch 1244, §15; 86 Acts, ch 1245, §920; 91 Acts, ch 136, §3; 92 Acts, ch 1098, §6; 93 Acts, ch 180, §58; 96 Acts, ch 1186, §23; 99 Acts, ch 68, §14, 15; 99 Acts, ch 130, §8; 2000 Acts, ch 1117, §7; 2006 Acts, ch 1053, §1; 2006 Acts, ch 1185, §117; 2007 Acts, ch 211, §34; 2010 Acts, ch 1015, §7; 2011 Acts, ch 34, §23

91.5 Other duties — jurisdiction in general.

The commissioner shall have jurisdiction and it shall be the commissioner's duty to supervise the enforcement of:

1. All laws relating to safety appliances and inspection thereof and health conditions in manufacturing and mercantile establishments, workshops, machine shops, other industrial concerns within the commissioner's jurisdiction and sanitation and shelter for railway employees.

2. All laws of the state relating to child labor.

3. All laws relating to employment agencies.

4. Such other provisions of law as are now or shall hereafter be within the commissioner's jurisdiction.

[S13, §2477-f; SS15, §2477-g1, 4999-a5, -a10; C24, 27, 31, 35, 39, §**1514;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.5]

86 Acts, ch 1245, §921

91.6 Rules.

The commissioner shall adopt rules pursuant to chapter 17A for the purpose of administering this chapter and all other chapters under the commissioner's jurisdiction.

89 Acts, ch 26, §1

Referred to in §73A.21

91.7 Reserved.

91.8 Traveling expenses.

The commissioner, inspectors and other employees of the office shall be allowed their necessary traveling expenses while in the discharge of their duties.

[C97, §2477; S13, §2477; C24, 27, 31, 35, 39, §**1517;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.8; 81 Acts, ch 10, §10]

91.9 Right to enter premises.

The labor commissioner and the inspectors shall have the power to enter any factory or mill, workshop, mine, store, railway facility, including locomotive or caboose, business house, or public or private work, when the same is open or in operation, for the purpose of gathering facts and statistics such as are contemplated by this chapter, and to examine into the methods of protection from danger to employees, and the sanitary conditions in and around such buildings and places, and make a record thereof.

[C97, §2472; S13, §2472; C24, 27, 31, 35, 39, §**1518;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.9]

Section not amended; editorial change applied

91.10 Power to secure evidence.

The labor commissioner, or the commissioner's designee, may issue subpoenas, administer oaths, and take testimony in all matters relating to the duties required of them. Witnesses subpoenaed and testifying before the commissioner or the commissioner's designee shall be paid the same fees as witnesses under section 622.69, payment to be made out of the funds appropriated to the division of labor services.

[C97, §2471; S13, §2471; C24, 27, 31, 35, 39, §**1519;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.10]

83 Acts, ch 186, §10041, 10201; 99 Acts, ch 68, §16

91.11 Prosecutions for violations.

1. If the commissioner learns of any violation of any law administered by the division, the commissioner may give the county attorney of the county in which the violation occurred written notice of the facts, whereupon that officer shall institute the proper proceedings against the person charged with the offense.

2. If the commissioner is of the opinion that the violation is not willful, or is an oversight or of a trivial nature, the commissioner may at the commissioner's discretion fix a time within which the violation shall be corrected and notify the owner, operator, superintendent, or person in charge. If the violation is corrected within the time fixed, then the commissioner shall not cause prosecution to be begun.

[C97, §2472; S13, §2472; C24, 27, 31, 35, 39, §**1520;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.11]

99 Acts, ch 68, §17; 2021 Acts, ch 76, §21

Referred to in §331.756(16)

Section amended

91.12 Reports and records to division of labor services.

1. An owner, operator, or manager of every factory, mill, workshop, mine, store, railway, business house, public or private work, or any other establishment where labor is employed, shall submit to the division of labor services reports in the form and manner prescribed by the commissioner, for the purpose of compiling labor statistics. The owner, operator, or business manager shall submit the reports within sixty days from receipt of notice, and shall certify under oath the accuracy of the reports.

2. Notwithstanding chapter 22, records containing identifiable financial institution or credit card account numbers obtained by the commissioner shall be kept confidential.

[C97, §2474; S13, §2474; C24, 27, 31, 35, 39, §**1521;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.12]

98 Acts, ch 1105, §4

91.13 and 91.14 Reserved.

91.15 Definition of terms.

The expressions *"factory"*, *"mill"*, *"workshop"*, *"mine"*, *"store"*, *"railway"*, *"business house"*, and *"public or private work"*, as used in this chapter, shall be construed to mean any factory, mill, workshop, mine, store, railway, business house, or public or private work, where wage earners are employed for a compensation.

[C97, §2473; SS15, §2473; C24, 27, 31, 35, 39, §**1524;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.15]

Section not amended; editorial change applied

91.16 Violations — penalties.

Persons violating any of the provisions of this chapter shall be punished as in this section provided, respectively:

1. Any owner, superintendent, manager, or person in charge of any factory, mill, workshop, store, mine, hotel, restaurant, cafe, railway, business house, or public or private work, who shall refuse to allow the labor commissioner or any inspector or employee of the division of labor services to enter the same, or who shall hinder or deter the commissioner, inspector, or employee in collecting information which it is that person's duty to collect shall be guilty of a simple misdemeanor.

2. Any officer or employee of the division of labor services, or any person making unlawful use of names or information obtained by virtue of the person's office, shall be guilty of a serious misdemeanor.

3. Any owner, operator, or manager of a factory, mill, workshop, mine, store, railway, business house, or public or private work, who shall neglect or refuse for thirty days after receipt of notice from the commissioner to furnish any reports or returns the commissioner may require to enable the commissioner to discharge the commissioner's duties shall be guilty of a simple misdemeanor.

[C97, §2471, 2472, 2474, 2475; S13, §2471, 2472, 2474; C24, 27, 31, 35, 39, §**1525;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §91.16]

2007 Acts, ch 22, §24

Section not amended; editorial changes applied

CHAPTER 91A

WAGE PAYMENT COLLECTION

Referred to in §70A.1, 84A.5, 91.4, 91D.1, 331.324

91A.1	Short title.	91A.9	General powers and duties of the commissioner.
91A.2	Definitions.	91A.10	Settlement of claims and suits for wages — prohibition against discharge of employee.
91A.3	Mode of payment.	91A.11	Wage claims brought under reciprocity.
91A.4	Employment suspension or termination — how wages are paid.	91A.12	Civil penalties.
91A.5	Deductions from wages.	91A.13	Travel time to worksite — when compensable.
91A.5A	Holiday time off — Veterans Day.	91A.14	Former employees.
91A.6	Notice and recordkeeping requirements.	91A.15	Franchisor-franchisee relationship.
91A.7	Wage disputes.		
91A.8	Damages recoverable by an employee.		

91A.1 Short title.

This chapter shall be known and may be referred to as the *"Iowa Wage Payment Collection Law"*.

[C77, 79, 81, §91A.1]

91A.2 Definitions.

As used in this chapter:

1. *"Commissioner"* means the labor commissioner or a designee.

2. *"Days"* means calendar days.

3. *a. "Employee"* means a natural person who is employed in this state for wages by an employer. Employee also includes a commission salesperson who takes orders or performs services on behalf of a principal and who is paid on the basis of commissions but does not include persons who purchase for their own account for resale.

b. For the purposes of this chapter, the following persons engaged in agriculture are not employees:

(1) The spouse of the employer and relatives of either the employer or spouse residing on the premises of the employer.

(2) A person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either who reside on the premises while exchanging labor with the operator or for other mutual benefit of any and all such persons.

(3) Neighboring persons engaged in agriculture who are exchanging labor or other services.

c. For purposes of this chapter, *"employee"* does not include an independent contractor as described in section 85.61, subsection 11, paragraph *"c"*, subparagraph (3).

4. *"Employer"* means a person, as defined in chapter 4, who in this state employs for wages a natural person. An employer does not include a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or as an independent contractor.

5. *"Health benefit plan"* means a plan or agreement provided by an employer for employees for the provision of or payment for care and treatment of sickness or injury.

6. *"Liquidated damages"* means the sum of five percent multiplied by the amount of any wages that were not paid or of any authorized expenses that were not reimbursed on a regular payday or on another day pursuant to section 91A.3 multiplied by the total number of days, excluding Sundays, legal holidays, and the first seven days after the regular payday on which wages were not paid or expenses were not reimbursed. However, such sum shall not exceed the amount of the unpaid wages and shall not accumulate when an employer is subject to a petition filed in bankruptcy.

7. *"Wages"* means compensation owed by an employer for:

a. Labor or services rendered by an employee, whether determined on a time, task, piece, commission, or other basis of calculation.

b. Vacation, holiday, sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer.

c. Any payments to the employee or to a fund for the benefit of the employee, including but not limited to payments for medical, health, hospital, welfare, pension, or profit-sharing, which are due an employee under an agreement with the employer or under a policy of the employer. The assets of an employee in a fund for the benefit of the employee, whether such assets were originally paid into the fund by an employer or employee, are not wages.

d. Expenses incurred and recoverable under a health benefit plan.

[C77, 79, 81, §91A.2]

84 Acts, ch 1129, §2; 84 Acts, ch 1270, §1; 85 Acts, ch 119, §1; 86 Acts, ch 1124, §6, 7; 2020 Acts, ch 1069, §2

Referred to in §91B.1, 91B.2, 91E.1, 626.69

91A.3 Mode of payment.

1. An employer shall pay all wages due its employees, less any lawful deductions specified in section 91A.5, at least in monthly, semimonthly, or biweekly installments on regular paydays which are at consistent intervals from each other and which are designated in advance by the employer. However, if any of these wages due its employees are determined on a commission basis, the employer may, upon agreement with the employee, pay only a credit against such wages. If such credit is paid, the employer shall, at regular intervals, pay any difference between a credit paid against wages determined on a commission basis

and such wages actually earned on a commission basis. These regular intervals shall not be separated by more than twelve months. A regular payday shall not be more than twelve days, excluding Sundays and legal holidays, after the end of the period in which the wages were earned. An employer and employee may, upon written agreement which shall be maintained as a record, vary the provisions of this subsection.

2. The wages paid under subsection 1 shall be paid in United States currency or by written instrument issued by the employer and negotiable on demand at full face value for such currency, unless the employee has agreed in writing to receive a part of or all wages in kind or in other form.

3. *a.* The wages paid under subsection 1 shall be paid at the employee's normal place of employment during normal employment hours or at a place and hour mutually agreed upon by the employer and employee, or the employee may elect to have the wages sent for direct deposit, on or by the regular payday of the employee, into a financial institution designated by the employee. Upon written request by the employee, wages due may be sent to the employee by mail. The employer shall maintain a copy of the request for as long as it is effective and for at least two years thereafter. An employee hired on or after July 1, 2005, may be required, as a condition of employment, to participate in direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exist:

(1) The costs to the employee of establishing and maintaining an account for purposes of the direct deposit would effectively reduce the employee's wages to a level below the minimum wage provided under section 91D.1.

(2) The employee would incur fees charged to the employee's account as a result of the direct deposit.

(3) The provisions of a collective bargaining agreement mutually agreed upon by the employer and the employee organization prohibit the employer from requiring an employee to sign up for direct deposit as a condition of hire.

b. If the employer fails to pay an employee's wages on or by the regular payday in accordance with this subsection, the employer is liable for the amount of any overdraft charge if the overdraft is created on the employee's account because of the employer's failure to pay the wages on or by the regular payday. The overdraft charges may be the basis for a claim under section 91A.10 and for damages under section 91A.8.

4. The wages paid under subsection 1 may be delivered to a designee of the employee who is so designated in writing or may be sent to the employee by any reasonable means requested by the employee in writing. A designee under this subsection shall not also be an assignee or buyer of wages under section 539.4 nor a garnisher of the employee under chapter 642, unless the designee complies with the provisions of section 539.4 and chapter 642.

5. If an employee is absent from the normal place of employment on the regular payday, the employer shall, upon demand of the employee made within the first seven days following the regular payday, pay the wages, less any lawful deductions specified in section 91A.5, which were due on that regular payday. However, if demand is not made within this seven-day period, the employer shall, upon demand of the employee, pay the wages which were due on a regular payday within the first seven days following the day on which demand is made.

6. Expenses by the employee which are authorized by the employer and incurred by the employee shall either be reimbursed in advance of expenditure or be reimbursed not later than thirty days after the employee's submission of an expense claim. If the employer refuses to pay all or part of each claim, the employer shall submit to the employee a written justification of such refusal within the same time period in which expense claims are paid under this subsection.

7. If a farm labor contractor contracts with a person engaged in the production of seed or feed grains to remove unwanted or genetically deviant plants or corn tassels or to hand pollinate plants, and fails to pay all wages due the employees of the farm labor contractor, the

person engaged in the production of seed or feed grains shall also be liable to the employees for wages not paid by the farm labor contractor.

[C77, 79, 81, §91A.3]

84 Acts, ch 1270, §2; 99 Acts, ch 68, §18; 2005 Acts, ch 168, §19, 23; 2006 Acts, ch 1083, §1, 2, 4; 2007 Acts, ch 29, §1; 2008 Acts, ch 1136, §1, 2

Referred to in §91A.2, 91A.4, 91A.7, 91A.8

91A.4 Employment suspension or termination — how wages are paid.

When the employment of an employee is suspended or terminated, the employer shall pay all wages earned, less any lawful deductions specified in section 91A.5 by the employee up to the time of the suspension or termination not later than the next regular payday for the pay period in which the wages were earned as provided in section 91A.3. However, if any of these wages are the difference between a credit paid against wages determined on a commission basis and the wages actually earned on a commission basis, the employer shall pay the difference not more than thirty days after the date of suspension or termination. If vacations are due an employee under an agreement with the employer or a policy of the employer establishing pro rata vacation accrued, the increment shall be in proportion to the fraction of the year which the employee was actually employed.

[C77, 79, 81, §91A.4]

95 Acts, ch 37, §1

91A.5 Deductions from wages.

1. An employer shall not withhold or divert any portion of an employee's wages unless:

a. The employer is required or permitted to do so by state or federal law or by order of a court of competent jurisdiction; or

b. The employer has written authorization from the employee to so deduct for any lawful purpose accruing to the benefit of the employee.

2. The following shall not be deducted from an employee's wages:

a. Cash shortage in a common money till, cash box, or register operated by two or more employees or by an employee and an employer. However, the employer and a full-time employee who is the manager of an establishment may agree in writing signed by both parties that the employee will be responsible for a cash shortage that occurs within forty-five days prior to the most recent regular payday. Not more than one such agreement shall be in effect per establishment.

b. Losses due to acceptance by an employee on behalf of the employer of checks which are subsequently dishonored if the employee has been given the discretion to accept or reject such checks and the employee does not abuse the discretion given.

c. Losses due to breakage, damage to property, default of customer credit, or nonpayment for goods or services rendered so long as such losses are not attributable to the employee's willful or intentional disregard of the employer's interests.

d. Lost or stolen property, unless the property is equipment specifically assigned to, and receipt acknowledged in writing by, the employee from whom the deduction is made.

e. Gratuities received by an employee from customers of the employer.

f. Costs of personal protective equipment, other than items of clothing or footwear which may be used by an employee during nonworking hours, needed to protect an employee from employment-related hazards, unless provided otherwise in a collective bargaining agreement.

g. Costs of more than twenty dollars for an employee's relocation to the place of employment. This paragraph shall apply only to an employer as defined in section 91E.1.

[C77, 79, 81, §91A.5]

90 Acts, ch 1134, §1; 90 Acts, ch 1136, §7, 8

Referred to in §91A.3, 91A.4, 91A.7

91A.5A Holiday time off — Veterans Day.

1. An employer shall provide each employee who is a veteran, as defined in section 35.1, with holiday time off for Veterans Day, November 11, if the employee would otherwise be required to work on that day, as provided in this section.

2. An employer, in complying with this section, shall have the discretion of providing paid

or unpaid time off on Veterans Day, unless providing time off would impact public health or safety or would cause the employer to experience significant economic or operational disruption.

3. *a.* An employee shall provide the employer with at least one month's prior written notice of the employee's intent to take time off for Veterans Day and shall also provide the employer with a federal certificate of release or discharge from active duty, or such similar federal document, for purposes of determining the employee's eligibility for the benefit provided in this section.

b. The employer shall, at least ten days prior to Veterans Day, notify the employee if the employee shall be provided paid or unpaid time off on Veterans Day. If the employer determines that the employer is unable to provide time off for Veterans Day for all employees who request time off, the employer shall deny time off to the minimum number of employees needed by the employer to protect public health and safety or to maintain minimum operational capacity, as applicable.

2010 Acts, ch 1172, §1

91A.6 Notice and recordkeeping requirements.

1. An employer shall after being notified by the commissioner pursuant to subsection 2:

a. Notify its employees in writing at the time of hiring what wages and regular paydays are designated by the employer.

b. Notify, at least one pay period prior to the initiation of any changes, its employees of any changes in the arrangements specified in subsection 1 that reduce wages or alter the regular paydays. The notice shall either be in writing or posted at a place where employee notices are routinely posted.

c. Make available to its employees upon written request, a written statement enumerating employment agreements and policies with regard to vacation pay, sick leave, reimbursement for expenses, retirement benefits, severance pay, or other comparable matters with respect to wages. Notice of such availability shall be given to each employee in writing or by a notice posted at a place where employee notices are routinely posted.

d. Establish, maintain, and preserve for three calendar years the payroll records showing the hours worked, wages earned, and deductions made for each employee and any employment agreements entered into between an employer and employee.

2. The commissioner shall notify an employer to comply with subsection 1 if the employer has paid a claim for unpaid wages or nonreimbursed authorized expenses and liquidated damages under section 91A.10 or if the employer has been assessed a civil money penalty under section 91A.12. However, a court may, when rendering a judgment for wages or nonreimbursed authorized expenses and liquidated damages or upholding a civil money penalty assessment, order that an employer shall not be required to comply with the provisions of subsection 1 or that an employer shall be required to comply with the provisions of subsection 1 for a particular period of time.

3. Within ten working days of a request by an employee, an employer shall furnish to the employee a written, itemized statement or access to a written, itemized statement as provided in subsection 4, listing the earnings and deductions made from the wages for each pay period in which the deductions were made together with an explanation of how the wages and deductions were computed.

4. *a.* On each regular payday, the employer shall provide to each employee a statement showing the hours the employee worked, the wages earned by the employee, and deductions made for the employee.

b. The employer shall provide the statement using one of the following methods:

(1) Sending the statement to an employee by mail.

(2) Providing the statement to an employee by secure electronic transmission or by other secure electronic means. If an employee is unable to receive the statement by this method, the employee shall notify the employer in writing at least one pay period in advance, and the employer shall provide the statement by one of the other methods listed in this paragraph "*b*".

(3) Providing the statement to the employee at the employee's normal place of employment during normal employment hours.

(4) Providing each employee access to view a statement of the employee's earnings electronically and providing the employee free and unrestricted access to a printer to print the statement.

c. However, the employer need not provide information on hours worked for employees who are exempt from overtime under the federal Fair Labor Standards Act, as defined in 29 C.F.R. pt. 541, unless the employer has established a policy or practice of paying to or on behalf of exempt employees overtime, a bonus, or a payment based on hours worked, whereupon the employer shall send or otherwise provide a statement to the exempt employees showing the hours the employee worked or the payments made to the employee by the employer, as applicable.

[C77, 79, 81, §91A.6]

2005 Acts, ch 168, §20, 21, 23; 2006 Acts, ch 1083, §3; 2018 Acts, ch 1006, §1

91A.7 Wage disputes.

If there is a dispute between an employer and employee concerning the amount of wages or expense reimbursement due, the employer shall, without condition and pursuant to section 91A.3, pay all wages conceded to be due and reimburse all expenses conceded to be due, less any lawful deductions specified in section 91A.5. Payment of wages or reimbursement of expenses under this section shall not relieve the employer of any liability for the balance of wages or expenses claimed by the employee.

[C77, 79, 81, §91A.7]

91A.8 Damages recoverable by an employee.

When it has been shown that an employer has intentionally failed to pay an employee wages or reimburse expenses pursuant to section 91A.3, whether as the result of a wage dispute or otherwise, the employer shall be liable to the employee for any wages or expenses that are so intentionally failed to be paid or reimbursed, plus liquidated damages, court costs and any attorney's fees incurred in recovering the unpaid wages and determined to have been usual and necessary. In other instances the employer shall be liable only for unpaid wages or expenses, court costs and usual and necessary attorney's fees incurred in recovering the unpaid wages or expenses.

[C77, 79, 81, §91A.8]

Referred to in §91A.3, 91A.10

91A.9 General powers and duties of the commissioner.

1. The commissioner shall administer and enforce the provisions of this chapter. The commissioner may hold hearings and investigate charges of violations of this chapter.

2. The commissioner may, consistent with due process of law, enter any place of employment to inspect records concerning wages and payrolls, to question the employer and employees, and to investigate such facts, conditions, or matters as are deemed appropriate in determining whether any person has violated the provisions of this chapter. However, such entry by the commissioner shall only be in response to a written complaint.

3. The commissioner may employ such qualified personnel as are necessary for the enforcement of this chapter. Such personnel shall be employed pursuant to chapter 8A, subchapter IV.

4. The commissioner shall, in consultation with the United States department of labor, develop a database of the employers in this state utilizing special certificates issued by the United States secretary of labor as authorized under 29 U.S.C. §214, and shall maintain the database.

5. The commissioner shall promulgate, pursuant to chapter 17A, any rules necessary to carry out the provisions of this chapter.

[C77, 79, 81, §91A.9]

2003 Acts, ch 145, §163; 2009 Acts, ch 136, §2

91A.10 Settlement of claims and suits for wages — prohibition against discharge of employee.

1. Upon the written complaint of the employee involved, the commissioner may determine whether wages have not been paid and may constitute an enforceable claim. If for any reason the commissioner decides not to make such determination, the commissioner shall so notify the complaining employee within fourteen days of receipt of the complaint. The commissioner shall otherwise notify the employee of such determination within a reasonable time and if it is determined that there is an enforceable claim, the commissioner shall, with the consent of the complaining employee, take an assignment in trust for the wages and for any claim for liquidated damages without being bound by any of the technical rules respecting the validity of the assignment. However, the commissioner shall not accept any complaint for unpaid wages and liquidated damages after one year from the date the wages became due and payable.

2. The commissioner, with the assistance of the office of the attorney general if the commissioner requests such assistance, shall, unless a settlement is reached under this subsection, commence a civil action in any court of competent jurisdiction to recover for the benefit of any employee any wage, expenses, and liquidated damages' claims that have been assigned to the commissioner for recovery. The commissioner may also request reasonable and necessary attorney fees. With the consent of the assigning employee, the commissioner may also settle a claim on behalf of the assigning employee. Proceedings under this subsection and subsection 1 that precede commencement of a civil action shall be conducted informally without any party having a right to be heard before the commissioner. The commissioner may join various assignments in one claim for the purpose of settling or litigating their claims.

3. The provisions of subsections 1 and 2 shall not be construed to prevent an employee from settling or bringing an action for damages under section 91A.8 if the employee has not assigned the claim under subsection 1.

4. Any recovery of attorney fees, in the case of actions brought under this section by the commissioner, shall be remitted by the commissioner to the treasurer of state for deposit in the general fund of the state. Also, the commissioner shall not be required to pay any filing fee or other court costs.

5. An employer shall not discharge or in any other manner discriminate against any employee because the employee has filed a complaint, assigned a claim, or brought an action under this section or has cooperated in bringing any action against an employer. Any employee may file a complaint with the commissioner alleging discharge or discrimination within thirty days after such violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent deemed appropriate. If the commissioner determines from the investigation that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against such person. The district court shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the former position with back pay.

[C77, 79, 81, §91A.10]

84 Acts, ch 1270, §3; 90 Acts, ch 1136, §9

Referred to in §91A.3, 91A.6

91A.11 Wage claims brought under reciprocity.

1. The commissioner may enter into reciprocal agreements with the labor department or corresponding agency of any other state or its representatives for the collection in such other states of claims or judgments for wages and other demands based upon claims assigned to the commissioner.

2. The commissioner may, to the extent provided for by any reciprocal agreement entered into by law or with an agency of another state as provided in this section, maintain actions in the courts of such other state to the extent permitted by the laws of that state for the collection of claims for wages, judgments and other demands and may assign such claims, judgments and demands to the labor department or agency of such other state for collection to the extent

that such an assignment may be permitted or provided for by the laws of such state or by reciprocal agreement.

3. The commissioner may, upon the written consent of the labor department or other corresponding agency of any other state or its representatives, maintain actions in the courts of this state upon assigned claims for wages, judgments and demands arising in such other state in the same manner and to the same extent that such actions by the commissioner are authorized when arising in this state. However, such actions may be maintained only in cases in which such other state by law or reciprocal agreement extends a like comity to cases arising in this state.

[C77, 79, 81, §91A.11]

91A.12 Civil penalties.

1. Any employer who violates the provisions of this chapter or the rules promulgated under it shall be subject to a civil money penalty of not more than five hundred dollars per pay period for each violation. The commissioner may recover such civil money penalty according to the provisions of subsections 2 through 5. Any civil money penalty recovered shall be deposited in the general fund of the state.

2. The commissioner may propose that an employer be assessed a civil money penalty by serving the employer with notice of such proposal in the same manner as an original notice is served under the rules of civil procedure. Upon service of such notice, the proposed assessment shall be treated as a contested case under chapter 17A. However, an employer must request a hearing within thirty days of being served.

3. If an employer does not request a hearing pursuant to subsection 2 or if the commissioner determines, after an appropriate hearing, that an employer is in violation of this chapter, the commissioner shall assess a civil money penalty which is consistent with the provisions of subsection 1 and which is rendered with due consideration for the penalty amount in terms of the size of the employer's business, the gravity of the violation, the good faith of the employer, and the history of previous violations.

4. An employer may seek judicial review of any assessment rendered under subsection 3 by instituting proceedings for judicial review pursuant to chapter 17A. However, such proceedings must be instituted in the district court of the county in which the violation or one of the violations occurred and within thirty days of the day on which the employer was notified that an assessment has been rendered. Also, an employer may be required, at the discretion of the district court and upon instituting such proceedings, to deposit the amount assessed with the clerk of the district court. Any moneys so deposited shall either be returned to the employer or be forwarded to the commissioner for deposit in the general fund of the state, depending on the outcome of the judicial review, including any appeal to the supreme court.

5. After the time for seeking judicial review has expired or after all judicial review has been exhausted and the commissioner's assessment has been upheld, the commissioner shall request the attorney general to recover the assessed penalties in a civil action.

[C77, 79, 81, §91A.12]

2009 Acts, ch 49, §1; 2021 Acts, ch 80, §46

Referred to in §91A.6

Subsection 1 amended

91A.13 Travel time to worksite — when compensable.

Unless a collective bargaining agreement provides otherwise, an employee is not entitled to compensation for the time that an employee spends traveling to and from the worksite on transportation provided by the employer, when during that time, the employee performs no work, the transportation is provided by the employer as a convenience for the employee, and the employee is not required by the employer to use that means of transportation to the worksite. An employee is entitled to compensation for the time that an employee spends traveling between worksites if the travel is done during working hours.

2001 Acts, ch 121, §1

91A.14 Former employees.

The rights and obligations outlined in this chapter continue until they are fulfilled, even though the employer-employee relationship has been severed.

2000 Acts, ch 1097, §3

91A.15 Franchisor-franchisee relationship.

1. For purposes of this section, "*franchisee*" and "*franchisor*" mean the same as defined in section 523H.1.

2. For purposes of this chapter, a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:

a. The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.

b. The franchisor has been found by the commissioner to have exercised a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

2019 Acts, ch 21, §2, 6

Section applies to work performed on or after July 1, 2019; 2019 Acts, ch 21, §6

CHAPTER 91B

PERSONNEL INFORMATION

Referred to in §99G.4, 173.1

91B.1 Files — access by employees.

91B.2 Information provided by employers about current or former employees — immunity.

91B.1 Files — access by employees.

1. An employee, as defined in section 91A.2, shall have access to and shall be permitted to obtain a copy of the employee's personnel file maintained by the employee's employer, as defined in section 91A.2, including but not limited to performance evaluations, disciplinary records, and other information concerning employer-employee relations.

2. However, an employee's access to a personnel file is subject to all of the following:

a. The employer and employee shall agree on the time the employee may have access to the employee's personnel file, and a representative of the employer may be present.

b. An employee shall not have access to employment references written for the employee.

c. An employer may charge a reasonable fee for each page of a copy made by the employer for an employee of an item in the employee's personnel file. For purposes of this paragraph, "*reasonable fee*" means an amount equivalent to an amount charged per page for copies made by a commercial copying business.

90 Acts, ch 1033, §1; 98 Acts, ch 1022, §1; 2008 Acts, ch 1032, §201

91B.2 Information provided by employers about current or former employees — immunity.

1. An employer or an employer's representative who, upon request by or authorization of a current or former employee or upon request made by a person who in good faith is believed to be a representative of a prospective employer of a current or former employee, provides work-related information about a current or former employee, is immune from civil liability unless the employer or the employer's representative acted unreasonably in providing the work-related information.

2. For purposes of this section, an employer acts unreasonably if any of the following are present:

a. The work-related information violates a civil right of the current or former employee.

b. The work-related information knowingly is provided to a person who has no legitimate and common interest in receiving the work-related information.

c. The work-related information is not relevant to the inquiry being made, is provided with malice, or is provided with no good faith belief that it is true.

3. For purposes of this section, "*employer*" and "*employee*" are defined as provided in section 91A.2.

97 Acts, ch 179, §1

CHAPTER 91C

CONSTRUCTION CONTRACTORS

Referred to in §10A.601, 84A.5, 91.4, 96.11, 103.1, 103.9, 103A.20, 105.18, 572.34

91C.1	Definition — exemption — combined registration and licensing process for plumbers and mechanical professionals.	91C.4	Fees.
		91C.5	Public registration number — records — revocation.
91C.2	Registration required — conditions.	91C.6	Rules.
		91C.7	Contracts — contractor's bond.
91C.3	Application — information to be provided.	91C.8	Investigations — enforcement — administrative penalties.
		91C.9	Registration fund.

91C.1 Definition — exemption — combined registration and licensing process for plumbers and mechanical professionals.

1. As used in this chapter, unless the context otherwise requires, "*contractor*" means a person who engages in the business of construction, as the term "*construction*" is defined in the Iowa administrative code for purposes of the Iowa employment security law. However, a person who earns less than two thousand dollars annually or who performs work or has work performed on the person's own property is not a contractor for purposes of this chapter. The state, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts, are not contractors for purposes of this chapter.

2. If a contractor's registration application shows that the contractor is self-employed, does not pay more than two thousand dollars annually to employ other persons in the business, and does not work with or for other contractors in the same phases of construction, the contractor is exempt from the fee requirements under this chapter.

3. *a.* The labor services division of the department of workforce development and the Iowa department of public health will work with stakeholders to develop a plan to combine the contractor registration and contractor licensing application process for contractors licensed under chapter 105, to be implemented in time for licensing renewals due July 1, 2017. Effective July 1, 2017, a contractor licensed under chapter 105 shall register as a contractor under this chapter in conjunction with the contractor licensing process. At no cost to the labor services division, the department of public health shall collect both the registration and licensing applications as part of one combined application. The labor commissioner shall design the contractor registration application form to exclude from the division of labor's contractor registration application process those contractors who are also covered by chapter 105. The labor commissioner is authorized to adopt rules as needed to accomplish a merger of the application systems including transitional registration periods and fees.

b. Effective July 1, 2017, excluding registrations by contractors that are exempt from the registration fee pursuant to this section, the department of public health shall collect and transfer to the labor services division a portion of each contractor license fee equal to three

times the contractor registration fee for each three-year license or a prorated portion thereof using a one-sixth deduction for each six-month period of the renewal cycle.

88 Acts, ch 1162, §2; 91 Acts, ch 136, §4; 97 Acts, ch 26, §1; 2006 Acts, ch 1176, §21; 2013 Acts, ch 77, §1, 36; 2017 Acts, ch 90, §1, 3

91C.2 Registration required — conditions.

A contractor doing business in this state shall register with the labor commissioner and shall meet all of the following requirements as a condition of registration:

1. The contractor shall be in compliance with the laws of this state relating to workers' compensation insurance and shall provide evidence of workers' compensation insurance coverage annually, of relief from the insurance requirement pursuant to section 87.11, or a statement that the contractor is not required to carry workers' compensation coverage. Notice of a policy's cancellation shall be provided to the labor commissioner by the insurance company.

2. The contractor shall possess an employer account number or a special contractor number issued by the department of workforce development pursuant to the Iowa employment security law.

3. An out-of-state contractor shall either file a surety bond, as provided in section 91C.7, with the division of labor services in the amount of twenty-five thousand dollars or shall provide a statement to the division of labor services that the contractor is prequalified to bid on projects for the department of transportation pursuant to section 314.1.

88 Acts, ch 1162, §3; 90 Acts, ch 1136, §10; 96 Acts, ch 1186, §23; 2010 Acts, ch 1188, §26, 27; 2017 Acts, ch 90, §2, 3

Referred to in §91C.3, 91C.7

91C.3 Application — information to be provided.

1. The registration application shall be in the form prescribed by the labor commissioner, shall be accompanied by the registration fee prescribed pursuant to section 91C.4, and shall contain information which is substantially complete and accurate. In addition to the information determined by the labor commissioner to be necessary for purposes of section 91C.2, the application shall include information as to each of the following:

a. The name, principal place of business, address, and telephone number of the contractor.

b. The name, address, telephone number, and position of each officer of the contractor, if the contractor is a corporation, or each owner if the contractor is not a corporation.

c. A description of the business, including the principal products and services provided.

2. Any change in the information provided shall be reported promptly to the labor commissioner.

88 Acts, ch 1162, §4; 90 Acts, ch 1136, §11; 2008 Acts, ch 1032, §201

91C.4 Fees.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed fifty dollars every year.

88 Acts, ch 1162, §5; 90 Acts, ch 1136, §12; 2009 Acts, ch 179, §203

Referred to in §91C.3

91C.5 Public registration number — records — revocation.

1. The labor commissioner shall issue to each registered contractor an identifying public registration number and shall compile records showing the names and public registration numbers of all contractors registered in the state. These records and the complete registration information provided by each contractor are public records and the labor commissioner shall take steps as necessary to facilitate access to the information by governmental agencies and the general public.

2. The labor commissioner shall revoke a registration number when the contractor fails to maintain compliance with the conditions necessary to obtain a registration. The labor commissioner shall provide a fact-finding interview to assure that the contractor is not in

compliance before revoking any registration. Hearings on revocation of registrations shall be held in accordance with section 91C.8.

88 Acts, ch 1162, §6; 90 Acts, ch 1136, §13

91C.6 Rules.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for phasing in, administering, and enforcing the system of contractor registration established by this chapter.

88 Acts, ch 1162, §7; 90 Acts, ch 1136, §14

91C.7 Contracts — contractor's bond.

1. A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

2. A surety bond filed pursuant to section 91C.2 shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than thirty days' written notice to the contractor and to the division of labor services of the department of workforce development indicating the surety's desire to cancel the bond. The surety company shall not be liable under the bond for any contract commenced after the cancellation of the bond. The division of labor services of the department of workforce development may increase the bond amount after a hearing.

3. Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and related fees, which may accrue to the state of Iowa. If at any time during the term of the bond, the department of revenue or the department of workforce development determines that the amount of the bond is not sufficient to cover the tax liabilities accruing to the state of Iowa, the labor commissioner shall require the bond to be increased by an amount the labor commissioner deems sufficient to cover the tax liabilities accrued and accruing.

4. The department of revenue and the department of workforce development shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue or the department of workforce development finds that the contractor has failed to pay the total of all taxes payable, the department of revenue or the department of workforce development shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond, whichever is less. For purposes of this section *"taxes payable"* means all tax, penalties, interest, and fees that the department of revenue has previously determined to be due to the state by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

5. If it is determined that this section may cause denial of federal funds which would otherwise be available, or is otherwise inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

6. The bond required by this section may be attached by the commissioner for collection of fees and penalties due to the division.

88 Acts, ch 1162, §8; 89 Acts, ch 254, §1; 91 Acts, ch 136, §5; 96 Acts, ch 1186, §23; 97 Acts, ch 26, §2; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201; 2009 Acts, ch 179, §204; 2010 Acts, ch 1188, §28

Referred to in §91C.2

91C.8 Investigations — enforcement — administrative penalties.

1. The labor commissioner and inspectors of the division of labor services of the

department of workforce development have jurisdiction for investigation and enforcement in cases where contractors may be in violation of the requirements of this chapter or rules adopted pursuant to this chapter.

2. If, upon investigation, the labor commissioner or the commissioner's authorized representative believes that a contractor has violated any of the following, the commissioner shall with reasonable promptness issue a citation to the contractor:

a. The requirement that a contractor be registered.

b. The requirement that the contractor's registration information be substantially complete and accurate.

c. The requirement that an out-of-state contractor file a bond with the division of labor services.

3. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the statute alleged to have been violated.

4. If a citation is issued, the commissioner shall, within seven days, notify the contractor by service in the same manner as an original notice or by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the contractor wishes to contest the citation or proposed assessment of penalty.

5. The administrative penalties which may be imposed under this section shall be not more than five hundred dollars in the case of a first violation and not more than five thousand dollars for each violation in the case of a second or subsequent violation. All administrative penalties collected pursuant to this chapter shall be deposited in the general fund of the state.

6. If, within fifteen working days from the receipt of the notice, the contractor fails to notify the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the citation and the assessment, as proposed, shall be deemed a final order of the employment appeal board and not subject to review by any court or agency.

7. If the contractor notifies the commissioner that the contractor intends to contest the citation or proposed assessment of penalty, the commissioner shall immediately advise the employment appeal board established by section 10A.601. The employment appeal board shall review the action of the commissioner and shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and the order shall become final sixty days after its issuance.

8. The labor commissioner shall notify the department of revenue upon final agency action regarding the citation and assessment of penalty against a registered contractor.

9. Judicial review of any order of the employment appeal board issued pursuant to this section may be sought in accordance with the terms of chapter 17A. If no petition for judicial review is filed within sixty days after service of the order of the employment appeal board, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of the decree to the employment appeal board and the contractor named in the petition.

88 Acts, ch 1162, §9; 89 Acts, ch 254, §2, 3; 96 Acts, ch 1186, §23; 99 Acts, ch 68, §19; 2000 Acts, ch 1154, §11; 2003 Acts, ch 145, §286

Referred to in §91C.5

91C.9 Registration fund.

1. A contractor registration revolving fund is created in the state treasury. The revolving fund shall be administered by the commissioner and shall consist of moneys collected by the commissioner as fees. The commissioner shall remit all fees collected pursuant to this chapter to the revolving fund. The moneys in the revolving fund are appropriated to and shall be used by the commissioner to pay the actual costs and expenses necessary to perform the duties of the commissioner and the division of labor as described in this chapter. All salaries and expenses properly chargeable to the revolving fund shall be paid from the revolving fund.

2. Section 8.33 does not apply to any moneys in the revolving fund. Notwithstanding

section 12C.7, subsection 2, earnings or interest on moneys deposited in the fund shall be credited to the revolving fund.

2009 Acts, ch 179, §205

CHAPTER 91D

MINIMUM WAGE

Referred to in §84A.5, 91.4

91D.1 Minimum wage requirements — exceptions.

91D.1 Minimum wage requirements — exceptions.

1. *a.* The state hourly wage shall be at least $6.20 as of April 1, 2007, and $7.25 as of January 1, 2008.

b. Every employer, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, shall pay to each of the employer's employees, as defined in the federal Fair Labor Standards Act of 1938, as amended to January 1, 2007, the state hourly wage stated in paragraph *"a"*, or the current federal minimum wage, pursuant to 29 U.S.C. §206, as amended, whichever is greater.

c. For purposes of determining whether an employee of a restaurant, hotel, motel, inn, or cabin, who customarily and regularly receives more than thirty dollars a month in tips is receiving the minimum hourly wage rate prescribed by this section, the amount paid the employee by the employer shall be deemed to be increased on account of the tips by an amount determined by the employer, not to exceed forty percent of the applicable minimum wage. An employee may file a written appeal with the labor commissioner if the amount of tips received by the employee is less than the amount determined by the employer under this subsection.

d. An employer is not required to pay an employee the applicable state hourly wage provided in paragraph *"a"* until the employee has completed ninety calendar days of employment with the employer. An employee who has completed ninety calendar days of employment with the employer prior to April 1, 2007, or January 1, 2008, shall earn the applicable state hourly minimum wage as of that date. An employer shall pay an employee who has not completed ninety calendar days of employment with the employer an hourly wage of at least $5.30 as of April 1, 2007, and $6.35 as of January 1, 2008.

2. *a.* The exemptions from the minimum wage requirements stated in 29 U.S.C. §213, as amended to January 1, 2007, shall apply, except as otherwise provided in this subsection.

b. Except as provided in paragraph *"c"*, the minimum wage requirements set forth in this section shall not apply to an enterprise whose annual gross volume of sales made or business done, exclusive of excise taxes at the retail level which are separately stated, is less than three hundred thousand dollars.

c. The minimum wage requirements set forth in this section shall apply to the following without regard to gross volume of sales or business done:

(1) An enterprise engaged in the business of laundering, cleaning, or repairing clothing or fabrics.

(2) An enterprise engaged in construction or reconstruction.

(3) An enterprise engaged in the operation of a hospital; an institution primarily engaged in the care of the sick, the aged, or the mentally ill or persons who have symptoms of mental illness who reside on the premises of such institution; a school for persons with mental or physical disabilities or for gifted children; a preschool, elementary or secondary school; or an institution of higher education. This subparagraph applies regardless of whether any such described hospital, institution, or school is public or private or operated for profit or not for profit.

(4) A public agency.

3. *a.* For purposes of this subsection, *"franchisee"* and *"franchisor"* mean the same as defined in section 523H.1.

b. For purposes of this chapter, a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:

(1) The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.

(2) The franchisor has been found by the labor commissioner to have exercised a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

4. For purposes of this chapter, *"employee"* does not include an independent contractor as described in section 85.61, subsection 11, paragraph *"c"*, subparagraph (3).

5. The labor commissioner shall adopt rules to implement and administer this section.

6. This section shall be enforced pursuant to chapter 91A.

89 Acts, ch 14, §1; 2007 Acts, ch 1, §1 – 3; 2008 Acts, ch 1017, §1; 2019 Acts, ch 21, §3, 6; 2020 Acts, ch 1069, §3

Referred to in §49.20, 91A.3

Subsection 3 applies to work performed on or after July 1, 2019; 2019 Acts, ch 21, §6

CHAPTER 91E

NON-ENGLISH SPEAKING EMPLOYEES

Referred to in §84A.5, 91.4

91E.1 Definitions.
91E.2 Non-English speaking employees — employer obligations.
91E.3 Employer recruiting practices.
91E.4 Penalties for violation of recruitment practice requirements.
91E.5 Duties and authority of the commissioner.
91E.6 Collective bargaining agreements.

91E.1 Definitions.

As used in this chapter:

1. *"Commissioner"* means the labor commissioner, appointed pursuant to section 91.2.

2. *"Employee"* means a natural person who is employed in this state for wages paid on an hourly basis by an employer. An employee does not include a person engaged in agriculture as defined in section 91A.2 or a person engaged in agriculture on a seasonal basis. However, this exemption shall not apply to farm owners who hire workers to work on cropland other than their own.

3. *"Employer"* means a person, as defined in chapter 4, who in this state employs for wages, paid on an hourly basis, one hundred or more natural persons. An employer does not include a client, patient, customer, or other person who obtains professional services from a licensed person who provides the services on a fee service basis or as an independent contractor, or the state, or an agency or governmental subdivision of the state.

4. *"Non-English speaking employee"* means an employee who does not speak, read, write, or understand English to the degree necessary for comprehension of the terms, conditions, and daily responsibilities of employment.

5. *"Farm owner"* does not include a person who uses cropland for research or experimental purposes, testing, developing, or producing seeds or plants for sale or resale.

90 Acts, ch 1134, §2; 96 Acts, ch 1186, §23; 2007 Acts, ch 22, §25

Referred to in §91A.5

91E.2 Non-English speaking employees — employer obligations.

If more than ten percent of an employer's employees are non-English speaking and speak the same non-English language, the employer shall provide all of the following:

1. *a.* An interpreter available at the work site for each shift during which non-English speaking employees are employed.

b. If a Spanish-speaking interpreter is needed, the employer shall select an interpreter from a list of interpreters developed by the department of workforce development.

2. A person employed by the employer whose primary responsibility is to serve as a referral agent to community services.

90 Acts, ch 1134, §3; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §201; 2016 Acts, ch 1073, §17

91E.3 Employer recruiting practices.

1. An employer or a representative of an employer who actively recruits non-English speaking residents of other states more than five hundred miles from the place of employment, for employment as employees for wages paid on an hourly basis in this state, must have on file, a copy of which must be provided to the employee, a written statement signed by the employer and the employee which provides relevant information regarding the position of employment, including but not limited to the following information:

a. The minimum number of hours the employee can expect to work on a weekly basis.

b. The hourly wages of the position of employment including the starting hourly wage.

c. A description of the responsibilities and tasks of the position of employment.

d. The health risks, known to the employer, to the employee involved in the position of employment.

e. That possession of forged documentation authorizing the person to stay or be employed in the United States is a class "D" felony.

2. If an employee who resigns from employment with an employer within four weeks of the employee's initial date of employment requests, within three business days of termination, transportation to return to the location from which the employee was recruited and the location from which the employee was recruited is five hundred or more miles from the place of employment, the employer shall provide the employee with transportation at no cost to the employee.

90 Acts, ch 1134, §4; 96 Acts, ch 1181, §1

Referred to in §91E.4

See §715A.2

91E.4 Penalties for violation of recruitment practice requirements.

1. An employer who violates section 91E.3 is subject to a civil penalty of up to one thousand dollars.

2. A corporate officer of an employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices commits a serious misdemeanor.

3. An employer who, through repeated violation of section 91E.3, demonstrates a pattern of abusive recruitment practices may be ordered to pay punitive damages.

90 Acts, ch 1134, §5

91E.5 Duties and authority of the commissioner.

1. The commissioner shall adopt rules to implement and enforce this chapter and shall provide further exemptions from the provisions of this chapter where reasonable.

2. In order to carry out the purposes of this chapter, the commissioner or the commissioner's representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

a. Inspect employment records relating to the total number of employees and non-English speaking employees, and the services provided to non-English speaking employees.

b. Interview an employer, owner, operator, agent, or employee, during working hours or at other reasonable times.

90 Acts, ch 1134, §6

91E.6 Collective bargaining agreements.

Compliance with the minimum standards required in this chapter shall not be subject to or considered in collective bargaining.

90 Acts, ch 1134, §7

CHAPTER 92

CHILD LABOR

Referred to in §84A.5, 91.4

92.1 Street occupations — migratory labor.
92.2 Over ten and under sixteen years of age.
92.3 Under fourteen — permitted occupations.
92.4 Under sixteen — permitted occupations.
92.5 Fourteen and fifteen — permitted occupations.
92.6 Fourteen and fifteen — occupations not permitted.
92.7 Under sixteen — hours permitted.
92.8 Under eighteen — prohibited occupations.
92.9 Instruction and training permitted.
92.10 Permit on file.
92.11 Issuance of work permits.
92.12 Migrant labor permits.
92.13 Optional refusal of permit.
92.14 Contents of work permit.
92.15 Application to labor commissioner.
92.16 Forms for permits formulated.
92.17 Exceptions.
92.18 Migratory labor — defined.
92.19 Violations by parent or guardian.
92.20 Penalty.
92.21 Rules and orders of labor commissioner.
92.22 Labor commissioner to enforce — civil penalty — judicial review.
92.23 Group insurance.

92.1 Street occupations — migratory labor.

1. No person under ten years of age shall be employed or permitted to work with or without compensation at any time within this state in street occupations of peddling, shoe polishing, the distribution or sale of newspapers, magazines, periodicals or circulars, nor in any other occupations in any street or public place. The labor commissioner shall, when ordered by a judge of the juvenile court, issue a work permit as provided in this chapter to a person under ten years of age.

2. No person under twelve years of age shall be employed or permitted to work with or without compensation at any time within this state in connection with migratory labor, except that the labor commissioner may upon sufficient showing by a judge of the juvenile court, issue a work permit as provided in this chapter to a person under twelve years of age.

[SS15, §2477-a1; C24, 27, 31, 35, 39, §**1537;** C46, 50, 54, 58, 62, 66, §92.12; C71, 73, 75, 77, 79, 81, §92.1]

2001 Acts, ch 24, §27

Referred to in §92.2, 92.3

92.2 Over ten and under sixteen years of age.

1. A person over ten and under sixteen years of age cannot be employed, with or without compensation, in street occupations or migratory labor as provided in section 92.1, unless the person holds a work permit issued pursuant to this chapter.

a. Notwithstanding section 92.7, a person with a permit to engage in migratory labor shall only work between 5:00 a.m. and 7:30 p.m. from Labor Day through June 1, and between 5:00 a.m. and 9:00 p.m. for the remainder of the year.

b. Notwithstanding section 92.7, a person with a permit to engage in street occupations shall only work between 4:00 a.m. and 7:30 p.m. when local public schools are in session and between 4:00 a.m. and 8:30 p.m. for the remainder of the year.

2. The requirements of section 92.10 shall not apply to a person, firm, or corporation employing a person engaged in street occupations pursuant to this section.

[SS15, §2477-a1, -c, -d; C24, 27, 31, 35, 39, §**1527, 1530, 1537, 1538;** C46, 50, 54, 58, 62, 66, §92.2, 92.5, 92.12, 92.13; C71, 73, 75, 77, 79, 81, §92.2]

91 Acts, ch 136, §6; 2008 Acts, ch 1032, §201; 2015 Acts, ch 95, §1, 10; 2018 Acts, ch 1026, §34

Referred to in §92.7, 92.10

92.3 Under fourteen — permitted occupations.

No person under fourteen years of age shall be employed or permitted to work with or without compensation in any occupation, except in the street occupations or migratory labor occupations specified in section 92.1. Any migratory laborer twelve to fourteen years of age may not work prior to or during the regular school hours of any day of any private or public school which teaches general education subjects and which is available to such child.

[SS15, §2477-a; C24, 27, 31, 35, 39, §**1526;** C46, 50, 54, 58, 62, 66, §92.1; C71, 73, 75, 77, 79, 81, §92.3]

2017 Acts, ch 29, §31

Referred to in §92.7

92.4 Under sixteen — permitted occupations.

No person under sixteen years of age shall be employed or permitted to work with or without compensation in any occupation during regular school hours, except:

1. Those persons legally out of school, if such status is verified by the submission of written proof to the labor commissioner.
2. Those persons working in a supervised school-work program.
3. Those persons between the ages of fourteen and sixteen enrolled in school on a part-time basis and who are required to work as a part of their school training.
4. Fourteen- and fifteen-year-old migrant laborers during any hours when summer school is in session.

[C71, 73, 75, 77, 79, 81, §92.4]

2018 Acts, ch 1041, §35

92.5 Fourteen and fifteen — permitted occupations.

Persons fourteen and fifteen years of age may be employed or permitted to work in the following occupations:

1. Retail, food service, and gasoline service establishments.
2. Office and clerical work, including operation of office machines.
3. Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping.
4. Price marking and tagging by hand or by machine, assembling orders, packing, and shelving.
5. Bagging and carrying out customers' orders.
6. Errand and delivery work by foot, bicycle, and public transportation.
7. Cleanup work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds.
8. Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, including but not limited to dishwashers, toasters, dumb-waiters, popcorn poppers, milk shake blenders, and coffee grinders.
9. *a.* Work in connection with motor vehicles and trucks if confined to the following:
(1) Dispensing gasoline and oil.
(2) Courtesy service.
(3) Car cleaning, washing, and polishing.

b. Nothing in this subsection shall be construed to include work involving the use of pits, racks, or lifting apparatus or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring.

10. Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing,

and stocking goods when performed in areas physically separate from areas where meat is prepared, for sale and outside freezers or meat coolers.

11. Other work approved by the rules adopted pursuant to chapter 17A by the labor commissioner.

[SS15, §2477-a; C24, 27, 31, 35, 39, §**1529;** C46, 50, 54, 58, 62, 66, §92.4; C71, 73, 75, 77, 79, 81, §92.5]

86 Acts, ch 1245, §922; 2016 Acts, ch 1011, §15; 2018 Acts, ch 1041, §127

Referred to in §92.6

92.6 Fourteen and fifteen — occupations not permitted.

1. Persons fourteen and fifteen years of age may not be employed in:

a. Any manufacturing occupation.

b. Any mining occupation.

c. Processing occupations, except in a retail, food service, or gasoline service establishment in those specific occupations expressly permitted under the provisions of section 92.5.

d. Occupations requiring the performance of any duties in workrooms or work places where goods are manufactured, mined, or otherwise processed, except to the extent expressly permitted in retail, food service, or gasoline service establishments under the provisions of section 92.5.

e. Public messenger service.

f. Operation or tending of hoisting apparatus or of any power-driven machinery, other than office machines and machines in retail, food service, and gasoline service establishments which are specified in section 92.5 as machines which such minors may operate in such establishments.

g. Occupations prohibited by rules adopted pursuant to chapter 17A by the labor commissioner.

h. Occupations in connection with the following, except office or sales work in connection with these occupations, not performed on transportation media or at the actual construction site:

(1) Transportation of persons or property by rail, highway, air, on water, pipeline, or other means.

(2) Warehousing and storage.

(3) Communications and public utilities.

(4) Construction, including repair.

i. Any of the following occupations in a retail, food service, or gasoline service establishment:

(1) Work performed in or about boiler or engine rooms.

(2) Work in connection with maintenance or repair of the establishment, machines, or equipment.

(3) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes.

(4) Cooking except at soda fountains, lunch counters, snack bars, or cafeteria serving counters, and baking.

(5) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers and cutters, and bakery-type mixers.

(6) Work in freezers and meat coolers and all work in preparation of meats for sale, except wrapping, sealing, labeling, weighing, pricing, and stocking when performed in other areas.

(7) Loading and unloading goods to and from trucks, railroad cars, or conveyors.

(8) All occupations in warehouses except office and clerical work.

j. Laundering, except for the use of a washing machine which has a capacity of less than ten cubic feet and which is designed to reach an internal temperature which does not exceed 212 degrees Fahrenheit.

2. Nothing in this section shall be construed as prohibiting office, errand, or packaging work when done away from moving machinery.

[SS15, §2477-a, -b, -c; C24, 27, 31, 35, 39, §**1526, 1529, 1536, 1539;** C46, 50, 54, 58, 62, 66, §92.1, 92.4, 92.11, 92.14; C71, 73, 75, 77, 79, 81, §92.6]

86 Acts, ch 1245, §923; 2008 Acts, ch 1032, §201; 2017 Acts, ch 66, §1

92.7 Under sixteen — hours permitted.

A person under sixteen years of age shall not be employed with or without compensation, except as provided in sections 92.2 and 92.3, before the hour of 7:00 a.m. or after 7:00 p.m., except during the period from June 1 through Labor Day when the hours may be extended to 9:00 p.m. If such person is employed for a period of five hours or more each day, an intermission of not less than thirty minutes shall be given. Such a person shall not be employed for more than eight hours in one day, exclusive of intermission, and shall not be employed for more than forty hours in one week. The hours of work of persons under sixteen years of age employed outside school hours shall not exceed four in one day or twenty-eight in one week while school is in session.

[SS15, §2477 -a1, -c; C24, 27, 31, 35, 39, §**1527, 1528, 1538;** C46, 50, 54, 58, 62, 66, §92.2, 92.3, 92.13; C71, 73, 75, 77, 79, 81, §92.7]

91 Acts, ch 136, §7

Referred to in §92.2

92.8 Under eighteen — prohibited occupations.

No person under eighteen years of age shall be employed or permitted to work with or without compensation at any of the following occupations or business establishments:

1. Occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components.
2. Occupations of motor vehicle driver and helper.
3. Logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill.
4. Occupations involved in the operation of power-driven woodworking machines.
5. Occupations involving exposure to radioactive substances and to ionizing radiations.
6. Occupations involved in the operation of elevators and other power-driven hoisting apparatus.
7. Occupations involved in the operation of power-driven metal forming, punching, and shearing machines.
8. Occupations in connection with mining.
9. Occupations in or about slaughtering and meat packing establishments and rendering plants.
10. Occupations involved in the operation of certain power-driven bakery machines.
11. Occupations involved in the operation of certain power-driven paper products machines.
12. Occupations involved in the manufacture of brick, tile, and related products.
13. Occupations involved in the operation of circular saws, band saws, and guillotine shears.
14. Occupations involved in wrecking, demolition, and shipbreaking operations.
15. Occupations involved in roofing operations.
16. Excavation occupations.
17. In or about foundries; provided that office, shipping, and assembly area employment shall not be prohibited by this chapter.
18. Occupations involving the operation of dry cleaning or dyeing machinery.
19. Occupations involving exposure to lead fumes or its compounds, or to dangerous or poisonous dyes or chemicals.
20. Occupations involving the transmission, distribution, or delivery of goods or messages between the hours of 10:00 p.m. and 5:00 a.m.

21. Occupations prohibited by rules adopted pursuant to chapter 17A by the labor commissioner.

[SS15, §2744-a, -b, -c; C24, 27, 31, 35, 39, §**1526, 1529, 1536, 1539;** C46, 50, 54, 58, 62, 66, §92.1, 92.4, 92.11, 92.14; C71, 73, 75, 77, 79, 81, §92.8]

86 Acts, ch 1245, §924; 2017 Acts, ch 66, §2

Referred to in §92.9, 92.17

92.9 Instruction and training permitted.

The provisions of sections 92.8 and 92.10 shall not apply to pupils working under an instructor in a career and technical education department in a school district or under an instructor in a career and technical education classroom or laboratory, or industrial plant, or in a course of career and technical education approved by the state board for career and technical education, or to apprentices provided they are employed under all of the following conditions:

1. The apprentice is employed in a craft recognized as an apprenticeable trade.

2. The work of the apprentice in the occupations declared particularly hazardous is incidental to the apprentice's training.

3. The work is intermittent and for short periods of time and is under the direct and close supervision of a journeyperson as a necessary part of apprentice training.

4. The apprentice is registered by the office of apprenticeship of the United States department of labor as employed in accordance with the standards established by that department.

[C71, 73, 75, 77, 79, 81, §92.9]

97 Acts, ch 26, §3, 4; 2010 Acts, ch 1061, §11; 2016 Acts, ch 1108, §18; 2017 Acts, ch 29, §32

92.10 Permit on file.

1. Except as provided in section 92.2, a person under sixteen years of age shall not be employed or permitted to work with or without compensation unless the person, firm, or corporation employing such person receives and keeps on file accessible to any officer charged with the enforcement of this chapter, a work permit issued as provided in this chapter, and keeps a complete list of the names and ages of all such persons under sixteen years of age employed.

2. Certificates of age shall be issued for persons sixteen and seventeen years of age and for all other persons eighteen and over upon request of the person's prospective employer.

[SS15, §2477-d; C24, 27, 31, 35, 39, §**1530;** C46, 50, 54, 58, 62, 66, §92.5; C71, 73, 75, 77, 79, 81, §92.10]

91 Acts, ch 136, §8

Referred to in §92.2, 92.9

92.11 Issuance of work permits.

A work permit, except for migrant laborers, shall be issued only by the labor commissioner upon the application of the parent, guardian, or custodian of the child desiring such permit. The application shall include the following:

1. A statement from the person, firm, or corporation into whose service the child under sixteen years of age is about to enter, promising to give such child employment and describing the industry in which the work will be performed.

2. Evidence of age showing that the child is fourteen years old, or more, which shall consist of one of the following proofs required in the order herein designated:

a. A certified copy of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births.

b. A passport or a certified copy of a certificate of baptism showing the date and place of birth and the place of baptism of such child.

c. An instruction permit issued under section 321.180B, subsection 1.

d. For cases where the proofs designated in paragraphs "*a*", "*b*", and "*c*" are not obtainable, documentation issued by the federal government that is deemed by the commissioner to be

sufficient evidence of age, or an affidavit signed by a licensed physician certifying that in the physician's opinion the applicant for the work permit is fourteen years of age or more.

[SS15, §2477-d; C24, 27, 31, 35, 39, §**1531;** C46, 50, 54, 58, 62, 66, §92.6; C71, 73, 75, 77, 79, 81, §92.11]

86 Acts, ch 1016, §2; 96 Acts, ch 1186, §23; 2009 Acts, ch 49, §2; 2015 Acts, ch 95, §2, 3, 10; 2016 Acts, ch 1096, §1, 2

Referred to in §92.12, 92.15

92.12 Migrant labor permits.

1. Every person, firm, or corporation employing migrant laborers shall obtain and keep on file, accessible to any officer charged with the enforcement of this chapter, a work permit.

2. Work permits for migrant workers shall be issued by the labor commissioner upon application of the parent or head of the migrant family. The application shall include documentation of proof of age as described in section 92.11, subsection 2.

3. One copy of the permit issued shall be given to the employer to be kept on file for the length of employment and upon termination of employment shall be returned to the labor commissioner. The blank forms for the application for a work permit for migratory workers and the work permit for migratory workers shall be formulated by the commissioner .

[SS15, §2477-d; C24, 27, 31, 35, 39, §**1530, 1531;** C46, 50, 54, 58, 62, 66, §92.5, 92.6; C71, 73, 75, 77, 79, 81, §92.12]

96 Acts, ch 1186, §23; 2010 Acts, ch 1015, §8; 2015 Acts, ch 95, §4, 10

Referred to in §92.15

92.13 Optional refusal of permit.

The labor commissioner may refuse to grant a permit if, in the commissioner's judgment, the best interests of the minor would be served by such refusal and the commissioner shall keep a record of such refusals, and the reasons therefor.

[C71, 73, 75, 77, 79, 81, §92.13]

2015 Acts, ch 95, §5, 10

92.14 Contents of work permit.

Every work permit shall state the date of issuance, name, sex, the date and place of birth, the residence of the child in whose name it is issued, the proof of age, the school grade completed, the name and location of the establishment where the child is to be employed, the industry, and that the papers required for its issuance have been duly examined, approved, and filed.

[SS15, §2477-d; C24, 27, 31, 35, 39, §**1532;** C46, 50, 54, 58, 62, 66, §92.7; C71, 73, 75, 77, 79, 81, §92.14]

2015 Acts, ch 95, §6, 10

92.15 Application to labor commissioner.

An application for a work permit pursuant to section 92.11 or section 92.12 shall be submitted to the office of the labor commissioner within three days after the child begins work.

[SS15, §2477-d; C24, 27, 31, 35, 39, §**1533;** C46, 50, 54, 58, 62, 66, §92.8; C71, 73, 75, 77, 79, 81, §92.15]

2015 Acts, ch 95, §7, 10

92.16 Forms for permits formulated.

The proper forms for the application for a work permit, the work permit, the certificate of age, and the physician's certificate shall be formulated by the labor commissioner.

[SS15, §2477-d; C24, 27, 31, 35, 39, §**1534;** C46, 50, 54, 58, 62, 66, §92.9; C71, 73, 75, 77, 79, 81, §92.16]

86 Acts, ch 1245, §925; 2015 Acts, ch 95, §8, 10

92.17 Exceptions.

Nothing in this chapter shall be construed to prohibit:

1. A child from working in or around any home before or after school hours or during

vacation periods, provided such work is not related to or part of the business, trade, or profession of the employer.

2. Work in the production of seed, limited to removal of off-type plants, corn tassels and hand-pollinating during the months of June, July, and August by persons fourteen years of age or over, and part-time work in agriculture, not including migratory labor.

3. A child from working in any occupation or business operated by the child's parents. For the purposes of this subsection, *"child"* and *"parents"* include a foster child and the child's foster parents who are licensed by the department of human services.

4. A child under sixteen years of age from being employed or permitted to work, with or without compensation, as a model, for a period of up to three hours in any day between the hours of 7:00 a.m. and 10:00 p.m., not exceeding twelve hours in any month, if the written permission of the parent, guardian or custodian of the child is obtained prior to the commencement of the modeling. However, if the child is of school age this exception allows modeling work only outside of school hours during the regular school year and does not allow modeling work during the summer term if the child is enrolled in summer school. This subsection does not allow modeling for an unlawful purpose or modeling that would violate any other law.

5. A juvenile court from ordering a child at least twelve years old to complete a work assignment of value to the state or to the public or to the victim of a crime committed by the child, in accordance with section 232.52, subsection 2, paragraph *"a"*.

6. A child from willfully volunteering as defined by 29 C.F.R. §553.101 for a charitable or public purpose. Section 92.8 applies to volunteering by a child pursuant to this subsection.

7. A child twelve years of age or older from being employed by a charitable organization or unit of state or local government as a referee for a sport program sponsored by that charitable organization or unit of state or local government or by an organization of referees sponsored by an organization recognized by the United States olympic committee under 36 U.S.C. §220522. Section 92.8 applies to employment of a child pursuant to this subsection.

8. A child under age sixteen from serving in the Iowa summer youth corps program in accordance with section 15H.5 or a child over fourteen years of age from serving in any other recognized program of the Iowa national service corps program in accordance with section 15H.9. Section 92.8 applies to service by a child pursuant to this subsection.

[SS15, §2477-a; C24, 27, 31, 35, 39, §**1526;** C46, 50, 54, 58, 62, 66, §92.1; C71, 73, 75, 77, 79, 81, §92.17]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1111, §1; 85 Acts, ch 59, §1; 2015 Acts, ch 95, §9, 10; 2019 Acts, ch 108, §1

92.18 Migratory labor — defined.

As used in this chapter, the term *"migratory labor"* shall include any person who customarily and repeatedly travels from state to state for the purpose of obtaining seasonal employment.

[C71, 73, 75, 77, 79, 81, §92.18]

2010 Acts, ch 1061, §12

92.19 Violations by parent or guardian.

1. No parent, guardian, or other person, having under the parent's, guardian's, or other person's control any person under eighteen years of age, shall negligently permit said person to work or be employed in violation of the provisions of this chapter.

2. No person shall negligently make, certify to, or cause to be made or certified any statement, certificate, or other paper for the purpose of procuring the employment of any person in violation of this chapter.

3. No person shall make, file, execute, or deliver any statement, certificate, or other paper containing false statements for the purpose of procuring employment of any person in violation of this chapter.

4. No person, firm, or corporation, or any agent thereof shall negligently conceal or permit a person to be employed in violation of this chapter.

5. No person, firm, or corporation shall refuse to allow any authorized persons to inspect the place of business or provide information necessary to the enforcement of this chapter.

[S13, §2477-e; SS15, §2477-a1; C24, 27, 31, 35, 39, §**1540;** C46, 50, 54, 58, 62, 66, §92.15; C71, 73, 75, 77, 79, 81, §92.19]

2009 Acts, ch 49, §3

92.20 Penalty.

1. The parent, guardian, or person in charge of any migratory worker or of any child who engages in any street occupation in violation of any of the provisions of this chapter shall be guilty of a serious misdemeanor.

2. Any person who furnishes or sells to any minor child any article of any description which the person knows or should have known the minor intends to sell in violation of the provisions of this chapter shall be guilty of a serious misdemeanor.

3. Any other violation of this chapter for which a penalty is not specifically provided constitutes a serious misdemeanor.

4. Every day during which any violation of this chapter continues constitutes a separate and distinct offense, and the employment of any person in violation of this chapter, with respect to each person so employed, constitutes a separate and distinct offense.

[S13, §2477-e; SS15, §2477-a1; C24, 27, 31, 35, 39, §**1540;** C46, 50, 54, 58, 62, 66, §92.15; C71, 73, 75, 77, 79, 81, §92.20]

2009 Acts, ch 49, §4

92.21 Rules and orders of labor commissioner.

1. The labor commissioner may adopt rules pursuant to chapter 17A to more specifically define the occupations and equipment permitted or prohibited in this chapter, to determine occupations for which work permits are required, and to issue general and special orders prohibiting or allowing the employment of persons under eighteen years of age in any place of employment defined in this chapter as hazardous to the health, safety, and welfare of the persons.

2. The labor commissioner shall adopt rules pursuant to chapter 17A specifically defining the civil penalty amount to be assessed for violations of this chapter.

[C71, 73, 75, 77, 79, 81, §92.21]

85 Acts, ch 212, §21; 86 Acts, ch 1245, §926; 2009 Acts, ch 49, §5; 2018 Acts, ch 1041, §36

92.22 Labor commissioner to enforce — civil penalty — judicial review.

1. The labor commissioner shall enforce this chapter. An employer who violates this chapter or the rules adopted pursuant to this chapter is subject to a civil penalty of not more than ten thousand dollars for each violation.

2. The commissioner shall notify the employer of a proposed civil penalty by service in the same manner as an original notice or by certified mail. If, within fifteen working days from the receipt of the notice, the employer fails to file a notice of contest in accordance with rules adopted by the commissioner pursuant to chapter 17A, the penalty, as proposed, shall be deemed final agency action for purposes of judicial review.

3. The commissioner shall notify the department of revenue upon final agency action regarding the assessment of a penalty against an employer. Interest shall be calculated from the date of final agency action.

4. Judicial review of final agency action pursuant to this section may be sought in accordance with the terms of section 17A.19. If no petition for judicial review is filed within sixty days after service of the final agency action of the commissioner, the commissioner's findings of fact and final agency action shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of the sixty-day period. In any such case, the clerk of court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the final agency action and shall transmit a copy of the decree to the commissioner and the employer named in the petition.

5. Any penalties recovered pursuant to this section shall be remitted by the commissioner to the treasurer of state for deposit in the general fund of the state.

6. Mayors and police officers, sheriffs, school superintendents, and school truant and attendance officers, within their several jurisdictions, shall cooperate in the enforcement of this chapter and furnish the commissioner and the commissioner's designees with all information coming to their knowledge regarding violations of this chapter. All such officers and any person authorized in writing by a court of record shall have the authority to enter, for the purpose of investigation, any of the establishments and places mentioned in this chapter and to freely question any person therein as to any violations of this chapter.

7. County attorneys shall investigate all complaints made to them of violations of this chapter, and prosecute all such cases of violation within their respective counties.

[S13, §2477-f; SS15, §2477-a1, -d; C24, 27, 31, 35, 39, §**1535, 1541;** C46, 50, 54, 58, 62, 66, §92.10, 92.16; C71, 73, 75, 77, 79, 81, §92.22]

87 Acts, ch 111, §8; 2009 Acts, ch 49, §6

Referred to in §331.653, 331.756(17)

92.23 Group insurance.

Anyone under the age of eighteen and subject to this chapter employed in the street occupations who sells or delivers the product or service of another and who is designated in such capacity as an independent contractor shall be provided participation, if the person under the age of eighteen desires it at group rate cost, in group insurance for medical, hospital, nursing, and doctor expenses incurred as a result of injuries sustained arising out of and in the course of selling or delivering such product or service by the person, firm, or corporation whose product or service is so delivered.

[C71, 73, 75, 77, 79, 81, §92.23]

2017 Acts, ch 29, §33

CHAPTER 93

MARKETPLACE CONTRACTORS

93.1 Definitions.
93.2 Marketplace contractors as independent contractors — retroactivity.

93.1 Definitions.

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

1. *"Governmental entity"* means the same as defined in section 96.1A.

2. *"Indian tribe"* means the same as defined in section 96.1A.

3. *a. "Marketplace contractor"* means a person or organization, including an individual, corporation, limited liability company, partnership, sole proprietor, or other entity, that does all of the following:

(1) Enters into a written agreement with a marketplace platform to use the marketplace platform's digital network to connect with individuals or entities that seek to obtain services from the marketplace contractor.

(2) Performs services for individuals or entities upon connection through a marketplace platform's digital network in exchange for compensation or payment of a fee.

(3) Does not perform the services offered by the marketplace contractor at or from a physical business location that is operated by the marketplace platform in the state.

b. "Marketplace contractor" does not include a person or organization that performs services consisting of transporting freight, sealed and closed envelopes, boxes, parcels, or other sealed and closed containers for compensation.

4. *"Marketplace platform"* means a person or organization, including an individual, corporation, limited liability company, partnership, sole proprietor, or other entity, that operates a digital network to connect marketplace contractors to individuals or entities that seek to obtain the type of services offered by marketplace contractors.

2018 Acts, ch 1069, §1; 2020 Acts, ch 1062, §82

93.2 Marketplace contractors as independent contractors — retroactivity.

1. A marketplace contractor shall be treated as an independent contractor, and not an employee of a marketplace platform, for all purposes under state or local law, including but not limited to chapters 87 and 96, if the following conditions are met:

a. The marketplace contractor and marketplace platform agree in writing that the marketplace contractor is engaged as an independent contractor and not an employee of the marketplace platform.

b. The marketplace platform does not unilaterally prescribe specific hours during which the marketplace contractor must be available to accept service requests submitted through the marketplace platform's digital network.

c. The marketplace platform does not prohibit the marketplace contractor from engaging in outside employment or performing services through other marketplace platforms.

d. The marketplace contractor bears its own expenses incurred in performing services.

2. For services performed by a marketplace contractor prior to July 1, 2018, a marketplace contractor shall be treated as an independent contractor and not an employee of a marketplace platform for all purposes under state or local law, including but not limited to chapters 87 and 96, if the conditions set forth in subsection 1 were satisfied at the time the services were performed.

3. When providing services that require an Iowa license, the marketplace contractor shall be responsible for obtaining the Iowa license and making such license available to the individuals or entities for whom the marketplace contractor is providing services.

4. This section shall not apply to any of the following:

a. Services performed by an individual in the employ of a governmental entity or Indian tribe, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301 – 3311, solely by reason of section 3306(c)(7) of that Act.

b. Services performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if the services are excluded from employment as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301 – 3311, solely by reason of section 3306(c)(8) of that Act.

c. Services performed by a real estate broker or a real estate salesperson licensed pursuant to chapter 543B.

2018 Acts, ch 1069, §2

CHAPTER 94

COVID-19 VACCINATION REQUIREMENTS BY EMPLOYERS — WAIVER

94.1 Definitions.
94.2 COVID-19 vaccination requirements by employers — waiver.

94.1 Definitions.

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

1. *"COVID-19"* means the same as defined in section 686D.2.

2. *"Employee"* means an individual who is employed in this state for wages by an employer. *"Employee"* includes an applicant for employment.

3. *"Employer"* means a person, as defined in chapter 4, who employs an individual in this state for wages.

2021 Acts, 2nd Ex, ch 1, §1, 5
Section effective October 29, 2021; 2021 Acts, 2nd Ex, ch 1, §5
NEW section

94.2 COVID-19 vaccination requirements by employers — waiver.

An employer that requires an employee to receive a COVID-19 vaccine shall waive the requirement if the employee, or, if the employee is a minor, the employee's parent or legal guardian, requests a waiver and submits either of the following to the employer:

1. A statement that receiving the vaccine would be injurious to the health and well-being of the employee or an individual residing with the employee.

2. A statement that receiving the vaccine would conflict with the tenets and practices of a religion of which the employee is an adherent or member.

2021 Acts, 2nd Ex, ch 1, §2, 5
Section effective October 29, 2021; 2021 Acts, 2nd Ex, ch 1, §5
NEW section

CHAPTER 94A

EMPLOYMENT AGENCIES

Referred to in §84A.5, 91.4

94A.1	Definitions.	94A.4	Prohibitions.
94A.2	Licensing.	94A.5	Powers and duties of the commissioner.
94A.3	General requirements.	94A.6	Violations.

94A.1 Definitions.

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

1. *"Applicant"* means a person applying for a private employment agency license.

2. *"Commissioner"* means the labor commissioner, appointed pursuant to section 91.2, or the labor commissioner's designee.

3. *"Employee"* means a person who seeks employment or who obtains employment through an employment agency.

4. *"Employer"* means a person who seeks one or more employees or who obtains one or more employees.

5. *"Employment agency"* means a person who brings together those desiring to employ and those desiring employment and who receives a fee, privilege, or other consideration directly or indirectly from an employee for the service. *"Employment agency"* does not include furnishing or procuring theatrical, stage, or platform attractions or amusement enterprises.

99 Acts, ch 130, §1

94A.2 Licensing.

1. An employment agency shall obtain a license from the commissioner prior to transacting any business. Licenses expire on June 30 of each year.

2. A license application shall be in the form prescribed by the commissioner and shall be accompanied by all of the following:

a. A surety company bond in the sum of thirty thousand dollars, to be approved by the commissioner and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.

b. The schedule of fees to be charged by the employment agency.

c. All contract forms to be signed by an employee.

d. An application fee of seventy-five dollars.

3. The commissioner shall grant or deny a license within thirty days from the filing date of a completed application.

4. The commissioner may revoke, suspend, or annul a license in accordance with chapter 17A upon good cause.

99 Acts, ch 130, §2

94A.3 General requirements.

Each employment agency shall do all of the following:

1. Keep an employee record, which shall include the name of each employee signing a contract or agreement, the name and address of the employer, if employment is found, and the fee charged, paid, or refunded. Each record shall be maintained for at least two years.

2. Prior to referral to an employer, provide an employee with a copy of the contract or agreement, which specifies the fee or consideration to be paid by the employee.

99 Acts, ch 130, §3

94A.4 Prohibitions.

1. A person shall not require an employee to pay a fee as a condition of application with an employer or an employment agency.

2. An employee shall not be required to pay a fee to an employer as a condition of hire.

3. An employer shall not require an employee to reimburse the employer for a fee the employer paid to an employment agency or other person or entity when the employee was hired.

4. An employment agency shall not do any of the following:

a. Send an employee or an application of an employee to an employer who has not applied to the employment agency for help or labor.

b. Through false notice, advertisement, or other means, fraudulently promise or deceive a person seeking help or employment with regard to the service to be rendered by the employment agency.

c. Divide a fee received from an employee with an employer or any member of an employer's staff. The division of fees between one or more employment agencies that provided services is not prohibited.

d. Charge an employee any fee greater than the fee schedule on file with the commissioner without prior consent of the commissioner.

e. Charge a fee greater than fifteen percent of the employee's annual gross earnings.

f. Require an employee to pay a fee in advance of earnings. If an employee wishes to pay a fee in advance of earnings, the contract between the employee and employment agency shall state that any advance payment by the employee is voluntary. If an employee works less than one year at the referred employment, the employment agency shall refund any amount in excess of fifteen percent of the employee's gross earnings from the referred employment.

99 Acts, ch 130, §4

94A.5 Powers and duties of the commissioner.

1. At any time, the commissioner may examine the records, books, and any papers relating to the conduct and operation of an employment agency.

2. The commissioner shall adopt rules pursuant to chapter 17A to administer this chapter.

99 Acts, ch 130, §5

Referred to in §94A.6

94A.6 Violations.

1. A person who violates a provision of this chapter or who refuses the commissioner access to records, books, and papers pursuant to an examination under section 94A.5 shall be guilty of a simple misdemeanor.

2. If a person violates a provision of this chapter or refuses the commissioner access to records, books, and papers pursuant to an examination under section 94A.5, the commissioner shall assess a civil penalty against the person in an amount not greater than two thousand dollars.

99 Acts, ch 130, §6

CHAPTER 95

RESERVED

CHAPTER 96

EMPLOYMENT SECURITY — UNEMPLOYMENT COMPENSATION

Referred to in §10A.601, 15H.5, 15H.9, 29C.24, 84A.5, 84A.7, 85.34, 93.2, 252B.5, 331.324, 331.424, 411.6

96.1 Short title.
96.1A Definitions.
96.1B Additional definitions.
96.2 Guide for interpretation.
96.3 Payment — determination — duration — child support intercept.
96.4 Required findings.
96.5 Causes for disqualification.
96.5A Refusal of COVID-19 vaccination — no disqualification.
96.6 Filing — determination — appeal.
96.7 Employer contributions and reimbursements.
96.7A Appropriations for workforce development field offices. Repealed by 2018 Acts, ch 1026, §180.
96.8 Conditions and requirements.
96.9 Unemployment compensation fund.
96.10 Division of job service. Repealed by 96 Acts, ch 1186, §26.
96.11 Duties, powers, rules — privilege.
96.12 State employment service.
96.13 Funds.
96.14 Priority — refunds.
96.15 Waiver — fees — assignments — penalties.
96.16 Offenses.
96.17 Counsel.
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96.19 Definitions. Transferred to §96.1A; 2020 Acts, ch 1062, §94.
96.20 Reciprocal benefit arrangements.
96.21 Termination.
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96.24 Employer to be notified.
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96.35 Status report.
96.36 Franchisor-franchisee relationship.
96.37 through 96.39 Reserved.
96.40 Voluntary shared work program.
96.41 through 96.50 Reserved.
96.51 Field office operating fund.

96.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Employment Security Law"*. [C39, §**1551.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.1]

96.1A Definitions.

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

1. *"Appeal board"* means the employment appeal board created under section 10A.601.

2. *"Average annual taxable payroll"* means the average of the total amount of taxable wages paid by an employer for insured work during the five periods of four consecutive calendar quarters immediately preceding the computation date.

3. *"Base period"* means the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim.

4. *"Benefit year"* means a period of one year beginning with the day with respect to which an individual filed a valid claim for benefits. Any claim for benefits made in accordance with section 96.6, subsection 1, shall be deemed to be a valid claim for the purposes of this subsection if the individual has been paid wages for insured work required under the provisions of this chapter.

5. *"Benefits"* means the money payments payable to an individual, as provided in this chapter, with respect to the individual's unemployment.

6. *"Calendar quarter"* means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1937, or the equivalent thereof as the department may by regulation prescribe.

7. *"Computation date"*. The computation date for contribution rates shall be July 1 of

that calendar year preceding the calendar year with respect to which such rates are to be effective.

8. *"Contributions"* means the money payments to the state unemployment compensation fund required by this chapter.

9. *"Department"* means the department of workforce development created in section 84A.1.

10. *"Director"* means the director of the department of workforce development created in section 84A.1.

11. *"Domestic service"* includes service for an employing unit in the operation and maintenance of a private household, local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer's trade, occupation, profession, enterprise, or vocation.

12. *"Educational institution"* means one in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of an instructor or teacher. It is approved, licensed, or issued a permit to operate as a school by the department of education or other government agency that is authorized within the state to approve, license, or issue a permit for the operation of a school. The course of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

13. *"Eligibility period"* of an individual means the period consisting of the weeks in the individual's benefit year which begin in an extended benefit period and, if the individual's benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

14. *"Employer"* means:

a. For purposes of this chapter with respect to any calendar year after December 31, 2018, any employing unit which in any calendar quarter in either the current or preceding calendar year paid wages for service in employment. An employing unit treated as a domestic service employer shall not be treated as an employer with respect to wages paid for service other than domestic service unless such employing unit is treated as an employer under this paragraph or as an agricultural labor employer.

b. Any employing unit, whether or not an employing unit at the time of acquisition, which acquired the organization, trade, or business, or substantially all of the assets thereof, of another employing unit which at the time of such acquisition was an employer subject to this chapter, or which acquired a part of the organization, trade, or business of another employing unit which at the time of such acquisition was an employer subject to this chapter. Provided, that such other employing unit would have been an employer under paragraph *"a"*, if such part had constituted its entire organization, trade, or business.

c. Any employing unit which acquired the organization, trade, or business, or substantially all the assets of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph *"a"* of this subsection.

d. Any employing unit which, together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which owns or controls one or more other employing units by legally enforceable means or otherwise, and which, if treated as a single unit with such other employing unit, would be an employer under paragraph *"a"*.

e. Any employing unit which, having become an employer under paragraph *"a"*, *"b"*, *"c"*, *"d"*, *"f"*, *"g"*, *"h"*, or *"i"* has not, under section 96.8, ceased to be an employer subject to this chapter.

f. For the effective period of its election pursuant to section 96.8, subsection 3, any other employing unit which has elected to become fully subject to this chapter.

g. Any employing unit not an employer by reason of any other paragraph of this subsection for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment

fund; or which, as a condition for approval of this chapter for full tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C. §3301 – 3308, is required, pursuant to such Act, to be an *"employer"* under this chapter. Provided, however, that if an employer subject to contributions solely because of the terms of this subsection shall establish proper proof to the satisfaction of the department that the employer's employees have been and will be duly covered and insured under the unemployment compensation law of another jurisdiction such employer shall not be deemed an employer and such services shall not be deemed employment under this chapter.

h. After December 31, 1971, this state or a state instrumentality and after December 31, 1977, a government entity unless specifically excluded from the definition of employment.

i. Any employing unit for which service in employment, as defined in subsection 16, paragraph *"a"*, subparagraph (5), is performed after December 31, 1971.

j. For purposes of paragraphs *"a"* and *"i"*, employment shall include service which would constitute employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into in accordance with subsection 16, paragraph *"d"*, by the department and an agency charged with the administration of any other state or federal unemployment compensation law.

k. For purposes of paragraphs *"a"* and *"i"*, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week.

l. An employing unit employing agricultural labor after December 31, 1977, if the employing unit:

(1) Paid during any calendar quarter in the calendar year or the preceding calendar year wages of twenty thousand dollars or more for agricultural labor, or

(2) Employed on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, at least ten individuals in employment in agricultural labor for some portion of the day.

m. An employing unit employing after December 31, 1977, domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, and with respect to any calendar year, any employing unit who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of one thousand dollars or more for such service.

n. An Indian tribe, subject to the requirements of section 96.7, subsection 9.

15. *"Employing unit"* means any individual or type of organization, including this state and its political subdivisions, state agencies, boards, commissions, and instrumentalities thereof, any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of subsection 14 or section 96.8, subsection 3, the employing unit shall for all the purposes of this chapter be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of subsection 14 or section 96.8, subsection 3, shall alone be liable for the contributions measured by wages payable to individuals in the contractor's or subcontractor's employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of subsection 14 or section 96.8, subsection 3, may recover the same from such contractor or subcontractor, except as any contractor or subcontractor who would in the absence of subsection 14 or section 96.8, subsection 3, be liable to pay said contributions,

accepts exclusive liability for said contributions under an agreement with such employer made pursuant to general rules of the department. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of such work, and provided, further, that such employment was for a total of not less than eight hours in any one calendar week. An employing unit shall not be deemed to employ an independent contractor as described in section 85.61, subsection 11, paragraph *"c"*, subparagraph (3).

16. *"Employment"*.

a. Except as otherwise provided in this subsection, *"employment"* means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Employment also means any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1977, by:

(1) Any officer of a corporation. Provided that the term *"employment"* shall not include such officer if the officer is a majority stockholder and the officer shall not be considered an employee of the corporation unless such services are subject to a tax to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or such services are required to be covered under this chapter of the Code, as a condition to receipt of a full tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C. §3301 – 3309, or

(2) Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee, or

(3) (a) Any individual other than an individual who is an employee under subparagraph (1) or (2) who performs services for remuneration for any person as an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or dry cleaning services for the individual's principal; as a traveling or city salesperson, other than as an agent driver or commission driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, the individual's principal, except for sideline sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(b) Provided, that for purposes of this subparagraph (3), the term *"employment"* shall include services performed after December 31, 1971, only if:

(i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

(ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services, other than in facilities for transportation; and

(iii) The services are not in the nature of single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(4) Service performed after December 31, 1971, by an individual in the employ of this state or any of its wholly owned instrumentalities and after December 31, 1977, service performed by an individual in the employ of a government entity unless specifically excluded from the definition of employment for a government entity.

(5) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the service is excluded from *"employment"* as defined in the Federal Unemployment Tax Act, 26 U.S.C. §3301 – 3309, solely by reason of section 3306(c)(8) of that Act.

(6) For the purposes of subparagraphs (4) and (5), the term *"employment"* does not apply to service performed:

(a) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of that ministry or by a member of a religious order in the exercise of duties required by such order.

(c) In the employ of a nonpublic school which is not an institution of higher education prior to January 1, 1978.

(d) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work.

(e) As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(f) In the employ of a governmental entity, if such service is performed by an individual in the exercise of the individual's duties as an elected official; as a member of a legislative body, or a member of the judiciary, of a state or political subdivision; as a member of the state national guard or air national guard; as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or in a position which, pursuant to the state law, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position which ordinarily does not require duties of more than eight hours per week.

(7) (a) A person in agricultural labor when such labor is performed for an employing unit which during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; or on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor for some portion of the day ten or more individuals, excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; and such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. §1184(c), 1101(a)(15)(H) (1976). For purposes of this subparagraph division, *"employed"* shall not include services performed by agricultural workers who are aliens admitted to the United States to perform labor pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act and who are not covered under the Federal Unemployment Tax Act.

(b) For purposes of this subparagraph, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other employing unit shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not otherwise in employment as defined in this subsection.

(c) For purposes of this subparagraph (7), in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other employing unit and who is not treated as an employee of such crew leader as described above, such other employing unit and not the crew leader shall be treated as the employer of such individual; and such other employing unit shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader either on the crew leader's behalf or on behalf of such other employing unit for the agricultural labor performed for such other employing unit.

(d) For purposes of this subparagraph (7), the term *"crew leader"* means an employing unit which furnishes individuals to perform agricultural labor for any other employing unit; pays, either on the crew leader's behalf or on behalf of such other employing unit, the individuals so furnished by the crew leader for the agricultural labor performed by them;

and has not entered into a written agreement with such other employing unit under which such individual is designated as an employee of such other employing unit.

(8) A person performing after December 31, 1977, domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for an employing unit who paid cash remuneration of one thousand dollars or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year.

(9) A member of a limited liability company. For such a member, the term *"employment"* shall not include any portion of such service that is performed in lieu of making a contribution of cash or property to acquire a membership interest in the limited liability company.

b. The term *"employment"* shall include an individual's entire service, performed within or both within and without this state if:

(1) The service is localized in this state, or

(2) The service is not localized in any state but some of the service is performed in this state and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state, or

(3) The service is performed outside the United States, except in Canada, after December 31, 1971, by a citizen of the United States in the employ of an American employer, other than service which is deemed *"employment"* under the provisions of subparagraphs (1) and (2) or the parallel provisions of another state law, or service performed after December 31 of the year in which the United States secretary of labor approved the first time the unemployment compensation law submitted by the Virgin Islands, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States but the employer is an individual who is a resident of this state, or the employer is a corporation which is organized under the laws of this state, or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) None of the criteria of divisions (a) and (b) of this subparagraph is met, but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the law of this state.

(d) An *"American employer"*, for purposes of this subparagraph, means a person who is an individual who is a resident of the United States or a partnership if two-thirds or more of the partners are residents of the United States, or a trust, if all of the trustees are residents of the United States, or a corporation organized under the laws of the United States or of any state.

(4) Notwithstanding the provisions of subparagraphs (1), (2), and (3), all service performed after December 31, 1971, by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within and without the United States are ordinarily and regularly supervised, managed, directed, and controlled is within this state, and

(5) Notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which, as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C. §3301 – 3308, is required to be covered under this chapter.

c. Services performed within this state but not covered under paragraph *"b"* of this subsection shall be deemed to be employment subject to this chapter if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

d. Services not covered under paragraph *"b"* of this subsection, and performed entirely

without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the department approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

e. Service shall be deemed to be localized within a state if:

(1) The service is performed entirely within such state, or

(2) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

f. (1) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the department that such individual has been and will continue to be free from control or direction over the performance of such services, both under the individual's contract of service and in fact.

(2) Services performed by an individual for two or more employing units shall be deemed to be employment to each employing unit for which the services are performed. However, an individual who concurrently performs services as a corporate officer for two or more related corporations and who is paid through a common paymaster that is one of the related corporations may, at the discretion of such related corporations, be considered to be in the employment of only the common paymaster.

g. The term *"employment"* shall not include:

(1) Service performed in the employ of any other state or its political subdivisions, or of the United States government, or of an instrumentality of any other state or states or their political subdivisions or of the United States; provided, however, that the general language just used shall not include any such instrumentality of the United States after Congress has, by appropriate legal action, expressly permitted the several states to require such instrumentalities to make payments into an employment fund under a state unemployment compensation law; and all such instrumentalities so released from the constitutional immunity to make the contributions, imposed by this chapter shall, thereafter, become subject to all the provisions of said chapter, and such provisions shall then be applicable to such instrumentalities and to all services performed for such instrumentalities in the same manner, to the same extent and on the same terms as are applicable to all other employers, employing units, individuals, and services. Should the social security administration, acting under section 1603 of the federal Internal Revenue Code, fail to certify the state of Iowa for any particular calendar year, then the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided for in section 96.14, subsection 5, which section provides for the refunding of contributions erroneously collected.

(2) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; provided, that the department is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in section 96.11, subsection 2, for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this chapter.

(3) Agricultural labor. For purposes of this chapter, the term *"agricultural labor"* means any service performed prior to January 1, 1972, which was agricultural labor as defined in this subparagraph prior to such date, provided that after December 31, 1977, this subparagraph shall not exclude from employment agricultural labor specifically included as agricultural labor under the definition of employment in this subsection, but shall otherwise include remunerated service performed after December 31, 1971:

(a) On a farm in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including

the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(b) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(c) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, 46 Stat. 1550, §3, 12 U.S.C. §1141j, or in connection with ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(d) (i) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

(ii) In the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subparagraph subdivision (i), but only if such operators produced more than one-half of the commodity with respect to which such service is performed;

(iii) The provisions of subdivisions (i) and (ii) of division (d) of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(e) On a farm operated for profit if such service is not in the course of the employer's trade or business.

(f) The term "*farm*" includes livestock, dairy, poultry, fruit, fur-bearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(4) Domestic service in a private home prior to January 1, 1978, and after December 31, 1977, domestic service in a private home not covered as domestic service under the definition of employment.

(5) Service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child under the age of eighteen in the employ of the child's father or mother.

(6) Service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university or by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and such employment will not be covered by any program of unemployment insurance.

(7) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution, which combines academic instruction with work experience, if the service is an integral part of the program and the institution has so certified to the employer, except that this subparagraph does not apply to service performed in a program established for or on behalf of an employer or group of employers.

(8) Service performed in the employ of a hospital if such service is performed by a patient of the hospital.

(9) Services performed by an individual, who is not treated as an employee, for a person who is not treated as an employer, under either of the following conditions:

(a) The services are performed by the individual as a salesperson and as a licensed real estate agent; substantially all of the remuneration for the services is directly related to sales

or other output rather than to the number of hours worked; and the services are performed pursuant to a written contract between the individual and the person for whom the services are performed, which provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

(b) The services are performed by an individual engaged in the trade or business of selling or soliciting the sale of consumer products to any buyer on a buy-sell basis or a deposit-commission basis, for resale by the buyer or another person in the home or in a place other than a permanent retail establishment, or engaged in the trade or business of selling or soliciting the sale of consumer products in the home or in a place other than a permanent retail establishment; substantially all of the remuneration for the services is directly related to sales or other output rather than to the number of hours worked; and the services are performed pursuant to a written contract between the individual and the person for whom the services are performed, which provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

(10) Services performed by an inmate of a correctional institution.

h. Except as otherwise provided in this subsection, *"employment"* shall include service performed in the employ of an Indian tribe, subject to the requirements of section 96.7, subsection 9.

17. *"Employment office"* means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices.

18. *"Exhaustee"* means an individual who, with respect to any week of unemployment in the individual's eligibility period has received, prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law, including dependents' allowances and benefits payable to federal civilian employees and former armed forces personnel under 5 U.S.C. ch. 85, in the individual's current benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year the individual may subsequently be determined to be entitled to add regular benefits, or:

a. The individual's benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which the individual could establish a new benefit year that would include such week, and

b. The individual has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and the individual has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law the individual is considered an exhaustee.

19. *a. "Extended benefit period"* means a period which begins with the third week after a week for which there is a state *"on"* indicator, and ends with either of the following weeks, whichever occurs later:

(1) The third week after the first week for which there is a state *"off"* indicator.

(2) The thirteenth consecutive week of such period.

b. However, an extended benefit period shall not begin by reason of a state *"on"* indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

20. *"Extended benefits"* means benefits, including benefits payable to federal civilian employees and to former armed forces personnel pursuant to 5 U.S.C. ch. 85, payable to an individual under the provisions of this section for weeks of unemployment in the individual's eligibility period.

21. *"Fund"* means the unemployment compensation fund established by this chapter, to

which all contributions required and from which all benefits provided under this chapter shall be paid.

22. *"Governmental entity"* means a state, a state instrumentality, a political subdivision or an instrumentality of a political subdivision, or a combination of one or more of the preceding.

23. *"Hospital"* means an institution which has been licensed, certified, or approved by the department of inspections and appeals as a hospital.

24. *"Indian tribe"* shall have the meaning given to the term pursuant to section 4(e) of the federal Indian Self-Determination and Education Assistance Act, Pub. L. No. 93-638, and shall include any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.

25. *"Institution of higher education"* means an educational institution which admits as regular students individuals having a certificate of graduation from a high school, or the recognized equivalent of such certificate; is legally authorized in this state primarily to provide a program of education beyond high school; provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and is a public or other nonprofit institution.

26. *"Insured work"* means employment for employers.

27. *"Nonprofit organization"* means an organization described in the federal Internal Revenue Code, 26 U.S.C. §501(c)(3), which is exempt from income taxation under 26 U.S.C. §501(a).

28. There is a state *"off"* indicator for a week if, for the period consisting of the week and the immediately preceding twelve weeks, the rate of insured unemployment under the state law was less than five percent, or less than one hundred twenty percent of the average of the rates for thirteen weeks ending in each of the two preceding calendar years, except that, notwithstanding any such provision of this subsection, any week for which there would otherwise be a state *"on"* indicator shall continue to be such a week and shall not be determined to be a week for which there is a state *"off"* indicator.

29. There is a state *"on"* indicator for a week if the rate of insured unemployment under the state law for the period consisting of the week and the immediately preceding twelve weeks equaled or exceeded five percent and equaled or exceeded one hundred twenty percent of the average of the rates for the corresponding thirteen-week period ending in each of the two preceding calendar years.

30. *"Public housing agency"* means any agency described in section 3(b)(6) of the United States Housing Act of 1937, as amended through January 1, 1989.

31. *"Rate of insured unemployment"*, for purposes of determining state *"on"* indicator and state *"off"* indicator, means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in Iowa for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the department on the basis of its reports to the United States secretary of labor, by the average monthly insured employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

32. *"Regular benefits"* means benefits payable to an individual under this or under any other state law, including benefits payable to federal civilian employees and to former armed forces personnel pursuant to 5 U.S.C. ch. 85, other than extended benefits.

33. *"State"* includes, in addition to the states of the United States, the District of Columbia, Canada, Puerto Rico, and the Virgin Islands.

34. *"State law"* means the unemployment insurance law of any state, approved by the United States secretary of labor under 26 U.S.C. §3304.

35. *"Statewide average weekly wage"* means the amount computed by the department at least once a year on the basis of the aggregate amount of wages reported by employers in the preceding twelve-month period ending on December 31 and divided by the product of fifty-two times the average mid-month employment reported by employers for the same twelve-month period. In determining the aggregate amount of wages paid statewide, the

department shall disregard any limitation on the amount of wages subject to contributions under this chapter.

36. *"Taxable wages"* means an amount of wages upon which an employer is required to contribute based upon wages which have been paid during a calendar year to an individual by an employer or the employer's predecessor, in this state or another state which extends a like comity to this state, with respect to employment, upon which the employer is required to contribute, which equals the greater of the following:

a. Sixty-six and two-thirds percent of the statewide average weekly wage which was used during the previous calendar year to determine maximum weekly benefit amounts, multiplied by fifty-two and rounded to the next highest multiple of one hundred dollars.

b. That portion of wages subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund.

37. *"Totally unemployed"*, *"partially unemployed"*, and *"temporarily unemployed"*.

a. An individual shall be deemed *"totally unemployed"* in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed *"partially unemployed"* in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed *"temporarily unemployed"* if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work, or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

38. *"Unemployment compensation administration fund"* means the unemployment compensation administration fund established by this chapter, from which administration expenses under this chapter shall be paid.

39. *"United States"* for the purposes of this section includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

40. *a.* *"Wages"* means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the department.

b. The term *"wages"* shall not include:

(1) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to or on behalf of an employee or any of the employee's dependents under a plan or system established by an employer which makes provisions for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class, or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of retirement, sickness, accident disability, medical, or hospitalization expense in connection with sickness or accident disability, or death.

(2) Any payment paid to an employee, including any amount paid by any employer for insurance or annuities or into a fund to provide for any such payment, on account of retirement.

(3) Any payment on account of sickness or accident disability, or medical or hospitalization expense in connection with sickness or accident disability made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

(4) Remuneration for agricultural labor paid in any medium other than cash.

(5) Any portion of the remuneration to a member of a limited liability company based on a membership interest in the company provided that the remuneration is allocated among

members, and among classes of members, in proportion to their respective investments in the company. If the amount of remuneration attributable to a membership interest cannot be determined, the entire amount of remuneration shall be deemed to be based on services performed.

41. *"Week"* means such period or periods of seven consecutive calendar days ending at midnight, or as the department may by regulations prescribe.

42. *"Weekly benefit amount"*. An individual's *"weekly benefit amount"* means the amount of benefits the individual would be entitled to receive for one week of total unemployment. An individual's weekly benefit amount, as determined for the first week of the individual's benefit year, shall constitute the individual's weekly benefit amount throughout such benefit year.

[C39, §**1551.25;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.19; 81 Acts, ch 19, §9; 82 Acts, ch 1030, §3 – 7, 9, ch 1126, §3]

83 Acts, ch 101, §9; 83 Acts, ch 190, §22 – 24, 26, 27; 86 Acts, ch 1245, §525, 935; 87 Acts, ch 222, §6, 7; 89 Acts, ch 117, §2; 92 Acts, ch 1045, §4; 95 Acts, ch 43, §3; 96 Acts, ch 1121, §9 – 11; 96 Acts, ch 1186, §20 – 23; 97 Acts, ch 38, §3, 4; 2001 Acts, ch 111, §3 – 6; 2004 Acts, ch 1175, §66; 2008 Acts, ch 1032, §182, 183, 201; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §24; 2013 Acts, ch 90, §23; 2016 Acts, ch 1011, §24 – 31; 2016 Acts, ch 1073, §20; 2017 Acts, ch 54, §25; 2018 Acts, ch 1080, §7, 8; 2020 Acts, ch 1062, §22, 94; 2020 Acts, ch 1069, §4

C2021, §96.1A

2021 Acts, ch 76, §22

Referred to in §85.28, 85.31, 85.34, 85.37, 85.59, 93.1, 96.3, 96.4, 96.5, 96.7(2)(b), 96.8, 96.23, 96.40, 422.11A, 422.33

Subsection 37 amended

96.1B Additional definitions.

As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

C2001, §96.1A

2020 Acts, ch 1062, §94

C2021, §96.1B

96.2 Guide for interpretation.

As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and the worker's family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

[C39, §**1551.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.2]

96.3 Payment — determination — duration — child support intercept.

1. *Payment.* Twenty-four months after the date when contributions first accrue under this chapter, benefits shall become payable from the fund; provided, that wages earned for services defined in section 96.1A, subsection 16, paragraph *"g"*, subparagraph (3), irrespective of when performed, shall not be included for purposes of determining eligibility, under section 96.4 or full-time weekly wages, under subsection 4 of this section, for the

purposes of any benefit year, nor shall any benefits with respect to unemployment be payable under subsection 5 of this section on the basis of such wages. All benefits shall be paid through employment offices in accordance with such regulations as the department of workforce development may prescribe.

2. *Total unemployment.* Each eligible individual who is totally unemployed in any week shall be paid with respect to such week benefits in an amount which shall be equal to the individual's weekly benefit amount.

3. *Partial unemployment.* An individual who is partially unemployed in any week as defined in section 96.1A, subsection 37, paragraph *"b"*, and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

4. *Determination of benefits.*

a. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest. The director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage:
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

b. The maximum weekly benefit amount, if not a multiple of one dollar, shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section, *"dependent"* means dependent as defined in section 422.12, subsection 1, paragraph *"a"*, as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. *"Nonworking spouse"* means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

5. *a. Duration of benefits.* The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously

charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off" indicator is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

b. Training extension benefits.

(1) An individual who has been separated from a declining occupation or who has been involuntarily separated from employment as a result of a permanent reduction of operations at the last place of employment and who is in training with the approval of the director or in a job training program pursuant to the Workforce Investment Act of 1998, Pub. L. No. 105-220, at the time regular benefits are exhausted, may be eligible for training extension benefits.

(2) A declining occupation is one in which there is a lack of sufficient current demand in the individual's labor market area for the occupational skills for which the individual is fitted by training and experience or current physical or mental capacity, and the lack of employment opportunities is expected to continue for an extended period of time, or the individual's occupation is one for which there is a seasonal variation in demand in the labor market and the individual has no other skill for which there is current demand.

(3) The training extension benefit amount shall be twenty-six times the individual's weekly benefit amount and the weekly benefit amount shall be equal to the individual's weekly benefit amount for the claim in which benefits were exhausted while in training.

(4) An individual who is receiving training extension benefits shall not be denied benefits due to application of section 96.4, subsection 3, or section 96.5, subsection 3. However, an employer's account shall not be charged with benefits so paid. Relief of charges under this paragraph *"b"* applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(5) In order for the individual to be eligible for training extension benefits, all of the following criteria must be met:

(a) The training must be for a high-demand occupation or high-technology occupation, including the fields of life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, and environmental technology. *"High-demand occupation"* means an occupation in a labor market area in which the department determines work opportunities are available and there is a lack of qualified applicants.

(b) The individual must file any unemployment insurance claim to which the individual becomes entitled under state or federal law, and must draw any unemployment insurance benefits on that claim until the claim has expired or has been exhausted, in order to maintain the individual's eligibility under this paragraph *"b"*. Training extension benefits end upon completion of the training even though a portion of the training extension benefit amount may remain.

(c) The individual must be enrolled and making satisfactory progress to complete the training.

6. *Part-time workers.*

a. As used in this subsection the term *"part-time worker"* means an individual whose normal work is in an occupation in which the individual's services are not required for the customary scheduled full-time hours prevailing in the establishment in which the individual is employed, or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which the individual is employed.

b. The director shall prescribe fair and reasonable general rules applicable to part-time workers, for determining their full-time weekly wage, and the total wages in employment by employers required to qualify such workers for benefits. An individual is a part-time worker if a majority of the weeks of work in such individual's base period includes part-time work. Part-time workers are not required to be available for, seek, or accept full-time employment.

7. *Recovery of overpayment of benefits.*

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the

benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. The employer shall not be relieved of charges if benefits are paid because the employer or an agent of the employer failed to respond timely or adequately to the department's request for information relating to the payment of benefits. This prohibition against relief of charges shall apply to both contributory and reimbursable employers.

(b) However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

8. *Back pay.* If an individual receives benefits for a period of unemployment and subsequently receives a payment for the same period from the individual's employer in the form of or in lieu of back pay, the benefits shall be recovered. The department, in its discretion, may reach an agreement with the individual and the employer to allow the employer to deduct the amount of the benefits from the back pay and remit a sum equal to that amount to the unemployment compensation fund and the balance to the individual, or may recover the amount of the benefits either by having a sum equal to that amount deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to that amount. If an agreement is reached to allow the employer to deduct the amount of benefits from the back pay and remit that amount to the fund, the department shall not charge that amount to the employer's account under section 96.7.

9. *Child support intercept.*

a. An individual filing a claim for benefits under section 96.6, subsection 1, shall, at the time of filing, disclose whether the individual owes a child support obligation which is being enforced by the child support recovery unit established in section 252B.2. If an individual discloses that such a child support obligation is owed and the individual is determined to be eligible for benefits under this chapter, the department shall notify the child support recovery unit of the individual's disclosure and deduct and withhold from benefits payable to the individual the amount specified by the individual.

b. However, if the child support recovery unit and an individual owing a child support obligation reach an agreement to have specified amounts deducted and withheld from the individual's benefits and the child support recovery unit submits a copy of the agreement to the department, the department shall deduct and withhold the specified amounts.

c. (1) However, if the department is notified of income withholding by the child support recovery unit under chapter 252D or section 598.22 or 598.23 or if income is garnisheed by the child support recovery unit under chapter 642 and an individual's benefits are condemned to the satisfaction of the child support obligation being enforced by the child support recovery unit, the department shall deduct and withhold from the individual's benefits that amount required through legal process.

(2) Notwithstanding section 642.2, subsections 2, 3, 6, and 7, which restrict garnishments under chapter 642 to wages of public employees, the department may be garnisheed under

chapter 642 by the child support recovery unit established in section 252B.2, pursuant to a judgment for child support against an individual eligible for benefits under this chapter.

(3) Notwithstanding section 96.15, benefits under this chapter are not exempt from income withholding, garnishment, attachment, or execution if withheld for or garnisheed by the child support recovery unit, established in section 252B.2, or if an income withholding order or notice of the income withholding order under section 598.22 or 598.23 is being enforced by the child support recovery unit to satisfy the child support obligation of an individual who is eligible for benefits under this chapter.

d. An amount deducted and withheld under paragraph "*a*", "*b*", or "*c*" shall be paid by the department to the child support recovery unit, and shall be treated as if it were paid to the individual as benefits under this chapter and as if it were paid by the individual to the child support recovery unit in satisfaction of the individual's child support obligations.

e. If an agreement for reimbursement has been made, the department shall be reimbursed by the child support recovery unit for the administrative costs incurred by the department under this section which are attributable to the enforcement of child support obligations by the child support recovery unit.

10. *Voluntary income tax withholding.* All payments of benefits made after December 31, 1996, are subject to the following:

a. An individual filing a new application for benefits shall, at the time of filing the application, be advised of the following:

(1) Benefits paid under this chapter are subject to federal and state income tax.

(2) Legal requirements exist pertaining to estimated tax payments.

(3) The individual may elect to have federal income tax deducted and withheld from the individual's payment of benefits at the amount specified in the Internal Revenue Code as defined in section 422.3.

(4) The individual may elect to have Iowa state income tax deducted and withheld from the individual's payment of benefits at the rate of five percent.

(5) The individual shall be permitted to change the individual's previously elected withholding status.

b. Amounts deducted and withheld from benefits shall remain in the unemployment compensation fund until transferred to the appropriate taxing authority as a payment of income tax.

c. The director shall follow all procedures specified by the United States department of labor, the federal internal revenue service, and the department of revenue pertaining to the deducting and withholding of income tax.

d. Amounts shall be deducted and withheld under this subsection only after amounts are deducted and withheld for any overpayment of benefits, child support obligations, and any other amounts authorized to be deducted and withheld under federal or state law.

11. *Overissuance of food stamp benefits.* The department shall collect any overissuance of food stamp benefits by offsetting the amount of the overissuance from the benefits payable under this chapter to the individual. This subsection shall only apply if the department is reimbursed under an agreement with the department of human services for administrative costs incurred in recouping the overissuance. The provisions of section 96.15 do not apply to this subsection.

[C39, §**1551.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.3; 82 Acts, ch 1030, §1]

83 Acts, ch 190, §1 – 4, 27; 84 Acts, ch 1067, §17; 86 Acts, ch 1034, §1; 87 Acts, ch 111, §9; 87 Acts, ch 222, §1, 2; 89 Acts, ch 11, §1, 2; 93 Acts, ch 158, §1; 95 Acts, ch 23, §1; 95 Acts, ch 109, §1; 96 Acts, ch 1121, §1, 12; 96 Acts, ch 1186, §23; 97 Acts, ch 38, §1; 97 Acts, ch 175, §222; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §175, 201; 2008 Acts, ch 1170, §1; 2009 Acts, ch 22, §1, 2, 9; 2009 Acts, ch 133, §227; 2009 Acts, ch 179, §48; 2013 Acts, ch 3, §1, 3; 2014 Acts, ch 1026, §21; 2018 Acts, ch 1026, §35; 2019 Acts, ch 24, §15; 2020 Acts, ch 1062, §83

Referred to in §85.60, 96.11, 96.20, 96.40

96.4 Required findings.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

1. The individual has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the department may prescribe. The provisions of this subsection shall be waived if the individual is deemed temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "*c*".

2. The individual has made a claim for benefits in accordance with the provisions of section 96.6, subsection 1.

3. *a.* The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "*b*", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "*c*". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3, are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "*h*".

b. Notwithstanding any provision of this chapter to the contrary, the department may establish by rule a process to waive or alter the work search requirements of this subsection for a claim for benefits if an individual has a reasonable expectation that the individual will be returning to employment and is attached to a regular job or industry or a member in good standing of a union therein eligible for referral for employment. To be considered attached to a regular job or industry, an individual must be on a short-term temporary layoff. If work is not available at the conclusion of the layoff period due to short-term circumstances beyond the employer's control, the employer may request an extension of the waiver or alteration for up to two weeks from the department. For purposes of this paragraph, "*short-term temporary layoff*" means a layoff period of sixteen weeks or less due to seasonal weather conditions that impact the ability to perform work related to highway construction, repair, or maintenance with a specific return-to-work date verified by the employer.

4. *a.* The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.1A, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "*b*" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

5. Benefits based on service in employment in a nonprofit organization or government entity, defined in section 96.1A, subsection 16, are payable in the same amount, on the same

terms and subject to the same conditions as compensation payable on the same basis of other service subject to this chapter, except that:

a. Benefits based on service in an instructional, research, or principal administrative capacity in an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or reasonable assurance that the individual will perform services in any such capacity for any educational institution for both such academic years or both such terms.

b. Benefits based on service in any other capacity for an educational institution including service in or provided to or on behalf of an educational institution while in the employ of an educational service agency, a government entity, or a nonprofit organization, shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years or terms, if the individual performs the services in the first of such academic years or terms and has reasonable assurance that the individual will perform services for the second of such academic years or terms. If benefits are denied to an individual for any week as a result of this paragraph and the individual is not offered an opportunity to perform the services for an educational institution for the second of such academic years or terms, the individual is entitled to retroactive payments of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph.

c. With respect to services for an educational institution in any capacity under paragraph "*a*" or "*b*", benefits shall not be paid to an individual for any week of unemployment which begins during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before such vacation period or holiday recess, and the individual has reasonable assurance that the individual will perform the services in the period immediately following such vacation period or holiday recess.

d. For purposes of this subsection, "*educational service agency*" means a governmental agency or government entity which is established and operated exclusively for the purpose of providing educational services to one or more educational institutions.

6. *a.* An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. (1) An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. §2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this paragraph, "*suitable employment*" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. §2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

7. The individual participates in reemployment services as directed by the department

pursuant to a profiling system, established by the department, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

[C39, §**1551.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.4; 82 Acts, ch 1030, §2]

83 Acts, ch 190, §5 – 8, 26, 27; 84 Acts, ch 1255, §1, 2; 87 Acts, ch 222, §3; 91 Acts, ch 45, §1, 2; 94 Acts, ch 1066, §6; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §176, 197; 2009 Acts, ch 22, §3, 9; 2017 Acts, ch 72, §1, 2; 2020 Acts, ch 1062, §84 – 86; 2021 Acts, ch 171, §26 – 28

Referred to in §96.3, 96.6, 96.20, 96.23

2021 amendment to subsection 3 applies to any new claim of unemployment benefits beginning on or after June 13, 2021; 2021 Acts, ch 171, §27, 28

Subsection 3 amended

96.5 Causes for disqualification.

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. *Voluntary quitting.* If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

b. The individual's leaving was caused by the relocation of the individual's spouse by the military. The employer's account shall not be charged for any benefits paid to an individual who leaves due to the relocation of a military spouse. Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

d. The individual left employment because of illness, injury, or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury, or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

e. The individual left employment upon the advice of a licensed and practicing physician, for the sole purpose of taking a member of the individual's family to a place having a different climate, during which time the individual shall be deemed unavailable for work, and notwithstanding during such absence the individual secures temporary employment, and returned to the individual's regular employer and offered the individual's services and the individual's regular work or comparable work was not available, provided the individual is otherwise eligible.

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

g. The individual left work voluntarily without good cause attributable to the employer

under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph *"a"* of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

h. The individual has left employment in lieu of exercising a right to bump or oust a fellow employee with less seniority or priority from the fellow employee's job.

i. The individual is unemployed as a result of the individual's employer selling or otherwise transferring a clearly segregable and identifiable part of the employer's business or enterprise to another employer which does not make an offer of suitable work to the individual as provided under subsection 3. However, if the individual does accept, and works in and is paid wages for, suitable work with the acquiring employer, the benefits paid which are based on the wages paid by the transferring employer shall be charged to the unemployment compensation fund provided that the acquiring employer has not received, or will not receive, a partial transfer of experience under the provisions of section 96.7, subsection 2, paragraph *"b"*. Relief of charges under this paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

j. (1) The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

(2) To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

(3) For purposes of this lettered paragraph:

(a) *"Temporary employee"* means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) *"Temporary employment firm"* means a person engaged in the business of employing temporary employees.

2. *Discharge for misconduct.* If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

b. Provided further, if gross misconduct is established, the department shall cancel the individual's wage credits earned, prior to the date of discharge, from all employers.

c. Gross misconduct is deemed to have occurred after a claimant loses employment as a result of an act constituting an indictable offense in connection with the claimant's employment, provided the claimant is duly convicted thereof or has signed a statement admitting the commission of such an act. Determinations regarding a benefit claim may be redetermined within five years from the effective date of the claim. Any benefits paid to a claimant prior to a determination that the claimant has lost employment as a result of such act shall not be considered to have been accepted by the claimant in good faith.

3. *Failure to accept work.* If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish

the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

b. Notwithstanding any other provision of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(2) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

4. *Labor disputes.*

a. For any week with respect to which the department finds that the individual's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the department that:

(1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

b. Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

5. *Other compensation.*

a. For any week with respect to which the individual is receiving or has received payment in the form of any of the following:

(1) Wages in lieu of notice, separation allowance, severance pay, or dismissal pay.

(2) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States.

(3) A governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment made under a plan maintained or contributed to by a base period or chargeable employer where, except for benefits under the federal Social Security Act or the federal Railroad Retirement Act of 1974 or the corresponding provisions of prior law, the plan's eligibility requirements or benefit payments are affected by the base period employment or the remuneration for the base period employment. However, this subparagraph shall only be applicable if the base period employer has made one hundred percent of the contributions to the plan.

b. Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration, or compensation under paragraph "*a*", subparagraph (1), (2), or (3), were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer's account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service by the beneficiary with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual otherwise qualified from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

6. *Benefits from other state.* For any week with respect to which or a part of which an individual has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States, provided that if the appropriate agency of such other state or of the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

7. *Vacation pay.*

a. When an employer makes a payment or becomes obligated to make a payment to an individual for vacation pay, or for vacation pay allowance, or as pay in lieu of vacation, such payment or amount shall be deemed wages as defined in section 96.1A, subsection 40, and shall be applied as provided in paragraph "*c*" hereof.

b. When, in connection with a separation or layoff of an individual, the individual's employer makes a payment or payments to the individual, or becomes obligated to make a payment to the individual as, or in the nature of, vacation pay, or vacation pay allowance, or as pay in lieu of vacation. The amount of a payment or obligation to make payment, is deemed wages as defined in section 96.1A, subsection 40, and shall be applied as provided in paragraph "*c*" of this subsection 7.

c. Of the wages described in paragraph "*a*" or paragraph "*b*", a sum equal to the wages of such individual for a normal workday shall be attributed to, or deemed to be payable to the individual with respect to, the first and each subsequent workday in such period until such amount so paid or owing is exhausted, not to exceed five workdays. Any individual receiving or entitled to receive wages as provided herein shall be ineligible for benefits for any week in which the sums equal or exceed the individual's weekly benefit amount. If the amount is less than the weekly benefit amount of such individual, the individual's benefits shall be reduced by such amount.

d. Notwithstanding contrary provisions in paragraphs "*a*", "*b*", and "*c*", if an individual is separated from employment and is scheduled to receive vacation payments during the period of unemployment attributable to the employer, then payments made by the employer to the individual or an obligation to make a payment by the employer to the individual for vacation pay, vacation pay allowance or pay in lieu of vacation shall not be deemed wages as defined in section 96.1A, subsection 40, for any period in excess of five workdays and such payments or the value of such obligations shall not be deducted for any period in excess of one week from the unemployment benefits the individual is otherwise entitled to receive under this chapter.

e. If an employer pays or is obligated to pay a bonus to an individual at the same time the

employer pays or is obligated to pay vacation pay, a vacation pay allowance, or pay in lieu of vacation, the bonus shall not be deemed wages for purposes of determining benefit eligibility and amount, and the bonus shall not be deducted from unemployment benefits the individual is otherwise entitled to receive under this chapter.

8. *Administrative penalty.* If the department finds that, with respect to any week of an insured worker's unemployment for which such person claims credit or benefits, such person has, within the thirty-six calendar months immediately preceding such week, with intent to defraud by obtaining any benefits not due under this chapter, willfully and knowingly made a false statement or misrepresentation, or willfully and knowingly failed to disclose a material fact; such person shall be disqualified for the week in which the department makes such determination, and forfeit all benefit rights under the unemployment compensation law for a period of not more than the remaining benefit period as determined by the department according to the circumstances of each case. Any penalties imposed by this subsection shall be in addition to those otherwise prescribed in this chapter.

9. *Athletes — disqualified.* Services performed by an individual, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons or similar periods, if such individual performs such services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such season or similar periods.

10. *Aliens — disqualified.* For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

11. *Incarceration — disqualified.*

a. If the department finds that the individual became separated from employment due to the individual's incarceration in a jail, municipal holding facility, or correctional institution or facility, unless the department finds all of the following:

(1) The individual notified the employer that the individual would be absent from work due to the individual's incarceration prior to any such absence.

(2) Criminal charges relating to the incarceration were not filed against the individual, all criminal charges against the individual relating to the incarceration were dismissed, or the individual was found not guilty of all criminal charges relating to the incarceration.

(3) The individual reported back to the employer within two work days of the individual's release from incarceration and offered services.

(4) The employer rejected the individual's offer of services.

b. A disqualification under this subsection shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

12. *Supplemental part-time employment.* If the department finds that an individual is disqualified for benefits under subsection 1 or 2 based on the nature of the individual's separation from supplemental part-time employment, all wages paid by the supplemental part-time employer to that individual in any quarter which are chargeable following a disqualifying separation under subsection 1 or 2 shall not be considered wages credited to the individual until such time as the individual meets the conditions of requalification as provided for in this chapter, or until the period of disqualification provided for in this chapter has elapsed.

13. *Overpayment resulting in disqualification.* If the department finds that an individual

has received benefits by reason of misrepresentation pursuant to section 96.16, such individual shall be disqualified for benefits until the balance of the benefits received by the individual due to misrepresentation, including all penalties, interest, and lien fees, is paid in full.

14. *Marijuana or controlled substance use in the workplace — disqualified.*

a. For purposes of this subsection, unless the context otherwise requires:

(1) *"Controlled substance"* means the same as defined in section 124.101.

(2) *"Marijuana"* means the same as defined in section 124E.2.

b. If the department finds that the individual became separated from employment due to ingesting marijuana in the workplace, working while under the influence of marijuana, or testing positive for any other controlled substance, for which the individual did not have a current prescription or which the individual was otherwise using unlawfully, under a drug testing policy pursuant to section 730.5 or any other procedures provided by federal statutes, federal regulations, or orders issued pursuant to federal law.

c. A disqualification under this subsection shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

[C39, §**1551.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.5; 81 Acts, ch 19, §2]

83 Acts, ch 190, §9, 10, 27; 85 Acts, ch 99, §2; 86 Acts, ch 1166, §1; 87 Acts, ch 78, §1; 90 Acts, ch 1261, §28; 91 Acts, ch 45, §3, 4; 92 Acts, ch 1045, §1, 2; 95 Acts, ch 109, §2; 96 Acts, ch 1121, §2; 96 Acts, ch 1186, §23; 97 Acts, ch 132, §1; 2001 Acts, ch 111, §1, 6; 2007 Acts, ch 22, §26, 27; 2007 Acts, ch 215, §245, 258; 2008 Acts, ch 1032, §201; 2010 Acts, ch 1048, §1; 2017 Acts, ch 70, §1 – 3, 5; 2018 Acts, ch 1080, §2, 3; 2018 Acts, ch 1169, §21; 2020 Acts, ch 1062, §87; 2020 Acts, ch 1116, §1

Referred to in §96.3, 96.4, 96.6, 96.29

96.5A Refusal of COVID-19 vaccination — no disqualification.

Notwithstanding any other provision of this chapter to the contrary, an individual who is discharged from employment for refusing to receive a vaccination against COVID-19, as defined in section 686D.2, shall not be disqualified for benefits on account of such discharge.

2021 Acts, 2nd Ex, ch 1, §3, 5

Section effective October 29, 2021; 2021 Acts, 2nd Ex, ch 1, §5

NEW section

96.6 Filing — determination — appeal.

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

2. *Initial determination.* A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of issuance of the notice of the filing of the claim to protest payment of benefits to the claimant. All interested parties shall select a format as specified by the department to receive such notifications. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs *"a"* through *"h"*. Unless the claimant or other interested party, after notification or within ten calendar days after notification was issued, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or

the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

3. *Appeals.*

a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

4. *Effect of determination.* A finding of fact or law, judgment, conclusion, or final order made pursuant to this section by an employee or representative of the department, administrative law judge, or the employment appeal board, is binding only upon the parties to proceedings brought under this chapter, and is not binding upon any other proceedings or action involving the same facts brought by the same or related parties before the division of labor services, division of workers' compensation, other state agency, arbitrator, court, or judge of this state or the United States.

[C39, §**1551.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.6]

83 Acts, ch 190, §11, 12, 27; 84 Acts, ch 1255, §3; 86 Acts, ch 1245, §522, 523; 88 Acts, ch 1109, §9; 91 Acts, ch 43, §1; 95 Acts, ch 109, §3; 96 Acts, ch 1186, §23; 98 Acts, ch 1061, §9; 98 Acts, ch 1158, §1; 2008 Acts, ch 1032, §177; 2017 Acts, ch 70, §4, 5; 2018 Acts, ch 1080, §4; 2020 Acts, ch 1088, §1; 2021 Acts, ch 76, §23

Referred to in §96.1A, 96.3, 96.4, 96.7(2)(a), 96.11, 235B.6

Subsection 2 amended

96.7 Employer contributions and reimbursements.

1. *Payment.* Contributions accrue and are payable, in accordance with rules adopted by the department pursuant to chapter 17A, on all taxable wages paid by an employer for insured work.

2. *Contribution rates based on benefit experience.*

a. (1) The department shall maintain a separate account for each employer and shall credit each employer's account with all contributions which the employer has paid or which have been paid on the employer's behalf.

(2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the

account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

(b) An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

(c) The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

(d) The account of an employer shall not be charged with benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president of the United States, pursuant to the federal Disaster Relief Act of 1974, if the individual would have been eligible for federal disaster unemployment assistance benefits with respect to that unemployment but for the individual's receipt of regular benefits.

(e) The account of an employer shall not be charged with benefits paid to an individual who is laid off if the benefits are paid as the result of the return to work of a permanent employee who is one of the following:

(i) A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, subsection 3, 8, or 12, for any purpose, who has completed the duty as evidenced in accordance with section 29A.43.

(ii) A member of the civil air patrol performing duty pursuant to section 29A.3A, who has completed the duty as evidenced in accordance with section 29A.43.

(iii) A regular, reserve, or auxiliary member of the United States coast guard performing duty as defined in section 29A.1, subsection 3, 8, or 12, who has completed the duty as evidenced in accordance with section 29A.43.

(3) The amount of regular benefits charged against the account of an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based on employment with the employer during that quarter. The amount of extended benefits charged against the account of an employer for a calendar quarter of the base period shall not exceed an additional fifty percent of the amount of the individual's wage credits based on employment with the employer during that quarter. However, the amount of extended benefits charged against the account of a governmental entity which is either a reimbursable or contributory employer, for a calendar quarter of the base period shall not exceed an additional one hundred percent of the amount of the individual's wage credits based on employment with the governmental entity during that quarter.

(4) The department shall adopt rules pursuant to chapter 17A prescribing the manner in which benefits shall be charged against the accounts of several employers for which an individual performed employment during the same calendar quarter.

(5) This chapter shall not be construed to grant an employer or an individual in the employer's service, prior claim or right to the amount paid by the employer into the unemployment compensation fund either on the employer's own behalf or on behalf of the individual.

(6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security number, and the amount of benefits paid to the individual. An employer which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to an individual, may within thirty days after the date of mailing of the notification appeal to the department for a hearing to determine the eligibility of the

individual to receive benefits. The appeal shall be referred to an administrative law judge for hearing and the employer and the individual shall receive notice of the time and place of the hearing.

b. (1) If an organization, trade, or business, or a clearly segregable and identifiable part of an organization, trade, or business, for which contributions have been paid is sold or transferred to a subsequent employing unit, or if one or more employing units have been reorganized or merged into a single employing unit, and the successor employer, having qualified as an employer as defined in section 96.1A, subsection 14, paragraph "*b*", continues to operate the organization, trade, or business, the successor employer shall assume the position of the predecessor employer or employers with respect to the predecessors' payrolls, contributions, accounts, and contribution rates to the same extent as if no change had taken place in the ownership or control of the organization, trade, or business. However, the successor employer shall not assume the position of the predecessor employer or employers with respect to the predecessor employer's or employers' payrolls, contributions, accounts, and contribution rates which are attributable to that part of the organization, trade, or business transferred, unless the successor employer applies to the department within ninety days from the date of the partial transfer, and the succession is approved by the predecessor employer or employers and the department.

(2) Notwithstanding any other provision of this chapter, if an employer sells or transfers its organization, trade, or business, or a portion thereof, to another employer, and at the time of the sale or transfer, there is substantially common ownership, management, or control of the two employers, then the unemployment experience attributable to the sold or transferred organization, trade, or business shall be transferred to the successor employer. The transfer of part or all of an employer's workforce to another employer shall be considered a sale or transfer of the organization, trade, or business where the predecessor employer no longer operates the organization, trade, or business with respect to the transferred workforce and such organization, trade, or business is operated by the successor employer.

(3) (a) Notwithstanding any other provision of this chapter, if a person is not an employer at the time such person acquires an organization, trade, or business of an employer, or a portion thereof, the unemployment experience of the acquired organization, trade, or business shall not be transferred to such person if the department finds such person acquired the organization, trade, or business solely or primarily for the purpose of obtaining a lower rate of contribution. Instead, such person shall be assigned the applicable new employer rate under paragraph "*c*".

(b) In determining whether an organization, trade, or business or portion thereof was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the department shall use objective factors which may include the cost of acquiring the organization, trade, or business; whether the person continued the acquired organization, trade, or business; how long such organization, trade, or business was continued; and whether a substantial number of new employees were hired for performance of duties unrelated to the organization, trade, or business operated prior to the acquisition. The department shall establish methods and procedures to identify the transfer or acquisition of an organization, trade, or business under this subparagraph (3) and subparagraph (2).

(4) The predecessor employer, prior to entering into a contract with a successor employer relating to the sale or transfer of the organization, trade, or business, or a clearly segregable and identifiable part of the organization, trade, or business, shall disclose to the successor employer the predecessor employer's record of charges of benefits payments and any layoffs or incidences since the last record that would affect the experience record. A predecessor employer who fails to disclose or willfully discloses incorrect information to a successor employer regarding the predecessor employer's record of charges of benefits payments is liable to the successor employer for any actual damages and attorney fees incurred by the successor employer as a result of the predecessor employer's failure to disclose or disclosure of incorrect information. The department shall include notice of the requirement of disclosure in the department's quarterly notification given to each employer pursuant to paragraph "*a*", subparagraph (6).

(5) The contribution rate to be assigned to the successor employer for the period

beginning not earlier than the date of the succession and ending not later than the beginning of the next following rate year, shall be the contribution rate of the predecessor employer with respect to the period immediately preceding the date of the succession, provided the successor employer was not, prior to the succession, a subject employer, and only one predecessor employer, or only predecessor employers with identical rates, are involved. If the predecessor employers' rates are not identical and the successor employer is not a subject employer prior to the succession, the department shall assign the successor employer a rate for the remainder of the rate year by combining the experience of the predecessor employers. If the successor employer is a subject employer prior to the succession, the successor employer may elect to retain the employer's own rate for the remainder of the rate year, or the successor employer may apply to the department to have the employer's rate redetermined by combining the employer's experience with the experience of the predecessor employer or employers. However, if the successor employer is a subject employer prior to the succession and has had a partial transfer of the experience of the predecessor employer or employers approved, then the department shall recompute the successor employer's rate for the remainder of the rate year.

c. (1) A nonconstruction contributory employer newly subject to this chapter shall pay contributions at the rate specified in the twelfth benefit ratio rank but not less than one percent until the end of the calendar year in which the employer's account has been chargeable with benefits for twelve consecutive calendar quarters immediately preceding the computation date.

(2) A construction or landscaping contributory employer, as defined under rules adopted by the department pursuant to chapter 17A, which is newly subject to this chapter shall pay contributions at the rate specified in the twenty-first benefit ratio rank until the end of the calendar year in which the employer's account has been chargeable with benefits for twelve consecutive calendar quarters.

(3) Thereafter, the employer's contribution rate shall be determined in accordance with paragraph *"d"*, except that the employer's average annual taxable payroll and benefit ratio may be computed, as determined by the department, for less than five periods of four consecutive calendar quarters immediately preceding the computation date.

d. The department shall determine the contribution rate table to be in effect for the rate year following the computation date, by determining the ratio of the current reserve fund ratio to the highest benefit cost ratio on the computation date. On or before the fifth day of September the department shall make available to employers the contribution rate table to be in effect for the next rate year.

(1) The current reserve fund ratio is computed by dividing the total funds available for payment of benefits, on the computation date or on August 15 following the computation date if the total funds available for payment of benefits is a higher amount on August 15, by the total wages paid in covered employment excluding reimbursable employment wages during the first four calendar quarters of the five calendar quarters immediately preceding the computation date. However, in computing the current reserve fund ratio, beginning July 1, 2007, one hundred fifty million dollars shall be added to the total funds available for payment of benefits on each computation date.

(2) The highest benefit cost ratio is the highest of the resulting ratios computed by dividing the total benefits paid, excluding reimbursable benefits paid, during each consecutive twelve-month period, during the ten-year period ending on the computation date, by the total wages, excluding reimbursable employment wages, paid in the four calendar quarters ending nearest and prior to the last day of such twelve-month period; however, the highest benefit cost ratio shall not be less than .02.

If the current reserve fund ratio, divided by the highest benefit cost ratio:

Equals or exceeds	But is less than	The contribution rate table in effect shall be
—	0.3	1
0.3	0.5	2
0.5	0.7	3
0.7	0.85	4
0.85	1.0	5
1.0	1.15	6
1.15	1.30	7
1.30	—	8

"Benefit ratio" means a number computed to six decimal places on July 1 of each year obtained by dividing the average of all benefits charged to an employer during the five periods of four consecutive calendar quarters immediately preceding the computation date by the employer's average annual taxable payroll.

Each employer qualified for an experience rating shall be assigned a contribution rate for each rate year that corresponds to the employer's benefit ratio rank in the contribution rate table effective for the rate year from the following contribution rate tables. Each employer's benefit ratio rank shall be computed by listing all the employers by increasing benefit ratios, from the lowest benefit ratio to the highest benefit ratio and grouping the employers so listed into twenty-one separate ranks containing as nearly as possible four and seventy-six hundredths percent of the total taxable wages, excluding reimbursable employment wages, paid in covered employment during the four completed calendar quarters immediately preceding the computation date. If an employer's taxable wages qualify the employer for two separate benefit ratio ranks the employer shall be afforded the benefit ratio rank assigned the lower contribution rate. Employers with identical benefit ratios shall be assigned to the same benefit ratio rank.

Benefit Ratio Rank	Approximate Cumulative Taxable Payroll Limit	Contribution Rate Tables 1	2	3	4	5	6	7	8
1	4.8%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2	9.5%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
3	14.3%	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
4	19.0%	0.4	0.3	0.3	0.2	0.1	0.1	0.1	0.1
5	23.8%	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1
6	28.6%	0.9	0.8	0.6	0.5	0.4	0.3	0.2	0.1
7	33.3%	1.2	1.0	0.8	0.6	0.5	0.4	0.3	0.2
8	38.1%	1.5	1.3	1.0	0.8	0.6	0.5	0.3	0.2
9	42.8%	1.9	1.5	1.2	0.9	0.7	0.6	0.4	0.3
10	47.6%	2.1	1.8	1.4	1.1	0.8	0.6	0.5	0.3
11	52.4%	2.5	2.0	1.6	1.3	1.0	0.7	0.5	0.3
12	57.1%	3.0	2.4	1.9	1.5	1.1	0.9	0.6	0.4
13	61.9%	3.6	2.9	2.4	1.8	1.4	1.1	0.8	0.5
14	66.6%	4.4	3.6	2.9	2.2	1.7	1.3	1.0	0.6
15	71.4%	5.3	4.3	3.5	2.7	2.0	1.6	1.1	0.7
16	76.2%	6.3	5.2	4.1	3.2	2.4	1.9	1.4	0.9
17	80.9%	7.0	6.4	5.2	4.0	3.0	2.3	1.7	1.1
18	85.7%	7.5	7.5	7.0	5.4	4.1	3.1	2.3	1.5
19	90.4%	8.0	8.0	8.0	7.3	5.6	4.2	3.1	2.0
20	95.2%	8.5	8.5	8.5	8.0	7.6	5.8	4.3	2.8
21	100.0%	9.0	9.0	9.0	9.0	8.5	8.0	7.5	7.0

e. (1) The department shall fix the contribution rate for each employer and notify the employer of the rate by regular mail to the last known address of the employer. An employer

may appeal to the department for a revision of the contribution rate within thirty days from the date of the notice to the employer. After providing an opportunity for a hearing, the department may affirm, set aside, or modify its former determination and may grant the employer a new contribution rate. The department shall notify the employer of its decision by regular mail. Judicial review of action of the department may be sought pursuant to chapter 17A.

(2) If an employer's account has been charged with benefits as the result of a decision allowing benefits and the decision is reversed, the employer may appeal, within thirty days from the date of the next contribution rate notice, for a recomputation of the rate. If contributions become due at a disputed contribution rate prior to the employer receiving a decision reversing benefits, the employer shall pay the contributions at the disputed rate but shall be eligible for a refund pursuant to section 96.14, subsection 5. If a base period employer's account has been charged with benefits paid to an employee at a time when the employee was employed by the base period employer in the same employment as in the base period, the employer may appeal, within thirty days from the date of the first notice of the employer's contribution rate which is based on the charges, for a recomputation of the rate.

f. (1) If an employer has not filed a contribution and payroll quarterly report, as required pursuant to section 96.11, subsection 6, for a calendar quarter which precedes the computation date and upon which the employer's rate of contribution is computed, the employer's average annual taxable payroll shall be computed by considering the delinquent quarterly reports as containing zero taxable wages.

(2) If a delinquent quarterly report is received by September 30 following the computation date the contribution rate shall be recomputed by using the taxable wages in all the appropriate quarterly reports on file to determine the average annual taxable payroll.

(3) If a delinquent quarterly report is received after September 30 following the computation date the contribution rate shall not be recomputed, unless the rate is appealed in writing to the department under paragraph *"e"* and the delinquent quarterly report is also submitted not later than thirty days after the department notifies the employer of the rate under paragraph *"e"*.

3. *Determination and assessment of contributions.*

a. As soon as practicable and in any event within two years after an employer has filed reports, as required pursuant to section 96.11, subsection 6, the department shall examine the reports and determine the correct amount of contributions due, and the amount so determined by the department shall be the contributions payable. If the contributions found due are greater than the amount paid, the department shall send a notice by certified mail to the employer with respect to the additional contributions and interest assessed. A lien shall attach as provided in section 96.14, subsection 3, if the assessment is not paid or appealed within thirty days of the date of the notice of assessment.

b. If the department discovers from the examination of the reports required pursuant to section 96.11, subsection 6, or in some other manner that wages, or any portion of wages, payable for employment, have not been listed in the reports, or that reports were not filed when due, or that reports have been filed showing contributions due but contributions in fact have not been paid, the department shall at any time within five years after the time the reports were due, determine the correct amount of contributions payable, together with interest and any applicable penalty as provided in this chapter. The department shall send a notice by certified mail to the employer of the amount assessed and a lien shall attach as provided in paragraph *"a"*.

c. The certificate of the department to the effect that contributions have not been paid, that reports have not been filed, or that information has not been furnished as required under the provisions of this chapter, is prima facie evidence of the failure to pay contributions, file reports, or furnish information.

4. *Employer liability determination.*

a. The department shall initially determine all questions relating to the liability of an employing unit or employer, including the amount of contribution, the contribution rate, and successorship. A copy of the initial determination shall be sent by regular mail to the

last address, according to the records of the department, of each affected employing unit or employer.

b. The affected employing unit or employer may appeal in writing to the department from the initial determination. An appeal shall not be entertained for any reason by the department unless the appeal is filed with the department within thirty days from the date on which the initial determination is mailed. If an appeal is not so filed, the initial determination shall with the expiration of the appeal period become final and conclusive in all respects and for all purposes.

c. A hearing on an appeal shall be conducted according to rules adopted by the department pursuant to chapter 17A. A copy of the decision of the administrative law judge shall be sent by regular mail to the last address, according to the records of the department, of each affected employing unit or employer.

d. The department's decision on the appeal shall be final and conclusive as to the liability of the employing unit or employer unless the employing unit or employer files an appeal for judicial review within thirty days after the date of mailing of the decision as provided in subsection 5.

5. *Judicial review.*

a. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of the county in which the employer resides, or in which the employer's principal place of business is located, or in the case of a nonresident not maintaining a place of business in this state either in a county in which the wages payable for employment were earned or paid or in Polk county, within thirty days after the date of the notice to the employer of the department's final determination as provided for in subsection 2, 3, or 4.

b. The petitioner shall file with the clerk of the district court a bond for the use of the respondent, with sureties approved by the clerk, with any penalty to be fixed and approved by the clerk. The bond shall not be less than fifty dollars and shall be conditioned on the petitioner's performance of the orders of the court. In all other respects, the judicial review shall be in accordance with chapter 17A.

6. *Jeopardy assessments.*

a. If the department believes that the collection of contributions payable or benefits reimbursable will be jeopardized by delay, the department may immediately make an assessment of the estimated amount of contributions due or benefits reimbursable, together with interest and applicable penalty, and demand payment from the employer. If the payment is not made, the department may immediately file a lien against the employer which may be followed by the issuance of a distress warrant.

b. The department shall be permitted to accept a bond from the employer to satisfy collection until the amount of contributions due is determined. The bond shall be in an amount deemed necessary, but not more than double the amount of the contributions involved, with securities satisfactory to the department.

7. *Financing benefits paid to employees of governmental entities.*

a. A governmental entity which is an employer under this chapter shall pay benefits in a manner provided for a reimbursable employer unless the governmental entity elects to make contributions as a contributory employer. The election shall be effective for a minimum of one calendar year and may be changed if an election is made to become a reimbursable employer prior to December 1 for a minimum of the following calendar year.

However, if on the effective date of the election the governmental entity has a negative balance in its contributory account, the governmental entity shall pay to the fund within a time period determined by the department the amount of the negative balance and shall immediately become liable to reimburse the unemployment compensation fund for benefits paid in lieu of contributions. Regular or extended benefits paid after the effective date of the election, including those based on wages paid while the governmental entity was a contributory employer, shall be billed to the governmental entity as a reimbursable employer.

b. A governmental entity electing to make contributions as a contributory employer, with at least eight consecutive calendar quarters immediately preceding the computation date throughout which the employer's account has been chargeable with benefits, shall be assigned a contribution rate under this paragraph. Contribution rates shall be assigned by

listing all governmental contributory employers by decreasing percentages of excess from the highest positive percentage of excess to the highest negative percentage of excess. The employers so listed shall be grouped into seven separate percentage of excess ranks each containing as nearly as possible one-seventh of the total taxable wages of governmental entities eligible to be assigned a rate under this paragraph.

As used in this subsection, *"percentage of excess"* means a number computed to six decimal places on July 1 of each year obtained by dividing the excess of all contributions attributable to an employer over the sum of all benefits charged to an employer by the employer's average annual payroll. An employer's percentage of excess is a positive number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date exceeds the total benefits charged to such account for the same period. An employer's percentage of excess is a negative number when the total of all contributions paid to an employer's account for all past periods to and including those for the quarter immediately preceding the rate computation date is less than the total benefits charged to such account for the same period.

As used in this subsection, *"average annual taxable payroll"* means the average of the total amount of taxable wages paid by an employer for insured work during the three periods of four consecutive calendar quarters immediately preceding the computation date. However, for an employer which qualifies on any computation date for a computed rate on the basis of less than twelve consecutive calendar quarters of chargeability immediately preceding the computation date, *"average annual taxable payroll"* means the average of the employer's total amount of taxable wages for the two periods of four consecutive calendar quarters immediately preceding the computation date.

The department shall annually calculate a base rate for each calendar year. The base rate is equal to the sum of the benefits charged to governmental contributory employers in the calendar year immediately preceding the computation date plus or minus the difference between the total benefits and contributions paid by governmental contributory employers since January 1, 1980, which sum is divided by the total taxable wages reported by governmental contributory employers during the calendar year immediately preceding the computation date, rounded to the next highest one-tenth of one percent. Excess contributions from the years 1978 and 1979 shall be used to offset benefits paid in any calendar year where total benefits exceed total contributions of governmental contributory employers. The contribution rate as a percentage of taxable wages of the employer shall be assigned as follows:

If the percentage of excess rank is:	The contribution rate shall be:	Approximate cumulative taxable payroll
1	Base Rate – 0.9	14.3
2	Base Rate – 0.6	28.6
3	Base Rate – 0.3	42.9
4	Base Rate	57.2
5	Base Rate + 0.3	71.5
6	Base Rate + 0.6	85.8
7	Base Rate + 0.9	100.0

If a governmental contributory employer is grouped into two separate percentage of excess ranks, the employer shall be assigned the lower contribution rate of the two percentage of excess ranks. Notwithstanding the provisions of this paragraph, a governmental contributory employer shall not be assigned a contribution rate less than one-tenth of one percent of taxable wages unless the employer has a positive percentage of excess greater than five percent.

Governmental entities electing to be contributory employers which are not eligible to be assigned a contribution rate under this paragraph shall be assigned the base rate as a contribution rate for the calendar year.

c. For the purposes of this subsection, *"governmental reimbursable employer"* means an employer which makes payments to the department for the unemployment compensation fund in an amount equal to the regular and extended benefits paid, which are based on wages paid for service in the employ of the employer. Benefits paid to an eligible individual shall be charged against the base period employers in the inverse chronological order in which the employment of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter. At the end of each calendar quarter, the department shall bill each governmental reimbursable employer for benefits paid during that quarter. Payments by a governmental reimbursable employer shall be made in accordance with subsection 8, paragraph *"b"*, subparagraphs (2) through (5).

d. A state agency, board, commission, or department, except a state board of regents institution, shall, after approval of the billing for a governmental reimbursable employer as provided in subsection 8, paragraph *"b"*, submit the billing to the director of the department of administrative services. The director of the department of administrative services shall pay the approved billing out of any funds in the state treasury not otherwise appropriated. A state agency, board, commission, or department shall reimburse the director of the department of administrative services out of any revolving, special, trust, or federal fund from which all or a portion of the billing can be paid, for payments made by the director of the department of administrative services on behalf of the agency, board, commission, or department.

e. If the entire enterprise or business of a reimbursable governmental entity is sold or otherwise transferred to a subsequent employing unit and the acquiring employing unit continues to operate the enterprise or business, the acquiring employing unit shall assume the position of the reimbursable governmental entity with respect to the reimbursable governmental entity's liability to pay the department for reimbursable benefits based on the governmental entity's payroll to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the acquiring employing unit's own payroll prior to or after the acquisition of the governmental entity's enterprise or business.

f. If a reimbursable instrumentality of the state or of a political subdivision is discontinued other than by sale or transfer to a subsequent employing unit as described in paragraph *"e"*, the state or the political subdivision, respectively, shall reimburse the department for benefits paid to former employees of the instrumentality after the instrumentality is discontinued.

8. *Financing benefits paid to employees of nonprofit organizations.*

a. A nonprofit organization which is, or becomes, subject to this chapter, shall pay contributions under subsections 1 and 2, unless the nonprofit organization elects, in accordance with this paragraph, to reimburse the unemployment compensation fund for benefits paid in an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, which are based on wages paid for service in the employ of the nonprofit organization during the effective period of the election.

(1) A nonprofit organization may elect to become a reimbursable employer for a period of not less than two calendar years by filing with the department a written notice of its election not later than thirty days prior to the beginning of the calendar year for which the election is to be effective.

(2) A nonprofit organization which makes an election in accordance with subparagraph (1) shall continue to be a reimbursable employer until the nonprofit organization files with the department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which the termination is to be effective.

(3) The department may for good cause extend the period within which a notice of election or termination of election must be filed and may permit an election or termination of election to be retroactive.

(4) The department, in accordance with rules adopted by the department pursuant to chapter 17A, shall notify each nonprofit organization of any determination made by the department of the status of the nonprofit organization as an employer and of the effective

date of any election or termination of election. A determination is subject to appeal and review in accordance with subsections 4 and 5.

b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:

(1) At the end of each calendar quarter, the department shall bill each nonprofit organization which has elected to reimburse the unemployment compensation fund for benefits paid in an amount equal to the full amount of regular benefits and one-half of the amount of extended benefits paid during the quarter which are based on wages paid for service in the employ of the organization. Benefits paid to an individual shall be charged against the base period employers in the inverse chronological order in which the employment of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter.

(2) The nonprofit organization shall pay the bill not later than thirty days after the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, unless the nonprofit organization has filed an application for redetermination in accordance with subparagraph (4).

(3) Reimbursements made by a nonprofit organization shall not be deducted, in whole or in part, from the wages of individuals in the employ of the nonprofit organization.

(4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, within thirty days after the mailing of the notification, the nonprofit organization appeals to the department for a hearing to determine the eligibility of the individual to receive benefits. The appeal shall be referred to an administrative law judge for hearing, and the employer and the individual shall receive notice of the time and place of the hearing.

(5) The provisions for collection of contributions under section 96.14 are applicable to reimbursements for benefits paid in lieu of contributions.

(6) If the entire enterprise or business of a reimbursable nonprofit organization is sold or otherwise transferred to a subsequent employing unit and the acquiring employing unit continues to operate the enterprise or business, the acquiring employing unit shall assume the position of the reimbursable nonprofit organization with respect to the nonprofit organization's liability to pay the department for reimbursable benefits based on the nonprofit organization's payroll to the same extent as if no change in the ownership or control of the enterprise or business had occurred, whether or not the acquiring employing unit elected or elects, or was or is eligible to elect, to become a reimbursable employer with respect to the acquiring employing unit's own payroll prior to or after the acquisition of the nonprofit organization's enterprise or business.

c. (1) In the discretion of the department, a nonprofit organization employing fifteen or more full-time individuals that elects to become liable for payments in lieu of contributions shall be required, within fifteen days after the effective date of its election, to execute and file with the department a bond or security approved by the department. The amount of the bond or security shall be determined by rule pursuant to chapter 17A.

(2) A bond or security deposited under this subsection shall be in force for a period of not less than two calendar years and shall be renewed with the approval of the department, at such times as the department may require, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The department shall require adjustments to be made in a previously filed bond or security as it deems appropriate. If the bond or security is to be increased, the adjusted bond or security shall be filed by the organization within fifteen days after the date notice of the required adjustment was provided. Failure by an organization covered by such bond or security to pay the full amount of payments in lieu of contributions when due, together with any applicable

interest and penalties, shall render the surety liable on said bond or security to the extent of the bond or security, as though the surety were such an organization.

(3) If a nonprofit organization fails to file a bond or security or to file a bond or security in an increased amount as required under this paragraph "*c*", the department may terminate the organization's election to make payments in lieu of contributions, and the termination shall continue for a period of not less than four consecutive calendar quarters beginning with the quarter in which the termination becomes effective, but the department may, for good cause, extend the applicable filing or adjustment period by not more than fifteen days.

d. If a nonprofit organization is delinquent in making payments in lieu of contributions as required under this subsection, the department may terminate the organization's election to make payments in lieu of contributions as of the beginning of the next calendar year.

9. *Indian tribes.*

a. For purposes of this chapter, employment by an Indian tribe shall be covered in the same manner and terms as provided for governmental entities and the same exclusions that are applicable for governmental entities shall also apply.

b. In financing benefits paid to employees of an Indian tribe under this chapter, a contribution rate shall be determined and contributions shall be assessed and collected from an Indian tribe in the same manner provided in this chapter for contributory employers, except that an Indian tribe shall have the option of electing to become a governmental reimbursable employer. An Indian tribe shall have the option to make a separate election as provided in this paragraph for itself and for each subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe. The reimbursable status of an Indian tribe shall be in the same manner, to the same extent, and on the same terms as are applicable to all governmental reimbursable employers under this chapter.

c. If the department determines that an Indian tribe has failed to make any payment required pursuant to this chapter after providing the Indian tribe with ninety days' notice of this failure, the department may issue a determination that ceases coverage of all employment by that Indian tribe until such time as all payments are received by the department.

10. *Group accounts.* Two or more nonprofit organizations or two or more governmental entities which have become reimbursable employers in accordance with subsection 7 or subsection 8, paragraph "*a*", may file a joint application to the department for the establishment of a group account for the purpose of sharing the cost of benefits paid which are attributable to service in the employ of the employers. The application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon approval of the application, the department shall establish a group account for the employers effective as of the beginning of the calendar quarter in which the department receives the application and shall notify the group's agent of the effective date of the account. The account shall remain in effect for not less than one year until terminated at the discretion of the department or upon application by the group. Upon establishment of the account, each employer member of the group shall be liable for benefit reimbursements in lieu of contributions with respect to each calendar quarter in an amount which bears the same ratio to the total benefits paid in the quarter which are attributable to service performed in the employ of all members of the group, as the total wages paid for service performed in the employ of the member in the quarter bear to the total wages paid for service performed in the employ of all members of the group in the quarter. The department shall adopt rules pursuant to chapter 17A with respect to applications for establishment, maintenance, and termination of group accounts, for addition of new members to, and withdrawal of active members from group accounts, and for the determination of the amounts which are payable by members of the group and the time and manner of the payments.

11. *Temporary emergency surcharge — fund.*

a. If on the first day of the third month in any calendar quarter, the department has an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, or is projected to have an outstanding balance of accruing federal interest for that calendar quarter, the department shall collect a uniform temporary emergency surcharge for that calendar quarter, retroactive

to the beginning of that calendar quarter. The surcharge shall be a percentage of employer contribution rates and shall be set at a uniform percentage, for all employers subject to the surcharge, necessary to pay the interest accrued on the moneys advanced to the department by the federal government, and to pay any additional federal interest which will accrue for the remainder of that calendar quarter. The surcharge shall apply to all employers except governmental entities, nonprofit organizations, and employers assigned a zero contribution rate. The department shall adopt rules pursuant to chapter 17A prescribing the manner in which the surcharge will be collected. Interest shall accrue on all unpaid surcharges under this subsection at the same rate as on regular contributions and shall be collectible in the same manner. The surcharge shall not affect the computation of regular contributions under this chapter.

b. A special fund to be known as the temporary emergency surcharge fund is created in the state treasury. The special fund is separate and distinct from the unemployment compensation fund. All contributions collected from the temporary emergency surcharge shall be deposited in the special fund. The special fund shall be used only to pay interest accruing on advance moneys received from the federal government for the payment of unemployment compensation benefits. Interest earned upon moneys in the special fund shall be deposited in and credited to the special fund.

c. If the department determines on June 1 that no outstanding balance of interest due has accrued on advanced moneys received from the federal government for the payment of unemployment compensation benefits, and that no outstanding balance is projected to accrue for the remainder of the calendar year, the department shall notify the treasurer of state of its determination. The treasurer of state shall immediately transfer all moneys, including accrued interest, in the temporary emergency surcharge fund to the unemployment compensation fund for the payment of benefits.

12. *Discharge for refusal of COVID-19 vaccination — effect on experience and rating — limitation on actions.* If an employee is discharged from employment for refusing to receive a vaccination against COVID-19, as defined in section 686D.2, the contribution rate and unemployment experience of any employer employing the employee, or an employer that previously employed the employee other than the employer that so discharged the employee, shall be unaffected by such discharge. The department shall not impose any penalty on, or take any other action otherwise permitted under this chapter against, any employer employing the employee, or an employer that previously employed the employee other than the employer that so discharged the employee, as a result of such discharge.

[C39, §**1551.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §96.7; C79, 81, §96.7, 96.19(21); 81 Acts, ch 19, §3 – 7; 82 Acts, ch 1126, §1]

83 Acts, ch 190, §13 – 20, 27; 84 Acts, ch 1255, §4 – 7; 86 Acts, ch 1066, §1; 86 Acts, ch 1166, §2; 86 Acts, ch 1209, §1; 87 Acts, ch 111, §10, 11; 87 Acts, ch 222, §4; 88 Acts, ch 1014, §1 – 3; 88 Acts, ch 1109, §10, 11; 88 Acts, ch 1274, §28; 89 Acts, ch 296, §14; 90 Acts, ch 1227, §1; 90 Acts, ch 1261, §29; 91 Acts, ch 45, §5; 91 Acts, ch 268, §426; 93 Acts, ch 23, §1 – 3; 95 Acts, ch 109, §4, 5; 96 Acts, ch 1121, §3 – 5; 96 Acts, ch 1186, §23; 98 Acts, ch 1051, §1, 2; 99 Acts, ch 5, §1; 2001 Acts, ch 111, §2, 6; 2001 Acts, ch 163, §1, 2; 2001 Acts, 1st Ex, ch 2, §1, 4; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 1, §127 – 129

[2003 Acts, 1st Ex, ch 1, §127 – 129 amendment to subsection 12 rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, ch 1175, §65; 2004 Acts, 1st Ex, ch 1001, §31, 32; 2005 Acts, ch 98, §1; 2008 Acts, ch 1032, §201; 2009 Acts, ch 22, §4; 2010 Acts, ch 1193, §197; 2012 Acts, ch 1072, §31; 2015 Acts, ch 29, §11; 2016 Acts, ch 1011, §16 – 21; 2016 Acts, ch 1073, §18; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1080, §5; 2019 Acts, ch 59, §39; 2020 Acts, ch 1056, §1; 2020 Acts, ch 1062, §88; 2020 Acts, ch 1063, §48; 2020 Acts, ch 1086, §1; 2021 Acts, ch 13, §4; 2021 Acts, 2nd Ex, ch 1, §4, 5

Referred to in §29C.24, 96.1A, 96.3, 96.5, 96.8, 96.9, 96.14, 96.16, 96.20

Subsection 12 effective October 29, 2021; 2021 Acts, 2nd Ex, ch 1, §5

Subsection 2, paragraph a, subparagraph (2), subparagraph division (e), NEW subparagraph subdivision (iii)

NEW subsection 12

96.7A Appropriations for workforce development field offices. Repealed by 2018 Acts, ch 1026, §180.

96.8 Conditions and requirements.

1. *Period of coverage.* Any employing unit which is or becomes an employer subject to this chapter within any calendar year shall be subject to this chapter during the whole of such calendar year.

2. *Voluntary termination.* Except as otherwise provided in subsection 3 of this section, an employing unit ceases to be an employer subject to this chapter, as of the first day of January of any year, if it files with the department, prior to the fifteenth day of February of that year, a written application for termination of coverage, and the department finds that the employing unit did not meet any of the qualifying liability requirements as provided under section 96.1A, subsection 14, in the preceding calendar year.

3. *Election by employer.*

a. An employing unit, not otherwise subject to this chapter, which files with the department its written election to become an employer subject hereto for not less than two calendar years, shall with the written approval of such election by the department, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the fifteenth day of February of such year, it has filed with the department a written notice to that effect.

b. Any employing unit for which services that do not constitute employment as defined in this chapter are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than two calendar years. Upon the written approval of such election by the department, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if prior to the fifteenth day of February of such year such employing unit has filed with the department a written notice to that effect.

4. *Transfer or discontinuance of business.*

a. In any case in which the enterprise or business of a subject employer has been sold or otherwise transferred to a subsequent employing unit or reorganized or merged into a single employing unit under the provisions of section 96.7, subsection 2, paragraph *"b"*, the account of the transferring employer shall terminate as of the date on which such transfer, reorganization, or merger was completed.

b. In any case in which the enterprise or business of a subject employer has been discontinued otherwise than by sale or transfer to a subsequent employing unit and such employer has had no employment for a period of one year, the department may, on its own motion, terminate said account.

5. *Liability of certain employers.* Employers who by election or determination of the department are liable for payments in lieu of contributions shall not be relieved of any regular benefit charges or extended benefit charges, except for those charges which are determined to be incorrect because of an error by the department.

[C39, §**1551.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.8]

84 Acts, ch 1067, §18; 89 Acts, ch 296, §15; 91 Acts, ch 45, §6; 96 Acts, ch 1186, §23; 2020 Acts, ch 1062, §89

Referred to in §96.1A, 96.3, 96.5, 96.6, 96.7(2)(a)

96.9 Unemployment compensation fund.

1. *Establishment and control.* There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the department exclusively for the purposes of this chapter. This fund shall consist of:

a. All contributions collected under this chapter,

b. Interest earned upon any moneys in the fund,

c. Any property or securities acquired through the use of moneys belonging to the fund,

d. All earnings of such property or securities, and

e. All money credited to this state's account in the unemployment trust fund pursuant to section 903 of the Social Security Act, codified at 42 U.S.C. §501 – 503, 1103 – 1105, 1321 – 1324. All moneys in the unemployment compensation fund shall be mingled and undivided.

2. *Accounts and deposits.*

a. The state treasurer shall be ex officio treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department. The director of the department of administrative services shall issue warrants upon the fund pursuant to the order of the department and such warrants shall be paid from the fund by the treasurer.

b. The treasurer shall maintain within the fund three separate accounts:

(1) A clearing account.

(2) An unemployment trust fund account.

(3) A benefit account.

c. All moneys payable to the unemployment compensation fund and all interest and penalties on delinquent contributions and reports shall, upon receipt thereof by the department, be forwarded to the treasurer who shall immediately deposit them in the clearing account, but the interest and penalties on delinquent contributions and reports shall not be deemed to be a part of the fund. Refunds of contributions payable pursuant to section 96.14 shall be paid by the treasurer from the clearing account upon warrants issued by the director of the department of administrative services under the direction of the department. After clearance thereof, all other moneys in the clearing account, except interest and penalties on delinquent contributions and reports, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. Interest and penalties on delinquent contributions and reports collected from employers shall be transferred from the clearing account to the special employment security contingency fund. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund for the payment of benefits. Except as herein otherwise provided, moneys in the clearing and benefit account may be deposited by the treasurer, under the direction of the department, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of the treasurer's duties as custodian of the fund in an amount fixed by the governor and in form and manner prescribed by law. Premiums for said bond shall be paid from the administration fund.

d. Interest paid upon the moneys deposited with the secretary of the treasury of the United States shall be credited to the unemployment compensation fund.

3. *Withdrawals.* Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the department, except that money credited to this state's account pursuant to section 903 of the Social Security Act may, subject to the conditions prescribed in subsection 4 of this section, be used for the payment of expenses incurred for the administration of this chapter. The department shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to the account of this state therein, as the department deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account, and shall disburse such moneys upon warrants drawn by the director of the department of administrative services pursuant to the order of the department for the payment of benefits solely from such benefit account. Expenditures of such moneys from the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All warrants issued by the director of the department of administrative

services for the payment of benefits and refunds shall bear the signature of the director of the department of administrative services. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the department, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in subsection 2 of this section.

4. *Money credited under section 903 of the Social Security Act.*

a. (1) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act may not be requisitioned from this state's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this chapter. Such money may be requisitioned pursuant to subsection 3 of this section for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this chapter but only pursuant to a specific appropriation by the legislature and only if the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which the aggregate of the amounts transferred to the account of this state pursuant to section 903 of the Social Security Act exceeds the aggregate of the amounts used by this state pursuant to this chapter and charged against the amounts transferred to the account of this state during the same twelve-month period.

(2) For purposes of this subsection, amounts used by this state for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into. The use of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States secretary of labor.

b. Money requisitioned as provided in this subsection for the payment of expenses of administration shall be deposited in the employment security administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The treasurer of state shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

5. *Administration expenses excluded.* Any amount credited to this state's account in the unemployment trust fund under section 903 of the Social Security Act which has been appropriated for expenses of administration pursuant to subsection 4, whether or not withdrawn from such account, shall not be deemed assets of the unemployment compensation fund for the purpose of computing contribution rates under section 96.7, subsection 3.

6. *Management of funds in the event of discontinuance of unemployment trust fund.* The provisions of subsections 1, 2, and 3 to the extent that they relate to the unemployment trust fund shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the

unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the director, treasurer of state, and governor, in accordance with the provisions of this chapter, provided that such moneys shall be invested in such readily marketable classes of securities as are authorized by the laws of the state of Iowa for the investment of trust funds. The treasurer shall dispose of securities and other properties belonging to the unemployment compensation fund only under the direction of the director, treasurer of state, and governor.

7. *Cancellation of warrants.* The director of the department of administrative services, as of January 1, April 1, July 1, and October 1 of each year, shall stop payment on all warrants for the payment of benefits which have been outstanding and unredeemed by the state treasurer for six months or longer. Should the original warrants subsequently be presented for payment, warrants in lieu thereof shall be issued by the director of the department of administrative services at the discretion of and certification by the department.

8. *Unemployment compensation reserve fund.*

a. A special fund to be known as the unemployment compensation reserve fund is created in the state treasury. The reserve fund is separate and distinct from the unemployment compensation fund. All moneys collected as reserve contributions, as defined in paragraph "*b*", shall be deposited in the reserve fund. The moneys in the reserve fund may be used for the payment of unemployment benefits and shall remain available for expenditure in accordance with the provisions of this subsection. The treasurer of state shall be the custodian of the reserve fund and shall disburse the moneys in the reserve fund in accordance with this subsection and the directions of the director of the department of workforce development.

b. If the balance in the reserve fund on July 1 of the preceding calendar year for calendar year 2004 and each year thereafter is less than one hundred fifty million dollars, a percentage of contributions, as determined by the director, shall be deemed to be reserve contributions for the following calendar year. If the percentage of contributions, termed the reserve contribution tax rate, is not zero percent as determined pursuant to this subsection, the combined tax rate of contributions to the unemployment compensation fund and to the unemployment compensation reserve fund shall be divided so that a minimum of fifty percent of the combined tax rate equals the unemployment contribution tax rate and a maximum of fifty percent of the combined tax rate equals the reserve contribution tax rate except for employers who are assigned a combined tax rate of five and four-tenths. For those employers, the reserve contribution tax rate shall equal zero and their combined tax rate shall equal their unemployment contribution rate. When the reserve contribution tax rate is determined to be zero percent, the unemployment contribution rate for all employers shall equal one hundred percent of the combined tax rate. The reserve contributions collected in any calendar year shall not exceed fifty million dollars. The provisions for collection of contributions under section 96.14 are applicable to the collection of reserve contributions. Reserve contributions shall not be deducted in whole or in part by any employer from the wages of individuals in its employ. All moneys collected as reserve contributions shall not become part of the unemployment compensation fund but shall be deposited in the reserve fund created in this subsection.

c. Moneys in the reserve fund shall only be used to pay unemployment benefits to the extent moneys in the unemployment compensation fund are insufficient to pay benefits during a calendar quarter.

d. The interest earned on the moneys in the reserve fund shall be deposited in and credited to the reserve fund.

e. Moneys from interest earned on the unemployment compensation reserve fund shall be used by the department only upon appropriation by the general assembly and for administrative costs to collect the reserve contributions.

[C39, §**1551.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.9]

86 Acts, ch 1246, §622; 87 Acts, ch 222, §5; 91 Acts, ch 45, §7, 8; 92 Acts, ch 1045, §3; 96 Acts, ch 1186, §23; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §32, 47; 2004 Acts, 1st Ex, ch

1001, §30, 32; 2008 Acts, ch 1032, §178; 2009 Acts, ch 41, §30; 2010 Acts, ch 1061, §13; 2015 Acts, ch 30, §34; 2016 Acts, ch 1011, §22; 2021 Acts, ch 80, §47
Referred to in §96.13, 96.20
Subsection 4, paragraph b amended

96.10 Division of job service. Repealed by 96 Acts, ch 1186, §26.

96.11 Duties, powers, rules — privilege.

1. *Duties and powers of director.* It shall be the duty of the director to administer this chapter; and the director shall have power and authority to adopt, amend, or rescind pursuant to chapter 17A such rules, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as the director deems necessary or suitable to that end. Not later than the fifteenth day of December of each year, the director shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make such recommendations for amendments to this chapter as the director deems proper. Such report shall include a balance sheet of the moneys in the fund. Whenever the director believes that a change in contribution or benefits rates will become necessary to protect the solvency of the fund, the director shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

2. *General and special rules.* Each employer shall post and maintain printed statements of all rules of the department in places readily accessible to individuals in the employer's service, and shall make available to each such individual at the time the individual becomes unemployed a printed statement of such rules relating to the filing of claims for benefits. Such printed statements shall be supplied by the department to each employer without cost to the employer.

3. *Publications.*

a. The director shall cause to be printed for distribution to the public the text of this chapter, the department's general rules, its annual reports to the governor, and any other material the director deems relevant and suitable and shall furnish the same to any person upon application therefor.

b. The department shall prepare and distribute to the public as labor force data, only that data adjusted according to the current population survey and other nonlabor force statistics which the department determines are of interest to the public.

4. *Bonds.* The director may bond any employee handling moneys or signing checks.

5. *Employment stabilization.* The director, with the advice and aid of the appropriate bureaus of the department, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

6. *Records, reports, and confidentiality — penalty.*

a. An employing unit shall keep true and accurate work records, containing information required by the department. The records shall be open to inspection and copying by an authorized representative of the department at any reasonable time and as often as necessary. An authorized representative of the department may require from an employing unit a sworn or unsworn report, with respect to individuals employed by the employing unit, which the department deems necessary for the effective administration of this chapter.

b. (1) The department shall hold confidential the information obtained from an employing unit or individual in the course of administering this chapter and the initial determination made by a representative of the department under section 96.6, subsection 2, as to the benefit rights of an individual. The department shall not disclose or open this information for public inspection in a manner that reveals the identity of the employing unit or the individual, except as provided in subparagraph (3) or paragraph "*c*".

(2) A report or statement, whether written or verbal, made by a person to a representative of the department or to another person administering this law is a privileged communication. A person is not liable for slander or libel on account of the report or statement unless the report or statement is made with malice.

(3) Information obtained from an employing unit or individual in the course of administering this chapter and an initial determination made by a representative of the department under section 96.6, subsection 2, as to benefit rights of an individual shall not be used in any action or proceeding, except in a contested case proceeding or judicial review under chapter 17A. However, the department shall make information, which is obtained from an employing unit or individual in the course of administering this chapter and which relates to the employment and wage history of the individual, available to a county attorney for the county attorney's use in the performance of duties under section 331.756, subsection 5, or section 602.8107. The department shall make such information electronically accessible to the county attorney at the county attorney's office, if requested, provided the county attorney's office pays the cost of the installation of the equipment to provide such access. Information in the department's possession which may affect a claim for benefits or a change in an employer's rating account shall be made available to the interested parties. The information may be used by the interested parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim.

(4) The department shall hold confidential unemployment insurance information received by the department from an unemployment insurance agency of another state.

c. Subject to conditions as the department by rule prescribes, information obtained from an employing unit or individual in the course of administering this chapter and an initial determination made by a representative of the department under section 96.6, subsection 2, as to benefit rights of an individual may be made available for purposes consistent with the purposes of this chapter to any of the following:

(1) An agency of this or any other state or a federal agency responsible for the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

(2) The internal revenue service of the United States department of the treasury.

(3) The Iowa department of revenue.

(4) The social security administration of the United States department of health and human services.

(5) An agency of this or any other state or a federal agency responsible for the administration of public works or the administration of public assistance to unemployed individuals.

(6) Colleges, universities, and public agencies of this state for use in connection with research of a public nature, provided the department does not reveal the identity of an employing unit or individual.

(7) An employee of the department, a member of the general assembly, or a member of the United States Congress in connection with the employee's or member's official duties.

(8) The United States department of housing and urban development and representatives of a public housing agency.

d. Upon request of an agency of this or another state or of the federal government which administers or operates a program of public assistance or child support enforcement under either the law of this or another state or federal law, or which is charged with a duty or responsibility under the program, and if the agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under this subsection, then the department shall provide to the requesting agency, with respect to any named individual without regard to paragraph "*g*", any of the following information:

(1) Whether the individual is receiving or has received benefits, or has made an application for benefits under this chapter.

(2) The period, if any, for which benefits were payable and the weekly benefit amount.

(3) The individual's most recent address.

(4) Whether the individual has refused an offer of employment, and, if so, the date of

the refusal and a description of the employment refused, including duties, conditions of employment, and the rate of pay.

(5) The individual's wage information.

e. The department may require an agency which is provided information under this subsection to reimburse the department for the costs of furnishing the information.

f. A public official or an agent or contractor of a public official who receives information pursuant to this subsection or a third party other than an agent who acts on behalf of a claimant or employer and who violates this subsection is guilty, upon conviction, of a serious misdemeanor. For the purposes of this subsection, *"public official"* means an official or employee within the executive branch of federal, state, or local government, or an elected official of the federal or a state or local government.

g. Information subject to the confidentiality of this subsection shall not be directly released to any authorized agency unless an attempt is made to provide written notification to the individual involved. Information released in accordance with criminal investigations by a law enforcement agency of this state, another state, or the federal government is exempt from this requirement.

h. The department and its employees shall not be liable for any acts or omissions resulting from the release of information to any person pursuant to this subsection.

7. *Oaths and witnesses.* In the discharge of the duties imposed by this chapter, the chairperson of the appeal board and any duly authorized representative of the department shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this chapter.

8. *Subpoenas.* In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the department, or any member or duly authorized representative thereof, shall have jurisdiction to issue to such person an order requiring such person to appear before the department or any member or duly authorized representative thereof to produce evidence if so ordered or to give testimony touching the matter under investigation or in question; any failure to obey such order of the court may be punished by said court as a contempt thereof.

9. *Protection against self-incrimination.* No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the department, or the appeal board, or in obedience to a subpoena in any cause or proceeding provided for in this chapter, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty for forfeiture; but no individual shall be prosecuted or subjected to any penalty of forfeiture for or on account of any transaction, matter, or thing concerning which the individual is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

10. *State-federal cooperation.*

a. In the administration of this chapter, the department shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods, and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

b. In the administration of the provisions of section 96.29 which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the department shall take such action as may be necessary to ensure that the provisions are so interpreted and applied as to meet the requirements of such federal Act as interpreted

by the United States department of labor, and to secure to this state the full reimbursement of the federal share of extended benefits paid under this chapter that are reimbursable under the federal Act.

c. The department shall make such reports, in such form and containing such information as the United States department of labor may from time to time require, and shall comply with such provisions as the United States department of labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the United States department of labor governing the expenditures of such sums as may be allotted and paid to this state under Tit. III of the Social Security Act for the purpose of assisting in administration of this chapter.

d. The department may make its records relating to the administration of this chapter available to the railroad retirement board, and may furnish the railroad retirement board such copies thereof as the railroad retirement board deems necessary for its purposes. The department may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law. The railroad retirement board or any other agency requiring such services and reports from the department shall pay the department such compensation therefor as the department determines to be fair and reasonable.

11. *Destruction of records.* The department may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the department and are deemed by the director and the state records commission to be no longer necessary to the proper administration of this chapter. Wage records of the individual worker or transcripts therefrom may be destroyed or disposed of, if approved by the state records commission, two years after the expiration of the period covered by such wage records or upon proof of the death of the worker. Such destruction or disposition shall be made only by order of the director in consultation with the state records commission. Any moneys received from the disposition of such records shall be deposited to the credit of the employment security administration fund, subject to rules promulgated by the department.

12. *Unemployment benefits contested case hearing records.* Notwithstanding the provisions of section 17A.12 to the contrary, the recording of oral proceedings of a hearing conducted before an administrative law judge pursuant to section 96.6, subsection 3, in which the decision of the administrative law judge is not appealed to the employment appeal board, shall be filed with and maintained by the department for at least two years from the date of decision.

13. *Purging uncollectible overpayments.* Notwithstanding any other provision of this chapter, the department shall review all outstanding overpayments of benefit payments annually. The department may determine as uncollectible and purge from its records any remaining unpaid balances of outstanding overpayments which are ten years or older from the date of the overpayment decision.

14. *Access to available jobs list.* The department shall make available for consultation by the public, at each of the department's offices, a list of current job openings listed with the department, provided that the list shall comply with the confidentiality requirements of subsection 6, or those mandated by the federal government.

15. *Special contractor numbers.* For purposes of contractor registration under chapter 91C, the department shall provide for the issuance of special contractor numbers to contractors for whom employer accounts are not required under this chapter. A contractor who is not in compliance with the requirements of this chapter shall not be issued a special contractor number.

16. *Reimbursement of setoff costs.* The department shall include in the amount set off in accordance with section 8A.504, for the collection of an overpayment created pursuant to section 96.3, subsection 7, or section 96.16, subsection 4, an additional amount for the reimbursement of setoff costs incurred by the department of administrative services.

[C39, §**1551.17;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.11; 81 Acts, ch 19, §8]

83 Acts, ch 190, §21, 27; 84 Acts, ch 1163, §1; 85 Acts, ch 244, §1; 86 Acts, ch 1245, §524, 934; 87 Acts, ch 66, §1; 87 Acts, ch 111, §12; 88 Acts, ch 1014, §4; 88 Acts, ch 1054, §1; 88 Acts, ch 1109, §12; 88 Acts, ch 1162, §1; 88 Acts, ch 1274, §29; 89 Acts, ch 117, §1; 91 Acts, ch

45, §9; 96 Acts, ch 1121, §6, 7; 96 Acts, ch 1186, §23; 97 Acts, ch 38, §2; 2001 Acts, ch 61, §14; 2002 Acts, ch 1090, §1; 2003 Acts, ch 145, §164, 286; 2007 Acts, ch 77, §1, 2; 2008 Acts, ch 1032, §179; 2008 Acts, ch 1172, §16; 2010 Acts, ch 1061, §180; 2014 Acts, ch 1026, §22; 2015 Acts, ch 29, §12

Referred to in §96.1A, 96.7(2)(f), 96.7(3)(a), 96.7(3)(b), 96.14, 216A.136, 422.20, 422.72

For future amendment to subsection 16 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §3, 28; 2020 Acts, ch 1118, §73, 74

96.12 State employment service.

1. *Duties of department.* The department shall establish and maintain free public employment services accessible to all Iowans for the purposes of this chapter, and for the purpose of performing the duties required by federal and state laws relating to employment and training including the Wagner-Peyser Act, 48 Stat. 113, codified at 29 U.S.C. §49. All duties and powers conferred upon any other department, agency, or officer of this state relating to the establishment, maintenance, and operation of free employment services shall be vested in the department. This state accepts and shall comply with the provisions of the Wagner-Peyser Act, as amended. The department is designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act. The department may cooperate with the railroad retirement board with respect to the establishment, maintenance, and use of department facilities. The railroad retirement board shall compensate the department for the services or facilities in the amount determined by the department to be fair and reasonable.

2. *Financing.* For the purpose of establishing and maintaining free public employment offices, the department is authorized to enter into agreements with the railroad retirement board, or any other agency of the United States charged with the administration of an employment security law, with any political subdivision of this state, or with any private, nonprofit organization, and as a part of any such agreement the department may accept moneys, services, or quarters as a contribution to the employment security administration fund.

[C39, §**1551.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.12]

96 Acts, ch 1186, §19, 23; 2006 Acts, ch 1010, §46

Referred to in §96.13

96.13 Funds.

1. *Special fund.* There is hereby created in the state treasury a special fund to be known as the *"Employment Security Administration Fund"*. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the department. All moneys in this fund, except money received pursuant to section 96.9, subsection 4, which are received from the federal government or any agency thereof or which are appropriated by the state for the purposes described in section 96.12 shall be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter. This fund shall consist of all moneys appropriated by this state, and all moneys received from the United States, or any agency thereof, including the department of labor, the railroad retirement board, the United States employment service, established under the Wagner-Peyser Act, or from any other source for such purpose. Moneys received from the railroad retirement board, or any other agency, as compensation for services or facilities supplied to said board or agency shall be paid to the department, and the department shall allocate said moneys to the employment security administration fund. All moneys in this fund shall be deposited, administered, and disbursed, in the same manner and under the same conditions and requirements as is provided by law for special funds in the state treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the department for expenditure consistent with this chapter. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of the treasurer's duties in connection with the employment security administration fund in an amount and with such sureties as shall be fixed and approved by the governor. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 96.9, shall be paid from the moneys in the employment security administration fund. Notwithstanding any provision of this section, all money requisitioned and deposited

in this fund pursuant to section 96.9, subsection 4, paragraph *"b"*, shall remain part of the unemployment compensation fund and shall be used only in accordance with the conditions specified in section 96.9, subsection 4.

2. *Replenishment of lost funds.* If any moneys received after June 30, 1941, from the social security administration under Tit. III of the Social Security Act, or any unencumbered balances in the unemployment compensation administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the social security administration, because of any action or contingency, to have been lost or been expended for purposes other than or in amounts in excess of, those found necessary by the social security administration for the proper administration of this chapter, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this state to the unemployment compensation administration fund for expenditure as provided in subsection 1. Upon receipt of notice of such a finding by the social security administration, the department shall promptly report the amount required for such replacement to the governor and the governor shall at the earliest opportunity, submit to the legislature a request for the appropriation of such amount.

3. *Special employment security contingency fund.*

a. (1) There is created in the state treasury a special fund to be known as the special employment security contingency fund. All interest, fines, and penalties, regardless of when they become payable, collected from employers under section 96.14 shall be paid into the fund. The moneys shall not be expended or available for expenditure in any manner which would permit their substitution for federal funds which would in the absence of the moneys be available to finance expenditures for the administration of the department. However, the moneys may be used as a revolving fund to cover expenditures for which federal funds have been duly requested but not yet received, subject to the charging of the expenditures against the funds when received. The moneys may be used for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds, received for the department. The moneys in the fund are specifically made available to replace, within a reasonable time, any moneys received by this state in the form of grants from the federal government for administrative expenses which because of any action or contingency have been expended for purposes other than, or in excess of, those necessary for the proper administration of the department. All moneys in the fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the state treasury. Interest earned upon moneys in the fund shall be deposited in and credited to the fund.

(2) The treasurer of state shall be the custodian of the fund and shall give a separate and additional bond conditioned upon the faithful performance of the treasurer's duties in connection with the fund in an amount and with sureties as shall be fixed and approved by the governor. The premium for the bond shall be paid from the moneys in the fund. All sums recovered on the bond for losses sustained by the fund shall be deposited in the fund. Refunds of interest and penalties shall be paid only from the fund.

(3) Balances to the credit of the fund shall not lapse at any time but shall continuously be available to the department for expenditures consistent with this subsection. Moneys remaining in the fund at the end of each fiscal year shall not revert to any fund and shall remain in the fund.

b. The department shall annually report to the joint economic development appropriations subcommittee on its plans for expenditures during the next state fiscal year from the special employment security contingency fund. The report shall describe the specific expenditures and explain why the expenditures are to be made from the fund and not from federal administrative funds.

c. The department may appear before the executive council and request authorization of

moneys to meet unanticipated emergencies as an expense from the appropriations addressed in section 7D.29.

[C39, §**1551.19;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.13; 82 Acts, ch 1126, §2]

84 Acts, ch 1204, §1 – 3; 86 Acts, ch 1209, §2; 91 Acts, ch 45, §10; 92 Acts, ch 1242, §19; 96 Acts, ch 1186, §23; 98 Acts, ch 1074, §10; 2008 Acts, ch 1032, §201; 2011 Acts, ch 131, §24, 158; 2013 Acts, ch 30, §20; 2016 Acts, ch 1073, §19

Referred to in §96.17

96.14 Priority — refunds.

1. *Interest.* Any employer who shall fail to pay any contribution and at the time required by this chapter and the rules of the department shall pay to the department in addition to such contribution, interest thereon at the rate of one percent per month and one-thirtieth of one percent for each day or fraction thereof computed from the date upon which said contribution should have been paid.

2. *Penalties.* Any employer who shall fail to file a report of wages paid to each of the employer's employees for any period in the manner and within the time required by this chapter and the rules of the department or any employer who the department finds has filed an insufficient report and fails to file a sufficient report within thirty days after a written request from the department to do so shall pay a penalty to the department.

a. The penalty shall become effective with the first day the report is delinquent or, where a report is insufficient, with the thirty-first day following the written request for a sufficient report.

b. The penalty for failing to file a sufficient report shall be in addition to any penalty incurred for a delinquent report where the delinquent report is also insufficient.

c. The amount of the penalty for delinquent and insufficient reports shall be computed based on total wages in the period for which the report was due and shall be computed as follows:

Days Delinquent or Insufficient	Penalty Rate
1 – 60	0.1%
61 – 120	0.2%
121 – 180	0.3%
181 – 240	0.4%
241 or over	0.5%

d. A penalty shall not be less than thirty-five dollars for each delinquent or insufficient report. Interest, penalties, and cost shall be collected by the department in the same manner as provided by this chapter for contributions.

e. If the department finds that any employer has willfully failed to pay any contribution or part thereof when required by this chapter and the rules of the department, with intent to defraud the department, then such employer shall in addition to such contribution or part thereof, pay a contribution equal to fifty percent of the amount of such contribution or part thereof, as the case may be.

f. If any tendered payment of any amount due in the form of a check, draft, or money order is not honored when presented to a financial institution, any costs assessed to the department by the financial institution and a fee of thirty dollars shall be assessed to the employer.

g. The department may cancel any interest or penalties if it is shown to the satisfaction of the department that the failure to pay a required contribution or to file a required report was not the result of negligence, fraud, or intentional disregard of the law or the rules of the department.

3. *Lien of contributions — collection.*

a. Whenever any employer liable to pay contributions refuses or neglects to pay the same, the amount, including any interest, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to said employer. An assessment of the unpaid contributions, interest and penalty shall be applied as provided in section 96.7, subsection 3, paragraphs "*a*" and "*b*",

and the lien shall attach as of the date the assessment is mailed or personally served upon the employer and shall continue for ten years, or until the liability for the amount is satisfied, unless sooner released or otherwise discharged. The lien may, within ten years from the date the lien attaches, be extended for up to an additional ten years by filing a notice during the ninth year with the appropriate county official of any county. However, the department may release any lien, when after diligent investigation and effort it determines that the amount due is not collectible.

b. In order to preserve the aforesaid lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property situated in a county, the department shall file with the recorder of the county, in which said property is located, a notice of said lien.

c. The county recorder of each county shall prepare and keep in the recorder's office an index containing the applicable entries specified in sections 558.49 and 558.52 and showing the following data, under the names of employers, arranged alphabetically:

(1) The name of the employer.
(2) The name "State of Iowa" as claimant.
(3) Time notice of lien was filed for recording.
(4) Date of notice.
(5) Amount of lien then due.
(6) When satisfied.

d. The recorder shall endorse on each notice of lien the day, hour, and minute when filed for recording and the document reference number, shall index the notice in the index, and shall record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of the indexing of the lien.

e. The department shall pay recording fees as provided in section 331.604, for the recording of the lien, or for its satisfaction.

f. Upon the payment of contributions as to which the department has filed notice with a county recorder, the department shall forthwith file with said recorder a satisfaction of said contributions and the recorder shall enter said satisfaction on the notice on file in the recorder's office and indicate said fact on the index aforesaid.

g. The department shall, substantially as provided in this chapter and chapter 626, proceed to collect all contributions as soon as practicable after they become delinquent, except that no property of the employer is exempt from payment of the contributions.

h. If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the department and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law of this state.

i. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the department shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

j. The courts of this state shall recognize and enforce liabilities for unemployment contributions, penalties, interest, and benefit overpayments imposed by other states which extend a like comity to this state. The department may sue in the courts of any other jurisdiction which extends such comity to collect unemployment contributions, penalties, interest, and benefit overpayments due this state. The officials of other states which, by statute or otherwise, extend a like comity to this state may sue in the district court to collect for such contributions, penalties, interest, and benefit overpayments. In any such case the director, as agent for and on behalf of any other state, may institute and conduct such suit for such other state. Venue of such proceedings shall be the same as for actions to collect delinquent contributions, penalties, interest, and benefit overpayments due under this chapter. A certificate by the secretary of any such state attesting the authority of such official

to collect the contributions, penalties, interest, and benefit overpayments, is conclusive evidence of such authority. The requesting state shall pay the court costs.

k. If a political subdivision or a political subdivision instrumentality becomes delinquent in the payment of contributions, any payments owed as a government employer, penalty, interest, and costs for more than two calendar quarters, the amount of such delinquency shall be deducted from any further moneys due the employer by the state. Such deduction shall be made by the director of the department of administrative services upon certification of the amount due. A copy of the certification will be mailed to the employer.

l. If an amount due from a governmental entity of this state remains due and unpaid for a period of one hundred twenty days after the due date, the director shall take action as necessary to collect the amount and shall levy against any funds due the governmental entity from the state treasurer, director of the department of administrative services, or any other official or agency of this state, or against an account established by the entity in any bank. The official, agency, or bank shall deduct the amount certified by the director from any accounts or deposits or any funds due the delinquent governmental entity without regard to any prior claim and shall promptly forward the amount to the director for the fund. However, the director shall notify the delinquent entity of the director's intent to file a levy by certified mail at least ten days prior to filing the levy on any funds due the entity from any state official or agency.

4. *Priorities under legal dissolutions or distributions.* In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages preferred as provided by statute. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64 *"a"* of that Act, 11 U.S.C. §507.

5. *Refunds, compromises, and settlements.* If the department finds that an employer has paid contributions, interest on contributions, or penalties, which have been erroneously paid or if the employer has overpaid contributions because the employer's contribution rate was subsequently reduced pursuant to section 96.7, subsection 2, paragraph *"e"*, solely due to benefits initially charged against but later removed from an employer's account, and the employer has filed an application for refund, the department shall refund the erroneous payment or overpayment. Refunds so made shall be charged to the fund to which the collections have been credited, and shall be paid to the employer without interest. A claim for refund shall be made within three years from the date of payment. For like cause, refunds, compromises, and settlements may be made by the department on its own initiative within three years of the date of the payment or assessment. If the department finds that the contribution that has been assessed against an employer is of doubtful collectibility or may not be collected in full, the department may institute a proceeding in the district court in the county in which the employer against which the tax is levied is located, requesting authority to compromise the contribution. Notice of the filing of an application shall be given to the interested parties as the court may prescribe. The court upon hearing may authorize the department to compromise and settle its claim for the contribution and shall fix the amount to be received by the department in full settlement of the claim and shall authorize the release of the department's lien for the contribution.

6. *Nonresident employing units.* Any employing unit which is a nonresident of the state of Iowa and for which services are performed in insured work within the state of Iowa and any resident employer for which such services are performed and who thereafter leaves the state of Iowa by having such services performed within the state of Iowa shall be deemed:

a. To agree that such employing unit shall be subject to the jurisdiction of the district court of the state of Iowa over all civil actions and proceedings against such employing unit for all purposes of this chapter, and

b. To appoint the secretary of state of this state as its lawful attorney upon whom may

be served all original notices of suit and other legal processes pertaining to such actions and proceedings, and

c. To agree that any original notice of suit or any other legal process so served upon such nonresident employing unit shall be of the same legal force and validity as if personally served on it in this state.

7. *Original notice — form.* The original notice of suit filed with the secretary of state shall be in form and substance the same as now provided in suits against residents of this state, except that the part of the notice pertaining to the return day shall be in substantially the following form:

> And unless you appear and defend in the district court of Iowa in and for ..... county at the courthouse in ....., Iowa, before noon of the sixtieth day following the filing of this notice with the secretary of state of this state, you will be adjudged in default, your default entered of record, and judgment rendered against you for the relief sought in plaintiff's petition.

8. *Manner of service.* Plaintiff in any such action shall cause the original notice of suit to be served as follows:

a. By filing a copy of said original notice of suit with said secretary of state, together with a fee of four dollars, and

b. By mailing to the defendant, and to each of the defendants if more than one, within ten days after said filing with the secretary of state, by restricted certified mail addressed to the defendant at the defendant's last known residence or place of abode, a notification of the said filing with the secretary of state.

9. *Notification to nonresident — form.* The notification, provided for in subsection 7, shall be in substantially the following form, to wit:

> To ..... (Here insert the name of each defendant and the defendant's residence or last known place of abode as definitely as known.)
>
> You will take notice that an original notice of suit against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa, by filing a copy of said notice on the ..... day of ..... (month), ... (year), with the secretary of state of the state of Iowa.
>
> Dated at ....., Iowa, this ..... day of ..... (month), ... (year).
>
> .....
> Plaintiff.
> By .....
> Attorney for Plaintiff.

10. *Optional notification.* In lieu of mailing said notification to the defendant in a foreign state, plaintiff may cause said notification to be personally served in the foreign state on the defendant by any adult person not a party to the suit, by delivering said notification to the defendant or by offering to make such delivery in case defendant refuses to accept delivery.

11. *Proof of service.* Proof of the filing of a copy of said original notice of suit with the secretary of state, and proof of the mailing or personal delivery of said notification to said nonresident shall be made by affidavit of the party doing said acts. All affidavits of service shall be endorsed upon or attached to the originals of the papers to which they relate. All proofs of service, including the restricted certified mail return receipt, shall be forthwith filed with the clerk of the district court.

12. *Actual service within this state.* The foregoing provisions relative to service of original notice of suit on nonresidents shall not be deemed to prevent actual personal service in this state upon the nonresident in the time, manner, form, and under the conditions provided for service on residents.

13. *Venue of actions.* Actions against nonresidents as contemplated by this law may be brought in Polk county, or in the county in which such services were performed.

14. *Continuances.* The court in which such action is pending shall grant such continuances to a nonresident defendant as may be necessary to afford the defendant reasonable opportunity to defend said action.

15. *Duty of secretary of state.* The secretary of state shall keep a record of all notices of suit filed with the secretary, shall not permit said filed notices to be taken from the secretary's office except on an order of court, and shall, on request, and without fee, furnish any defendant with a certified copy of the notice in which the person is a defendant.

16. *Injunction upon nonpayment.* Any employer or employing unit refusing or failing to make and file required reports or records, or to pay any contributions, interest, or penalty under the provisions of this chapter, after ten days' written notice sent by the department to the employer's or employing unit's last known address by certified mail, may be enjoined from operating any business in the state while in violation of this chapter upon the complaint of the department in the district court of a county in which the employer or employing unit has or had a place of business within the state, and any temporary injunction enjoining the continuance of such business may be granted without notice and without a bond being required from the department. Such injunction may enjoin any employer or employing unit from operating a business unit until the delinquent contributions, interest, or penalties shall have been made and filed or paid; or the employer shall have furnished a good and sufficient bond conditioned upon the payment of such delinquencies in such an amount and containing such terms as may be determined by the court; or the employer has entered into a plan for the liquidation of the business to pay for such delinquencies as the court may approve, provided that such injunction may be reinstated upon the employer's failure to comply with the terms of said plan.

17. *Employer subpoena cost and penalty.* An employer who is served with a subpoena pursuant to section 96.11, subsection 7, for the investigation of an employer liability issue, to complete audits, to secure reports, or to assess contributions shall pay all costs associated with the subpoena, including service fees and court costs. The department shall penalize an employer in the amount of two hundred fifty dollars if that employer refused to honor a subpoena or negligently failed to honor a subpoena. The cost of the subpoena and any penalty shall be collected in the manner provided in subsection 3 of this section.

[C39, §**1551.20;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §96.14; 81 Acts, ch 21, §3, ch 117, §1205]

84 Acts, ch 1255, §8; 87 Acts, ch 115, §12; 90 Acts, ch 1168, §11; 91 Acts, ch 45, §11; 91 Acts, ch 191, §1; 94 Acts, ch 1116, §1; 96 Acts, ch 1121, §8; 96 Acts, ch 1186, §23; 2000 Acts, ch 1058, §56; 2001 Acts, ch 44, §3; 2003 Acts, ch 145, §286; 2007 Acts, ch 22, §28; 2008 Acts, ch 1032, §180; 2008 Acts, ch 1170, §2 – 5; 2009 Acts, ch 27, §2; 2015 Acts, ch 30, §35; 2016 Acts, ch 1011, §23; 2020 Acts, ch 1087, §1; 2021 Acts, ch 76, §24

Referred to in §96.1A, 96.7(2)(e), 96.7(3)(a), 96.7(8)(b), 96.9, 96.13, 96.16, 331.602, 331.607
Subsection 16 amended

96.15 Waiver — fees — assignments — penalties.

1. *Waiver of rights void.* Any agreement by an individual to waive, release, or commute the individual's rights to benefits or any other rights under this chapter shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from the employer, or require or accept any waiver of any right hereunder by any individual in the employer's employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be guilty of a serious misdemeanor.

2. *Prohibition against fees.* An individual claiming benefits shall not be charged fees of any kind in any proceeding under this chapter by the department or its representatives or by a court or an officer of the court. An individual claiming benefits in a proceeding before the department, an appeal tribunal, or a court may be represented by counsel or other duly

authorized agent. A person who violates a provision of this subsection is guilty of a serious misdemeanor for each violation.

3. *No assignment of benefits — exemptions.* Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this chapter shall be void, and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts. Any waiver of any exemption provided for in this subsection shall be void.

[C39, §**1551.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.15]
85 Acts, ch 54, §1; 96 Acts, ch 1186, §23
Referred to in §96.3

96.16 Offenses.

1. *Penalties.* An individual who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for the individual or for any other individual, is guilty of a fraudulent practice as defined in sections 714.8 through 714.14. The total amount of benefits or payments involved in the completion of or in the attempt to complete a fraudulent practice shall be used in determining the value involved under section 714.14.

2. *False statement.* Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required from an employing unit under this chapter, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, is guilty of a fraudulent practice as defined in sections 714.8 through 714.14. The total amount of benefits, contributions, or payments involved in the completion of or in the attempt to complete a fraudulent practice shall be used in determining the value involved under section 714.14.

3. *Unlawful acts.* Any person who shall willfully violate any provisions of this chapter or any rule thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be guilty of a simple misdemeanor, and each day such violation continues shall be deemed to be a separate offense.

4. *Misrepresentation.*

a. An individual who, by reason of the nondisclosure or misrepresentation by the individual or by another of a material fact, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in the individual's case, or while the individual was disqualified from receiving benefits, shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by the individual. If the department seeks to recover the amount of the benefits by having the individual pay to the department a sum equal to that amount, the department may file a lien with the county recorder in favor of the state on the individual's property and rights to property, whether real or personal. The amount of the lien shall be collected in a manner similar to the provisions for the collection of past-due contributions in section 96.14, subsection 3.

b. The department shall assess a penalty equal to fifteen percent of the amount of a fraudulent overpayment. The penalty shall be collected in the same manner as the overpayment. The penalty shall be added to the amount of any lien filed pursuant to paragraph *"a"* and shall not be deducted from any future benefits payable to the individual under this chapter. Funds received for overpayment penalties shall be deposited in the unemployment trust fund.

5. *Experience and tax rate avoidance.*

a. If a person knowingly violates or attempts to violate section 96.7, subsection 2,

paragraph *"b"*, subparagraph (2) or (3), with respect to a transfer of unemployment experience, or if a person knowingly advises another person in a way that results in a violation of such subparagraph, the person shall be subject to the penalties established in this subsection. If the person is an employer, the employer shall be assigned a penalty rate of contribution of two percent of taxable wages in addition to the regular contribution rate assigned for the year during which such violation or attempted violation occurred and for the two rate years immediately following. If the person is not an employer, the person shall be subject to a civil penalty of not more than five thousand dollars for each violation which shall be deposited in the unemployment trust fund, and shall be used for payment of unemployment benefits. In addition to any other penalty imposed in this subsection, violations described in this subsection shall also constitute an aggravated misdemeanor.

b. For purposes of this subsection:

(1) *"Knowingly"* means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the requirement or prohibition involved.

(2) *"Violates or attempts to violate"* includes but is not limited to the intent to evade, misrepresentation, and willful nondisclosure.

[C39, §**1551.22;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.16]

96 Acts, ch 1186, §23; 2005 Acts, ch 98, §2; 2008 Acts, ch 1032, §181; 2013 Acts, ch 3, §2, 4; 2018 Acts, ch 1080, §6; 2019 Acts, ch 59, §40

Referred to in §96.5, 96.11

96.17 Counsel.

1. *Legal services.* In any civil action to enforce the provisions of this chapter, the department and the state may be represented by any qualified attorney who is a regular salaried employee of the department and is designated by it for this purpose or, at the department's request, by the attorney general. In case the governor designates special counsel to defend on behalf of the state, the validity of this chapter, the expenses and compensation of such special counsel employed by the department in connection with such proceeding may be charged to the unemployment compensation administration fund.

2. *County attorney.* All criminal actions for violations of any provision of this chapter, or of any rules issued by the department pursuant thereto, shall be prosecuted by the prosecuting attorney of any county in which the employer has a place of business or the violator resides, or, at the request of the department, shall be prosecuted by the attorney general.

3. *Indemnification.* Any member of the department or any employee of the department shall be indemnified for any damages and legal expenses incurred as a result of the good faith performance of their official duties, for any claim for civil damages not specifically covered by the Iowa tort claims Act, chapter 669. Any payment described herein shall be paid from the special employment security contingency fund in section 96.13, subsection 3.

[C39, §**1551.23;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.17]

96 Acts, ch 1186, §23; 2007 Acts, ch 22, §29

Referred to in §331.756(18)

96.18 Nonliability of state.

Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state nor the department shall be liable for any amount in excess of such sums.

[C39, §**1551.24;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.18]

96 Acts, ch 1186, §23

96.19 Definitions. Transferred to §96.1A; 2020 Acts, ch 1062, §94.

96.20 Reciprocal benefit arrangements.

1. The department is hereby authorized to enter into arrangements with the appropriate agencies of other states, or a contiguous country with which the United States has an agreement with respect to unemployment compensation or the federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of

several states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

2. *a.* The department may enter into arrangements with the appropriate agencies of other states, or a contiguous country with which the United States has an agreement with respect to unemployment compensation or of the federal government:

(1) Whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for the purposes of section 96.3 and section 96.4, subsection 5; provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this chapter upon the basis of such wages or services as the department finds will be fair and reasonable as to all affected interests, and

(2) Whereby the department will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the department finds will be fair and reasonable as to all affected interests.

b. Reimbursements so payable shall be deemed to be benefits for the purposes of section 96.3, subsection 5, paragraph *"a"*, and section 96.9, but no reimbursement so payable shall be charged against any employer's account for the purposes of section 96.7, unless wages so transferred are sufficient to establish a valid claim in Iowa, and that such charges shall not exceed the amount that would have been charged on the basis of a valid claim. The department is hereby authorized to make to other state or federal agencies and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section. The department shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with the individual's wages and employment covered under the unemployment compensation laws of other states which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and avoiding duplication in the use of wages and employment by reason of such combining.

3. The department is hereby authorized to enter into agreements with the appropriate agencies of other states, or a contiguous country with which the United States has an agreement with respect to unemployment compensation or the federal government administering unemployment compensation laws to provide that contributions on wages for services performed by an individual in more than one state for the same employer may be paid to the appropriate agency of one state.

[C39, §**1551.26;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.20]

96 Acts, ch 1186, §23; 2009 Acts, ch 22, §5; 2010 Acts, ch 1061, §14; 2015 Acts, ch 30, §36; 2016 Acts, ch 1073, §21

96.21 Termination.

If at any time Tit. IX of the Social Security Act, as amended, shall be amended or repealed by Congress or held unconstitutional by the supreme court of the United States, with the result that no portion of the contributions required under this chapter may be credited against the tax imposed by said Tit. IX, in any such event the operation of the provisions of this chapter requiring the payment of contributions and benefits shall immediately cease, the department shall thereupon requisition from the unemployment trust fund all moneys therein standing to its credit, and such moneys, together with any other moneys in the unemployment compensation fund shall be refunded, without interest and under regulations prescribed by the department, to each employer by whom contributions have been paid, proportionately to

the employer's pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund shall be available to the department to pay for the costs of making such refunds. When the department shall have executed the duties prescribed in this section and performed such other acts as are incidental to the termination of its duties under this chapter, the provisions of this chapter, in their entirety, shall cease to be operative.

[C39, §**1551.27;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.21]

96 Acts, ch 1186, §23; 2012 Acts, ch 1023, §14

96.22 Reserved.

96.23 Base period exclusion.

1. The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.1A, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

a. The individual did not receive wages from insured work for three calendar quarters.

b. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4, paragraph "*a*".

2. The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.23]

83 Acts, ch 190, §25, 27; 86 Acts, ch 1034, §2, 3; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §201; 2009 Acts, ch 22, §6; 2020 Acts, ch 1062, §90

Referred to in §96.7(2)(a)

96.24 Employer to be notified.

Whenever an employee is separated from employment for the purpose of joining the armed forces of the United States, the employee shall notify the employer in writing of the employee's acceptance and date of reporting for service and the employer shall, within fifteen days after said notice from the employee, notify the department of such separation and date of termination of wages on a form furnished by the department.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §96.24]

96 Acts, ch 1186, §23

96.25 Office building.

The department may acquire for and in the name of the state of Iowa by purchase, or by rental purchase agreement, such lands and buildings upon such terms and conditions as may entitle this state to grants or credits of funds under the Social Security Act or the Wagner-Peyser Act to be applied against the cost of such property, for the purpose of providing office space for the department at such places as the department finds necessary and suitable.

[C62, 66, 71, 73, 75, 77, 79, 81, §96.25]

86 Acts, ch 1245, §1979; 96 Acts, ch 1186, §23

Referred to in §96.26, 96.27, 96.28

96.26 Moneys received.

The department is authorized to accept, receive, and receipt for all moneys received from the United States for the payments authorized by section 96.25, this section, section 96.27,

and section 96.28 for lands and buildings and to comply with any rules made under the Social Security Act or the Wagner-Peyser Act.

[C62, 66, 71, 73, 75, 77, 79, 81, §96.26]

96 Acts, ch 1186, §23; 2021 Acts, ch 80, §48

Referred to in §96.28

Section amended

96.27 Approval of attorney general.

An agreement made for the purchase or other acquisition of the premises mentioned in section 96.25 with funds granted or credited to this state for such purpose under the Social Security Act or the Wagner-Peyser Act shall be subject to the approval of the attorney general of the state of Iowa as to form and as to title thereto.

[C62, 66, 71, 73, 75, 77, 79, 81, §96.27]

2012 Acts, ch 1023, §15

Referred to in §96.26, 96.28

96.28 Deposit of funds.

All moneys received from the United States for the payments authorized by sections 96.25 through 96.27 for lands and buildings shall be deposited in the employment security administration fund in the state treasury and are appropriated therefrom for the purposes of this chapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §96.28]

2021 Acts, ch 80, §49

Referred to in §96.26

Section amended

96.29 Extended benefits.

Except when the result would be inconsistent with the other provisions of this chapter, as provided in rules of the department, the provisions of the law which apply to claims for or the payment of regular benefits shall apply to claims for, and the payment of, extended benefits.

1. *Eligibility requirements for extended benefits.* An individual is eligible to receive extended benefits with respect to a week of unemployment in the individual's eligibility period only if the department finds that all of the following conditions are met:

a. The individual is an "exhaustee" as defined in this chapter.

b. The individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

c. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-half times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest.

2. *Disqualification for extended benefits.* If an individual claiming extended benefits furnishes satisfactory evidence to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, section 96.5, subsection 3 applies. If the department determines that an individual is claiming extended benefits and the individual's prospects for obtaining work in the individual's customary occupation are poor, the following paragraphs apply:

a. An individual shall be disqualified for extended benefits if the individual fails to apply for or refuses to accept an offer of suitable work to which the individual was referred by the department or the individual fails to actively seek work, unless the individual has been employed during at least four weeks, which need not be consecutive, subsequent to the disqualification and has earned at least four times the individual's weekly extended benefit amount. In order to be considered suitable work under this subsection, the gross weekly wage for the suitable work shall be in excess of the individual's weekly extended benefit amount plus any weekly supplemental unemployment compensation benefits which the individual is receiving.

b. An individual shall not be disqualified for extended benefits for failing to apply for or refusing to accept an offer of suitable work, unless the suitable work was offered to the individual in writing or was listed with the department.

c. This subsection shall not apply to claims for extended benefits if otherwise prohibited by federal law.

3. *Weekly extended benefit amount.* The weekly extended benefit amount payable to an individual for a week of total unemployment in the individual's eligibility period is an amount equal to the weekly benefit amount payable to the individual during the individual's applicable benefit year.

4. *Total extended benefit amount.*

a. The total extended benefit amount payable to an eligible individual with respect to the individual's applicable benefit year is the least of the following amounts:

(1) Fifty percent of the total amount of regular benefits which were payable to the individual under this chapter in the individual's applicable benefit year.

(2) Thirteen times the individual's weekly benefit amount which was payable to the individual under this chapter for a week of total unemployment in the applicable benefit year.

b. Except for the first two weeks of an interstate claim for extended benefits filed in any state under the interstate benefit payment plan and payable from an individual's extended benefit account, the individual is not eligible for extended benefits payable under the interstate claim if an extended benefit period is not in effect in that state.

5. *Beginning and termination of extended benefit period.* If an extended benefit period is to become effective in Iowa as a result of the state "on" indicator, or an extended benefit period is to be terminated in Iowa as a result of the state "off" indicator, the department shall make an appropriate public announcement. Computations required by this subsection shall be made by the department in accordance with regulations prescribed by the United States secretary of labor.

6. Notwithstanding any other provisions of this section, if the benefit year of an individual ends within an eligibility period for extended benefits, the remaining extended benefits which the individual would, but for this section, be entitled to receive in that portion of the eligibility period which extends beyond the end of the individual's benefit year, shall be reduced, but not below zero, by the number of weeks for which the individual received federal trade readjustment allowances, under 19 U.S.C. §2101 et seq., as amended by the Omnibus Budget Reconciliation Act of 1981, within the individual's benefit year multiplied by the individual's weekly extended benefit amount.

[C73, 75, 77, 79, 81, §96.29; 81 Acts, ch 19, §10, 11; 82 Acts, ch 1030, §8, 9]
93 Acts, ch 10, §1; 96 Acts, ch 1186, §23; 2008 Acts, ch 1032, §201; 2017 Acts, ch 29, §34
Referred to in §96.11, 96.40

96.30 Reserved.

96.31 Tax for benefits.

Political subdivisions may levy a tax outside their general fund levy limits to pay the cost of unemployment benefits. For school districts the cost of unemployment benefits shall be included in the district management levy pursuant to section 298.4.

[C79, 81, §96.31]
83 Acts, ch 123, §50, 209; 89 Acts, ch 135, §51
Referred to in §298.4

96.32 Fraud and overpayment personnel.

It is the declared intent of the general assembly of the state of Iowa that the department shall employ employees as full-time claims specialists in the fraud and overpayment section of the job insurance bureau of the department to the extent that federal funds are available to the department for the employment of such full-time personnel.

[C79, 81, §96.32]
96 Acts, ch 1186, §23

96.33 and 96.34 Reserved.

96.35 Status report.

The department shall annually submit a status report on the unemployment compensation trust fund to the general assembly.

[C79, 81, §96.35]

96 Acts, ch 1186, §23

96.36 Franchisor-franchisee relationship.

1. For purposes of this section, *"franchisee"* and *"franchisor"* mean the same as defined in section 523H.1.

2. For purposes of this chapter, a franchisor shall not be considered to be an employer of a franchisee or of an employee of a franchisee unless any of the following conditions apply:

a. The franchisor has agreed in writing to be considered to be the employer of the franchisee or of the employees of the franchisee.

b. The franchisor has been found by the department to have exercised a type or degree of control over the franchisee or the franchisee's employees that is not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

2019 Acts, ch 21, §4, 6

Section applies to work performed on or after July 1, 2019; 2019 Acts, ch 21, §6

96.37 through 96.39 Reserved.

96.40 Voluntary shared work program.

1. An employer who wishes to participate in the shared work unemployment compensation program established under this section shall submit a written shared work plan in a form acceptable to the department for approval.

a. As a condition for approval by the department, a participating employer shall agree to furnish the department with reports relating to the operation of the shared work plan as requested by the department.

b. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the department and shall report the findings to the department.

2. The department may approve a shared work plan if all of the following conditions are met:

a. The employer has filed all reports required to be filed under this chapter for all past and current periods and has paid all contributions due for all past and current periods.

b. The plan certifies that the aggregate reduction in work hours is in lieu of layoffs which would have affected at least ten percent of the employees in the affected unit or units to which the plan applies and which would have resulted in an equivalent reduction in work hours. The employer provides an estimate of the number of layoffs that would occur absent participation in the program. *"Affected unit"* means a specified plant, department, shift, or other definable unit.

c. The employees in the affected unit are identified by name and social security number and consist of at least five individuals.

d. The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than twenty percent and not more than fifty percent with a corresponding reduction in wages.

e. The reduction in hours and corresponding reduction in wages must be applied equally to all employees in the affected unit for each week reported.

f. The plan provides that fringe benefits will continue to be provided to employees in affected units as though their workweeks had not been reduced or to the same extent as other employees not participating in the program. *"Fringe benefits"* means employer-provided health benefits and retirement benefits under a defined benefit plan or a defined contribution plan pursuant to the Internal Revenue Code.

g. The plan will not serve as a subsidy of seasonal employment during the off season, nor as a subsidy of temporary part-time or intermittent employment.

h. The employer certifies that the employer will not hire additional part-time or full-time employees for the affected work force while the program is in operation.

i. The duration of the shared work plan will not exceed fifty-two weeks.

j. The plan is approved in writing by the collective bargaining representative for each employee organization or union which has members in the affected unit, and the plan provides for notification to employees in advance of participation.

k. Participation by the employer shall be consistent with applicable federal and state laws.

3. The employer shall submit a shared work plan to the department for approval at least thirty days prior to the proposed implementation date.

4. The department may revoke approval of a shared work plan and terminate the plan if the department determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program, or if it is determined by the department that the approval of the shared work plan was based, in whole or in part, upon information contained in the plan which was either false or substantially misleading.

5. An employer may file an appeal in writing from a denial or approval of a plan or revocation of an approved plan by the department within thirty days from the date of the decision.

6. An individual who is otherwise entitled to receive regular unemployment compensation benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the department finds all of the following:

a. The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week.

b. The individual is able to work, available for work, and works all available hours with the participating employer.

c. The individual's normal weekly hours of work have been reduced by at least twenty percent but not more than fifty percent, with a corresponding reduction in wages.

7. The department shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this chapter which relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer under the plan.

8. The department shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment, less any deductible amounts under this chapter except wages received from any employer, multiplied by the full percentage of reduction in the individual's hours as set forth in the employer's shared work plan. If the shared work benefit amount calculated under this subsection is not a multiple of one dollar, the department shall round the amount so calculated to the next lowest multiple of one dollar. An individual shall be eligible for shared work benefits for any week in which the individual performs paid work for the participating employer for a number of hours equal to not less than twenty percent and not more than fifty percent of the normal weekly hours of work for the employee.

9. An individual shall not be entitled to receive shared work benefits and regular unemployment compensation benefits in an aggregate amount which exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided under section 96.3, subsection 5, paragraph *"a"*.

10. *a.* All benefits paid under a shared work plan shall be charged in the manner provided in this chapter for the charging of regular benefits.

b. An employer may provide as part of the plan a training program the employees may attend during the hours that have been reduced. Such a training program may include a training program funded under the federal Workforce Innovation and Opportunity Act, Pub. L. No. 113-128. If the employer is able to show that the training program will provide a substantive increase in the workplace and employability skills of the employee so as to reduce the potential for future periods of unemployment, the department shall relieve the employer of charges for benefits paid to the individual attending training under the plan. The employee may attend the training at the work site utilizing internal resources, provided the training is outside of the normal course of employment, or in conjunction with an educational institution.

11. An individual who has received all of the shared work benefits and regular

unemployment compensation benefits available in a benefit year shall be considered an exhaustee, as defined in section 96.1A, subsection 18, for purposes of the extended benefit program administered pursuant to section 96.29.

91 Acts, ch 197, §1; 94 Acts, ch 1066, §7; 96 Acts, ch 1186, §23; 97 Acts, ch 38, §5; 2008 Acts, ch 1032, §201; 2009 Acts, ch 22, §7; 2009 Acts, ch 179, §111, 112; 2010 Acts, ch 1110, §1; 2014 Acts, ch 1034, §1 – 4; 2020 Acts, ch 1062, §91; 2020 Acts, ch 1088, §2 – 5; 2021 Acts, ch 76, §25

2020 amendments to subsection 2, paragraph e, and subsections 5 and 10 apply to all voluntary shared work plans approved by the department of workforce development on or after July 1, 2020; 2020 Acts, ch 1088, §5

Subsection 5 amended

96.41 through 96.50 Reserved.

96.51 Field office operating fund.

A field office operating fund is created in the state treasury under the control of the department of workforce development. The fund is separate and distinct from the unemployment compensation fund. All moneys properly credited to and deposited in the fund are annually appropriated to the department of workforce development to be used for personnel and nonpersonnel costs of operating field offices.

2005 Acts, ch 170, §20

SUBTITLE 3

RETIREMENT SYSTEMS

CHAPTER 97

OLD-AGE AND SURVIVORS' INSURANCE SYSTEM

Referred to in §97C.19

97.1 through 97.49 Repealed by 53 Acts, ch 71, §1, except as indicated herein.
97.50 Repeal of prior law — rights preserved.
97.51 Special fund created — refunds.
97.52 Administration agreements.
97.53 Rule of construction.

97.1 through 97.49 Repealed by 53 Acts, ch 71, §1, except as indicated herein.

97.50 Repeal of prior law — rights preserved.

Chapter 97, Code 1950, as amended by the Fifty-fourth General Assembly, is hereby repealed, subject to the provisions which follow:

1. Any person being paid any benefits under the provisions of sections 97.13 through 97.18, Code 1950, as amended, as of June 30, 1953, shall continue to receive such benefits as though that chapter had not been repealed.

2. Any person who became entitled to any benefits under the provisions of sections 97.13 through 97.19, Code 1950, as amended, through the retirement or death of any person prior to June 30, 1953, shall be paid the same benefits upon proper application, subsequent to June 30, 1953, as though that chapter had not been repealed.

3. Any individual who was, as of June 30, 1953, a fully insured individual as defined in section 97.45, subsection 6, Code 1950, as amended, and who would be a fully insured individual at age sixty-five, on the basis of service prior to June 30, 1953 (but who is not under public employment as of such date), shall be entitled to receive, in the event of the individual's reaching sixty-five years of age after June 30, 1953, not less than the same individual primary benefit the individual would have received under the provisions of section 97.13, Code 1950, as amended, had the individual been eligible for retirement as of that date as though chapter 97, Code 1950, as amended, had not been repealed. Any individual who was as of June 30, 1953, a fully insured individual as defined in section 97.45, subsection 6, Code 1950, as amended, and who would be fully insured at age of sixty-five, on the basis of service prior to June 30, 1953, and who is as of June 30, 1953, under public employment, and also under coverage of a federal civil service retirement plan, shall be entitled to receive after reaching sixty-five years of age, provided the individual is no longer in public employment, not less than the same individual primary benefit the individual would have received under the provisions of section 97.13, Code 1950, as amended, had the individual been eligible for retirement as of that date, as though chapter 97, Code 1950, as amended, had not been repealed; and any wife, widow, child or other dependent of such individual would become entitled to any benefits as provided by chapter 97, Code 1950, as amended, after June 30, 1953, shall be entitled to receive benefits as provided by chapter 97, Code 1950, as though that chapter had not been repealed.

4. Any wife, widow, child, or other dependent of any fully insured individual who left employment or died prior to June 30, 1953, who would become entitled to any benefit as provided by chapter 97, Code 1950, as amended, after June 30, 1953, shall be entitled to receive benefits as provided by chapter 97, Code 1950, as amended, as though that chapter had not been repealed.

5. Any currently insured individual under the terms of subsection 7 of section 97.45, Code 1950, as amended, who is not in Iowa public employment as of June 30, 1953, shall continue to be a currently insured individual against death for the period designated in said subsection

and the provisions of coverage for benefit purposes under said subsection shall apply to such individuals as they would have applied as though chapter 97, Code 1950, as amended, had not been repealed.

[C46, 50, §97.13 – 97.19; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97.50]

2021 Acts, ch 80, §50
Referred to in §97.53, 97B.1A, 97B.42, 97B.43, 97B.56
Subsections 1 and 2 amended

97.51 Special fund created — refunds.

There is hereby created as a special fund, separate and apart from all other public moneys or funds of this state, the *"Iowa Old-Age and Survivors' Insurance Liquidation Fund"*, this fund to consist of all unexpended moneys collected under the provisions of chapter 97, Code 1950, as amended, together with all interest thereon, and also to include all securities and other assets acquired by and through the use of the moneys belonging to the Iowa old-age and survivors' insurance trust fund, and any other moneys that may be paid into this fund. There is hereby transferred to the Iowa old-age and survivors' insurance liquidation fund all funds and assets of the old-age and survivors' insurance trust fund created by the provisions of section 97.5, Code 1950. There shall also be deposited in the Iowa old-age and survivors' insurance liquidation fund all receipts after June 30, 1953, as a result of the collection of taxes or other moneys, as provided by section 97.8, Code 1950.

1. The treasurer of state is the custodian and trustee of this fund and shall administer the fund in accordance with the directions of the Iowa public employees' retirement system created in section 97B.1. It is the duty of the trustee:

a. To hold said trust funds.

b. Under the direction of the system and as designated by the system, invest such portion of said trust funds as are not needed for current payment of benefits, in interest-bearing securities issued by the United States, or interest-bearing bonds issued by the state of Iowa, or bonds issued by counties, school districts or general obligations or limited levy bonds issued by municipal corporations in this state as authorized by law; also to sell and dispose of same when needed for the payment of benefits.

c. To disburse the trust funds upon warrants drawn by the director of the department of administrative services pursuant to the order of the system.

2. All moneys which are paid or deposited into this fund are hereby appropriated and made available to the system to be used only for the purposes herein provided:

a. To be used by the system for the payment of claims for benefits.

b. To be used by the system for the payment in accordance with any agreement with the federal social security administration of amounts required to obtain retroactive federal social security coverage of Iowa public employees, dating from January 1, 1951, and for the payment of refunds which were authorized by the provisions of section 97.7, Code 1950, and for the payment of such other refunds to employees as may be authorized by the general assembly, and such other purposes as may be authorized by the general assembly.

3. The system shall administer the Iowa old-age and survivors' insurance liquidation fund and shall also administer all other provisions of this chapter.

4. Any public employee subject to coverage under the provisions of chapter 97, Code 1950, as amended, in public service as of June 30, 1953, and who has not applied for and qualified for benefit payments under the provisions of chapter 97, Code 1950, as amended, who had contributed to the Iowa old-age and survivors' insurance fund prior to the repeal of chapter 97, Code 1950, as amended, shall be entitled to a refund of contributions paid into the Iowa old-age and survivors' insurance fund by such employee without interest, but there shall be deducted from the amount of any such refund any amount which has been or will be paid in the employee's behalf as the employee's contribution as an employee to obtain retroactive federal social security coverage. Any former public employee not in public service as of June 30, 1953, who has contributed to the Iowa old-age and survivors' insurance fund, the employee's beneficiaries or estate, when no benefit has been paid under chapter 97, Code 1950, based upon such employee's prior record, shall be entitled to a refund of seventy-five percent of all contributions paid by the employee into said fund, without interest. The system

shall prescribe rules in regard to the granting of such refunds. In the event of such refund any individual receiving the same shall be deemed to have waived any and all rights in behalf of the individual or any beneficiary or the individual's estate to further benefits under the provisions of chapter 97, Code 1950, as amended.

5. Any employee in public service as of June 30, 1953, may, in lieu of receiving the cash refund of the employee's contributions, elect to come under the coverage of any new retirement system which may be created by the general assembly, to which the employee is eligible, with credits toward future benefits in consideration of the employee's prior contributions and length of service, and may direct the transfer of the amount payable to the employee to the assets of such new retirement system.

6. In the payment of any benefits in the future, as a result of the provisions of chapter 97, Code 1950, as amended, the system shall follow the same procedure as provided by chapter 97, Code 1950, as amended, as though said chapter had not been repealed, except the requirements of subsection 4, paragraph *"a"*, and subsection 5 of section 97.21, Code 1950, shall not be applicable, but no primary benefit, based upon employment prior to June 30, 1953, shall be paid to any individual for any month during which the individual receives compensation for work in any position which would have been subject to coverage under the provisions of chapter 97, Code 1950, as amended, if the individual's earnings for such month exceed one hundred dollars, nor shall any benefit be paid to a wife or dependent of such employee for such months, except that after a retired member reaches the age of seventy-two years, the member, the member's wife and dependents shall be entitled to the benefits of this chapter regardless of the amount earned.

7. Beginning July 1, 1975, any person receiving benefits under the provisions of chapter 97, Code 1950, as amended, shall receive a monthly increase in benefits equal to one hundred percent of the monthly benefits received for June 1975 or for which the person was eligible to receive for June 1975. Any person who becomes eligible for benefits under chapter 97, Code 1950, on or after July 1, 1975, shall receive the same percentage increase.

8. *a.* Effective July 1, 1980, a person receiving benefits, or who becomes eligible to receive benefits, on or after July 1, 1980, under this chapter, shall receive the monthly increase in benefits provided in section 97B.49G, subsection 3, paragraph *"a"*.

b. There is appropriated from the general fund of the state to the Iowa old-age and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to finance the provisions of this subsection.

9. *a.* Effective July 1, 1984, a person receiving benefits, on or after July 1, 1984, under this chapter, shall receive a monthly increase in benefits equal to ten percent of the monthly benefits received for June 1984 or which the person was eligible to receive for June 1984, except as otherwise provided in this subsection. A person who becomes eligible for benefits under chapter 97, Code 1950, on or after July 1, 1984, shall receive the ten percent increase.

b. A person eligible to receive benefits under this chapter on June 30, 1984, may elect in writing to the Iowa department of job service* not to receive the monthly benefit increase granted in this subsection.

c. There is appropriated annually from the general fund of the state to the Iowa old-age and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to pay the benefit increases provided in this subsection.

10. *a.* Effective July 1, 1992, a person receiving benefits, on or after July 1, 1992, under this chapter, shall receive a monthly increase in benefits of ten dollars per month. A person who becomes eligible for benefits under chapter 97, Code 1950, on or after July 1, 1992, shall receive the ten dollar increase.

b. There is appropriated annually from the general fund of the state to the Iowa old-age

and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to pay the benefit increases provided in this subsection.

[C46, 50, §97.5, 97.7 – 97.9, 97.12, 97.23, 97.35; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97.51]

84 Acts, ch 1285, §1; 86 Acts, ch 1245, §242; 92 Acts, ch 1201, §1; 98 Acts, ch 1183, §8; 2003 Acts, ch 145, §165, 166, 286; 2005 Acts, ch 19, §27, 28; 2005 Acts, ch 179, §111; 2008 Acts, ch 1032, §201

Referred to in §97.53, 97B.1A, 97B.42, 97B.43, 97B.56, 97C.14

*Department of workforce development, chapter 84A, is the successor agency

97.52 Administration agreements.

The Iowa public employees' retirement system created in section 97B.1 may enter into agreements whereby services performed by the system and its employees under this chapter and chapters 97B and 97C shall be equitably apportioned among the funds provided for the administration of those chapters. The money spent for personnel, rentals, supplies, and equipment used by the system in administering the chapters shall be equitably apportioned and charged against the funds.

[C46, 50, §97.3 – 97.5, 97.23, 97.48; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97.52]

86 Acts, ch 1244, §19; 2003 Acts, ch 145, §167; 2007 Acts, ch 22, §30

Referred to in §97.53, 97B.1A, 97B.42, 97B.43, 97B.56

97.53 Rule of construction.

As used in sections 97.50 through 97.52, unless clearly indicated by the context to the contrary, all references to employment or service refer to employment or service in Iowa public employment.

[C46, 50, §97.1, 97.2; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97.53]

2021 Acts, ch 80, §51

Referred to in §97B.1A, 97B.42, 97B.43, 97B.56

Section amended

CHAPTER 97A

PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Referred to in §8F.2, 12B.10, 12B.10A, 12B.10B, 12B.10C, 12F.2, 12H.2, 12J.2, 70A.23, 70A.30, 80.26, 97B.42B, 97D.1, 97D.3, 97D.5, 321.178, 411.8, 411.31, 509A.13A, 691.1

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97A.1 Definitions of words and phrases.

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

1. *"Actuarial equivalent"* shall mean a benefit of equal value, when computed upon the basis of mortality tables adopted by the board of trustees, and interest computed at a rate adopted by the board upon the recommendation of the actuary.

2. *"Amount earned"* shall mean the amount of money actually earned by a beneficiary in some definite period of time.

3. *"Average final compensation"* shall mean the average earnable compensation of the member during the member's highest three years of service as a member of the state department of public safety, or if the member has had less than three years of service, then the average earnable compensation of the member's entire period of service.

4. *"Beneficiary"* shall mean any person receiving a retirement allowance or other benefit as provided by this chapter.

5. *"Board of trustees"* means the board created in section 97A.5 to direct the administration of the Iowa department of public safety peace officers' retirement, accident, and disability system.

6. *"Cancer"* means prostate cancer, primary brain cancer, breast cancer, ovarian cancer, cervical cancer, uterine cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, colorectal cancer, multiple myeloma, testicular cancer, and kidney cancer.

7. *"Child"* means only the surviving issue of a deceased active or retired member, or a child legally adopted by a deceased member prior to the member's retirement. *"Child"* includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two and is a full-time student, or an individual who is disabled under the definitions used in section 202 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.

8. *"Commissioner"* means the commissioner of public safety of this state.

9. *"Department"* means the department of public safety of this state.

10. *"Earnable compensation"* or *"compensation earnable"* shall mean the regular compensation which a member would earn during one year on the basis of the stated compensation for the member's rank or position including compensation for longevity and the daily amount received for meals under section 80.6 and excluding any amount received for overtime compensation or other special additional compensation, other payments for meal expenses, uniform cleaning allowances, travel expenses, and uniform allowances and excluding any amount received upon termination or retirement in payment for accumulated sick leave or vacation.

11. *"Infectious disease"* means HIV or AIDS as defined in section 141A.1, all strains of hepatitis, meningococcal meningitis, and mycobacterium tuberculosis.

12. *"Medical board"* shall mean the board of physicians provided for in section 97A.5.

13. *"Member"* or *"member of system"* shall mean a member of the Iowa department of public safety peace officers' retirement, accident, and disability system as defined by section 97A.3.

14. *"Membership service"* shall mean service as a peace officer in the division of state patrol, the division of criminal investigation, or division of narcotics enforcement in the department of public safety and arson investigators rendered since last becoming a member, or, where membership is regained as provided in this chapter, all of such service.

15. *"Peace officer"* means a member, except a non-peace officer member, of the division of state patrol, narcotics enforcement, state fire marshal, or criminal investigation, including but not limited to a gaming enforcement officer, who has passed a satisfactory physical and mental examination and has been duly appointed by the department of public safety in accordance with section 80.15.

16. *"Pensions"* shall mean annual payments for life derived from the appropriations provided by the state of Iowa and from contributions of the members which are deposited in the retirement fund. All pensions shall be paid in equal monthly installments.

17. *"Retirement allowance"* shall mean the pension, or any benefits in lieu thereof, granted to a member upon retirement.

18. *"Surviving spouse"* shall mean the surviving spouse or former spouse of a marriage solemnized prior to retirement of a deceased member from active service. Surviving spouse

shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, surviving spouse includes a surviving spouse of a marriage of two years or more duration solemnized subsequent to retirement of the member.

19. *"System"* shall mean the Iowa department of public safety peace officers' retirement, accident, and disability system as defined in section 97A.2.

[C50, 54, 58, 62, 66, 71, 73, 75, §97A.1; C77, 79, 81, §97A.1, 97A.6(8b); 82 Acts, ch 1261, §1, 2]

86 Acts, ch 1245, §243; 88 Acts, ch 1242, §2; 92 Acts, ch 1232, §504; 94 Acts, ch 1183, §2; 98 Acts, ch 1074, §11; 2005 Acts, ch 35, §22, 31; 2006 Acts, ch 1010, §47; 2008 Acts, ch 1171, §1, 2; 2010 Acts, ch 1167, §2; 2014 Acts, ch 1138, §25; 2019 Acts, ch 24, §97

Referred to in §80.1A, 97A.6, 97D.3, 261.87, 411.6

97A.2 Creation of system — purpose — name.

The Iowa department of public safety peace officers' retirement, accident, and disability system is created. It is the purpose of this chapter to provide certain retirement and other benefits for the peace officers of the Iowa department of public safety named in this chapter, or benefits to their dependents, in amounts and under terms and conditions set forth in this chapter. The system shall be administered under the direction of the board of trustees, and shall transact all of its business, invest all of its funds, and hold all of its cash and security and other property in the name of the Iowa department of public safety peace officers' retirement, accident, and disability system.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.2]

86 Acts, ch 1245, §244

Referred to in §97A.1

97A.3 Membership in system — reemployment.

1. All peace officer members of the division of state patrol and the division of criminal investigation or the predecessor divisions or subunits in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa on July 4, 1949, and all persons thereafter employed as members of such divisions or the predecessor divisions or subunits in the department of public safety or division of narcotics enforcement or division of state fire marshal or the predecessor divisions or subunits, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat and gambling structure gambling enforcement activities and fire prevention inspector peace officers employed by the department of public safety shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

2. Should any member in any period of five consecutive years after last becoming a member, be absent from service for more than four years, or should a member become a beneficiary or die, the person shall thereupon cease to be a member of this system.

3. *a.* As used in this section, unless the context otherwise requires, *"reemployed"* or *"reemployment"* means the employment of a person in a position which would otherwise be included as a membership position under subsection 1, after the person has commenced receiving a service retirement allowance under section 97A.6.

b. If a person is reemployed, the person shall not become an active member of the system upon reemployment, and the person so reemployed and the state of Iowa shall not make contributions to the system based upon the person's compensation for reemployment. A person who is so reemployed shall continue to receive the service retirement allowance, and the service retirement allowance shall not be recalculated based upon the person's reemployment. Notwithstanding section 97B.1A or any other provision of law to the contrary, a person reemployed as provided in this subsection shall be exempt from chapter 97B.

4. Effective July 1, 1979, a person shall not become a member of the system unless that

person has passed the physical and mental examination given under the provisions of section 80.15 and unless that person has received a diploma for satisfactory completion of a training school held pursuant to the provisions of section 80.13.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.3]

92 Acts, ch 1232, §505; 94 Acts, ch 1183, §3; 98 Acts, ch 1100, §12; 98 Acts, ch 1183, §82; 2005 Acts, ch 35, §23; 2006 Acts, ch 1010, §48; 2007 Acts, ch 188, §1

Referred to in §97A.1, 97A.6, 97D.3

97A.4 Service creditable.

1. Service for fewer than six months of a year is not creditable as service. Service of six months or more of a year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one month duration during which the member was absent without pay.

2. Any member of the system who has been employed continuously prior to the passage of this chapter in the division of state patrol or the division of criminal investigation in the department of public safety, or as a member of the state patrol, or as a peace officer or a member of the uniformed force in any department or division whose functions were transferred to, merged, or consolidated in the department of public safety at the time such department was created, shall receive credit for such service in determining retirement and disability benefits provided for in this chapter. Arson investigators who have contributed to this system prior to July 1, 1978, shall receive credit for such service in determining retirement and disability benefits.

3. The board of trustees shall credit as service for a member of the system a previous period of service for which the member had withdrawn the member's accumulated contributions, as defined in section 97A.15.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.4]

90 Acts, ch 1240, §1; 92 Acts, ch 1232, §506; 98 Acts, ch 1074, §12; 2005 Acts, ch 35, §31; 2016 Acts, ch 1011, §121

Referred to in §97A.15

97A.5 Administration.

1. *Board of trustees.*

a. A board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system is created. The general responsibility for the proper operation of the system is vested in the board of trustees.

b. The board of trustees is constituted as follows:

(1) The commissioner of public safety, who is chairperson of the board.

(2) The treasurer of state.

(3) An actively engaged member of the system, to be chosen by secret ballot by the actively engaged members of the system.

(4) A retired member of the system, to be chosen by secret ballot by the retired members of the system.

(5) A person appointed by the governor.

c. The person appointed by the governor shall be an executive of a domestic life insurance company, an executive of a state or national bank operating within the state of Iowa, or an executive in the financial services industry, and shall be subject to confirmation by the senate.

d. The members of the system and the person appointed by the governor shall serve for a term of two years.

2. *Voting.* Each trustee shall be entitled to one vote on said board and three concurring votes shall be necessary for a decision by the trustees on any question at any meeting of said board.

3. *Compensation.* The trustees shall serve as such without compensation, but they shall be reimbursed from the retirement fund for all necessary expenses which they may incur through service on the board.

4. *Rules.* The board of trustees shall, from time to time, establish such rules not

inconsistent with this chapter, for the administration of the system and the retirement fund created by this chapter and as may be necessary or appropriate for the transaction of its business.

5. *Staff.* The department of public safety shall provide administrative services to the board of trustees. Investments shall be administered through the office of the treasurer of state.

6. *Data — records — reports.*

a. The department of public safety shall keep in convenient form the data necessary for the actuarial valuation of the system and for checking the expense of the system. The commissioner of public safety shall keep a record of all the acts and proceedings of the board, which records shall be open to public inspection. The board of trustees shall biennially make a report to the general assembly showing the fiscal transactions of the system for the preceding biennium, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the system.

b. The commissioner of public safety shall maintain records, including but not limited to names, addresses, ages, and lengths of service, salaries and wages, contributions, designated beneficiaries, benefit amounts, if applicable, and other information pertaining to members as necessary in the administration of this chapter, as well as the names, addresses, and benefit amounts of beneficiaries. For the purpose of obtaining these facts, the commissioner of public safety shall have access to the records of the various departments of the state and the departments shall provide such information upon request. Member and beneficiary records containing personal information are not public records for the purposes of chapter 22. However, summary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.

7. *Legal advisor.* The attorney general of the state of Iowa shall be the legal advisor for the board of trustees.

8. *Medical board.* The board of trustees shall designate a single medical provider network as the medical board for the system. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this chapter and shall report in writing to the board of trustees, its conclusions and recommendations upon all matters duly referred to it. For examinations required because of disability, a physician from the medical board specializing in occupational medicine, and a second physician specializing in an appropriate field of medicine as determined by the occupational medicine physician, shall pass upon the medical examinations required for disability retirements and shall report to the system in writing their conclusions and recommendations upon all matters referred to the medical board. Each report of a medical examination under section 97A.6, subsections 3 and 5, shall include the medical board's findings in accordance with section 97A.6 as to the extent of the member's physical impairment.

9. *Duties of actuary.* The actuary hired by the board of trustees shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement fund created by this chapter and shall perform such other duties as are required in connection therewith.

10. *Tables — rates.* The actuary hired by the board of trustees shall make such investigation of anticipated interest earnings and of the mortality, service, and compensation experience of the members of the system as the actuary recommends, and on the basis of the investigation, the board of trustees shall adopt the tables and the rates as are required in subsection 11 of this section. The board of trustees shall adopt the rate of interest and tables, and certify rates of contributions to be used by the system.

11. *Actuarial investigation.*

a. At least once in each two-year period, the actuary hired by the board of trustees shall make an actuarial investigation in the mortality, service, and compensation experience of the members and beneficiaries of the system, and the interest and other earnings on the moneys and other assets of the system, and shall make a valuation of the assets and liabilities of the retirement fund of the system, and taking into account the results of the investigation

and valuation, the board of trustees shall adopt for the system, upon recommendation of the system's actuary, such actuarial methods and assumptions, interest rate, and mortality and other tables as shall be deemed necessary to conduct the actuarial valuation of the system.

b. During calendar year 2019, and every five years thereafter, the system shall cause an actuarial investigation to be made related to the implementation, utilization, and actuarial costs associated with providing that cancer and infectious disease are presumed to be a disease contracted while a member of the system is on active duty as provided in section 97A.6, subsection 5. On the basis of the investigation, the board of trustees shall adopt and certify rates of contributions payable by members in accordance with section 97A.8. The system shall submit a written report to the general assembly following each actuarial investigation, including the certified rates of contributions payable by members for costs associated with the benefit as described in this paragraph, the data collected, and the system's findings.

12. *Annual actuarial valuation.*

a. On the basis of the actuarial methods and assumptions, rate of interest, and tables adopted by the board of trustees, the actuary hired by the board of trustees shall make an annual actuarial valuation of the assets and liabilities of the retirement fund created by this chapter. As a result of the annual actuarial valuation, the board of trustees shall certify the rates of contribution payable by the state of Iowa in accordance with section 97A.8.

b. Effective with the fiscal year beginning July 1, 2008, the annual actuarial valuation required to be conducted shall include information as required by section 97D.5.

13. *Requirements related to the Internal Revenue Code.*

a. As used in this subsection, unless the context otherwise requires, *"Internal Revenue Code"* means the Internal Revenue Code as defined in section 422.3.

b. The retirement fund established in section 97A.8 shall be held in trust for the benefit of the members of the system and the members' beneficiaries. No part of the corpus or income of the retirement fund shall be used for, or diverted to, purposes other than for the exclusive benefit of the members or the members' beneficiaries or for expenses incurred in the operation of the retirement fund. A person shall not have any interest in, or right to, any part of the corpus or income of the retirement fund except as otherwise expressly provided.

c. Notwithstanding any provision of this chapter to the contrary, in the event of a complete discontinuance of contributions, for reasons other than achieving fully funded status upon an actuarially determined basis, or upon termination of the retirement fund established in section 97A.8, a member shall be vested, to the extent then funded, in the benefits which the member has accrued at the date of the discontinuance or termination.

d. Benefits payable from the retirement fund established in section 97A.8 to members and members' beneficiaries shall not be increased due to forfeitures from other members. Forfeitures shall be used as soon as possible to reduce future contributions by the state to the retirement fund, except that the rate shall not be less than the minimum rate established in section 97A.8.

e. Notwithstanding any provision of this chapter to the contrary, a member's service retirement allowance shall commence on or before the later of the following:

(1) April 1 of the calendar year following the calendar year in which the member attains the age of seventy and one-half years.

(2) April 1 of the calendar year following the calendar year in which the member retires.

f. The maximum annual benefit payable to a member by the system shall be subject to the limitations set forth in section 415 of the Internal Revenue Code, and any regulations promulgated pursuant to that section.

g. The annual compensation of a member taken in account for any purpose under this chapter shall not exceed the applicable amount set forth in section 401(a)(17) of the Internal Revenue Code, and any regulations promulgated pursuant to that section.

14. *Investment contracts.* The board of trustees may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the retirement fund established in section 97A.8.

15. *Liability.* The department, the board of trustees, and the treasurer of state are not personally liable for claims based upon an act or omission of the person performed in the

discharge of the person's duties under this chapter, even if those actions or omissions violate the standards established in section 97A.7, except for acts or omissions which involve malicious or wanton misconduct.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.5]

86 Acts, ch 1245, §245 – 247; 90 Acts, ch 1240, §2; 93 Acts, ch 44, §1; 94 Acts, ch 1183, §4, 5; 96 Acts, ch 1187, §80 – 82; 2000 Acts, ch 1077, §1, 2; 2003 Acts, ch 145, §168; 2008 Acts, ch 1171, §3 – 7; 2014 Acts, ch 1138, §26; 2019 Acts, ch 24, §16

Referred to in §80.6, 97A.1, 97A.6A, 97A.8, 97B.42B
Confirmation, see §2.32

97A.6 Benefits.

1. *Service retirement benefit.* Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

a. Any member in service may retire upon the member's written application to the board of trustees, setting forth at what time, not less than thirty nor more than ninety days subsequent to the execution and filing therefor, the member desires to be retired, provided that the said member at the time so specified for retirement shall have attained the age of fifty-five and shall have completed twenty-two years or more of creditable service, and notwithstanding that, during such period of notification, the member may have separated from the service. However, a member may retire at fifty years of age and receive a reduced retirement allowance pursuant to subsection 2A.

b. Any member in service who has been a member of the retirement system four or more years and whose employment is terminated prior to the member's retirement, other than by death or disability, shall upon attaining retirement age, receive a service retirement allowance of four twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding twenty-two years of service. The amount of the retirement allowance shall be calculated in the manner provided in this paragraph using the average final compensation at the time of termination of employment.

c. Once a person commences receiving a service retirement allowance pursuant to this section, if the person is reemployed, as defined in section 97A.3, the service retirement allowance shall not be recalculated based upon the person's reemployment.

2. *Allowance on service retirement.*

a. Upon retirement from service prior to July 1, 1990, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty percent of the member's average final compensation.

b. Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a service retirement allowance which shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, but before July 1, 2000, the board of trustees shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation.

d. Upon retirement from service on or after July 1, 2000, a member shall receive a service retirement allowance which shall consist of a pension which equals sixty and one-half percent of the member's average final compensation.

e. Commencing July 1, 1990, if the member has completed more than twenty-two years of creditable service, the service retirement allowance shall consist of a pension which equals the amount provided in paragraph "*b*", "*c*", or "*d*", plus an additional percentage as set forth below:

(1) For a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1991, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added three-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1996, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(4) For a member who terminates service, other than by death or disability, on or after July 1, 1996, but before July 1, 1998, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

(5) For a member who terminates service, other than by death or disability, on or after July 1, 1998, but before July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

(6) For a member who terminates service, other than by death, on or after July 1, 2000, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added two and three-fourths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than ten additional years of service.

2A. *Early retirement benefits.*

a. Notwithstanding the calculation of the service retirement allowance under subsection 2, beginning July 1, 1996, a member who has completed twenty-two years or more of creditable service and is at least fifty years of age, but less than fifty-five years of age, who has otherwise completed the requirements for retirement under subsection 1, may retire and receive a reduced service retirement allowance pursuant to this subsection. The service retirement allowance for a member less than fifty-five years of age shall be calculated in the manner prescribed in subsection 2, except that the percentage multiplier of the member's average final compensation used in the determination of the service retirement allowance shall be reduced by the board of trustees pursuant to paragraph *"b"*.

b. On July 1, 1996, and on each July 1 thereafter, the board of trustees shall determine for the respective fiscal year the percent by which the percentage multiplier under subsection 2 shall be reduced for each month that a member's retirement date precedes the member's fifty-fifth birthday. The board of trustees shall make this determination based upon the most recent actuarial valuation of the system, the calculation of the actuarial cost for each month of retirement of a member prior to age fifty-five, and the premise that the provision of a service retirement allowance to a member who is less than fifty-five years of age will not result in any increase in cost to the system.

3. *Ordinary disability retirement benefit.* Upon the application of a member in service or of the commissioner of public safety, any member shall be retired by the board of trustees, not less than thirty and not more than ninety days next following the date of filing such application, on an ordinary disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that said member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that

was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

4. *Allowance on ordinary disability retirement.*

a. Upon retirement for ordinary disability prior to July 1, 1998, a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation unless either of the following conditions exist:

(1) If the member has not had five or more years of membership service, the member shall receive a disability pension equal to one-fourth of the member's average final compensation.

(2) If the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the benefit that the member would receive under subsection 2 if the member were fifty-five years of age or the disability pension otherwise calculated under this subsection.

b. Upon retirement for ordinary disability on or after July 1, 1998, a member who has five or more years of membership service shall receive a disability retirement allowance in an amount equal to the greater of fifty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member had attained fifty-five years of age. A member who has less than five years of membership service shall receive a pension equal to one-fourth of the member's average final compensation.

5. *Accidental disability benefit.*

a. Upon application of a member in service or of the commissioner of public safety, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury, disease, or exposure occurring or aggravated while in the actual performance of duty at some definite time and place shall be retired by the board of trustees, provided that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

b. (1) Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases.

(2) Disease under this subsection shall also mean cancer or infectious disease and shall be presumed to have been contracted while on active duty as a result of that duty.

(3) However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract, cancer, or infectious disease would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph *"b"* shall not apply.

6. *Retirement after accident.*

a. Upon retirement for accidental disability prior to July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty-six and two-thirds percent of the member's average final compensation.

b. Upon retirement for accidental disability on or after July 1, 1990, but before July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that

the member would receive under subsection 2 if the member were fifty-five years of age or the disability retirement allowance calculated under this paragraph.

c. Upon retirement for accidental disability on or after July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension in an amount equal to the greater of sixty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member had attained fifty-five years of age.

7. *Reexamination of beneficiaries retired on account of disability.* Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the board of trustees may, and upon the member's application shall, require any disability beneficiary who has not yet attained age fifty-five to undergo a medical examination at a place designated by the medical board. Such examination shall be made by the medical board or in special cases, by an additional physician or physicians designated by such board. Should any disability beneficiary who has not attained the age of fifty-five refuse to submit to such medical examination, the beneficiary's allowance may be discontinued until the beneficiary's withdrawal of such refusal, and should the beneficiary's refusal continue for one year all rights in and to the beneficiary's pension may be revoked by the board of trustees.

a. (1) Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over and would have completed twenty-two years of service if the beneficiary had remained in active service, be engaged in a gainful occupation paying more than the difference between the member's net retirement allowance and one and one-half times the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of the retirement allowance shall be reduced, subject to the requirements of this subparagraph, to an amount such that the member's net retirement allowance plus the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's earning capacity be later changed, the amount of the retirement allowance may be further modified, subject to the requirements of this subparagraph, provided that the new retirement allowance shall not exceed the amount of the retirement allowance originally granted adjusted by annual readjustments of pensions pursuant to subsection 14 of this section nor an amount which would cause the member's net retirement allowance, when added to the amount earned by the beneficiary, to equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. However, a member's retirement allowance payable in a calendar year shall not be reduced pursuant to this subparagraph to an amount that is less than half of the member's ordinary disability or accidental disability retirement benefit allowance calculated without regard to this paragraph *"a"*, and otherwise payable to the member in a calendar year. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have the member's retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed in the same manner as provided in subsection 14, paragraph "*c*", of this section for readjustment of pensions when a rank or position has been abolished. If the salary scale associated with a member's rank at retirement is changed after the member retires, earnable compensation for purposes of this section shall be based upon the salary an active member currently would receive at the same rank and with seniority equal to that of the retired member at the time of retirement. For purposes of this paragraph, *"net retirement allowance"* means the amount determined by subtracting the amount paid during the previous calendar year by the beneficiary for health insurance or similar health care coverage for the beneficiary and the beneficiary's dependents from the amount of the member's retirement allowance paid for that year pursuant to this chapter.

The beneficiary shall submit sufficient documentation to the board of trustees to permit the system to determine the member's net retirement allowance for the applicable year.

(2) A beneficiary retired under the provisions of this paragraph in order to be eligible for continued receipt of retirement benefits shall no later than May 15 of each year submit to the board of trustees a copy of the beneficiary's federal individual income tax return for the preceding year. The beneficiary shall also submit, within sixty days, any documentation requested by the system that is determined to be necessary by the system to determine the beneficiary's gross wages.

(3) Retroactive to July 1, 1976, the limitations on pay of a member engaged in a gainful occupation who is retired under accidental disability prescribed in this paragraph shall not apply to a member who retired before July 1, 1976.

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than the disability beneficiary's average final compensation, the disability beneficiary's retirement allowance shall cease, the disability beneficiary shall again become a member and shall contribute thereafter at the same rate payable by other members of comparable rank, seniority, and age, and former service on the basis of which the disability beneficiary's service was computed at the time of retirement shall be restored to full force and effect. Upon subsequent retirement the disability beneficiary shall be credited with all service as a member, and also with no more than two years of the period of disability retirement.

c. The commissioner of public safety may, subject to approval of the medical board, assign any former member of the division of state patrol or the division of criminal investigation or an arson investigator who is retired and drawing a pension for disability under the provisions of this chapter, to the performance of light duties in such division.

d. Should a disability beneficiary under age fifty-five be employed in a public safety occupation, the disability beneficiary's retirement allowance shall cease. Notwithstanding any provision of this chapter to the contrary, if a disability beneficiary is employed in a public safety occupation that would otherwise constitute membership service, the disability beneficiary shall not become a member of the system. For purposes of this paragraph, "*public safety occupation*" means a peace officer, as defined in section 97A.1; a protection occupation, as defined in section 97B.49B; a sheriff or deputy sheriff as defined in section 97B.49C; and a police officer or fire fighter as defined in section 411.1, who was not restored to active service as provided by this subsection.

8. *Ordinary death benefit.*

a. Upon the receipt of proof of the death of a member in service, or a member not in service who has completed four or more years of service as provided in subsection 1, paragraph "*b*", there shall be paid to the person designated by the member to the board of trustees as the member's beneficiary if the member has had one or more years of membership service and no pension is payable under subsection 9, an amount equal to fifty percent of the compensation earned by the member during the year immediately preceding the member's death if the member is in service, or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service.

b. (1) In lieu of the payment specified in paragraph "*a*", a beneficiary meeting the qualifications of paragraph "*c*" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than an amount equal to twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the state patrol if the member was in service at the time of death. For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "*b*".

(2) For a member not in service at the time of death, the pension shall be paid commencing when the member would have attained the age of fifty-five except that if there is a child of the member, the pension shall be paid commencing with the member's death until the children reach the age of eighteen, or twenty-two if applicable. The pension shall resume commencing when the member would have attained the age of fifty-five.

(3) For a member in service at the time of death, the pension shall be paid commencing with the member's death. In addition to the pension, there shall also be paid for each child

of a member, a monthly pension equal to six percent of the monthly earnable compensation payable to an active member having the rank of senior patrol officer of the state patrol.

(4) For the purpose of this chapter, a senior patrol officer is a person who has completed ten years of service in the state patrol.

(5) Notwithstanding section 97A.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

c. The pension under paragraph *"b"* may be selected only by the following beneficiaries:

(1) The spouse.

(2) If there is no spouse, or if the spouse dies and there is a child of a member, then the guardian of the member's child or children, divided as the board of trustees determines, to continue as a joint and survivor pension until every child of the member dies or attains the age of eighteen, or twenty-two if applicable.

(3) If there is no surviving spouse or child, then the member's dependent father or mother, or both, as the board of trustees determines, to continue until remarriage or death.

d. If there is no nomination of beneficiary, the benefits provided in this subsection shall be paid to the member's estate.

9. *Accidental death benefit.* If, upon the receipt of evidence and proof that the death of a member in service was the natural and proximate result of an accident, disease, or exposure occurring or aggravated at some definite time and place while the member was in the actual performance of duty, the board of trustees shall decide that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 of this section, to the member's estate or to such person having an insurable interest in the member's life as the member shall have nominated by written designation duly executed and filed with the board of trustees:

a. A pension equal to one-half of the average final compensation of such member shall be paid to the surviving spouse, children or dependent parents as provided in paragraphs *"c"*, *"d"*, and *"e"* of subsection 8 of this section.

b. If there is no surviving spouse, child, or dependent parent surviving a deceased member, the death shall be treated as an ordinary death case and the benefit payable under subsection 8, paragraph *"a"* of this section, in lieu of the pension provided in paragraph *"a"* of this subsection, shall be paid to the member's estate.

c. In addition to the benefits for the surviving spouse enumerated in this subsection, there shall also be paid for each child of a member a monthly pension equal to six percent of the monthly earnable compensation payable to an active member having the rank of senior patrol officer of the state patrol.

10. *Optional allowance.* With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, in which event such a beneficiary shall be considered as an active member at the time of death, until the first payment on account of any benefit becomes normally due, any beneficiary may elect to receive the beneficiary's benefit in a retirement allowance payable throughout life, or may elect to receive the actuarial equivalent at that time of the beneficiary's retirement allowance in a lesser retirement allowance payable throughout life with the provision that an amount in money not exceeding the amount of the beneficiary's accumulated contributions shall be immediately paid in cash to such member or some other benefit or benefits shall be paid either to the member or to such person or persons as the member shall nominate, provided such cash payment or other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to the member's retirement allowance and shall be approved by the board of trustees; provided, that a cash payment to such member or beneficiary at the time of retirement of an amount not exceeding fifty percent of the member's or beneficiary's accumulated contributions shall be made by the board of trustees upon said member's or beneficiary's election.

11. *Pensions offset by compensation benefits.*

a. Any amounts which may be paid or payable by the state under the provisions of any

workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death, shall be offset against and payable in lieu of any benefits payable out of the retirement fund provided by the state under the provisions of this chapter on account of the same disability or death. In case the present value of the total commuted benefits under said workers' compensation or similar law is less than the present value of the benefits otherwise payable from the retirement fund provided by the state under this chapter, then the present value of the commuted payments shall be deducted from the pension payable and such benefits as may be provided by the system so reduced shall be payable under the provisions of this chapter.

b. Notwithstanding paragraph "*a*", any workers' compensation benefits received by a member for past medical expenses or future medical expenses shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

c. Notwithstanding paragraph "*a*", any workers' compensation benefits received by a member for reimbursement of vacation time used, sick time used, or for any unpaid time off from work shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

12. *Pension to surviving spouse and children of deceased pensioned members.* In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 2A, 4, or 6 of this section there shall be paid a pension:

a. To the member's surviving spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than an amount equal to twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the state patrol, and in addition a monthly pension equal to the monthly pension payable under subsection 9, paragraph "*c*", of this section for each child under eighteen years of age or twenty-two years of age if applicable; or

b. If the spouse dies either prior or subsequent to the death of the member, to the guardian of each surviving child, a monthly pension equal to the monthly pension payable under subsection 9, paragraph "c", of this section for the support of the child.

13. *Judicial review of action of the board of trustees.* Judicial review of any action of the board of trustees may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, the petition for judicial review must be filed within thirty days after the member receives written notice of the trustees' action. The board of trustees shall be represented by the attorney general. An appeal may be taken by the petitioner or the board of trustees to the supreme court of this state irrespective of the amount involved.

14. *Pensions payable.* Pensions payable under this section shall be adjusted as follows:

a. On each July 1 and January 1, the monthly pensions authorized in this section payable to retired members and to beneficiaries, except children of a deceased member, shall be adjusted as provided in this paragraph. The monthly pension of each retired member and each beneficiary shall be adjusted by adding to that monthly pension an amount equal to the amounts determined in subparagraphs (1) and (2). The adjusted monthly pension of a retired member shall not be less than the amount which was paid at the time of the member's retirement.

(1) (a) An amount equal to the difference between the monthly earnable compensation payable to an active member of the department, of the same rank and position on the salary scale as was held by the retired or deceased member at the time of the member's retirement or death, for the month for which the last preceding adjustment was made and the monthly earnable compensation payable to an active member of the department of the same rank and position on the salary scale for the month for which the adjustment is made shall be multiplied by the following applicable percentage:

(i) Forty percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section.

(ii) Forty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance.

(iii) Twenty-four percent for members with less than five years of membership service

who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section.

(iv) Forty percent for members receiving an accidental disability allowance.

(b) The amount added to the monthly pension of a surviving spouse receiving a pension under subsection 12, paragraph *"a"*, of this section shall be equal to one-half the amount that would have been added to the monthly pension of the retired member under this subparagraph.

(2) (a) For each adjustment occurring on July 1, the following applicable amount determined as follows:

(i) Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the adjustment.

(ii) Twenty dollars where the member's retirement date was at least five years, but less than ten years, prior to the effective date of the adjustment.

(iii) Twenty-five dollars where the member's retirement date was at least ten years, but less than fifteen years, prior to the effective date of the adjustment.

(iv) Thirty dollars where the member's retirement date was at least fifteen years, but less than twenty years, prior to the effective date of the adjustment.

(v) Thirty-five dollars where the member's retirement date was at least twenty years prior to the effective date of the adjustment.

(b) As of July 1 and January 1 of each year, the monthly pension payable to each surviving child under the provisions of subsections 8, 9, and 12 of this section shall be adjusted to equal six percent of the monthly earnable compensation payable in the month for which the adjustment is made to an active member having the rank of senior patrol officer of the state patrol.

b. All monthly pensions adjusted as provided in this subsection shall be payable beginning on the first of the month in which the adjustment is made and shall continue in effect until the next following month in which an adjustment is made pursuant to this subsection at which time the monthly pensions shall again be adjusted in accordance with paragraph *"a"* of this subsection.

c. The adjustment of pensions required by this subsection shall recognize the retired or deceased member's position on the salary scale within the member's rank at the time of the member's retirement or death. In the event that the rank or position held by the retired or deceased member at the time of retirement or death is subsequently abolished, adjustments in the pensions of the member or of the member's spouse or children shall be computed by the board of trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as increases granted to other ranks and positions in the department.

d. A retired member eligible for benefits under the provisions of subsection 1 is not eligible for the annual readjustment of pensions provided in this subsection unless the member served at least twenty-two years prior to the member's termination of employment.

15. *Remarriage of surviving spouse.* Effective July 1, 1990, for a member who died prior to July 1, 1988, if the member's surviving spouse remarried prior to July 1, 1988, the remarriage does not make the spouse ineligible under subsection 8, paragraph *"c"*, subparagraphs (1) and (2), to receive benefits under subsections 8, 9, 12, and 14.

16. *Line of duty death benefit.*

a. If, upon the receipt of evidence and proof that the death of a member in service was the direct and proximate result of a traumatic personal injury incurred in the line of duty, the board of trustees decides that death was so caused, there shall be paid, to a person authorized to receive an accidental death benefit as provided in subsection 9, the amount of one hundred thousand dollars, which shall be payable in a lump sum.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the member's death.

(2) The death was caused by the intentional misconduct of the member or by the member's intent to cause the member's own death.

(3) The member was voluntarily intoxicated at the time of death.

(4) The member was performing the member's duties in a grossly negligent manner at the time of death.

(5) An individual who would otherwise be entitled to a benefit under this subsection was, through the individual's actions, a substantial contributing factor to the member's death.

(6) The death qualifies for a volunteer emergency services provider death benefit pursuant to section 100B.31.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.6; 82 Acts, ch 1261, §3 – 8]

84 Acts, ch 1285, §2; 86 Acts, ch 1243, §1, 2; 88 Acts, ch 1242, §3 – 6; 90 Acts, ch 1240, §3 – 9; 91 Acts, ch 41, §1; 92 Acts, ch 1201, §2 – 5; 92 Acts, ch 1232, §507; 94 Acts, ch 1183, §6 – 8; 96 Acts, ch 1178, §1, 2; 96 Acts, ch 1187, §83 – 91; 98 Acts, ch 1074, §13 – 16; 98 Acts, ch 1183, §1 – 6; 2000 Acts, ch 1077, §3 – 6, 9; 2002 Acts, ch 1135, §2, 3, 6; 2003 Acts, ch 20, §1, 2; 2003 Acts, ch 44, §114; 2005 Acts, ch 35, §31; 2006 Acts, ch 1103, §1; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §8, 9; 2010 Acts, ch 1167, §3 – 6; 2014 Acts, ch 1138, §27; 2015 Acts, ch 98, §1; 2021 Acts, ch 183, §27

Referred to in §80.6, 97A.3, 97A.5, 97A.8, 97A.14, 97A.14A, 97A.15, 261.87, 509A.13C
Limitations on pension adjustment amount; legislative intent; 2010 Acts, ch 1167, §17
Subsection 11 amended

97A.6A Optional retirement benefits.

1. In lieu of the retirement benefits otherwise provided upon service retirement for members of the system and the members' beneficiaries, members may elect to receive an optional retirement benefit during the member's lifetime and have the optional retirement benefit, or a designated fraction of the optional retirement benefit, continued and paid to the member's beneficiary after the member's death and during the lifetime of the beneficiary.

2. The member shall make the election request in writing to the board of trustees at the time of the member's service retirement. The election is subject to the approval of the board of trustees. If the member is married, the election of an option under this section requires the written acknowledgment of the member's spouse.

3. A member's optional retirement benefits shall be the actuarial equivalent of the amount of the retirement benefits payable to the member and the member's beneficiaries under the service retirement provisions of this chapter. The actuarial equivalent shall be based on the mortality and interest assumptions set out in section 97A.5.

4. If the member dies without a beneficiary prior to receipt in benefits of an amount equal to the total amount remaining to the member's credit at the time of separation from service, the election is void.

5. If the member dies with a beneficiary and the beneficiary subsequently dies prior to receipt in retirement benefits by both the member and the beneficiary of an amount equal to the total amount remaining to the member's credit at the time of separation from service, the election remains valid.

6. For the purpose of this section, *"beneficiary"* means a spouse, child, or a dependent parent.

90 Acts, ch 1240, §10; 2016 Acts, ch 1011, §121

97A.6B Rollovers of members' accounts.

1. As used in this section, unless the context otherwise requires:

a. *"Direct rollover"* means a payment by the system to the eligible retirement plan specified by the member or the member's surviving spouse.

b. (1) *"Eligible retirement plan"* means either of the following that accepts an eligible rollover distribution from a member or a member's surviving spouse:

(a) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(b) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

(2) In addition, an *"eligible retirement plan"* includes an annuity plan in accordance

with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member.

c. "Eligible rollover distribution" means all or any portion of a member's account, except that an eligible rollover distribution does not include any of the following:

(1) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(2) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(3) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(4) A distribution of less than two hundred dollars of taxable income.

2. Effective January 1, 1993, a member or a member's surviving spouse may elect, at the time and in the manner prescribed in rules adopted by the board of trustees, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the member or the member's surviving spouse, in a direct rollover. If a member or a member's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.

94 Acts, ch 1183, §9; 2008 Acts, ch 1032, §201

97A.7 Management of funds.

1. The board of trustees shall be the trustees of the retirement fund created by this chapter as provided in section 97A.8 and shall have full power to invest and reinvest funds subject to the terms, conditions, limitations, and restrictions imposed by subsection 2 and chapters 12F, 12H, and 12J and subject to like terms, conditions, limitations, and restrictions said trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments of the retirement fund which have been invested, as well as of the proceeds of said investments and any moneys belonging to the retirement fund. The board of trustees may authorize the treasurer of state to exercise any of the duties of this section. When so authorized the treasurer of state shall report any transactions to the board of trustees at its next monthly meeting.

2. The retirement fund created by this chapter may be invested in any investments authorized for the Iowa public employees' retirement system in section 97B.7A.

3. The treasurer of state shall be the custodian of the retirement fund. All payments from the retirement fund shall be made by the treasurer only upon vouchers signed by two persons designated by the board of trustees. A duly attested copy of the resolution of the board of trustees designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer of state as the treasurer's authority for making payments on such vouchers. No voucher shall be drawn unless it shall previously have been allowed by resolution of the board of trustees.

4. A member of the board of trustees or an employee of the department of public safety shall not have a direct interest in the gains or profits of any investment made by the board of trustees. A trustee shall not receive any pay or emolument for the trustee's services. A trustee or employee of the department of public safety shall not directly or indirectly use the assets of the system except to make current and necessary payments as authorized by the board of trustees, nor shall a trustee or employee of the department of public safety become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board of trustees.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.7]

86 Acts, ch 1245, §248; 96 Acts, ch 1187, §92; 97 Acts, ch 23, §9; 2001 Acts, ch 68, §6, 24; 2003 Acts, ch 145, §169; 2007 Acts, ch 39, §9; 2008 Acts, ch 1171, §10; 2011 Acts, ch 82, §9; 2017 Acts, ch 29, §35

Referred to in §97A.5

97A.8 Method of financing.

There is hereby created as a special fund, separate and apart from all other public moneys or funds of this state, the peace officers' retirement, accident, and disability system retirement fund, hereafter called the *"retirement fund"*. All the assets of the system created and established by this chapter shall be credited to the retirement fund.

1. All moneys for the payment of all pensions and other benefits payable from contributions made by the state and from which shall be paid the lump-sum death benefits for all members payable from the said contributions shall be accumulated in the retirement fund. The refunds and benefits for all members and beneficiaries shall be payable from the retirement fund. Contributions to and payments from the retirement fund shall be as follows:

a. On account of each member there shall be paid annually into the retirement fund by the state of Iowa an amount equal to a certain percentage of the earnable compensation of the member to be known as the "normal contribution". The rate percent of such contribution shall be fixed on the basis of the liabilities of the retirement system as shown by annual actuarial valuations.

b. (1) On the basis of the actuarial methods and assumptions, rate of interest, and of the mortality, interest, and other tables adopted by the board of trustees, the board of trustees, upon the advice of the actuary hired by the board for that purpose, shall make each valuation required by this chapter pursuant to the requirements of section 97A.5 and shall immediately after making such valuation, determine the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members equal to the rate required by the system to discharge its liabilities, stated as a percentage of the earnable compensation of all members, and reduced by the employee contribution rate provided in this subsection. However, the normal rate of contribution shall not be less than seventeen percent.

(2) Notwithstanding the provisions of subparagraph (1) to the contrary, the normal contribution rate shall be as follows:

(a) For the fiscal year beginning July 1, 2008, nineteen percent.
(b) For the fiscal year beginning July 1, 2009, twenty-one percent.
(c) For the fiscal year beginning July 1, 2010, twenty-three percent.
(d) For the fiscal year beginning July 1, 2011, twenty-five percent.
(e) For the fiscal year beginning July 1, 2012, twenty-seven percent.
(f) For the fiscal year beginning July 1, 2013, twenty-nine percent.
(g) For the fiscal year beginning July 1, 2014, thirty-one percent.
(h) For the fiscal year beginning July 1, 2015, thirty-three percent.
(i) For the fiscal year beginning July 1, 2016, thirty-five percent.
(j) For each fiscal year beginning on or after July 1, 2017, the lesser of thirty-seven percent or the normal contribution rate as calculated pursuant to subparagraph (1).

c. The total amount payable in each year to the retirement fund shall not be less than the rate percent known as the normal contribution rate of the total compensation earnable by all members during the year. However, the aggregate payment by the state shall be sufficient when combined with the amount in the retirement fund to provide the pensions and other benefits payable out of the retirement fund during the then current year.

d. All lump-sum death benefits on account of death in active service payable from contributions of the state shall be paid from the retirement fund.

e. Except as otherwise provided in paragraph *"g"*:

(1) An amount equal to three and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal year beginning July 1, 1989.

(2) An amount equal to four and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal year beginning July 1, 1990.

(3) An amount equal to five and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal year beginning July 1, 1991.

(4) An amount equal to six and one-tenth percent of each member's compensation from

the earnable compensation of the member shall be paid to the retirement fund for the fiscal year beginning July 1, 1992.

(5) An amount equal to seven and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal year beginning July 1, 1993.

(6) An amount equal to eight and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal period beginning July 1, 1994, through December 31, 1994, and an amount equal to eight and thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal period beginning January 1, 1995, through June 30, 1995.

(7) An amount equal to nine and thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal year beginning July 1, 1995.

(8) (a) For purposes of this subparagraph, the "*applicable employee percentage*" shall be as follows:

(i) For the fiscal period beginning July 1, 2006, and ending June 30, 2011, nine and thirty-five hundredths percent.

(ii) For the fiscal year beginning July 1, 2011, nine and eighty-five hundredths percent.

(iii) For the fiscal year beginning July 1, 2012, ten and thirty-five hundredths percent.

(iv) For the fiscal year beginning July 1, 2013, ten and eighty-five hundredths percent.

(v) For the fiscal period beginning July 1, 2014, and ending June 30, 2020, eleven and four-tenths percent.

(vi) For the fiscal year beginning July 1, 2020, and each fiscal year thereafter, eleven and thirty-five hundredths percent, plus an additional percentage, as determined by the board of trustees pursuant to the actuarial investigation required in section 97A.5, subsection 11, paragraph "*b*", necessary to finance the costs associated with providing that cancer and infectious disease are presumed to be a disease contracted while a member of the system is on active duty as provided in section 97A.6, subsection 5.

(b) Notwithstanding any other provision of this chapter, beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the retirement fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be the applicable employee percentage.

f. (1) The board of trustees shall certify to the director of the department of administrative services and the director of the department of administrative services shall cause to be deducted from the earnable compensation of each member the contribution required under this subsection and shall forward the contributions to the board of trustees for recording and for deposit in the retirement fund.

(2) The deductions provided for under this subsection shall be made notwithstanding that the minimum compensation provided by law for any member is reduced. Every member is deemed to consent to the deductions made under this section.

g. Notwithstanding the provisions of paragraph "*e*", the following transition percentages apply to members' contributions as specified:

(1) For members who on July 1, 1990, have attained the age of forty-nine years or more, an amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the retirement fund for the fiscal period beginning July 1, 1990, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "*e*", subparagraphs (4) through (8), shall apply.

(2) For members who on July 1, 1990, have attained the age of forty-eight years but have not attained the age of forty-nine years, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, and an amount equal to nine and one-tenth percent shall be paid for the fiscal period beginning July 1, 1991, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "*e*", subparagraphs (4) through (8), shall apply.

(3) For members who on July 1, 1990, have attained the age of forty-seven years but have not attained the age of forty-eight years, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to nine and one-tenth percent shall be paid for the fiscal period beginning July 1, 1992, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "*e*", subparagraphs (4) through (8), shall apply.

(4) For members who on July 1, 1990, have attained the age of forty-six years but have not attained the age of forty-seven years, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to eight and one-tenth percent shall be paid for the fiscal period beginning July 1, 1992, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "*e*", subparagraphs (4) through (8), shall apply.

(5) For members who on July 1, 1990, have attained the age of forty-five years but have not attained the age of forty-six years, an amount equal to five and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to seven and one-tenth percent shall be paid for the fiscal period beginning July 1, 1992, through October 15, 1992. Commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "*e*", subparagraphs (4) through (8), shall apply.

h. (1) Notwithstanding paragraph "*f*" or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under paragraph "*e*" or "*g*" which are picked up by the department shall be considered employer contributions for federal and state income tax purposes, and the department shall pick up the member contributions to be made under paragraph "*e*" or "*g*" by its employees. The department shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under paragraph "*e*" or "*g*" and shall certify the amount picked up in lieu of the member contributions to the department of administrative services. The department of administrative services shall forward the amount of the contributions picked up to the board of trustees for recording and deposit in the retirement fund.

(2) Member contributions picked up by the department under subparagraph (1) shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter shall be treated as employee contributions and deemed part of the employee's earnable compensation or salary.

i. Notwithstanding any provision of this subsection to the contrary, if any statutory changes are enacted by any session of the general assembly meeting after January 1, 2011, which increases the cost to the system, the system shall, if the increased cost cannot be absorbed within the contribution rates otherwise established pursuant to this subsection at the time the statutory changes are enacted, increase the normal contribution rate and the member's contribution rate as necessary to cover any increase in cost by providing that sixty percent of the additional cost of such statutory changes shall be paid by the employer under paragraph "*c*" and forty percent of the additional cost shall be paid by employees under paragraph "*e*", subparagraph (8).

2. *a.* All the expenses necessary in connection with the administration and operation of the system shall be paid from the retirement fund. Investment management expenses shall be charged to the investment income of the system and there is appropriated from the system an amount required for the investment management expenses. The board of trustees shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

b. For purposes of this subsection, investment management expenses are limited to the following:

(1) Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the board of trustees in administering this chapter.

(2) Fees and costs for safekeeping fund assets.

(3) Costs for performance and compliance monitoring, and accounting for fund investments.

(4) Any other costs necessary to prudently invest or protect the assets of the fund.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.8; 82 Acts, ch 1261, §9]

84 Acts, ch 1180, §8; 90 Acts, ch 1240, §11, 12; 94 Acts, ch 1183, §10 – 12; 96 Acts, ch 1187, §93 – 96; 98 Acts, ch 1174, §1, 6; 2000 Acts, ch 1077, §7, 8; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §15; 2008 Acts, ch 1032, §184, 201; 2008 Acts, ch 1171, §11; 2010 Acts, ch 1167, §7 – 9; 2014 Acts, ch 1138, §28, 29

Referred to in §97A.5, 97A.7, 97A.9, 97A.11A, 97A.14A, 97A.16, 97B.42B

97A.9 Military service exceptions.

A member who is absent from duty as a peace officer while serving in the armed services of the United States or its allies and is discharged or separated from service in the armed forces under honorable conditions shall have the period of absence while serving in the armed services on other than a voluntary basis and one period of absence, not in excess of four years, while serving in the armed forces on a voluntary basis, included as part of the member's period of service in the department. The member is not required to continue the contributions required of the member under section 97A.8, during the period of military service, if the member, within one year after the member has been discharged or separated under honorable conditions from military service returns, and resumes the member's duties in the department, and if the member is declared physically capable to resume those duties upon examination by the medical board.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.9]

88 Acts, ch 1242, §7

97A.10 Purchase of eligible service credit.

1. For purposes of this section:

a. (1) "*Eligible qualified service*" means service as a member of a city fire retirement system or police retirement system operating under chapter 411 prior to January 1, 1992, for which service was not eligible to be transferred to this system pursuant to section 97A.17.

(2) "*Eligible qualified service*" under this paragraph "*a*" does not include service if the receipt of credit for such service would result in the member receiving a retirement benefit under more than one retirement plan for the same period of service.

b. "*Permissive service credit*" means credit that will be recognized by the retirement system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the retirement system, and for which the member voluntarily contributes to the retirement system the amount required by the retirement system, not in excess of the amount necessary to fund the benefit attributable to such service.

2. An active member of the system may make contributions to the system to purchase up to the maximum amount of permissive service credit for eligible qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n) and the requirements of this section. A member seeking to purchase permissive service credit pursuant to this section shall file a written application along with appropriate documentation with the department by July 1, 2011.

3. A member making contributions for a purchase of permissive service credit for eligible qualified service under this section shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase, less an amount equal to the member's contributions under chapter 411 for the period of eligible qualified service together with interest at a rate determined by the board of trustees. For purposes of this subsection, the actuarial cost of the permissive service credit purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of permissive service credit.

2006 Acts, ch 1028, §1; 2008 Acts, ch 1032, §201; 2010 Acts, ch 1167, §10, 11

97A.10A Purchase of service credit for military service.

1. An active member of the system who has been a member of the retirement system five or more years may elect to purchase up to five years of service credit for military service, other than military service required to be recognized under Internal Revenue Code §414(u) or under the federal Uniformed Services Employment and Reemployment Rights Act, that will be recognized by the retirement system for purposes of calculating a member's benefit, pursuant to Internal Revenue Code §415(n) and the requirements of this section.

2. *a.* A member seeking to purchase service credit pursuant to this section shall file a written application with the system requesting an actuarial determination of the cost of a purchase of service credit. Upon receipt of the cost estimate for the purchase of service from the system, the member may make contributions to the system in an amount equal to the actuarial cost of the service credit purchase.

b. For purposes of this subsection, the actuarial cost of the service credit purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of service credit.

3. The system shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to §415 of the Internal Revenue Code.

4. The board of trustees shall adopt rules providing for the implementation and administration of this section.

2010 Acts, ch 1171, §2

97A.11 Contributions by the state.

On or before the first day of January in each year, the board of trustees shall certify to the director of the department of administrative services the amounts which will become due and payable during the fiscal year next following to the retirement fund. The amounts so certified shall be paid by the director of the department of administrative services out of the funds appropriated for the Iowa department of public safety, to the treasurer of state, the same to be credited to the system for the ensuing fiscal year.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.11]

2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §12; 2010 Acts, ch 1167, §12

97A.11A Supplemental state appropriation.

1. Beginning with the fiscal year commencing July 1, 2013, and ending June 30 of the fiscal year during which the board determines that the system's funded ratio of assets to liabilities is at least eighty-five percent, there is appropriated from the general fund of the state for each fiscal year to the retirement fund described in section 97A.8, an amount equal to five million dollars.

2. Moneys appropriated by the state pursuant to this section shall not be used to reduce the normal rate of contribution by the state below seventeen percent.

2010 Acts, ch 1167, §13; 2012 Acts, ch 1138, §3

97A.12 Exemption from execution and other process or assignment — exceptions.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this chapter, and the moneys in the retirement fund created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or as otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. §1673(b).

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.12]

89 Acts, ch 228, §1; 96 Acts, ch 1187, §97; 2008 Acts, ch 1171, §13

97A.13 Protection against fraud.

Any person who shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system as a result of such act, shall be guilty of a fraudulent practice. Should any change or error in records result in any member or beneficiary receiving from the system more or less than the person would have been entitled to receive had the records been correct, the board of trustees shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled, shall be paid.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97A.13]

Fraudulent practices, see §714.8

97A.14 Hospitalization and medical attention.

1. The board of trustees shall provide hospital, nursing, and medical attention for the members in service when injured while in the performance of their duties and shall continue to provide hospital, nursing, long-term care, and medical attention for injuries or diseases incurred while in the performance of their duties for the members but only while the members are still receiving a retirement allowance under section 97A.6, subsection 6. The cost of hospital, nursing, and medical attention shall be paid out of the retirement fund. However, any amounts received by the injured person under the workers' compensation law of the state, or from any other source for such specific purposes, shall be deducted from the amount paid by the board of trustees under this section.

2. For purposes of this section, medical attention shall include but not be limited to services provided by licensed medical personnel to include office, hospital, nursing home care, long-term care, and prescriptions for medicine or equipment. Within twelve months of receiving treatment or incurring a cost with direct correlation to the disabling condition, the beneficiary of an accidental disability benefit shall submit a written request for reimbursement to the board. A denial of reimbursement by the board shall be subject to judicial review in the same manner as any other action by the board in accordance with section 97A.6, subsection 13.

[C73, 75, 77, 79, 81, §97A.14]

2008 Acts, ch 1171, §14; 2010 Acts, ch 1167, §14

Referred to in §97A.14A

97A.14A Liability of third parties — subrogation.

1. If, on or after July 1, 2002, a member receives an injury or dies for which benefits are payable under section 97A.6, subsection 3, 5, 8, or 9, or section 97A.14, and if the injury or death is caused under circumstances creating a legal liability for damages against a third party other than the system, the system, the member, or the member's dependent or the trustee of the dependent may maintain an action for damages against the third party as provided by this section. If a member, the member's dependent, or the trustee of the dependent commences such an action, the plaintiff member, dependent, or trustee shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

a. The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the system, with legal interest, except that the attorney fees and expenses of the plaintiff member, dependent, or trustee may be first allowed by the district court.

b. The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

2. If a member, the member's dependent, or the trustee of the dependent fails to bring an action for damages against a third party within ninety days after the system, through the board of trustees, requests the member, the member's dependent, or the trustee of the

dependent in writing to do so, then the system is subrogated to the rights of the member and may, by action of the board of trustees, maintain the action against the third party, and may recover damages for the injury or death to the same extent that the member, the member's dependent, or the trustee of the dependent may recover damages for the injury or death. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

a. A sum sufficient to repay the system for the amount of such benefits actually paid by the system up to the time of the entering of the judgment.

b. A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits for which the system is liable until the member attains the age of fifty-five, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

c. Any balance of the recovery remaining after distribution of the recovery pursuant to paragraphs *"a"* and *"b"* shall be paid to the member or the member's beneficiary.

3. Before a settlement is effective between the system and a third party who is liable for any injury, the member, the member's dependent, or the trustee of the dependent must consent in writing to the settlement; and if the settlement is between the member, the member's dependent, or the trustee of the dependent and a third party, the system must consent in writing to the settlement; or on refusal to consent, in either case, the workers' compensation commissioner must consent in writing to the settlement.

4. For purposes of subrogation under this section, a payment made to an injured member, the member's guardian, or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury or death to the member, shall be considered paid as damages because the injury or death was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

5. All funds recovered by the system under this section shall be deposited in the retirement fund created in section 97A.8.

2002 Acts, ch 1135, §4; 2008 Acts, ch 1171, §15

97A.15 Vested and retired members before July 1, 1979 — annuity or withdrawal of contributions.

1. Members who became vested and terminated service prior to July 1, 1979, and members receiving an annuity from accumulated contributions made prior to July 1, 1979, shall continue to receive the benefits the member was entitled to under the provisions of this chapter, as this chapter was effective on the date of the member's retirement or vested termination.

2. For the purposes of this section:

a. "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the annuity savings fund together with regular interest thereon as provided in this subsection. Accumulated contributions do not include any amount deducted from the compensation of a member and credited to the retirement fund.

b. "Annuity" means annual payments for life derived from the accumulated contributions of a member. All annuities shall be payable in monthly installments.

c. "Annuity reserve" shall mean the present value of all payments to be made on account of an annuity, or benefit in lieu of an annuity, granted under the provisions of this chapter, upon the basis of such mortality tables as shall be adopted by the board of trustees, and regular interest.

d. "Annuity savings fund" means the account maintained by the board of trustees in which the accumulated contributions of the members were deposited prior to July 1, 1979, to provide for their annuities.

e. "Annuity reserve fund" means the account maintained by the board of trustees from which shall be paid all annuities and all benefits in lieu of annuities payable as provided in this chapter as this chapter was effective on June 30, 1978.

f. *"Regular interest"* means interest at the rate of four percent per annum, compounded annually and credited to the member's account as of the date of the member's retirement or termination from employment.

g. *"Member who became vested"* and *"vested member"* mean a member who has been a member of the retirement system four or more years and is entitled to benefits under this chapter.

3. Beginning July 1, 1979, the board of trustees shall maintain and invest funds in the annuity reserve fund and the annuity savings fund which had been contributed by members prior to July 1, 1979. Members receiving an annuity as a portion of their retirement or disability benefits on June 30, 1979, shall continue to receive such annuity from the annuity reserve fund maintained by the board of trustees. Members receiving an annuity, if reemployed under service covered by this chapter, shall cease to receive retirement benefits.

4. The accumulated contributions of a member withdrawn by the member or paid to the member's estate or designated beneficiary in the event of the member's death shall be paid from the annuity savings fund account. Upon the retirement of a member, the member's accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

5. A member of the retirement system prior to July 1, 1979, with fifteen or more years of service whose employment was terminated prior to retirement, other than by death or disability, is entitled to receipt of the member's accumulated contributions upon retirement together with other retirement benefits provided in the law on the date of the member's retirement.

6. Any member in service prior to July 1, 1979, may at the time of retirement withdraw the member's accumulated contributions made before July 1, 1979, or receive an annuity which shall be the actuarial equivalent of the member's accumulated contributions at the time of the member's retirement.

7. Notwithstanding subsections 1, 3, 4, 5, and 6 of this section, an active or vested member may request in writing and receive from the board of trustees, the member's accumulated contributions from the annuity savings' fund at the discretion of the board of trustees and remain eligible to receive benefits under section 97A.6. However, a member with fifteen or more years of service prior to July 1, 1979, is not eligible for a service retirement allowance under section 97A.6 if the member withdrew the member's accumulated contributions from the annuity savings fund prior to July 1, 1979, except as provided in section 97A.4. However, the board shall not liquidate securities at a loss for the sole purpose of returning the accumulated contributions to the members. All requested accumulated contributions shall be returned prior to July 1, 1984.

8. The actuary shall annually determine the amount required in the annuity reserve fund. If the amount required is less than the amount in the annuity reserve fund, the board of trustees shall transfer the excess funds from the annuity reserve fund to the retirement fund. If the amount required is more than the amount in the annuity reserve fund, the board of trustees shall transfer the amount prescribed by the actuary to the annuity reserve fund from the retirement fund.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, §97A.1(10, 11, 15, 18), 97A.8(1, 2); C79, 81, §97A.15]
90 Acts, ch 1240, §13; 2008 Acts, ch 1171, §16, 17
Referred to in §97A.4

97A.16 Withdrawal of contributions — repayment.

1. Commencing July 1, 1990, if an active member, in service on or after that date, terminates service, other than by death or disability, the member may elect to withdraw the member's contributions under section 97A.8, subsection 1, paragraphs *"f"* and *"h"*, together with interest thereon at a rate determined by the board of trustees. If a member withdraws contributions as provided in this section, the member shall be deemed to have waived all claims for other benefits from the system for the period of membership service for which the contributions are withdrawn.

2. A layoff for an indefinite period of time shall be deemed to be a termination of service for the purposes of this section. A member who withdraws the member's contributions

as provided in this section following a layoff for an indefinite period of time and who is subsequently recalled to service may repay the contributions. The contributions repaid by the member for such service shall be equal to the amount of contributions withdrawn, plus interest computed based upon the investment interest rate assumption established by the board of trustees as of the time the contributions are repaid. However, the member must make the contributions within two years of the date of the member's return to service. The period of membership service for which contributions are repaid shall be treated as though the contributions were never withdrawn.

90 Acts, ch 1240, §14; 93 Acts, ch 44, §2
Referred to in §97A.6, 411.31

97A.17 Optional transfers with chapter 411.

1. For purposes of this section unless the context otherwise requires:

a. "Average accrued benefit" means the average of the amounts representing the present value of the accrued benefit earned by the member determined by the former system and the present value of the accrued benefit earned by the member determined by the current system.

b. "Current system" means the eligible retirement system in which a person has commenced employment covered by the system after having terminated employment covered by the former system.

c. "Eligible retirement system" means the system created under this chapter and the statewide fire and police retirement system established in chapter 411.

d. "Former system" means the eligible retirement system in which a person has terminated employment covered by the system prior to commencing employment covered by the current system.

e. "Refund liability" means the amount the member may elect to withdraw from the former system under section 411.23.

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within one year, commences employment covered by the other eligible retirement system may elect to transfer the greater of the average accrued benefit or the refund liability earned from the former system to the current system. The member shall file an application with the current system for transfer of the greater of the average accrued benefit or the refund liability within ninety days of the commencement of employment with the current system.

3. Notwithstanding subsection 2, a vested member whose employment with the current system commenced prior to July 1, 1996, may elect to transfer the average accrued benefit earned under the former system to the current system by filing an application with the current system for transfer of the average accrued benefit on or before July 1, 1997.

4. Upon receipt of an application for transfer as provided in this section, the current system shall calculate the average accrued benefit and the refund liability and the former system shall transfer to the current system assets in an amount equal to the greater of the average accrued benefit or the refund liability. Once the transfer is completed, the member's service under the former system shall be treated as membership service under the current system for purposes of this chapter and chapter 411.

96 Acts, ch 1187, §98; 2002 Acts, ch 1135, §5, 6; 2004 Acts, ch 1103, §1 – 3
Referred to in §97A.10

CHAPTER 97B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Referred to in §8F.2, 10A.601, 12B.10, 12B.10A, 12B.10B, 12B.10C, 12F.2, 12H.2, 12J.2, 25B.2, 28F.13, 28J.7, 70A.20, 70A.23, 70A.30, 80.26, 97.52, 97A.3, 97C.19, 97D.3, 97D.5, 99G.4, 173.1, 229.19, 231.33, 261A.6, 279.46, 331.324, 331.424, 331.652, 411.3, 411.30, 509A.13A, 602.1611, 602.1612, 602.1613, 602.9107C, 602.11115, 602.11116

Ch 97, Code 1950, repealed by 53 Acts, ch 71, with certain rights preserved; see §97.50 – 97.53

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97B.1 System created — organizational definitions.

1. The "Iowa Public Employees' Retirement System" is established as an independent agency within the executive branch of state government. The Iowa public employees' retirement system shall administer the retirement system established under this chapter.

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

a. "Board" means the investment board created by section 97B.8A.

b. "Chief executive officer" means the chief executive officer of the Iowa public employees' retirement system.

c. "Committee" means the benefits advisory committee created by section 97B.8B.

d. "System" means the Iowa public employees' retirement system.

[C46, 50, §97.1; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.1]

86 Acts, ch 1245, §249; 92 Acts, ch 1201, §6; 2001 Acts, ch 68, §7, 24; 2003 Acts, ch 145, §170

Referred to in §97.51, 97.52, 97C.2

97B.1A Definitions.

When used in this chapter:

1. *"Abolished system"* means the Iowa old-age and survivors' insurance system repealed by sections 97.50 through 97.53.

2. *"Accumulated contributions"* means the total obtained as of any date, by accumulating each individual contribution by the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70.

2A. *"Accumulated employer contributions"* means an amount equal to the total obtained as of any date, by accumulating each individual contribution by the employer for the member with interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years, compounded as provided in section 97B.70.

3. *"Active member"* during a calendar year means a member who made contributions to the retirement system at any time during the calendar year and who:

a. Had not received or applied for a refund of the member's accumulated contributions for withdrawal or death, and

b. Had not commenced receiving a retirement allowance.

4. *"Actuarial equivalent"* means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the system.

5. *"Beneficiary"* means the person or persons who are entitled to receive any benefits payable under this chapter at the death of a member, if the person or persons have been designated on a form provided by the system and filed with the system. If no such designation is in effect at the time of death of the member or if no person so designated is living at that time, then the beneficiary is the estate of the member.

6. *"Bona fide retirement"* means a retirement by a vested member which meets the requirements of section 97B.52A and in which the member is eligible to receive benefits under this chapter.

7. *"Contributions"* means the payments to the fund required herein, by the employer and by the members, to provide the benefits of the retirement system.

8. *"Employee"* means an individual who is employed as defined in this chapter for whom coverage under this chapter is mandatory.

a. "Employee" shall also include any of the following individuals who do not elect out of coverage under this chapter pursuant to section 97B.42A:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions. An elective official covered under this section may terminate membership under this chapter by informing the system in writing of the expiration of the member's term of office or by informing the system of the member's intent to terminate membership for employment as an elective official and establishing that the member has a bona fide termination of employment from all employment covered under this chapter other than as an elective official and that the member has filed a completed application for benefits form with the system. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa.

(a) A member of the general assembly covered under this chapter may terminate membership under this chapter by informing the system in writing of the member's intent to terminate membership.

(b) Temporary employees of the general assembly covered under this chapter may terminate membership by sending written notification to the system of their separation from service.

(3) Nonvested employees of drainage and levee districts.

(4) Employees of a community action program determined to be an instrumentality of the state or a political subdivision.

(5) Magistrates.

(6) Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.

(7) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in chapter 372 or chapter 420.

(8) Members of the state transportation commission, the board of parole, and the state health facilities council.

(9) Employees appointed by the state board of regents who do not elect coverage in a retirement system qualified by the state board of regents that meets the criteria of section 97B.2.

(10) Persons employed by the board of trustees for the statewide fire and police retirement system established in section 411.36.

(11) Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412.

(12) Persons with service under this chapter who are employed by a municipal utility, other than a municipal water utility or waterworks, that has established a pension and annuity retirement system for its employees pursuant to chapter 412, and who are covered under this chapter at the time of commencement of employment with the municipal utility.

(13) Employees of a regional administrator formed in accordance with section 331.392, determined to be an instrumentality of the political subdivision forming the regional administrator.

b. *"Employee"* does not mean the following individuals:

(1) Individuals who are enrolled as students and whose primary occupations are as students who are incidentally employed by employers.

(2) Graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, subchapter V, part 8, who are not full-time county employees.

(3) Employees hired for temporary employment of less than six consecutive months or one thousand forty hours in a calendar year. An employee who works for an employer for six or more consecutive months or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, *"adjunct instructors"* means instructors employed by a community college or a university governed by the state board of regents without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

(4) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants, and specialists in their field of specialized knowledge or skill.

(5) Employees of the Iowa dairy industry commission established under chapter 179, the Iowa beef cattle producers association established under chapter 181, the Iowa pork producers council established under chapter 183A, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean association as provided in chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 184.

(6) Judicial hospitalization referees appointed under section 229.21.

(7) Employees of an area agency on aging, if as of July 1, 1994, the agency provides for participation by all of its employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code.

(8) Persons employed through any program described in section 84A.7 and provided by the Iowa conservation corps.

(9) Persons employed by the Iowa student loan liquidity corporation.

9. *a.* *"Employer"* means the state of Iowa, the counties, municipalities, agencies, public school districts, all political subdivisions, and all of their departments and instrumentalities, including area agencies on aging, other than those employing persons as specified in subsection 8, paragraph *"b"*, subparagraph (7), and joint planning commissions created under chapter 28E or 28I.

b. If an interstate agency is established under chapter 28E and similar enabling legislation in an adjoining state, and an employer had made contributions to the retirement system for employees performing functions which are transferred to the interstate agency, the employees of the interstate agency who perform those functions shall be considered to be employees of the employer for the sole purpose of membership in the retirement system, although the employer contributions for those employees are made by the interstate agency.

10. *"Employment for any calendar quarter"* means any service performed under an employer-employee relationship under this chapter for which wages are reported in the calendar quarter. For the purposes of this chapter, elected officials are deemed to be in employment for all quarters of the elected officials' respective terms of office, even if the elected officials have selected a method of payment of wages which results in the elected officials not being credited with wages every quarter of a year.

10A. *"Final average covered wage"* means the greater of the following:

a. (1) The member's covered wages averaged for the highest five years of the member's regular service, except as otherwise provided in this paragraph. The highest five years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the system may determine the wages for the fifth year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the four highest years and using the computed average quarter for each quarter in the fifth year in which no wages have been reported in combination with the final quarter or

quarters of the member's service to create a full calendar year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's final average covered wage. If the five-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the five-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this subparagraph to the contrary, a member's wages for the fifth year as computed under this subparagraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages.

(2) Notwithstanding any other provisions of this paragraph *"a"* to the contrary, the member's five-year average covered wage shall be the lesser of the five-year average covered wage as calculated pursuant to subparagraph (1) and the adjusted covered wage amount. For purposes of this subparagraph (2), the covered wage amount shall be an amount equal to one hundred thirty-four percent of the member's applicable calendar year wages. The member's applicable calendar year wages shall be the member's highest calendar year of covered wages not used in the calculation of the member's five-year average covered wage pursuant to subparagraph (1), or such other calendar year of covered wages selected by the system pursuant to rules adopted by the system.

b. If the member was vested as of June 30, 2012, the member's three-year average covered wage as of June 30, 2012.

11. *"First month of entitlement"* means the first month for which a member is qualified to receive retirement benefits under this chapter. Effective January 1, 1995, a member who meets all of the following requirements is qualified to receive retirement benefits under this chapter:

a. Has attained the minimum age for receipt of a retirement allowance under this chapter.

b. If the member has not attained seventy years of age, has terminated all employment covered under this chapter or formerly covered under this chapter pursuant to section 97B.42 in the month prior to the member's first month of entitlement.

c. Has filed a completed application for benefits with the system setting forth the member's intended first month of entitlement.

d. Has survived into the month for which the member's first retirement allowance is payable by the retirement system.

11A. *"Fully funded"* means a funded ratio of at least one hundred percent using the most recent actuarial valuation. For purposes of this subsection, *"funded ratio"* means the ratio produced by dividing the lesser of the actuarial value of the system's assets or the market value of the system's assets, by the system's actuarial liabilities, using the actuarial method adopted by the investment board pursuant to section 97B.8A, subsection 3.

12. *"Inactive member"* with respect to future service means a member who at the end of a year had not made any contributions during the current year and who has not received a refund of the member's accumulated contributions.

13. *"Internal Revenue Code"* means the Internal Revenue Code as defined in section 422.3.

14. *"Member"* means an employee or a former employee who maintains the employee's or former employee's accumulated contributions in the retirement system. The former employee is not a member if the former employee has received a refund of the former employee's accumulated contributions.

14A. *"Member account"* means the account established for each member and includes the member's accumulated contributions and the member's share of the accumulated employer contributions as provided in section 97B.53. *"Member account"* does not mean the supplemental account for active members.

15. *"Membership service"* means service rendered by a member after July 4, 1953. Years of membership service shall be counted to the complete quarter calendar year. However, membership service for a calendar year shall not include more than four quarters. In determining a member's period of membership service, the system shall combine all periods of service for which the member has made contributions.

15A. *"Municipal utility"* means a public utility as defined in section 412.5.

16. *"Prior service"* means any service by an employee rendered at any time prior to July 4, 1953.

17. *"Regular service"* means service for an employer other than special service.

18. *"Retired member"* means a member who has applied for the member's retirement allowance and has survived into at least the first day of the member's first month of entitlement.

19. *"Retirement"* means that period of time beginning when a member who has filed an approved application for a retirement allowance has survived into at least the first day of the member's first month of entitlement and ending when the member dies.

19A. *"Retirement system"* means the retirement plan as contained in this chapter or as duly amended.

20. *"Service"* means service under this chapter by an employee, except an elected official, for which the employee is paid covered wages. Service shall also mean the following:

a. Service in the armed forces of the United States, if the employee was employed by a covered employer immediately prior to entry into the armed forces, and if any of the following requirements are met:

(1) The employee was released from service and returns to covered employment with an employer within twelve months of the date on which the employee has the right of release from service or within a longer period as required by the applicable laws of the United States.

(2) The employee, while serving on active duty in the armed forces of the United States in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the United States secretary of defense as a contingency operation as defined in 10 U.S.C. §101(a)(13), or which became such a contingency operation by the operation of law, dies, or suffers an injury or acquires a disease resulting in death, so long as the death from the injury or disease occurs within a two-year period from the date the employee suffered the active duty injury or disease and the active duty injury or disease prevented the employee from returning to covered employment as provided in subparagraph (1).

b. Leave of absence authorized by the employer prior to July 1, 1998, for a period not exceeding twelve months and ending no later than July 1, 1999.

c. A leave of absence authorized pursuant to the requirements of the federal Family and Medical Leave Act of 1993, or other similar leave authorized by the employer for a period not to exceed twelve weeks in any calendar year.

d. Temporary or seasonal interruptions in service for employees of a school corporation or educational institution when the temporary suspension of service does not terminate the period of employment of the employee and the employee returns to service at a school corporation or educational institution upon the end of the temporary or seasonal interruption. However, effective July 1, 2004, *"service"* does not mean service for which an employee receives remuneration from an employer for temporary employment during any quarter in which the employee is on an otherwise unpaid leave of absence that is not authorized under the federal Family and Medical Leave Act of 1993 or other similar leave. Remuneration paid by the employer for the temporary employment shall not be treated by the system as covered wages.

e. Employment with an employer prior to January 1, 1946, if the member is not receiving a retirement allowance based upon that employment.

21. *"Service"* for an elected official means the period of membership service for which contributions are made beginning on the date an elected official assumes office and ending on the expiration date of the last term the elected official serves, excluding all the intervening periods during which the elected official is not an elected official.

22. *"Special service"* means service for an employer while employed in a protection occupation as provided in section 97B.49B, and as a county sheriff or deputy sheriff as provided in section 97B.49C.

23. *"Supplemental account for active members"* or *"supplemental account"* means the account established for each active member under section 97B.49H.

24. *a. "Three-year average covered wage"* means a member's covered wages averaged

for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the system may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the system shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

b. (1) Notwithstanding any other provisions of this subsection to the contrary, the three-year average covered wage shall be computed as follows for the following members:

(a) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds forty-eight thousand dollars, the member's covered wages averaged for the highest four years of the member's service or forty-eight thousand dollars, whichever is greater.

(b) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds fifty-two thousand dollars, the member's covered wages averaged for the highest five years of the member's service or fifty-two thousand dollars, whichever is greater.

(c) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or fifty-five thousand dollars, whichever is greater.

(d) For a member who retires on or after January 1, 2000, but before January 1, 2001, and whose three-year average covered wage at the time of retirement exceeds sixty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or sixty-five thousand dollars, whichever is greater.

(e) For a member who retires on or after January 1, 2001, but before January 1, 2002, and whose three-year average covered wage at the time of retirement exceeds seventy-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or seventy-five thousand dollars, whichever is greater.

(2) For purposes of this paragraph, the highest years of the member's service shall be determined using calendar years and may be determined using one computed year calculated in the manner and subject to the restrictions provided in paragraph "*a*".

c. Notwithstanding any other provisions of this subsection to the contrary, for a member who retires on or after July 1, 2007, the member's three-year average covered wage shall be the lesser of the three-year average covered wage as calculated pursuant to paragraph "*a*" and the adjusted covered wage amount. For purposes of this paragraph, the adjusted covered wage amount shall be the greater of the member's three-year average covered wage calculated pursuant to paragraph "*a*" as of July 1, 2007, and an amount equal to one hundred twenty-one percent of the member's applicable calendar year wages. The member's applicable calendar year wages shall be the member's highest calendar year of covered wages not used in the calculation of the member's three-year average covered wage pursuant to paragraph "*a*", or such other calendar year of covered wages selected by the system pursuant to rules adopted by the system.

25. *a.* "*Vested member*" means a member who has attained through age or sufficient years of service eligibility to receive monthly retirement benefits upon the member's retirement. A vested member must meet one of the following requirements:

(1) Is vested by service.

(2) Prior to July 1, 2005, has attained the age of fifty-five.

(3) Between July 1, 2005, and June 30, 2012, has attained the age of fifty-five or greater while in covered employment.

(4) On and after July 1, 2012, meets one of the following requirements:

(a) For a member in special service, has attained the age of fifty-five or greater while in covered employment.

(b) For a member in regular service, has attained the age of sixty-five or greater while in covered employment.

b. "Active vested member" means an active member who has attained sufficient membership service to achieve vested status.

c. "Inactive vested member" means an inactive member who was a vested member at the time of termination of employment.

d. "Vested by service" means a member who meets one of the following requirements:

(1) Prior to July 1, 1965, had attained the age of forty-eight and completed at least eight years of service.

(2) Between July 1, 1965, and June 30, 1973, had completed at least eight years of service.

(3) Between July 1, 1973, and June 30, 2012, had completed at least four years of service.

(4) On and after July 1, 2012, meets one of the following requirements:

(a) For a member in special service, has completed at least four years of special service.

(b) For a member in regular service, has completed at least seven years of service.

(5) On or after July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this paragraph *"d"* for qualifying as vested by service on that date of termination.

26. *a.* (1) *"Wages"* means all remuneration for employment, including but not limited to any of the following:

(a) The cash value of wage equivalents not necessitated by the convenience of the employer. The fair market value of such wage equivalents shall be reported to the system by the employer.

(b) The remuneration paid to an employee before employee-paid contributions are made to plans qualified under sections 125, 129, 401, 403, 408, and 457 of the Internal Revenue Code. In addition, *"wages"* includes amounts that can be received in cash in lieu of employer-paid contributions to such plans, if the election is uniformly available and is not limited to highly compensated employees, as defined in section 414(q) of the Internal Revenue Code.

(c) For an elected official, other than a member of the general assembly, the total compensation received by the elected official, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances.

(d) For a member of the general assembly, the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly except as otherwise provided in this subparagraph division. *"Wages"* includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. *"Wages"* also includes daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly, but does not include the portion of the daily allowance which exceeds the maximum established by law for members from Polk county.

(e) Payments for compensatory time earned that are received in lieu of taking regular work hours off and when paid as a lump sum. However, *"wages"* does not include payments made in a lump sum for compensatory time earned in excess of two hundred forty hours per year.

(f) Employee contributions required under section 97B.11 and picked up by the employer under section 97B.11A.

(2) *"Wages"* does not include any of the following:

(a) The cash value of wage equivalents necessitated by the convenience of the employer.

(b) Payments made for accrued sick leave or accrued vacation leave that are not being used to replace regular work hours, whether paid in a lump sum or in installments.

(c) Payments made as an incentive for early retirement or as payment made upon dismissal or severance from employment, or a special bonus payment intended as an early retirement incentive, whether paid in a lump sum or in installments.

(d) Employer-paid contributions that cannot be received by the employee in cash and that are made to, and any distributions from, plans, programs, or arrangements qualified under section 117, 120, 125, 129, 401, 403, 408, or 457 of the Internal Revenue Code.

(e) Employer-paid contributions for coverage under, or distributions from, an accident, health, or life insurance plan, program, or arrangement.

(f) Workers' compensation and unemployment compensation payments.

(g) Disability payments.

(h) Reimbursements of employee business expenses except for those expenses included as wages for a member of the general assembly.

(i) Payments for allowances except for those allowances included as wages for a member of the general assembly.

(j) Payments of damages, attorney fees, interest, and penalties made to satisfy a grievance, wage claim, or employment dispute.

(k) Payments for services as an independent contractor.

(l) Payments made by an entity that is not an employer under this chapter.

(m) Payments made in lieu of any employer-paid group insurance coverage.

(n) Bonuses of any type, whether paid in a lump sum or in installments.

b. (1) *"Covered wages"* means wages of a member during the periods of membership service as follows:

(a) For the period from July 4, 1953, through December 31, 1953, and each calendar year from January 1, 1954, through December 31, 1963, wages not in excess of four thousand dollars.

(b) For each calendar year from January 1, 1964, through December 31, 1967, wages not in excess of four thousand eight hundred dollars.

(c) For each calendar year from January 1, 1968, through December 31, 1970, wages not in excess of seven thousand dollars, for each calendar year from January 1, 1971, through December 31, 1972, wages not in excess of seven thousand eight hundred dollars, and for each calendar year from January 1, 1973, through December 31, 1975, wages not in excess of ten thousand eight hundred dollars.

(d) For each calendar year from January 1, 1976, through December 31, 1983, wages not in excess of twenty thousand dollars.

(e) For each calendar year from January 1, 1984, through December 31, 1985, wages not in excess of twenty-one thousand dollars per year.

(f) For the calendar year from January 1, 1986, through December 31, 1986, wages not in excess of twenty-two thousand dollars.

(g) For the calendar year from January 1, 1987, through December 31, 1987, wages not in excess of twenty-three thousand dollars.

(h) For the calendar year beginning January 1, 1988, and ending December 31, 1988, wages not in excess of twenty-four thousand dollars.

(i) For the calendar year beginning January 1, 1989, and ending December 31, 1989, wages not in excess of twenty-six thousand dollars.

(j) For the calendar year beginning January 1, 1990, and ending December 31, 1990, wages not in excess of twenty-eight thousand dollars.

(k) For the calendar year beginning January 1, 1991, wages not in excess of thirty-one thousand dollars.

(l) For the calendar year beginning January 1, 1992, wages not in excess of thirty-four thousand dollars.

(m) For the calendar year beginning January 1, 1993, wages not in excess of thirty-five thousand dollars.

(n) For the calendar year beginning January 1, 1994, wages not in excess of thirty-eight thousand dollars.

(o) For the calendar year beginning January 1, 1995, wages not in excess of forty-one thousand dollars.

(p) For the calendar year beginning January 1, 1996, wages not in excess of forty-four thousand dollars.

(q) Commencing with the calendar year beginning January 1, 1997, and for each subsequent calendar year, wages not in excess of the amount permitted for that year under section 401(a)(17) of the Internal Revenue Code.

(2) Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in section 97B.49B, 97B.49C, 97B.49D, or 97B.49G, the system shall establish the covered wages limitation which applies to members covered under section 97B.49B, 97B.49C, 97B.49D, or 97B.49G, at the same level as is established under this subparagraph for other members of the retirement system.

(3) Effective July 1, 1992, *"covered wages"* does not include wages to a member on or after the effective date of the member's retirement, except as otherwise permitted by the system's administrative rules, unless the member is reemployed, as provided under section 97B.48A.

(4) If a member is employed by more than one employer during a calendar year, the total amount of wages paid to the member by the several employers shall be included in determining the limitation on covered wages as provided in this lettered paragraph. If the amount of wages paid to a member by the member's several employers during a calendar year exceeds the covered wage limit, the amount of such excess shall not be subject to the contributions required by section 97B.11.

27. *"Years of prior service"* means the total of all periods of prior service of a member. In computing credit for prior service, service of less than a full quarter shall be rounded up to a full quarter. Where a member had prior service as a teacher, a full year of service shall be granted that member if the member had three quarters of service and a contract for employment for the following school year.

[C46, 50, §97.1 – 97.5, 97.7 – 97.9, 97.12, 97.14, 97.18, 97.23, 97.45, 97.48; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.41; 82 Acts, ch 1261, §13 – 17]

83 Acts, ch 101, §10; 83 Acts, ch 186, §10042, 10201; 84 Acts, ch 1285, §4 – 8; 86 Acts, ch 1243, §4 – 8; 87 Acts, ch 115, §13; 87 Acts, ch 227, §18; 88 Acts, ch 1242, §21 – 30; 90 Acts, ch 1240, §16 – 23; 92 Acts, ch 1201, §24 – 35; 93 Acts, ch 44, §4; 94 Acts, ch 1183, §16 – 22, 97; 95 Acts, ch 102, §1 – 4; 96 Acts, ch 1034, §3; 96 Acts, ch 1187, §11 – 22; 98 Acts, ch 1183, §18 – 24, 77, 82

C99, §97B.1A

2000 Acts, ch 1077, §10 – 20, 76; 2001 Acts, ch 61, §15; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §7 – 11, 38; 2003 Acts, ch 145, §171, 286; 2004 Acts, ch 1103, §4 – 12; 2005 Acts, ch 3, §22; 2005 Acts, ch 179, §112; 2006 Acts, ch 1091, §1 – 3; 2006 Acts, ch 1092, §1; 2008 Acts, ch 1032, §185, 201; 2008 Acts, ch 1171, §18 – 20, 48; 2009 Acts, ch 41, §263; 2010 Acts, ch 1061, §15; 2010 Acts, ch 1167, §19 – 22; 2011 Acts, ch 118, §76, 89; 2012 Acts, ch 1120, §30; 2012 Acts, ch 1126, §37, 40, 41; 2016 Acts, ch 1011, §121; 2018 Acts, ch 1041, §127; 2018 Acts, ch 1100, §1, 2; 2021 Acts, ch 80, §52

Referred to in §97A.3, 97B.42A, 97B.42B, 97B.43, 97B.50A, 97B.66, 97B.68, 97B.80C, 411.3, 411.30, 602.11115, 602.11116

Inclusion in definition of wages of certain allowable employer-paid contributions paid by eligible employers to eligible employees; 2000 Acts, ch 1171, §26

Subsection 1 amended

97B.2 Purpose of chapter.

The purpose of this chapter is to promote economy and efficiency in the public service by providing an orderly means for employees, without hardship or prejudice, to have a retirement system which will provide for the payment of annuities, enabling the employees to care for themselves in retirement, and which will improve public employment within the state, reduce excessive personnel turnover, and offer suitable attraction to high-grade men and women to enter public service in the state.

[C46, 50, §97.2; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.2]

88 Acts, ch 1242, §8

Referred to in §97B.1A

97B.3 Chief executive officer — appointment and qualifications.

1. The administrator of the system is the chief executive officer. The chief executive officer shall be appointed by the governor subject to confirmation by the senate and shall serve a four-year term of office beginning and ending as provided in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office. The investment board, under the pay plan applicable to employees of the division, shall set the salary of the chief executive officer.

2. The qualifications for appointment as the chief executive officer shall include management-level pension fund administration experience. The qualifications for appointment as the chief executive officer shall also include a demonstrated knowledge of all aspects of pension fund administration, including financial management, investment asset management, benefit design and delivery, legal administration, and operations administration. The chief executive officer shall not be selected on the basis of political affiliation, and while employed as the chief executive officer, shall not be a member of a political committee, participate in a political campaign, or be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the chief executive officer may designate on the checkoff portion of the federal income tax return a party or parties to which a contribution is made pursuant to the checkoff. The chief executive officer shall not hold any other office under the laws of the United States or of this or any state and shall devote full time to the duties of office.

3. By January 31 of the year in which the term of office of the chief executive officer will end, the investment board and the benefits advisory committee shall submit a written report to the governor and the secretary of the senate concerning the board's and committee's evaluation of the performance of the chief executive officer, together with a recommendation concerning the reappointment of the chief executive officer.

2001 Acts, ch 68, §8, 24; 2003 Acts, ch 94, §1, 2, 4; 2003 Acts, ch 145, §286; 2017 Acts, ch 144, §4, 14

Confirmation, see §2.32

97B.4 Administration of chapter — powers and duties of system — immunity.

1. *Chief executive officer.* The system, through the chief executive officer, shall administer this chapter. The chief executive officer shall also be the system's statutory designee with respect to the rulemaking power.

2. *General authority.*

a. The system may adopt, amend, waive, or rescind rules, employ persons, execute contracts with outside parties, make expenditures, require reports, make investigations, and take other action it deems necessary for the administration of the retirement system in conformity with the requirements of this chapter, the applicable provisions of the Internal Revenue Code, and all other applicable federal and state laws. The rules shall be effective upon compliance with chapter 17A.

b. The system may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

c. The budget program for the system shall be established by the chief executive officer in consultation with the board and other staff of the system and shall be compiled and submitted by the system pursuant to section 8.23.

d. In administering this chapter, the system shall not be a participating agency for purposes of chapter 8B.

3. *Personnel.*

a. Chief investment officer. The chief executive officer, following consultation with the board, shall employ a chief investment officer who shall be appointed pursuant to chapter 8A, subchapter IV, and shall be responsible for administering the investment program for the retirement fund pursuant to the investment policies of the board.

b. Chief benefits officer. The chief executive officer, following consultation with the

benefits advisory committee, shall employ a chief benefits officer who shall be appointed pursuant to chapter 8A, subchapter IV, and shall be responsible for administering the benefits and other services provided under the retirement system.

c. Actuary. The system shall employ an actuary who shall be selected by the board and shall serve at the pleasure of the board. The actuary shall be the technical advisor for the system on matters regarding the operation of the retirement fund.

d. System employees. Subject to other provisions of this chapter, the system may employ all other personnel as necessary for the administration of the retirement system. The maximum number of full-time equivalent employees specified by the general assembly for the system for administration of the retirement system for a fiscal year shall not be reduced by any authority other than the general assembly. The personnel of the system shall be appointed pursuant to chapter 8A, subchapter IV. The system shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for a partisan elective public office.

e. Legal advisors. The system may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter and chapter 97C.

f. Outside advisors. The system may execute contracts with persons outside state government, including investment advisors, consultants, and managers, in the administration of this chapter. However, a contract with an investment manager or investment consultant shall not be executed by the system pursuant to this paragraph without the prior approval by the board of the hiring of the investment manager or investment consultant.

4. *Reports.*

a. Annual report to governor. Not later than the thirty-first day of December of each year, the system shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the retirement fund. The report shall also include information concerning the investment management expenses for the retirement fund for each fiscal year expressed as a percent of the market value of the retirement fund investment assets. The information provided under this paragraph shall also include information on the investment policies and investment performance of the retirement fund. In providing this information, to the extent possible, the system shall include the total investment return for the entire fund, for portions of the fund managed by investment managers, and for internally managed portions of the fund, and the cost of managing the fund per thousand dollars of assets. The performance shall be based upon market value, and shall be contrasted with relevant market indices and with performances of pension funds of similar asset size.

b. Annual statement to members. The system shall prepare and distribute to the members, at the expense of the retirement fund, an annual statement of the member's account and, in such a manner as the system deems appropriate, other information concerning the retirement system.

c. Actuarial investigation. During calendar year 2002, and every four years thereafter, the system shall cause an actuarial investigation to be made of all experience under the retirement system. Pursuant to such an investigation, the system shall, from time to time, determine upon an actuarial basis the condition of the retirement system and shall report to the general assembly its findings and recommendations.

d. Annual valuation of assets. The system shall cause an annual actuarial valuation to be made of the assets and liabilities of the retirement system and shall prepare an annual statement of the amounts to be contributed under this chapter, and shall publish annually such valuation of the assets and liabilities and the statement of receipts and disbursements of the retirement system. Based upon the actuarial methods and assumptions adopted by the board for the annual actuarial valuation, the system shall certify to the governor the contribution rates determined thereby as the rates necessary and sufficient for members and employers to fully fund the benefits and retirement allowances being credited. Effective with the fiscal year beginning July 1, 2008, the annual actuarial valuation required by this

paragraph shall include information as required by section 97D.5 for each membership group which separately determines contribution rates under this chapter.

5. *Investments.* The system, through the chief investment officer, shall invest, subject to chapters 12F, 12H, and 12J and in accordance with the investment policy and goal statement established by the board, the portion of the retirement fund which, in the judgment of the system, is not needed for current payment of benefits under this chapter subject to the requirements of section 97B.7A.

6. *Old records.* The system may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the system and are deemed by the chief executive officer to be no longer necessary to the proper administration of this chapter. The destruction or disposition shall be made only by order of the chief executive officer. Records of deceased members of the retirement system may be destroyed ten years after the later of the final payment made to a third party on behalf of the member or the death of the member. Any moneys received from the disposition of these records shall be deposited to the credit of the retirement fund subject to rules adopted by the system.

7. *Immunity.* The system, employees of the system, the board, the members of the board, and the treasurer of state are not personally liable for actions or omissions under this chapter that do not involve malicious or wanton misconduct even if those actions or omissions violate the standards established in section 97B.7A.

[C46, 50, §97.4, 97.23; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.4]

86 Acts, ch 1245, §251; 88 Acts, ch 1242, §9, 10; 92 Acts, ch 1201, §7; 96 Acts, ch 1187, §1; 2001 Acts, ch 68, §9, 24; 2003 Acts, ch 145, §172, 173, 286; 2006 Acts, ch 1092, §3; 2007 Acts, ch 39, §10; 2008 Acts, ch 1171, §21, 22, 48; 2010 Acts, ch 1167, §23, 24; 2011 Acts, ch 82, §10; 2017 Acts, ch 29, §36

Referred to in §97B.7A, 97B.8A

97B.5 and 97B.6 Repealed by 2001 Acts, ch 68, §23, 24. See §97B.4.

97B.7 Fund created — exclusive benefit — standing appropriations.

1. There is hereby created as a special fund, separate and apart from all other public moneys or funds of this state, the "Iowa Public Employees' Retirement Fund", hereafter called the "retirement fund". The retirement fund shall consist of all moneys collected under this chapter, together with all interest, dividends, and rents thereon, and shall also include all securities or investment income and other assets acquired by and through the use of the moneys belonging to the retirement fund and any other moneys that have been paid into the retirement fund.

2. The treasurer of the state of Iowa is hereby made the custodian of the retirement fund and shall hold and disburse the retirement fund in accordance with the requirements of this chapter. As custodian, the treasurer shall be authorized to disburse moneys in the retirement fund upon warrants drawn by the director of the department of administrative services pursuant to the order of the system. The treasurer shall not select any bank or other third party for the purposes of investment asset safekeeping, other custody, or settlement services without prior consultation with the board.

3. All moneys which are paid or deposited into the fund are appropriated and made available to the system to be used for the exclusive benefit of the members and their beneficiaries or contingent annuitants as provided in this chapter:

a. To be used by the system for the payment of claims for benefits under this chapter.

b. To be used by the system to pay refunds provided for in this chapter.

c. To be used for the costs of administering the system, including up to fifty thousand dollars per fiscal year for actual and necessary expenses of the benefits advisory committee. If as a result of action under section 8.31, the governor has reduced the moneys appropriated from the retirement fund to the system for salaries, support, maintenance, and other operational purposes to pay the costs of the system for a fiscal year, it is the intent of the general assembly that the amount by which the appropriation has been reduced should be transferred from the retirement fund to the system for salaries, support, maintenance, and other operational purposes to pay the costs of the system for that fiscal year.

d. To be used to pay for investment management expenses incurred in the management of the retirement fund. Expenses incurred pursuant to this paragraph shall be charged to the investment income of the retirement fund.

[C46, 50, §97.5, 97.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.7; 82 Acts, ch 1261, §10]

84 Acts, ch 1180, §9; 84 Acts, ch 1285, §3; 85 Acts, ch 190, §1; 85 Acts, ch 227, §7; 86 Acts, ch 1245, §253; 88 Acts, ch 1242, §11 – 13; 89 Acts, ch 83, §20; 92 Acts, ch 1201, §10; 94 Acts, ch 1001, §3; 96 Acts, ch 1187, §2, 3; 2001 Acts, ch 68, §10, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §23, 48

Referred to in §97B.42B, 97B.43, 97B.49, 97B.49G

97B.7A Investment and management of retirement fund — standards — immunity.

1. *Investment and investment policy standards.* In establishing the investment policy of the retirement fund and providing for the investment of the retirement fund, the system and board shall do the following:

a. Exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital.

b. Give appropriate consideration to those facts and circumstances that the system and board know or should know are relevant to the particular investment or investment policy involved, including the role the investment plays in the total value of the retirement fund.

c. For the purposes of this subsection, appropriate consideration includes, but is not limited to, a determination that the particular investment or investment policy is reasonably designed to further the purposes of the retirement system, taking into consideration the risk of loss and the opportunity for gain or income associated with the investment or investment policy and consideration of the following factors as they relate to the retirement fund:

(1) The composition of the retirement fund with regard to diversification.

(2) The liquidity and current return of the investments in the retirement fund relative to the anticipated cash flow requirements of the retirement system.

(3) The projected return of the investments relative to the funding objectives of the retirement system.

2. *Investment acquisitions.* Within the limitations of the investment standards prescribed in this section, the system may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account. Consistent with this section, investments shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state. Investments of moneys in the retirement fund are not subject to sections 73.15 through 73.21.

3. *Liability — reimbursement.* Except as provided in section 97B.4, subsection 7, if there is loss to the retirement fund, the treasurer of state, the system, the employees of the system, the members of the board severally, and the board are not personally liable, and the loss shall be charged against the retirement fund. There is appropriated from the retirement fund the amount required to cover a loss.

4. *Investment procedures.* In managing the investment of the retirement fund, the system, in accordance with the investment policy established by the board, is authorized to do the following:

a. To sell any securities or other property in the retirement fund and reinvest the proceeds when such action may be deemed advisable by the system for the protection of the retirement fund or the preservation of the value of the investment. Such sale of securities or other property of the retirement fund and reinvestment shall only be made in accordance with policies of the board in the manner and to the extent provided in this chapter.

b. To subscribe for the purchase of securities for future delivery in anticipation of future income. The securities shall be paid for by anticipated income or from funds from the sale of securities or other property held by the retirement fund.

c. To pay for securities directed to be purchased upon the receipt of the purchasing bank's paid statement or paid confirmation of purchase.

5. *Travel.* In the administration of the investment of moneys in the retirement fund, employees of the system and members of the board may travel outside the state for the purpose of meeting with investment firms and consultants and attending conferences and meetings to fulfill their fiduciary responsibilities.

2001 Acts, ch 68, §11, 24; 2003 Acts, ch 145, §174, 286; 2020 Acts, ch 1063, §49
Referred to in §12.8, 12B.10, 12C.10, 97A.7, 97B.4, 97B.8A, 257B.20, 411.7, 412.4, 602.9111

97B.8 Repealed by 2001 Acts, ch 68, §23, 24. See §97B.8A.

97B.8A Investment board.

1. *Board established.* A board is established to be known as the "Investment Board of the Iowa Public Employees' Retirement System", referred to in this chapter as the "board". The duties of the board are to establish policy, and review its implementation, in matters relating to the investment of the retirement fund. The board shall be the trustee of the retirement fund.

2. *Investment review.*

a. At least annually the board shall review the investment policies and procedures used by the board and system, and shall hold a public meeting on the investment policies and investment performance of the retirement fund. Following its review and the public meeting, the board shall, pursuant to the requirements of section 97B.7A, and in consultation with the chief investment officer and other relevant personnel of the system, establish an investment policy and goal statement that shall direct the investment activities concerning the retirement fund.

b. The board shall review and approve, prior to the execution of a contract with the system, the hiring of each investment manager and investment consultant outside of state government.

c. The board shall be involved in the performance evaluation of the chief investment officer.

3. *Actuarial responsibilities.*

a. The board shall select the actuary to be employed by the system as provided in section 97B.4.

b. The board shall, in consultation with the chief executive officer, the actuary, and other relevant personnel of the system, adopt from time to time mortality tables and all other necessary factors for use in actuarial calculations required in connection with the retirement system. The board shall also adopt the actuarial methods and assumptions to be used by the actuary for the annual valuation of assets as required by section 97B.4.

4. *Membership.*

a. The board shall consist of eleven members, including seven voting members and four nonvoting members.

(1) The voting members shall be as follows:

(a) Three public members, appointed by the governor, who are not members of the retirement system and who each have substantial institutional investment experience or substantial institutional financial experience.

(b) Three members, appointed by the governor, who are members of the retirement system. Prior to the appointment by the governor of a member of the board under this subparagraph, the benefits advisory committee shall submit a slate of at least two nominees per position to the governor for the governor's consideration. The governor is not required to appoint a member from the slate submitted. Of the three members appointed, one shall be an active member who is an employee of a school district, area education agency, or merged area; one shall be an active member who is not an employee of a school district, area education agency, or merged area; and one shall be a retired member of the retirement system.

(c) The treasurer of state.

(2) The nonvoting members of the board shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house,

and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

b. Four voting members of the board shall constitute a quorum.

c. The three members who have substantial institutional investment experience or substantial institutional financial experience, and the member who is a retired member of the retirement system, shall be paid their actual expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. Legislative members shall be paid the per diem and expenses specified in section 2.10, for each day of service. The per diem and expenses of the legislative members shall be paid from funds appropriated under section 2.12. The members who are active members of the retirement system and the treasurer of state shall be paid their actual expenses incurred in the performance of their duties as members of the board and the performance of their duties as members of the board shall not affect their salaries, vacations, or leaves of absence for sickness or injury.

d. The appointive terms of the members appointed by the governor are for a period of six years beginning and ending as provided in section 69.19. If there is a vacancy in the membership of the board for one of the members appointed by the governor, the governor has the power of appointment. Gubernatorial appointees to this board are subject to confirmation by the senate.

5. *Closed sessions.* In addition to the reasons provided in section 21.5, subsection 1, the board may hold a closed session pursuant to the requirements of section 21.5 of that portion of a board meeting in which financial or commercial information is provided to or discussed by the board if the board determines that disclosure of such information could result in a loss to the retirement system or to the provider of the information.

2001 Acts, ch 68, §12, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201
Referred to in §97B.1, 97B.1A, 97B.8B
Confirmation, see §2.32

97B.8B Benefits advisory committee.

1. *Committee established.* A benefits advisory committee shall be established whose duty is to consider and make recommendations to the system and the general assembly concerning the provision of benefits and services to members of the retirement system.

2. *Membership.* The benefits advisory committee shall be comprised of representatives of constituent groups concerned with the retirement system, and shall include representatives of employers, active members, and retired members. In addition, the director of the department of administrative services and a member of the public selected by the voting members of the committee shall serve as members of the committee. The system shall adopt rules under chapter 17A to provide for the selection of members to the committee and the election of the voting members of the committee.

3. *Voting members.* Of the members who comprise the committee, nine members shall be voting members. Except as otherwise provided by this subsection, the voting members shall be elected by the members of the committee from the membership of the committee. Of the nine voting members of the committee, four shall represent covered employers, and four shall represent the members of the retirement system. Of the four voting members representing employers, one shall be the director of the department of administrative services, one shall be a member of a constituent group that represents cities, one shall be a member of a constituent group that represents counties, and one shall be a member of a constituent group that represents local school districts. Of the four voting members who represent members of the retirement system, one shall be a member of a constituent group that represents teachers. The ninth voting member of the committee shall be a citizen who is not a member of the retirement system and who is elected by the other voting members of the committee.

4. *Duties.*

a. At least every two years, the benefits advisory committee shall review the benefits and services provided to members under this chapter, and the voting members of the committee shall make recommendations to the system and the general assembly concerning the services

provided to members and the benefits, benefits policy, and benefit goals, provided under this chapter.

b. The benefits advisory committee shall be involved in the performance evaluation of the chief benefits officer.

c. Upon the expiration of the term of office of or a vacancy concerning one of the three members of the investment board described in section 97B.8A, subsection 4, paragraph "*a*", subparagraph (1), subparagraph division (b), the voting members of the committee shall submit to the governor the names of at least two nominees who meet the requirements specified in that subparagraph division. The governor may appoint the member from the list submitted by the committee.

5. *Terms of voting members.* Except for the director of the department of administrative services and as otherwise provided in the rules for the initial selection of voting members of the committee, each member selected to be a voting member shall serve as a voting member for three years. Terms for voting members begin on May 1 in the year of selection and expire on April 30 in the year of expiration. Vacancies shall be filled in the same manner as the original selections. A vacancy shall be filled for the unexpired term.

6. *Expenses.* The members who are not active members of the retirement system shall be paid their actual expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. The members who are active members of the retirement system and the director of the department of administrative services shall be paid their actual expenses incurred in the performance of their duties as members of the committee and the performance of their duties as members of the committee shall not affect their salaries, vacations, or leaves of absence for sickness or injury. However, the benefits advisory committee shall not incur any additional expenses in fulfilling its duties as provided by this section without the express written authority of the chief executive officer.

2001 Acts, ch 68, §13, 24; 2003 Acts, ch 145, §286; 2009 Acts, ch 41, §263
Referred to in §97B.1

97B.9 Contributions — payment and interest.

1. An employer shall be charged the greater of twenty dollars per occurrence or interest at the combined interest and dividend rate required under section 97B.70 for the applicable calendar year for contributions unpaid on the date on which they are due and payable as prescribed by the system. The system may adopt rules prescribing circumstances for which the interest or charge shall not accrue with respect to contributions required. Interest or charges collected pursuant to this section shall be paid into the Iowa public employees' retirement fund.

2. If within thirty days after due notice the employer defaults in payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the system, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions.

3. The employer shall pay its contribution from funds available and is directed to pay same from tax money or from any other income of the political subdivision; provided, however, the contributions shall be paid from the same fund as the employee salary.

4. Every political subdivision is hereby authorized and directed to levy a tax sufficient to meet its obligations under the provisions of this chapter if any tax is needed.

5. Regardless of any potentially applicable statute of limitations, if the system finds that the employer or employee, or both, have erroneously underpaid contributions, the system shall notify the employer and employee in writing of the total amount of the underpayment, including interest, and the employer's and employee's share of the underpayment. The system shall collect from the employer the total amount of the underpayment, including the employer's share, the employee's share, and the interest assessed to both shares of the underpayment, regardless of whether the employee has reimbursed the employer for the employee's share of the underpayment. The employee shall be obligated to pay only the

employee's share of the underpaid contributions, without interest, to the employer. The employer may collect the employee's share of underpaid contributions from the employee or the employee's estate. The employer may collect the employee's share through a deduction from the employee's wages, or by maintaining a legal action against the employee or the employee's estate. For purposes of section 1526 of the federal Taxpayer Relief Act of 1997, eligible participants, as defined by section 1526, may make payments of contributions under this section without regard to the limitations of section 415(c)(1) of the federal Internal Revenue Code.

[C46, 50, §97.6, 97.8, 97.9, 97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.9]

88 Acts, ch 1242, §15; 98 Acts, ch 1183, §10; 2000 Acts, ch 1077, §22, 23; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §24, 48

97B.9A Collections — waiver.

Notwithstanding any provision of this chapter to the contrary, the system may, in its sole discretion, waive the collection of benefits overpayments, contribution underpayments, or any other debts owed the system, that occur more than three years prior to the date of discovery of the overpayment, underpayment, or debt by the system, for cases in which there is no evidence of fraud or other misconduct on the part of the affected employer or the affected member or beneficiary in providing or failing to provide information necessary to the proper determination of a debt owed the system, calculation of contributions and payments, or calculation of benefits under this chapter.

2004 Acts, ch 1103, §13

97B.10 Crediting of erroneous contributions.

1. If the system finds the employee or employer, or both, have erroneously paid contributions, including the payment of contributions prior to an individual's valid decision to elect out of coverage under this chapter on or after January 1, 1999, pursuant to section 97B.42A, the system shall make an adjustment, compromise, or settlement and shall credit such payments to the appropriate party.

2. A claim of an employee or employer for a credit for erroneously paid contributions shall be made within three years of date of payment. However, the system may issue a credit to employees or employers after the expiration of the three-year deadline if the system finds that issuing the credit is just and equitable.

3. Interest shall not be paid on credits issued pursuant to this section. However, the system may, at any time, apply accumulated interest and interest dividends as provided in section 97B.70 on any credits issued under this section if the system finds that the crediting of interest is just and equitable.

[C46, 50, §97.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.10]

92 Acts, ch 1201, §13; 98 Acts, ch 1183, §11; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §25, 48

Referred to in §97B.42A

97B.11 Contributions by employer and employee.

1. Each employer shall deduct from the wages of each member of the retirement system a contribution in the amount of the applicable employee percentage of the covered wages paid by the employer and such additional amount if otherwise required by law, until the member's termination from employment. The contributions of the employer shall be in the amount of the applicable employer percentage of the covered wages of the member and such additional amount if otherwise required by law.

2. Prior to July 1, 2011, for purposes of this section, unless the context otherwise requires:

a. "Applicable employee percentage" means the percentage rate equal to three and seven-tenths percent plus forty percent of the total additional percentage.

b. "Applicable employer percentage" means the percentage rate equal to five and seventy-five hundredths percent plus sixty percent of the total additional percentage.

c. "Total additional percentage" means for the fiscal period beginning July 1, 2007, through June 30, 2011, the total additional percentage for the prior fiscal year plus, only if the

total comparison percentage is greater than the total of the applicable employee percentage and the applicable employer percentage for the prior fiscal year, one-half percentage point.

d. "Total comparison percentage" means the percentage rate that the system determines, based upon the most recent actuarial valuation of the retirement system, would be sufficient to amortize the unfunded actuarial liability of the retirement system in ten years.

3. On and after July 1, 2011, for purposes of this section, unless the context otherwise requires:

a. For members in regular service:

(1) *"Applicable employee percentage"* means the percentage rate equal to forty percent of the required contribution rate for members in regular service.

(2) *"Applicable employer percentage"* means the percentage rate equal to sixty percent of the required contribution rate for members in regular service.

b. For members in special service in a protection occupation as described in section 97B.49B:

(1) *"Applicable employee percentage"* means the percentage rate equal to forty percent of the required contribution rate for members described in section 97B.49B.

(2) *"Applicable employer percentage"* means the percentage rate equal to sixty percent of the required contribution rate for members described in section 97B.49B.

c. For members in special service as a county sheriff or deputy sheriff as described in section 97B.49C:

(1) *"Applicable employee percentage"* means the percentage rate equal to fifty percent of the required contribution rate for members described in section 97B.49C.

(2) *"Applicable employer percentage"* means the percentage rate equal to fifty percent of the required contribution rate for members described in section 97B.49C.

d. "Required contribution rate" means that percentage of the covered wages of members in regular service, members described in section 97B.49B, and members described in section 97B.49C, that the system shall, for each fiscal year, separately set for members in each membership category as provided in this paragraph. The required contribution rate that is set by the system for a membership category shall be the contribution rate the system actuarially determines, based upon the most recent actuarial valuation of the system and using the actuarial methods, assumptions, and funding policy approved by the investment board, is the rate required by the system to discharge its liabilities as a percentage of the covered wages of members in that membership category. However, the required contribution rate set by the system for members in regular service for a fiscal year shall not vary by more than one percentage point from the required contribution rate for the prior fiscal year.

[C46, 50, §97.8, 97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.11]

88 Acts, ch 1242, §16; 92 Acts, ch 1201, §14; 96 Acts, ch 1187, §4; 98 Acts, ch 1183, §12; 2000 Acts, ch 1077, §24; 2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §4; 2008 Acts, ch 1171, §26, 48; 2010 Acts, ch 1167, §25

Referred to in §97B.1A, 97B.11A, 97B.14, 97B.42, 97B.49G, 97B.49H, 97B.50A, 97B.80, 260C.14, 384.6

97B.11A Pickup of employee contributions.

1. Notwithstanding section 97B.11 or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under section 97B.11 which are picked up by the employer shall be considered employer contributions for federal and state income tax purposes, and each employer shall pick up the member contributions to be made under section 97B.11 by its employees. Each employer shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under section 97B.11 and shall pay the amount picked up in lieu of the member contributions as provided in section 97B.14.

2. Member contributions picked up by each employer under subsection 1 shall be treated as employer contributions for federal and state income tax purposes only and for all other

purposes of this chapter shall be treated as employee contributions and deemed part of the employee's wages or salary.

94 Acts, ch 1183, §13; 98 Acts, ch 1174, §2, 6
Referred to in §97B.1A, 97B.14

97B.12 Repealed by 98 Acts, ch 1183, §75.

97B.13 Repealed by 2000 Acts, ch 1077, §73.

97B.14 Contributions forwarded.

Contributions deducted from the wages of the member under section 97B.11 prior to January 1, 1995, member contributions picked up by the employer under section 97B.11A beginning January 1, 1995, and the employer's contribution shall be forwarded to the system for recording and deposited with the treasurer of the state to the credit of the Iowa public employees' retirement fund. Contributions shall be remitted monthly and shall be otherwise paid in such manner, at such times, and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the member, as may be prescribed by the system.

[C46, 50, §97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.14]

94 Acts, ch 1183, §14; 96 Acts, ch 1187, §5; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §27, 48
Referred to in §97B.11A

97B.14A Wage reporting.

1. For purposes of this section, unless the context otherwise requires:

a. *"Change in the schedule of wage payments"* means the formal or informal deferral of wages earned in one calendar year to a later calendar year or the acceleration of the wages payable under a contract of employment to the prior calendar year by changing the period over which the contractual compensation is paid, by shortening the period of employment over which contract wages are to be paid, or similar arrangements altering the timing of wage payments.

b. *"Distortion of the normal wage progression pattern"* means an increase of ten percent or more between the covered wages reported for any two consecutive years.

2. An employer shall report wages of employees covered by this chapter to the system in a manner and form as prescribed by the system. If the wages reported by an employer appear to be a distortion of the normal wage progression pattern for an employee, the system may request that the employer provide documentation explaining the reason for the distortion. If the distortion of the normal wage progression pattern results from covering compensation that is excluded from the definition of covered wages, or from a change in the schedule of wage payments for an individual, the system shall remove wages that should not be covered from its records, and shall, in cases involving increases caused by a change in the schedule of wage payments, reallocate covered wages to the calendar quarters in which the covered wages would have been reported but for the change in the schedule of wage payments.

2000 Acts, ch 1077, §25; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §14

97B.15 Rules, policies, and procedures.

1. The system may adopt rules under chapter 17A and establish procedures, not inconsistent with this chapter, which are necessary or appropriate to implement this chapter and shall adopt reasonable and proper rules to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the proofs and evidence in order to establish the right to benefits under this chapter. The system may adopt rules, and take action based on the rules, to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal and state statutes and regulations.

2. Prior to the adoption of rules, the system may establish interim written policies and procedures, and take action based on the policies and procedures, to conform the

requirements for receipt of retirement benefits under this chapter to the applicable requirements of federal and state law.

[C46, 50, §97.23; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.15]

88 Acts, ch 1242, §17; 90 Acts, ch 1240, §15; 96 Acts, ch 1187, §6; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §12; 2003 Acts, ch 145, §286

97B.16 Procedure of system.

The system shall make decisions as to the rights of an individual applying for a payment under this chapter. When requested by an individual, or a person who makes a showing in writing that the individual's or person's rights may be prejudiced by a decision the system has made, a hearing shall be scheduled under the Iowa administrative procedures Act, chapter 17A. If a hearing is held, the decision shall, on the basis of evidence adduced at the hearing, be affirmed, modified, or reversed under chapter 17A.

[C46, 50, §97.24; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.16]

88 Acts, ch 1242, §18; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

97B.17 Records maintained.

1. The system shall establish and maintain records of each member, including but not limited to the amount of wages of each member, the contributions made on behalf of each member with interest, interest dividends credited, beneficiary designations, and applications for benefits of any type. The records may be maintained in paper, magnetic, or electronic form, including optical disk storage, as set forth in chapter 554D. The system may accept, but shall not require, electronic records and electronic signatures to the extent permitted under chapter 554D. These records are the basis for the compilation of the retirement benefits provided under this chapter.

2. The following records maintained under this chapter are not public records for the purposes of chapter 22:

a. Records containing social security numbers.

b. Records specifying amounts accumulated in members' accounts and supplemental accounts.

c. Records containing names or addresses of members or their beneficiaries.

d. Records containing amounts of payments to members or their beneficiaries.

e. Records containing financial or commercial information that relates to the investment of retirement system funds if the disclosure of such information could result in a loss to the retirement system or to the provider of the information.

3. Summary information concerning the demographics of the members and general statistical information concerning the retirement system are subject to chapter 22, as well as aggregate information by category.

4. *a.* The system's records are evidence for the purpose of proceedings before the system or any court of the amounts of wages and the periods in which they were paid, and the absence of an entry as to a member's wages in the records for any period is evidence that wages were not paid that member in the period.

b. Notwithstanding any provisions of chapter 22 to the contrary, the system's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this subsection. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The system shall not be civilly or criminally liable for the release or rerelease of records in accordance with this subsection.

5. Confidential records of the system maintained for the operation of the retirement system may be released to the directors, agents, and employees of the legislative services agency, the department of revenue, the department of management, the department of administrative services, or an employer of employees covered by the retirement system pursuant to rules adopted by the system for the performance of the requestor's duties. To obtain a record under this subsection, the person requesting the records shall provide a

written description of the information requested and the reason for requesting the records to the system. A person receiving a record pursuant to this subsection shall maintain the confidentiality of any information otherwise required to be kept confidential and shall be subject to the same penalties as the custodian of the records for the public dissemination of such information.

[C46, 50, §97.25 – 97.27; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.17]

88 Acts, ch 1242, §19; 92 Acts, ch 1201, §15; 96 Acts, ch 1187, §7, 8; 98 Acts, ch 1183, §14; 2000 Acts, ch 1077, §26; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §13; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 44, §30; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §15

97B.18 Statement of accumulated credit.

After the expiration of each calendar year and prior to July 1 of the succeeding year, the system shall furnish each member with a statement of the member's accumulated contributions and benefit credits accrued under this chapter up to the end of that calendar year and additional information the system deems useful to a member. The system may furnish an estimate of the credits as of the projected normal retirement date of the member under section 97B.45. The records of the system as shown by the statement as to the wages of each individual member for a year and the periods of payment shall be conclusive for the purpose of this chapter, except as otherwise provided in this chapter.

[C46, 50, §97.11, 97.25; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.18]

92 Acts, ch 1201, §16; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §14; 2003 Acts, ch 145, §286

Referred to in §97B.19

97B.19 Revision for error.

If following the delivery of the statement provided in section 97B.18, it is brought to the attention of the system that any entry of wages in its records is erroneous, or that any item of wages has been omitted from the records, the system may correct the entry or include the omitted item in its records, as the case may be. Written notice of any revision of any entry which is adverse to the interest of any individual shall be given to the individual in any case where the individual has previously been notified by the system of the amount of wages and of the period of payments shown by the entry. Upon request in writing, the system shall afford any individual, or after the individual's death shall afford the individual's beneficiary or any other person so entitled in the judgment of the system, reasonable notice and opportunity for hearing with respect to any entry or alleged omission of wages of the individual in such record, or any revision of any entry. If a hearing is held, the system shall make findings of fact and a decision based upon the evidence adduced at the hearing and shall revise its records accordingly. Judicial review of action of the system under this section may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, and section 97B.29.

[C46, 50, §97.22, 97.26, 97.28; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.19]

98 Acts, ch 1183, §15; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286

97B.20 Repealed by 98 Acts, ch 1183, §75.

97B.20A Appeal procedure.

Members and third-party payees may appeal any decision made by the system that affects their rights under this chapter. The appeal shall be filed with the system within thirty days after the notification of the decision was mailed to the party's last known mailing address, or the decision of the system is final. If the party appeals the decision of the system, the system shall conduct an internal review of the decision and the chief executive officer shall notify the individual who has filed the appeal in writing of the system's decision. The individual who has filed the appeal may file an appeal of the system's final decision with the system under chapter 17A by notifying the system of the appeal in writing within thirty days after the notification

of its final decision was mailed to the party's last known mailing address. Once notified, the system shall forward the appeal to the department of inspections and appeals.

92 Acts, ch 1201, §17; 2001 Acts, ch 68, §14, 24; 2003 Acts, ch 145, §286

97B.20B Hearing by administrative law judge.

If an appeal is filed and is not withdrawn, an administrative law judge in the department of inspections and appeals, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the decision of the system. The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The transcript shall then be made available for use by the employment appeal board and by the courts at subsequent judicial review proceedings under the Iowa administrative procedure Act, chapter 17A, if any. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons. The decision is final unless, within thirty days after the date of notification or mailing of the decision, review by the employment appeal board is initiated pursuant to section 97B.27.

92 Acts, ch 1201, §18; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286

97B.21 Reserved.

97B.22 Witnesses and evidence.

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this chapter, or relative to any other matter within its jurisdiction under this chapter, the system or administrative law judge may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the system. Attendance of witnesses and production of evidence at the designated place of the hearing, investigation, or other proceedings may be required from any political subdivision in the state. Subpoenas of the system shall be served by anyone authorized by it by delivering a copy of the subpoena to the individual named in it, or by certified mail addressed to the individual at the individual's last known dwelling place or principal place of business. A verified return by the individual serving the subpoena setting forth the manner of service, or in the case of service by certified mail, the return post office receipt signed by the individual served, shall be proof of service. Witnesses subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the state of Iowa. In the discharge of the duties imposed by this chapter, the system or an administrative law judge and any duly authorized representative or member of the system may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the administration of this chapter.

[C46, 50, §97.30, 97.32; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.22]

92 Acts, ch 1201, §19; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

Witness fees, §622.69 – 622.75

97B.23 Penalty for noncompliance.

In case of refusal to obey a subpoena duly served upon any person, any district court of the state of Iowa for the district in which the person charged with refusal to obey is found or resides or transacts business, upon application by the system, may issue an order requiring that person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey the order of the court may be punished by the court as contempt.

[C46, 50, §97.31, 97.32; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.23]

92 Acts, ch 1201, §20; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

Contempts, chapter 665

97B.24 Production of books and papers.

No person so subpoenaed or ordered shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence on the

ground that the testimony or evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which the person is compelled, after having claimed the person's privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

[C46, 50, §97.32; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.24]

Perjury, §720.2

97B.25 Applications for benefits.

A representative designated by the chief executive officer and referred to in this chapter as a retirement benefits officer shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid. If the claim is valid, the retirement benefits officer shall send a notification to the member stating the option the member has selected pursuant to section 97B.51, the month with respect to which benefits shall commence, and the monthly benefit amount payable. If the claim is invalid, the retirement benefits officer shall promptly notify the applicant and any other interested party of the decision and the reasons. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

[C46, 50, §97.33, 97.39, 97.41; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.25]

86 Acts, ch 1245, §255; 88 Acts, ch 1109, §13; 92 Acts, ch 1201, §21; 94 Acts, ch 1023, §8; 94 Acts, ch 1183, §15; 96 Acts, ch 1187, §9; 98 Acts, ch 1183, §16; 2000 Acts, ch 1077, §27; 2001 Acts, ch 68, §15, 24

97B.26 Repealed by 92 Acts, ch 1201, §77. See §97B.20B.

97B.27 Review of decision.

Anyone aggrieved by the decision of the administrative law judge may, at any time before the administrative law judge's decision becomes final, petition the department of inspections and appeals for review by the employment appeal board established in section 10A.601. The appeal board shall review the record made before the administrative law judge, but no additional evidence shall be heard. On the basis of the record the appeal board shall affirm, modify, or reverse the decision of the administrative law judge and shall determine the rights of the appellant. It shall promptly notify the appellant and any other interested party by written decision.

[C46, 50, §97.33; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.27]

86 Acts, ch 1245, §257; 88 Acts, ch 1109, §15

Referred to in §97B.20B

97B.28 System deemed party to action.

The system shall be deemed to be a party to any judicial action involving any such decision and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the system or who has been designated by the system for that purpose or, at the system's request, by the attorney general.

[C46, 50, §97.34; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.28]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

97B.29 Judicial review.

Judicial review of action of the system may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county in which the claimant was last employed or resides, provided that if the claimant does not reside in the state of Iowa the action shall be brought in the district court of Polk county, Iowa, against the system for the review of this decision, in which action any other parties to the proceeding before the system shall be named in the petition. The system

may also, in its discretion, certify to such courts, questions of law involving any decision by it. Such petitions for judicial review and the questions so certified shall be given precedence over all other civil cases except cases arising under the workers' compensation law and the employment security law of this state.

[C46, 50, §97.33; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.29]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286

Referred to in §97B.19

97B.30 and 97B.31 Reserved.

97B.32 Appeal to supreme court.

No bond shall be required for entering an appeal from any final order, judgment or decree of the district court in a proceeding for judicial review to the supreme court.

[C46, 50, §97.33; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.32]

97B.33 Payment to individuals.

Upon final decision of the system, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this chapter, the system shall make payment to the person, provided that where judicial review of the system's decision is or may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, payment may be withheld pending such review.

[C46, 50, §97.35; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.33]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §28, 48

97B.34 Payment to representatives.

When it appears to the system that the interest of an applicant entitled to a payment would be served, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled to the payment, either for direct payment to the applicant, or for the applicant's use and benefit to a representative of an applicant. The system may adopt rules under chapter 17A for making payments to a representative of an applicant if the system determines that it can sufficiently safeguard the member's rights under this chapter.

[C46, 50, §97.36; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.34]

92 Acts, ch 1201, §22; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

Referred to in §97B.35

97B.34A Payment to minors.

1. The system may make payments to a minor, as defined in section 599.1, as follows:

a. If the total sum to be paid to the minor is less than the greater of twenty-five thousand dollars or the maximum amount permitted under section 565B.7, subsection 3, the funds may be paid to an adult as custodian for the minor. The custodian must complete the proper forms as determined by the system.

b. If the total sum to be paid to the minor is equal to or more than the amount authorized in paragraph *"a"*, the funds must be paid to a court-established conservator. The system shall not make payment until the conservatorship has been established and the system has received the appropriate documentation.

c. Interest shall be paid on the funds, at a rate determined by the system, until disbursement of the funds.

2. If the system makes payments to a minor pursuant to this section, the system may make payments directly to the person when the person attains the age of eighteen or is declared to be emancipated by a court of competent jurisdiction.

92 Acts, ch 1201, §23; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §29, 48

97B.35 Finality of such payments.

Any payment made after June 30, 1953, under the conditions set forth in section 97B.34, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

[C46, 50, §97.37; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.35]

97B.36 Representatives of system.

The system is authorized to delegate to any member, officer, or employee of the system designated by it any of the powers conferred upon it by this chapter and is authorized to be represented by its own attorneys in any court in any case or proceeding arising under the provisions of said chapter.

[C46, 50, §97.38; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.36]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

97B.37 Recognition of agents.

The system may prescribe rules governing the recognition of agents or other persons representing claimants before the system, and may require of the agents or other persons, before being recognized as representatives of claimants, that they show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render the claimants valuable service, and otherwise competent to advise and assist the claimants in the presentation of their cases. Claimants may be represented by counsel at their own expense.

[C46, 50, §97.38; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.37]

88 Acts, ch 1242, §20; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

97B.38 Fees for services.

The system may, by rule, prescribe reasonable fees which may be charged for costs incurred, including staff time and materials, to perform its duties under this chapter.

[C46, 50, §97.42; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.38]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §16; 2008 Acts, ch 1171, §30, 48

97B.39 Rights not transferable or subject to legal process — exceptions.

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or for recovery of medical assistance payments pursuant to section 249A.53. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. §1673(b). The system shall comply with the provisions of a marital property order requiring the selection of a particular benefit option, designated beneficiary, or contingent annuitant if the selection is otherwise authorized by this chapter and the member has not received payment of the member's first retirement allowance. However, a marital property order shall not require the payment of benefits to an alternative payee prior to the member's retirement, prior to the date the member elects to receive a lump sum distribution of accumulated contributions pursuant to section 97B.53, or in an amount that exceeds the benefits the member would otherwise be eligible to receive pursuant to this chapter.

[C46, 50, §97.43; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.39]

89 Acts, ch 228, §2; 92 Acts, ch 1195, §501; 96 Acts, ch 1187, §10; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2012 Acts, ch 1133, §93

Referred to in §97B.51

97B.40 Fraud.

1. A person shall be guilty of a fraudulent practice if the person makes, or causes to be made, any false statement or representation for the purpose of causing an increase in any payment authorized to be made under this chapter, for the purpose of causing any payment to be made where no payment is authorized under this chapter, for the purpose of obtaining confidential information from the system, or for any other unlawful purpose related to this chapter.

2. If the system determines that a person may have engaged in a fraudulent practice as described under this section, the system may, in addition to any statutory or equitable remedies provided by law, refer the matter to the auditor of state and to the appropriate law enforcement authorities for possible investigation and prosecution.

3. For purposes of this section, "*any false statement or representation*" includes the following:

a. Any false statement or representation willfully made or caused to be made as to the amount of any wages paid or received for the period during which earned or unpaid, knowing it to be false.

b. Any false statement of a material fact made or caused to be made knowing it to be false in any application for any payment under this chapter.

c. Any false statement, representation, affidavit, or document willfully made, presented, or caused to be made in connection with an application for any payment under this chapter knowing it to be false.

d. Any unauthorized use of any security devices, such as personal identification codes, utilized for the purpose of accessing information from the system.

[C46, 50, §97.44; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.40]

98 Acts, ch 1183, §17; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §17

Fraudulent practice, see §714.8

97B.41 Reserved.

97B.42 Mandatory membership — membership in other systems.

1. Each employee whose employment commences after July 4, 1953, or who has not qualified for credit for prior service rendered prior to July 4, 1953, or any publicly elected official of the state or any of its political subdivisions shall become a member upon the first day in which such employee is employed. The employee shall continue to be an active member so long as the employee continues in covered employment. The employee shall cease to be an active member if the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments and receives retirement credit for service in that other system for the same position previously covered under this chapter. If an employee joins another publicly maintained retirement system and ceases to be an active member under this chapter, the employee may elect to leave the employee's accumulated contributions in the retirement fund or receive a refund of the employee's accumulated contributions in the manner provided for members who are terminating covered employment pursuant to section 97B.53. However, if an employee joins another publicly maintained retirement system and leaves the employee's accumulated contributions in the retirement fund, the employee shall not be eligible to receive retirement benefits until the employee has a bona fide retirement from employment with a covered employer as provided in section 97B.52A, or until the employee would otherwise be eligible to receive benefits upon attaining the age of seventy years as provided in section 97B.46.

2. Employment shall not be covered under this chapter until the employment is covered under the federal Social Security Act and any agreements which are required pursuant to chapter 97C are effective.

3. Nothing in this chapter shall be deemed to exclude from coverage, under the provisions of this chapter, any public employee who was not on or as of July 4, 1953, a member of another retirement system supported by public funds. All such employees and their employers shall be required to make contributions as specified as to other public employees

and employers. Nothing in this chapter shall be deemed to prohibit the reestablishment of a retirement system supported by public funds which had been in operation prior to July 4, 1953, and was subsequently liquidated.

4. Persons who are members of any other retirement system in the state which is maintained in whole or in part by public contributions other than persons who are covered under the provisions of chapter 97, Code 1950, as amended by the Fifty-fourth General Assembly on the date of the repeal of said chapter, under the provisions of sections 97.50 through 97.53 shall not become members under this chapter while still actively participating in that other retirement system unless the persons do not receive retirement credit for service in that other system for the position to be covered under this chapter.

5. Nothing herein contained shall be construed to permit any employer to make any public contributions or payments on behalf of an employee in the same position for the same period of time to both the Iowa public employees' retirement system and any other retirement system in the state which is supported in whole or in part by public contributions or payments.

6. Notwithstanding any other provision of this section, a person newly entering employment with a community college on or after July 1, 1990, may elect coverage under an eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1), in lieu of coverage under the Iowa public employees' retirement system, but only if the person is already a member of the alternative retirement benefits system. An election to participate in an eligible alternative retirement benefits system as described in section 260C.14, subsection 17, is irrevocable as to the person's employment with that community college and any other community college in this state.

7. Notwithstanding any other provision of this section, commencing July 1, 1994, a member who is employed by a community college may elect coverage under an eligible alternative retirement benefits system as provided in section 260C.14, subsection 17, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system. However, the employer's annual contribution in dollars to the eligible alternative retirement benefits system shall not exceed the annual contribution in dollars which the employer would contribute if the employee had elected to remain an active member under this chapter, as set forth in section 97B.11. A member employed by a community college who elects coverage under an eligible alternative retirement benefits system may withdraw the member's accumulated contributions effective when coverage under the eligible alternative retirement benefits system commences. A member who is employed by a community college prior to July 1, 1994, must file an election for coverage under the eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1), with the system and the employing community college within eighteen months of the first day on which coverage commences under the community college's eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1), or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in that community college's eligible alternative retirement benefits system described in section 260C.14, subsection 17, paragraph *"a"*, subparagraph (1) at a later date. Employees of a community college hired on or after July 1, 1994, must file an election for coverage under an eligible alternative retirement benefits system with the system and the employing community college within sixty days of commencing employment, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in an eligible alternative retirement benefits system of the community college at a later date. The system shall cooperate with the boards of directors of the community colleges to facilitate the implementation of this provision.

8. Except as otherwise provided in this section, an employer shall not sponsor and a member shall not participate in another retirement system in this state supported in whole or in part by public contributions or payments where such retirement system is in lieu of the retirement system established by this chapter. However, in addition to the retirement system established by this chapter, an employer may sponsor and a member may participate in a supplemental defined contribution plan qualified under Internal Revenue Code §401(a), a tax-deferred annuity qualified under Internal Revenue Code §403(b), or an eligible deferred compensation plan qualified under Internal Revenue Code §457, regardless of whether

contributions to such supplemental plans are characterized as employer contributions or employee contributions, and subject to the applicable limits set forth in the Internal Revenue Code for such plans. A defined benefit plan that supplements the retirement system established by this chapter shall not be offered by public employers covered under this chapter.

[C46, 50, §97.2, 97.6, 97.45; C54, 58, 62, 66, §97B.42, 97B.63; C71, 73, 75, 77, 79, 81, §97B.42]

90 Acts, ch 1240, §24; 92 Acts, ch 1201, §36, 37; 94 Acts, ch 1183, §23, 24; 96 Acts, ch 1187, §23 – 26; 97 Acts, ch 14, §1, 3; 98 Acts, ch 1077, §1; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §18; 2010 Acts, ch 1061, §16

Referred to in §97B.1A, 97B.52A, 260C.14

97B.42A Optional exclusion from membership.

1. Commencing January 1, 1999, a person who is newly hired in a position as an employee, as defined in section 97B.1A, subsection 8, paragraph *"a"*, shall be covered under this chapter unless the person files an application with appropriate documentation to the system within sixty days of employment in the position to affirmatively elect out of coverage. A decision to elect out of coverage under this chapter is irrevocable upon approval from the system.

2. If a person elects out of coverage pursuant to this section, the period of time from the date on which the person was newly hired until the date the person's election out of coverage is effective shall not constitute service for purposes of coverage under this chapter. In addition, a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10.

3. A person who is employed in a position as an employee as defined in section 97B.1A, subsection 8, paragraph *"a"*, on January 1, 1999, and who has not elected coverage under this chapter prior to that date and is not an active member of another retirement system in the state which is maintained in whole or in part by public contributions or payments, shall begin coverage under the retirement system on January 1, 1999, unless the person files an application with appropriate documentation with the system to elect out of coverage on or before January 1, 2000. If a person elects out of coverage, the period of time from January 1, 1999, until the date the person's election out of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect out of coverage under this chapter pursuant to this section is irrevocable upon approval from the system.

4. A person who becomes a member of the retirement system pursuant to subsection 3, or who is a member of the retirement system, and who has one or more years of covered wages, may purchase credit, pursuant to section 97B.73, Code 2003, for one or more quarters of service prior to January 1, 1999, in which the person was employed in a position as described in section 97B.1A, subsection 8, paragraph *"a"*, but was not a member of the retirement system.

5. *a.* A person who is employed in a position as an employee as defined in section 97B.1A, subsection 8, paragraph *"a"*, subparagraph (11), on July 1, 2000, and who has not elected out of coverage under this chapter prior to that date, shall begin coverage under the retirement system on July 1, 2000, unless, on or before August 31, 2000, the person files an application with appropriate documentation to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412. If a person elects coverage under the alternative pension and annuity retirement system, the period of time from July 1, 2000, until the date the person's election of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect coverage under an alternative pension and annuity retirement system established pursuant to chapter 412 under this subsection is irrevocable upon approval from the system.

b. A person who becomes a member of the Iowa public employees' retirement system pursuant to this subsection, and who has one or more years of covered wages, may purchase

credit, pursuant to section 97B.73, Code 2003, for one or more quarters of service prior to August 1, 2000, in which the person was employed in a position as described by section 97B.1A, subsection 8, paragraph *"a"*, subparagraph (11), but was not a member of the retirement system.

94 Acts, ch 1183, §25; 98 Acts, ch 1183, §25; 2000 Acts, ch 1077, §28, 29; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §19, 20; 2008 Acts, ch 1032, §201

Referred to in §97B.1A, 97B.10, 602.1611

97B.42B Transfer to chapter 97A — options for certain public safety employees.

1. Commencing July 1, 1994, a person who is newly hired in the following positions in the department of public safety shall be a member of the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A:

a. Gaming enforcement officers employed by the division of criminal investigation for excursion boat and gambling structure gambling enforcement activities.

b. Fire prevention inspector peace officers.

2. Commencing July 1, 1994, notwithstanding any other provision of law to the contrary, a member who is employed in a position specified in subsection 1 prior to July 1, 1994, may elect coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A, in lieu of continuing contributions to the Iowa public employees' retirement system, or may remain a member of the Iowa public employees' retirement system. A member who is employed in a position specified in subsection 1 prior to July 1, 1994, must file an election for coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system with the board of trustees established in section 97A.5 on or before July 1, 1995, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in the system established pursuant to chapter 97A at a later date pursuant to this section. The board of trustees established in section 97A.5 shall notify the system of elections received pursuant to this section, and the board of trustees and the system shall cooperate to facilitate the implementation of this section. Coverage under chapter 97A shall commence, and coverage as an active member under this chapter shall cease, when the election has been approved by the board of trustees established in section 97A.5.

3. If an employee elects coverage under chapter 97A as provided in subsection 2 and the election is approved by the board of trustees established in section 97A.5, membership in the Iowa public employees' retirement system shall cease, and the employee shall be transferred to membership in the Iowa department of public safety peace officers' retirement, accident, and disability system. The system shall transfer the accumulated contributions of these employees to the treasurer of state for deposit in the pension accumulation fund established in section 97A.8. However, employer contributions which were made with respect to the employees while the employees were members of the Iowa public employees' retirement system shall remain in the fund established in section 97B.7, and any costs pertaining to the payment of employer contributions to the system established in chapter 97A with respect to the period of time during which the employees were members of the Iowa public employees' retirement system, or any other costs related to the transfer, shall be borne by the system established in chapter 97A, notwithstanding any other provision of law to the contrary.

4. Notwithstanding any other provision of law to the contrary, if the board of trustees established in section 97A.5 approves an election pursuant to subsection 2, the employees transferred from coverage under this chapter to coverage under the system established in chapter 97A shall receive credit for years of service under chapter 97A for those years of service during which the employees were members of the Iowa public employees' retirement system and employed in positions specified in subsection 1. In addition, notwithstanding the limitation on covered wages provided in section 97B.1A, subsection 26, compensation which was paid to an employee in a position specified in subsection 1 while the employee was a member pursuant to this chapter shall be included in determining the average final compensation of the employee pursuant to chapter 97A, if applicable. Employees whose membership is transferred pursuant to this section and the employer, the department of public safety, shall not be required to pay the difference in the employee and employer contributions

in effect for the period of time in which the employees were members pursuant to this chapter, as compared to the employee and employer contributions then in effect for members of the system established in chapter 97A.

5. It is the intent of the general assembly that in administering the provisions of this section, the board of trustees established in section 97A.5 and the system shall interpret this section in a manner which provides that the employees whose membership is transferred shall not lose benefits which would have otherwise accrued had the employees been members of the system established in chapter 97A during the period of time in which the employees were actually members of the Iowa public employees' retirement system.

94 Acts, ch 1183, §26; 98 Acts, ch 1183, §82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2005 Acts, ch 35, §24; 2007 Acts, ch 188, §2

Referred to in §97A.3, 97B.49B

97B.42C Retirement system merger.

A municipal utility that has established a pension and annuity retirement system for its employees pursuant to chapter 412, or a school district that has established a pension and annuity retirement system for its employees pursuant to chapter 294, may adopt a resolution to authorize the merger of its pension and annuity retirement system with and into the Iowa public employees' retirement system. The system is authorized, but is not required, to accept such a proposal. The governing body of the municipal utility or school district and the Iowa public employees' retirement system shall, acting in their fiduciary capacities, mutually determine the terms and conditions of such a merger, including any additional funds necessary to fund the service credits being transferred to the Iowa public employees' retirement system, and either party may decline the merger if they cannot agree on such terms and conditions. The system shall adopt such rules as it deems necessary and prudent to effectuate mergers as provided by this section.

2002 Acts, ch 1135, §15; 2003 Acts, ch 44, §31; 2003 Acts, ch 145, §286; 2017 Acts, ch 141, §1; 2018 Acts, ch 1100, §3

97B.43 Prior service credit.

1. Each member in service on July 4, 1953, who made contributions under the abolished system, and who has not applied for and qualified for benefit payments under the abolished system, shall receive credit for years of prior service in the determination of retirement allowance payments under this chapter, if the member elects to become a member on or before October 1, 1953, the member has not made application for a refund of the part of the member's contributions under the abolished system which are payable under sections 97.50 through 97.53, and the member gives written authorization prior to October 1, 1953, to the commission to credit to the retirement fund the amount of the member's contribution which would be subject to a claim for refund. The amount so credited shall, after transfer, be considered as a contribution to the retirement system made as of July 4, 1953, by the member and shall be included in the determination of the amount of moneys payable under this chapter. However, an employee who was under a contract of employment as a teacher in the public schools of the state of Iowa at the end of the school year 1952-1953, or any person covered by section 97B.1A, subsection 20, paragraph *"c"* or *"d"*, shall be considered as in service as of July 4, 1953, if they were members of the abolished system.

2. Any person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, and who is not eligible for prior service credit under other provisions of this section, is entitled to a credit for years of prior service in the determination of the retirement allowance payment under this chapter, provided the public employee makes application to the system for credit for prior public service, accompanied by verification of the person's claim as the system may require. The person's allowance for prior service credits shall be computed in the same manner as otherwise provided in this section, but shall not exceed the sum of four hundred fifty dollars nor be less than three hundred dollars per annum. Any such person is entitled to receive retirement allowances computed as provided by this chapter, effective from the date of application to the system, provided such application is approved. However, beginning July 1, 1975, the amount of such person's retirement allowance payment received

during June 1975, as computed under this section shall be increased by two hundred percent and the allowance for prior service credits shall not exceed one thousand three hundred fifty dollars nor be less than nine hundred dollars per annum. Effective July 1, 1987, there is appropriated for each fiscal year from the Iowa public employees' retirement fund created in section 97B.7 to the system an amount sufficient to fund the retirement allowance increases paid under this subsection. Effective July 1, 1980, a person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, receiving retirement allowances under this chapter shall receive the monthly increase in benefits provided in section 97B.49G, subsection 3, paragraph "*a*".

3. Each individual who on or after July 1, 1978, was an active, vested, or retired member and who (1) made application for and received a refund of contributions made under the abolished system or (2) has on deposit with the retirement fund contributions made under the abolished system shall be entitled to credit for years of prior service in the determination of retirement allowance payments by filing a written election with the system on or after July 1, 1978, and by redepositing any withdrawn contributions under the abolished system together with interest as stated in this subsection. Any individual who on or after July 1, 1978, is a retired member and who made application for and received a refund of contributions made under the abolished system may, by filing a written election with the system on or after July 1, 1978, have the system retain fifty percent of the monthly increase in retiree benefits that will accrue to the individual because of prior service. If the monthly increase in retirement benefits is less than ten dollars, the system shall retain five dollars of the scheduled increase, and if the monthly increase is less than five dollars, the provisions of this subsection shall not apply. The system shall continue to retain such funds until the withdrawn contributions, together with interest accrued to the month in which the written election is filed, have been repaid. Due notice of this provision shall be sent to all retired members on or after July 1, 1978. However, this subsection shall not apply to any person who received a refund of any membership service contributions unless the person repaid the membership service contributions pursuant to section 97B.80C; but a refund of contributions remitted for the calendar quarter ending September 30, 1953, which was based entirely upon employment which terminated prior to July 4, 1953, shall not be considered as a refund of membership service contributions. The interest to be paid into the fund shall be compounded at the rates credited to member accounts from the date of payment of the refund of contributions under the abolished system to the date the member redeposits the refunded amount. The provisions of subsection 1 relating to the consideration given to credited amounts shall apply to the redeposited amounts or to amounts left on deposit. Effective July 1, 1978, the provisions of this subsection shall apply to each individual who on or after July 1, 1978, was an active, vested, or retired member, but who was not in service on July 4, 1953. The period for filing the written election with the system and redepositing any withdrawn contributions together with interest accrued shall commence July 1, 1978. A member who is a retired member on or after July 1, 1978, may file written election with the system on or after July 1, 1978, to have the system retain fifty percent of the monthly increase as provided in this subsection.

4. Effective July 1, 2004, a member eligible for an increased retirement allowance because of the repayment of contributions under this section is entitled to receipt of adjustment payments beginning with the month in which payment was received by the system.

[C46, 50, §97.13, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.43]

88 Acts, ch 1123, §1; 88 Acts, ch 1242, §31; 90 Acts, ch 1240, §25; 92 Acts, ch 1201, §38; 98 Acts, ch 1183, §26, 82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §175, 286; 2004 Acts, ch 1103, §21, 22; 2016 Acts, ch 1011, §32; 2021 Acts, ch 80, §53

Referred to in §97B.49A, 97B.68
Subsection 1 amended

97B.44 Beneficiary.

1. Each member shall designate on a form to be furnished by the system a beneficiary for death benefits payable under this chapter on the death of the member. The designation may be changed from time to time by the member by filing a new designation with the system.

2. A designation or change in designation made by a member on or after July 1, 2000, shall contain the written consent of the member's spouse, if applicable. However, the system may accept a married member's designation or change in designation under this section without the written consent of the member's spouse if the member submits a notarized statement indicating that the member has been unable to locate the member's spouse to obtain the written consent of the spouse after reasonable diligent efforts. The member's designation or change in designation shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, or to any other person affected by the member's designation or change of designation, based upon a designation or change of designation accomplished without the written consent of the member's spouse.

3. The designation of a beneficiary is not applicable if the member receives a refund of all contributions of the member. If a member who has received a refund of contributions returns to employment, the member shall file a new designation with the system.

4. If a member has not designated a beneficiary on a form furnished by the system, or if there are no surviving designated beneficiaries of a member, death benefits payable under this chapter shall be paid to the member's estate.

[C46, 50, §97.14 – 97.18; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.44]

92 Acts, ch 1201, §39; 2000 Acts, ch 1077, §30; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §16; 2003 Acts, ch 145, §286; 2017 Acts, ch 54, §26

97B.45 Normal retirement date.

A member's normal retirement date is any of the following, whichever is applicable to the member:

1. The first of the month in which a member attains the age of sixty-five years if the member has not completed twenty years of membership service.

2. The first of the month in which the member attains the age of sixty-two years if the member has completed twenty years of membership service.

3. The first of any month in which the member has completed twenty years of membership service if the member has attained the age of sixty-two years but is not yet sixty-five years of age.

4. The first of any month in which the member is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds eighty-eight.

[C46, 50, §97.13, 97.39; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.45]

86 Acts, ch 1243, §9; 88 Acts, ch 1242, §32; 94 Acts, ch 1183, §27; 98 Acts, ch 1183, §27, 77; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §17; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §23

Referred to in §97B.18

97B.46 Service after age sixty-five.

1. A member who is not an active member of any other retirement system in the state which is maintained in whole or in part by public contributions may remain in service beyond the date the member attains the age of sixty-five. The employer shall not consider age as a factor in determining the continuation of the member's service.

2. A member remaining in service after attaining the age of seventy years is entitled to receive a retirement allowance under sections 97B.49A through 97B.49H, as applicable, without terminating employment.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.46]

87 Acts, ch 19, §5; 88 Acts, ch 1242, §33, 34; 94 Acts, ch 1183, §28; 98 Acts, ch 1183, §28, 29; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §24

Referred to in §97B.42, 602.1610

97B.47 Early retirement date.

A member's early retirement date shall be the first of the month in which a member attains the age of fifty-five years or the first of any month after attaining the age of fifty-five years

prior to the member's normal retirement date, provided such date shall be after the last day of service.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.47]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §25

Referred to in §97B.53

97B.48 Payment of allowances.

1. Retirement allowances shall be paid monthly, except that, if an allowance of less than six hundred dollars a year is payable pursuant to section 97B.51, subsection 1, paragraph *"b"*, the member's retirement benefit shall be paid as a lump sum in an amount equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966. Receipt of the lump sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter and the member shall not be eligible to buy back the period of service.

2. The first monthly payment of a retirement allowance shall be paid as of the member's first month of entitlement. The payments shall be continued thereafter for the lifetime of the retired member except as provided in section 97B.48A.

3. On or before the first of the month in which a member attains the age of seventy years, the system shall provide written notification to each member for whom the system has an address that the member may commence receiving a retirement allowance regardless of the member's employment status. Prior to receiving a retirement allowance pursuant to this subsection, a member shall acknowledge in writing that the member was informed by the system of the consequences of electing to receive a retirement allowance pursuant to this subsection and that receipt of a retirement allowance under this subsection is optional. Upon termination from employment of a member receiving a retirement allowance pursuant to this subsection, the member is entitled to have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's first month of entitlement.

4. Payment of a member's retirement allowance pursuant to sections 97B.49A through 97B.49H shall commence no later than the required beginning date specified under section 401(a)(9) of the federal Internal Revenue Code regardless of whether the member has submitted the appropriate notice to receive an allowance. If the lump sum actuarial equivalent under subsection 1 could have been selected by the member, payments shall be made in a lump sum rather than as a monthly allowance.

5. Effective on such date as the system determines by rule, but in no event later than July 1, 2006, if the system determines that the lump sum amount payable to a living member who has had a break in service or to a beneficiary of a deceased member is less than the current maximum amount prescribed by the internal revenue service that may be distributed without triggering automatic rollover rights, the lump sum amount payable under this chapter shall be paid to the living member or beneficiary in full satisfaction of all rights of the member or beneficiary to receive any payments under the system. For purposes of this section, a *"break in service"* means twenty consecutive calendar quarters in which no wages are reported to the system. The lump sum payment shall be made within one hundred eighty days after the calendar quarter in which the member completes a break in service or dies, whichever is applicable. A member or beneficiary who receives a mandatory distribution under this subsection shall have sixty days to return the distribution to the system and restore the member's or beneficiary's account.

6. Effective July 1, 2005, monthly retirement allowance payments shall be directly deposited without charge to a retired member's account via electronic funds transfer. A retired member may elect to receive monthly allowance payments as paper warrants in lieu of electronic funds transfers, but the system shall charge an administrative fee for processing such paper warrants. However, the system may, for good cause shown, waive

the administrative fee. The fee may be automatically deducted from the monthly retirement allowance before the warrant is issued to the retired member.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.48; 82 Acts, ch 1261, §18]

88 Acts, ch 1242, §35; 90 Acts, ch 1240, §26, 27; 92 Acts, ch 1201, §40, 41; 94 Acts, ch 1183, §29; 96 Acts, ch 1187, §27; 98 Acts, ch 1183, §30, 31; 2000 Acts, ch 1077, §31, 32; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §18; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §26 – 28; 2006 Acts, ch 1092, §4, 8

Referred to in §97B.48A, 97B.52, 97B.52A

97B.48A Reemployment.

1. *a.* If a member who has not reached the member's sixty-fifth birthday and who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, employment is not full-time employment until the member receives remuneration in an amount in excess of thirty thousand dollars for a calendar year, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal social security retirement benefits is required, whichever is higher. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance without a reduction after return to covered employment regardless of the amount of remuneration received.

b. If a member dies and the full amount of the reduction from retirement allowances required under this subsection has not been paid, the remaining amounts shall be deducted from the payments made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which remaining payments are not required or the remaining payments are insufficient to satisfy the full amount of the reduction from retirement allowances required under this subsection, the amount still unpaid shall be a claim against the member's estate.

c. For purposes of this subsection and not for purposes of determining a retiree's covered wages, remuneration paid on and after July 1, 2007, includes noncovered contributions to a defined contribution plan qualified under Internal Revenue Code section 401(a), a tax-deferred annuity qualified under Internal Revenue Code section 403(b), an eligible deferred compensation plan qualified under Internal Revenue Code section 457, or any other tax qualified or nonqualified investment vehicle, that is provided by an employer to a retiree who has been or will be reemployed in covered employment.

2. Effective January 1, 1991, a retired member of any age may receive a retirement allowance after return to covered employment, regardless of the amount of remuneration received, if the covered employment consists of holding an elective office.

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.48, section 97B.50, or section 97B.51, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of

service. Effective July 1, 1998, a redetermination of a retirement allowance as authorized by this subsection for a retired member whose combined service exceeds the applicable years of service for that member as provided in sections 97B.49A through 97B.49G shall have the determination of the member's reemployment benefit based upon the percentage multiplier as determined for that member as provided in sections 97B.49A through 97B.49G.

4. The system shall pay to the member the accumulated contributions of the member and all of the employer contributions, plus interest plus interest dividends as provided in section 97B.70, for all completed calendar years, compounded as provided in section 97B.70, on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member. A payment of contributions to a member pursuant to this subsection shall be considered a retirement payment and not a refund and the member shall not be eligible to buy back the period of reemployment service.

5. If a retired reemployed member incurs a break in service, as defined in this subsection, and the member has failed to request an increase in the member's monthly allowance or a distribution of the member's and employer's accumulated contributions prior to the break in service, and if the amount of the increase in the member's monthly retirement allowance would be less than six hundred dollars per year, the system shall distribute the lump sum amount payable under subsection 4. For purposes of this subsection, a *"break in service"* means four consecutive calendar quarters in which no wages are reported to the system. The lump sum payment shall be made within one hundred eighty days after the calendar quarter in which the member has a break in service. A member who receives a mandatory distribution under this subsection shall have sixty days to return the distribution to the system and request an increase in the member's monthly allowance.

92 Acts, ch 1201, §42; 96 Acts, ch 1187, §28, 29; 98 Acts, ch 1183, §32 – 34; 2000 Acts, ch 1077, §33 – 35; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §19; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §29; 2006 Acts, ch 1091, §5; 2008 Acts, ch 1032, §201

Referred to in §97B.1A, 97B.48, 97B.50A, 97B.52A

97B.49 Dormant accounts.

1. In the event that all, or any portion, of a retirement allowance, death benefit, or other distribution payable to a member or a member's designated beneficiary, heirs at law, or estate, remains unpaid solely by reason of the inability of the system to locate the appropriate payee, the amount payable shall not be forfeited but shall be treated as a dormant account after the time for making a claim has run.

2. A dormant account shall revert to the retirement fund created in section 97B.7. A dormant account shall be non-interest-bearing, and except for keeping a record of such account, the system shall not maintain the account. A member who has a dormant account and returns to covered employment shall have their dormant account reactivated as of the quarter they return to covered employment. If the appropriate payee contacts the system after the amount payable is treated as a dormant account, the appropriate payee may claim such amounts by filing a withdrawal application provided by the system. The system shall have rulemaking authority to adopt rules necessary to implement this section in a just and equitable manner.

3. The system shall ensure that the payment of a dormant account as provided in this section meets the requirements of section 401(a)(9) of the federal Internal Revenue Code.

2004 Acts, ch 1103, §30

97B.49A Monthly payments of allowance — general calculation.

1. *Definitions.* For the purposes of this section:

a. "Applicable percentage" means sixty percent or, for each active or inactive vested member retiring on or after July 1, 1996, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of membership and prior service beyond thirty years of service, not to exceed a total of five additional percentage points.

b. "Fraction of years of service" means a number, not to exceed one, equal to the sum of

the years of membership service and the number of years of prior service divided by thirty years.

2. *Entitlement to monthly allowance.* Each member, upon retirement on or after the member's normal retirement date, is entitled to receive a monthly retirement allowance determined under this section. For an inactive vested member the monthly retirement allowance shall be determined on the basis of this section and section 97B.50 as they are in effect on the date of the member's retirement.

3. *Calculation of monthly allowance.* For each active or inactive vested member retiring on or after July 1, 1994, who is vested by service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to the applicable percentage of the final average covered wage multiplied by a fraction of years of service. However, if benefits under this section commence on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50.

4. *Alternative calculations.*

a. For each active member employed before January 1, 1976, and retiring on or after January 1, 1976, and for each member who was a vested member before January 1, 1976, with four or more complete years of service, a formula benefit shall be determined equal to the larger of the benefit determined under this paragraph and paragraph *"b"* of this subsection, as applicable, the benefit determined under subsection 3, or the benefit determined under section 97B.49G, subsection 1. The amount of the monthly formula benefit for each such active or vested member who retired on or after January 1, 1976, shall be equal to one-twelfth of one and fifty-seven hundredths percent per year of membership service multiplied by the member's average annual covered wages. In no case shall the amount of monthly formula benefit accrued for membership service prior to July 1, 1967, be less than the monthly annuity at the normal retirement date determined by applying the sum of the member's accumulated contributions, the member's employer's accumulated contributions on or before June 30, 1967, and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the system with due regard to the benefits payable from such accumulated contributions under sections 97B.52 and 97B.53.

b. For each member employed before January 1, 1976, who has qualified for prior service credit in accordance with section 97B.43, subsection 1, a formula benefit shall be determined equal to the larger of the benefit determined under this paragraph and paragraph *"a"* of this subsection, as applicable, the benefit determined under subsection 3, or the benefit determined under section 97B.49G, subsection 1. The amount of the monthly formula benefit under this paragraph shall be equal to eight-tenths of one percent per year of prior service credit multiplied by the monthly rate of the member's total remuneration not in excess of three thousand dollars annually during the twelve consecutive months of the member's prior service for which that total remuneration was the highest. An additional three-tenths of one percent of the remuneration not in excess of three thousand dollars annually shall be payable for prior service during each year in which the accrued liability for benefit payments created by the abolished system is funded by appropriation from the Iowa public employees' retirement fund.

c. For each active and vested member retiring who cannot have a benefit determined under the formula benefit of paragraph *"a"* or *"b"* of this subsection, subsection 3, or section 97B.49G, subsection 1, a monthly annuity for membership service shall be determined by applying the member's accumulated contributions and the employer's matching accumulated contributions as of the effective retirement date and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the system according to the member's age and contingent annuitant's age, if applicable.

98 Acts, ch 1183, §35; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2010 Acts, ch 1167, §26, 27; 2011 Acts, ch 34, §24; 2016 Acts, ch 1011, §120

Referred to in §97B.46, 97B.48, 97B.48A, 97B.49B, 97B.49C, 97B.49D, 97B.49G, 97B.50, 97B.50A, 97B.51, 97B.53, 602.11115, 602.11116

97B.49B Protection occupation.

1. *Definitions.* For purposes of this section:

a. "Applicable percentage" means the greater of the following percentages:

(1) Sixty percent.

(2) For each active or inactive vested member retiring on or after July 1, 1996, but before July 1, 2000, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-five years of service for the member, not to exceed a total of five additional percentage points.

(3) For each active or inactive vested member retiring on or after July 1, 2000, but before July 1, 2001, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-four years of service for the member, not to exceed a total of six additional percentage points.

(4) For each active or inactive vested member retiring on or after July 1, 2001, but before July 1, 2002, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-three years of service for the member, not to exceed a total of seven additional percentage points.

(5) For each active or inactive vested member retiring on or after July 1, 2002, but before July 1, 2003, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of eight additional percentage points.

(6) For each active or inactive vested member retiring on or after July 1, 2003, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service for the member, not to exceed a total of twelve additional percentage points.

b. "Applicable years of service" means the following:

(1) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 2000, twenty-five.

(2) For each active or inactive vested member retiring on or after July 1, 2000, and before July 1, 2001, twenty-four.

(3) For each active or inactive vested member retiring on or after July 1, 2001, and before July 1, 2002, twenty-three.

(4) For each active or inactive vested member retiring on or after July 1, 2002, twenty-two.

c. "Eligible service" means membership and prior service in a protection occupation. In addition, for a member with membership and prior service in a protection occupation described in paragraph *"e"*, subparagraph (2), eligible service includes membership and prior service as a sheriff or deputy sheriff as defined in section 97B.49C.

d. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of eligible service in a protection occupation divided by the applicable years of service for the member.

e. "Protection occupation" includes all of the following:

(1) A conservation peace officer employed under section 456A.13 or as designated by a county conservation board pursuant to section 350.5.

(2) A marshal in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411.

(3) A correctional officer or correctional supervisor employed by the Iowa department of corrections, and any other employee of that department whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. The Iowa department of corrections and the department of administrative services shall jointly determine which job classifications are covered under this subparagraph.

(4) An airport safety officer employed under chapter 400 by an airport commission in a city of one hundred thousand population or more.

(5) An employee of the state department of transportation who is designated as a *"peace officer"* by resolution under section 321.477, but only if the employee retires on or after July 1, 1990. For purposes of this subparagraph, service as a traffic weight officer employed by the highway commission prior to the creation of the state department of transportation or as a peace officer employed by the Iowa state commerce commission prior to the creation of the state department of transportation shall be included in computing the employee's years of membership service.

(6) A fire prevention inspector peace officer employed by the department of public safety prior to July 1, 1994, who does not elect coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system, as provided in section 97B.42B.

(7) An employee covered by the merit system as provided in chapter 8A, subchapter IV, whose primary duty is providing airport security and who carries or is licensed to carry a firearm while performing those duties.

(8) An airport fire fighter employed by the department of public defense.

(9) A jailer or detention officer who performs duties as a jailer, including but not limited to the transportation of inmates, who is certified as having completed jailer training pursuant to chapter 80B, and who is employed by a county as a jailer.

(10) An employee covered by the merit system as provided in chapter 8A, subchapter IV, whose primary duty is providing security at Iowa national guard installations and facilities and who carries or is licensed to carry a firearm while performing those duties.

(11) An emergency medical care provider who provides emergency medical services, as defined in section 147A.1, and who is not a member of the retirement systems established in chapter 410 or 411.

(12) An investigator employed by a county attorney's office who is a certified law enforcement officer and who is deputized as an investigator for the county attorney's office by the sheriff of the applicable county.

(13) An employee of the insurance division of the department of commerce who as a condition of employment is required to be certified by the Iowa law enforcement academy and who is required to perform the duties of a peace officer as provided in section 507E.8.

(14) An employee of a judicial district department of correctional services whose condition of employment requires the employee to be certified by the Iowa law enforcement academy and who is required to perform the duties of a parole officer as provided in section 906.2.

(15) A peace officer employed by an institution under the control of the state board of regents whose position requires law enforcement certification pursuant to section 262.13.

(16) A person employed by the department of human services as a psychiatric security specialist at a civil commitment unit for sexually violent offenders facility.

2. *Calculation of monthly allowance.* Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1994, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in a protection occupation multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

3. *Additional contributions.*

a. For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, there is appropriated from the state fish and game protection fund to the system the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph *"e"*, subparagraph (1).

b. Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each applicable city shall pay to the system the amount necessary to pay the employer share of the cost of the additional benefits provided to employees of that city covered under subsection 1, paragraph *"e"*, subparagraphs (2) and (4).

c. For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, the department of corrections shall pay to the system from funds appropriated to the Iowa department of corrections, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph *"e"*, subparagraph (3).

d. For the fiscal year commencing July 1, 1990, and each succeeding fiscal year, the state department of transportation shall pay to the system, from funds appropriated to the state department of transportation from the road use tax fund and the primary road fund, the

amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph *"e"*, subparagraph (5).

e. For the fiscal year commencing July 1, 1992, and each succeeding fiscal year, the department of public safety shall pay to the system from funds appropriated to the department of public safety, the amount necessary to pay the employer share of the cost of the additional benefits provided to a fire prevention inspector peace officer pursuant to subsection 1, paragraph *"e"*, subparagraph (6).

f. For the fiscal year commencing July 1, 1994, and each succeeding fiscal year through the fiscal year ending June 30, 1998, each judicial district department of correctional services shall pay to the system from funds appropriated to that judicial district department of correctional services, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees of a judicial district department of correctional services who are employed as a probation officer III or a parole officer III.

g. For the fiscal year commencing July 1, 2004, and each succeeding fiscal year, there is appropriated from the general fund of the state to the system, from funds not otherwise appropriated, an amount necessary to pay the employer share of the cost of the additional benefits provided to airport fire fighters under this section.

4. Notwithstanding any provision of this chapter to the contrary, the three-year average covered wage for a member retiring under this section whose years of eligible service equals or exceeds twenty-two years of eligible service for that member shall be determined by calculating the member's eligible combined wage for each year of eligible service. For purposes of this subsection, *"eligible combined wage"* means the wages earned by the member for each quarter year period from eligible service and from covered employment that is not eligible service if at least seventy-five percent of the wages earned was from eligible service.

98 Acts, ch 1183, §36; 98 Acts, ch 1223, §19; 2000 Acts, ch 1077, §36 – 39; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §20, 21; 2003 Acts, ch 145, §176, 177, 286; 2004 Acts, ch 1103, §31 – 33; 2008 Acts, ch 1171, §31, 32, 48, 49; 2013 Acts, ch 29, §43; 2014 Acts, ch 1007, §1; 2014 Acts, ch 1138, §20; 2016 Acts, ch 1056, §1

Referred to in §97A.6, 97B.1A, 97B.11, 97B.46, 97B.48, 97B.48A, 97B.49C, 97B.49D, 97B.50, 97B.50A, 97B.51, 97B.52, 97B.53, 97B.80, 261.87, 321.178, 411.6, 602.11115, 602.11116, 724.6

97B.49C Sheriffs and deputy sheriffs.

1. *Definitions.* For purposes of this section:

a. "Applicable percentage" means the greater of the following percentages:

(1) Sixty percent.

(2) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 1998, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service, not to exceed a total of five additional percentage points.

(3) For each active or inactive vested member retiring on or after July 1, 1998, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service, not to exceed a total of twelve additional percentage points.

b. "Deputy sheriff" means a deputy sheriff appointed pursuant to section 341.1 prior to July 1, 1981, or section 331.903 on or after July 1, 1981.

c. "Eligible service" means membership and prior service as a sheriff or deputy sheriff under this section. In addition, eligible service includes membership and prior service as a member in a protection occupation as defined in section 97B.49B.

d. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of eligible service under this section divided by twenty-two years.

e. "Sheriff" means a county sheriff as described in section 331.651.

2. *Calculation of monthly allowance.*

a. Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff, deputy sheriff, or airport fire fighter on or after July 1, 1994, and before July 1, 2004, and at the time of retirement is at least fifty-five years of age may elect

to receive, in lieu of the receipt of any benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in eligible service multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

b. Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff or deputy sheriff on or after July 1, 2004, and at the time of retirement is either at least fifty-five years of age or is at least the applicable early retirement age with at least twenty-two years of eligible service may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in eligible service multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

c. For purposes of this subsection, *"applicable early retirement age"* means the following:

(1) For each active or inactive vested member retiring on or after July 1, 2004, and before July 1, 2005, fifty-four years of age.

(2) For each active or inactive vested member retiring on or after July 1, 2005, and before July 1, 2006, fifty-three years of age.

(3) For each active or inactive vested member retiring on or after July 1, 2006, and before July 1, 2007, fifty-two years of age.

(4) For each active or inactive vested member retiring on or after July 1, 2007, and before July 1, 2008, fifty-one years of age.

(5) For each active or inactive vested member retiring on or after July 1, 2008, fifty years of age.

3. *Additional contributions.* Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each county shall pay to the system the amount necessary to pay the employer share of the cost of the benefits provided to sheriffs and deputy sheriffs.

4. Notwithstanding any provision of this chapter to the contrary, the three-year average covered wage for a member retiring under this section whose years of eligible service equals or exceeds twenty-two years of eligible service for that member shall be determined by calculating the member's eligible combined wage for each quarter year of eligible service. For purposes of this subsection, *"eligible combined wage"* means the wages earned by the member for each quarter year period from eligible service and from covered employment that is not eligible service if at least seventy-five percent of the wages earned was from eligible service.

98 Acts, ch 1183, §37; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §22; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §34 – 38; 2005 Acts, ch 19, §29; 2006 Acts, ch 1091, §6; 2006 Acts, ch 1092, §5; 2008 Acts, ch 1171, §33, 48, 49; 2016 Acts, ch 1073, §22

Referred to in §97A.6, 97B.1A, 97B.11, 97B.46, 97B.48, 97B.48A, 97B.49B, 97B.49D, 97B.50, 97B.50A, 97B.51, 97B.52, 97B.53, 97B.80, 97D.3, 261.87, 321.178, 411.6, 602.11115, 602.11116

97B.49D Hybrid formula.

1. An active or inactive vested member, who is or has been employed in both special service and regular service, who retires on or after July 1, 1996, who is vested by service, and who at the time of retirement is at least fifty-five years of age, may elect to receive, in lieu of the receipt of a monthly retirement allowance as calculated pursuant to sections 97B.49A through 97B.49C, a combined monthly retirement allowance equal to the sum of the following:

a. One-twelfth of an amount equal to the applicable percentage of the member's final average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed thirty, for which regular service contributions were made, divided by thirty. However, any otherwise applicable age reduction for early retirement shall apply to the calculation under this paragraph.

b. One-twelfth of an amount equal to the applicable percentage of the member's

three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed the applicable years of service for the member as defined in section 97B.49B, earned in a position described in section 97B.49B, for which special service contributions were made, divided by the applicable years of service for the member as defined in section 97B.49B. In calculating the fractions of years of service under the paragraph, a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the system.

c. One-twelfth of an amount equal to the applicable percentage of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this paragraph shall be the actual years of service, not to exceed twenty-two, earned in a position described in section 97B.49C, for which special service contributions were made, divided by twenty-two. In calculating the fractions of years of service under this paragraph, a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the system.

2. In calculating the combined monthly retirement allowance pursuant to subsection 1, the sum of the fraction of years of service provided in subsection 1, paragraphs *"a"*, *"b"*, and *"c"*, shall not exceed one. If the sum of the fractions of years of service would exceed one, the system shall deduct years of service first from the calculation under subsection 1, paragraph *"a"*, and then from the calculation under subsection 1, paragraph *"b"*, if necessary, so that the sum of the fractions of years of service shall equal one.

3. In calculating the combined monthly retirement allowance pursuant to subsection 1, the applicable percentage shall be sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of membership service in service as described in subsection 1, paragraph *"a"*, *"b"*, or *"c"*, beyond thirty years of service, not to exceed a total of five additional percentage points. Any addition in the percentage multiplier shall be included in the calculations required under this section.

98 Acts, ch 1183, §38; 2000 Acts, ch 1077, §40; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2010 Acts, ch 1167, §28, 29

Referred to in §97B.1A, 97B.46, 97B.48, 97B.48A, 97B.49B, 97B.49C, 97B.50, 97B.50A, 97B.51, 97B.53, 602.11115, 602.11116

97B.49E Minimum benefits.

1. For each active member retiring on or after June 30, 1973, and who has completed ten or more years of membership service, the total amount of monthly benefit payable at the normal retirement date for prior service and membership service shall not be less than fifty dollars per month. If benefits commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50. If an optional allowance is selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit. An employee who is in employment on a school year or academic year basis, will be considered to be an active member as of June 30, 1973, if the employee completed the 1972-1973 school year or academic year.

2. Effective January 1, 1997, for members who retired on or after July 1, 1953, and before July 1, 1990, with at least ten years of prior and membership service, the minimum monthly benefit payable at the normal retirement date for prior and membership service shall be two hundred dollars. The minimum monthly benefit payable shall be increased by ten dollars for each year of prior and membership service beyond ten years, up to a maximum of twenty additional years of prior and membership service. If benefits commenced on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50. If an optional allowance was selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit.

98 Acts, ch 1183, §39

Referred to in §97B.46, 97B.48, 97B.48A, 97B.50, 97B.51, 97B.53, 602.11115, 602.11116

97B.49F Retirement dividends.

1. *Cost-of-living dividend.*

a. Effective July 1, 1997, commencing with dividends payable in November 1997, and for each subsequent year, all members who retired prior to July 1, 1990, and all beneficiaries and contingent annuitants of such members, shall be eligible for annual dividend payments, payable in November of that year, pursuant to the requirements of this subsection. The dividend payable in any given year shall be the sum of the dollar amount of the dividend payable in the previous November and the dividend adjustment. A dividend determined pursuant to this subsection shall not be used to increase the monthly benefit amount payable. In no event shall the dividend payable be less than twenty-five dollars.

b. (1) The dividend adjustment for a given year shall be calculated by multiplying the total of the retiree's, beneficiary's, or contingent annuitant's monthly benefit payments and the dividend payable to the retiree, beneficiary, or contingent annuitant, in the previous calendar year by the applicable percentage as determined by this paragraph.

(2) The applicable percentage shall be the least of the following percentages:

(a) The percentage representing the percentage increase in the consumer price index published in the federal register by the federal department of labor, bureau of labor statistics, that reflects the percentage increase in the consumer price index for the twelve-month period ending June 30 of the year that the dividend is to be paid.

(b) The percentage representing the percentage amount the actuary has certified that the fund can absorb without requiring an increase in the employer and employee contributions to the fund. The actuary's certification of such percentage amount shall be based on a comparison of the actuarially required contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that same fiscal year. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the percentage amount shall be zero.

(c) Three percent.

c. If a member eligible to receive a cost-of-living dividend dies before November 1 of a year, a cost-of-living dividend shall not be payable in November of that year in the name of the member. If a member dies on or after November 1, but before payment of a dividend is made in that month, the full amount of the retirement dividend for that year shall be paid in the member's name upon notification of the member's death.

2. *Favorable experience dividend.*

a. Commencing January 1, 1999, all qualified recipients who have received a monthly allowance for at least one year as of the date the dividend is payable shall be eligible to receive a favorable experience dividend, payable on the last business day in January of each year pursuant to the requirements of this subsection. If the qualified recipient eligible to receive a favorable experience dividend dies before January 1 of a year, a favorable experience dividend shall not be payable in January of that year in the name of the qualified recipient. However, if the qualified recipient dies on or after January 1 but before the dividend is paid in that month, the full amount of the dividend payable in that month shall be paid in the name of the qualified recipient, upon notification of death. For purposes of this paragraph, *"qualified recipient"* includes all members who retired on or after July 1, 1990, or a beneficiary or contingent annuitant of such a member who receives a monthly benefit, and a beneficiary of an active member who elects a monthly allowance under section 97B.52, subsection 1, paragraph *"c"*.

b. A favorable experience dividend reserve account, hereafter called the *"reserve account"*, is established within the retirement fund. Moneys credited to the reserve account shall be used by the system for the purpose of providing a favorable experience dividend pursuant to this subsection.

c. Moneys shall be credited to the reserve account in the retirement fund as follows:

(1) On or before January 15, 1999, there shall be credited to the reserve account an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following five years, based on reasonable actuarial assumptions.

(2) Beginning with the annual actuarial valuation of the retirement system as of June 30, 1999, and for each annual actuarial valuation of the retirement system thereafter, there shall be credited to the reserve account on each applicable January 15 following an actuarial valuation, an amount that represents that portion of the favorable actuarial experience, if

any, that the system's actuary determines shall be credited to the reserve account pursuant to rules adopted by the system.

(3) The portion of the favorable actuarial experience, if any, that is not initially credited to the reserve account pursuant to subparagraph (2), but which, if applied to the retirement fund, would result in the actuarial valuation of assets exceeding the actuarial accrued liability of the retirement system based on the most recent annual actuarial valuation of the retirement system, shall be credited to the reserve account.

(4) Notwithstanding the provisions of this paragraph to the contrary, moneys credited to the reserve account in any applicable year shall not exceed an amount which, if credited to the reserve account, would exceed an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following ten years, based on reasonable actuarial assumptions.

(5) Notwithstanding any provisions of this paragraph to the contrary, moneys shall not be credited to the reserve account if the system is not fully funded or if the system would not remain fully funded if moneys were credited to the reserve account.

(6) As used in this paragraph, *"favorable actuarial experience"* means the difference, if positive, between the anticipated and actual experience of the retirement system's actuarial assets and liabilities as measured by the system's actuary in the most recent annual actuarial valuation of the retirement system pursuant to rules adopted by the system.

d. The favorable experience dividend is calculated by multiplying the monthly retirement allowance payable to the retiree, beneficiary, or contingent annuitant for the previous December, or such other month as determined by the system, by twelve, and then multiplying that amount by the number of complete years the member has been retired or would have been retired if living as of the date the dividend is payable, and by the applicable percentage. For purposes of this paragraph, the applicable percentage is the percentage, not to exceed three percent, that the system determines shall be applied in calculating the favorable experience dividend if the system determines that the reserve account is sufficiently funded to make a distribution. In making its determination, the system shall consider, but not be limited to, the amounts credited to the reserve account, the distributions from the reserve account made in previous years, the likelihood of future credits to and distributions from the reserve account, and the distributions paid under subsection 1.

98 Acts, ch 1183, §40; 2000 Acts, ch 1077, §41 – 45, 77; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §23; 2003 Acts, ch 145, §178, 286; 2006 Acts, ch 1091, §7; 2008 Acts, ch 1171, §34, 48

Referred to in §97B.46, 97B.48, 97B.48A, 97B.50, 97B.51, 97B.53, 602.11115, 602.11116

97B.49G Monthly payments of allowance — miscellaneous provisions.

1. *Monthly payments of allowance — percentage multiplier.*

a. For each active or inactive vested member retiring on or after July 1, 1986, and before July 1, 1994, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to the applicable percentage multiplier of the three-year average covered wage multiplied by a fraction of years of service.

b. The applicable percentage multiplier for purposes of this subsection shall be the following:

(1) For active or inactive vested members retiring on or after July 1, 1986, but before July 1, 1990, fifty percent.

(2) For active or inactive vested members retiring on or after July 1, 1990, but before July 1, 1991, fifty-two percent.

(3) For active or inactive vested members retiring on or after July 1, 1991, but before July 1, 1992, fifty-four percent.

(4) For active or inactive vested members retiring on or after July 1, 1992, but before July 1, 1993, fifty-six percent.

(5) For active or inactive vested members retiring on or after July 1, 1993, but before July 1, 1994, fifty-seven and four-tenths percent.

(6) For active or inactive vested members retiring on or after July 1, 1994, sixty percent.

c. For purposes of this subsection, fraction of years of service means a number, not to

exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

2. *Extra payments on allowance — pre-1976 retirees.*

a. (1) On January 1, 1976, for each member who retired before January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for December 1975 is increased by ten percent for the first calendar year or portion of a calendar year the member was retired, and by an additional five percent for each calendar year after the first calendar year the member was retired through the calendar year beginning January 1, 1975. The total increase shall not exceed one hundred percent. Effective July 1, 1987, there is appropriated for each fiscal year from the Iowa public employees' retirement fund created in section 97B.7 to the system from funds not otherwise appropriated an amount sufficient to fund the monthly retirement allowance increases paid under this paragraph.

(2) The benefit increases granted to members retired under the retirement system on January 1, 1976, shall be granted only on January 1, 1976, and shall not be further increased for any year in which the member was retired after the calendar year beginning January 1, 1975.

b. (1) Effective July 1, 1978, for each member who retired from the retirement system prior to January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1978 is increased as follows:

(a) For the first ten years of service, fifty cents per month for each complete year of service.

(b) For the eleventh through the twentieth years of service, two dollars per month for each complete year of service.

(c) For the twenty-first through the thirtieth years of service, three dollars per month for each complete year of service.

(2) Effective July 1, 1979, the increases granted to members under this paragraph *"b"* shall be paid to contingent annuitants and to beneficiaries.

3. *Extra payments on allowance.*

a. (1) Effective July 1, 1980, for each member who retired from the retirement system prior to January 1, 1976, and for each member who retired from the retirement system on or after January 1, 1976, under section 97B.49A, subsection 4, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1980 is increased as follows:

(a) For the first ten years of service, fifty cents per month for each complete year of service.

(b) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(c) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(d) The amount of monthly increase payable to a member under this paragraph is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section or section 97B.49A, as applicable.

(2) However, effective July 1, 1980, the monthly retirement allowance attributable to membership service and prior service of a member, contingent annuitant, and beneficiary shall not be less than five dollars times the number of complete years of service of the member, not to exceed thirty, reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52, compared to the full monthly retirement benefit provided in this section or section 97B.49A, as applicable.

b. Effective beginning July 1, 1982, for each member who retired from the retirement system prior to January 1, 1976, and for each member who retired from the retirement system on or after January 1, 1976, under section 97B.49A, subsection 4, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1982 is increased as follows:

(1) For the first ten years of service, fifty cents per month for each complete year of service.

(2) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(3) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(4) The amount of monthly increase payable to a member under this paragraph is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section or section 97B.49A, as applicable.

c. Beginning January 1, 1999, for each member who retired from the retirement system prior to July 1, 1986, the amount of regular monthly retirement allowance attributable to membership and prior service that was payable to the member, or the beneficiary or contingent annuitant of the member, for December 1998 shall be increased by fifteen percent.

d. Beginning January 1, 1999, for each member who retired from the retirement system on or after July 1, 1986, but before July 1, 1990, the amount of regular monthly retirement allowance attributable to membership and prior service that was payable to the member, or the beneficiary or contingent annuitant of the member, for December 1998 shall be increased by seven percent.

4. *Normal retirement dates.* A retired member shall be deemed to have retired on the member's normal retirement date, and retirement benefits calculated shall not be reduced pursuant to section 97B.50, if the member meets any of the following requirements:

a. The member is an active or inactive vested member retiring on or after July 1, 1988, and before July 1, 1990, who is at least fifty-five years of age and has completed at least thirty years of membership service and prior service, and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two.

b. The member is an active or inactive vested member retiring on or after July 1, 1990, and before July 1, 1996, who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two.

c. The member is an active or inactive vested member retiring on or after July 1, 1996, and before July 1, 1997, who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety.

d. The member is an active or inactive vested member retiring on or after July 1, 1986, and before January 1, 1999, who is at least sixty-two years of age and who has completed thirty years of membership service.

5. *Dividends — November 1996.*

a. Each member who retired from the retirement system between July 4, 1953, and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to two hundred ninety-two percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

b. A member who retired from the retirement system between January 1, 1976, and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to two hundred twenty-three percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

c. A member who retired from the retirement system between July 1, 1982, and June 30, 1986, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to seventy-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

d. A member who retired from the retirement system between July 1, 1986, and June 30, 1990, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1996 monthly benefit payment a retirement dividend equal to twenty-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

e. Notwithstanding the determination of the amount of a retirement dividend under this subsection, a retirement dividend shall not be less than twenty-five dollars.

6. *Conservation peace officer — July 1986 – July 1988.*

a. Notwithstanding other provisions of this chapter, a member who is or has been employed as a conservation peace officer under section 456A.13 and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a conservation peace officer, may elect to receive, in lieu of the receipt of any benefits under subsection 1 or section 97B.49A, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a conservation peace officer, with benefits payable during the member's lifetime.

b. (1) A conservation peace officer who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a conservation peace officer, multiplied by a fraction of years of service as a conservation peace officer. For the purpose of this subsection, "*fraction of years of service*" means a number, not to exceed one, equal to the sum of the years of membership service as a conservation peace officer, divided by twenty-five years. On or after July 1, 1986, but before July 1, 1988, if the conservation peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the conservation peace officer's retirement precedes the date on which the conservation peace officer attains sixty years of age.

(2) The annual contribution necessary to pay for the additional benefits provided in this paragraph shall be paid by the employer and employee in the same proportion that employer and employee contributions are made under section 97B.11.

c. There is appropriated from the state fish and game protection fund to the system an actuarially determined amount calculated by the Iowa public employees' retirement system sufficient to pay for the additional benefits to conservation peace officers provided by this subsection, as a percentage, in paragraph "*a*" and for the employer portion of the benefits provided in paragraph "*b*". The amount is in addition to the contribution paid by the employer under section 97B.11. The cost of the benefits relating to fish and wildlife conservation peace officers within the department of natural resources shall be paid from the state fish and game protection fund and the cost of the benefits relating to the other conservation peace officers of the department shall be paid from the general fund.

7. *Peace officer — July 1986 – July 1988.*

a. (1) Notwithstanding other provisions of this chapter, a member who is or has been employed as a peace officer and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a peace officer, may elect to receive, in lieu of the benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a peace officer, with benefits payable during the member's lifetime.

(2) A peace officer who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a peace officer multiplied by the fraction of years of service as a peace officer. For the purpose of this subsection, "*fraction of years of service*" means a number, not to exceed one, equal to the sum of the years of membership service as a peace officer, divided by twenty-five years. On or after July 1, 1984, but before

July 1, 1988, if the peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the peace officer's retirement precedes the date on which the peace officer attains sixty years of age.

(3) For the purpose of this subsection, membership service as a peace officer means service under this retirement system as any or all of the following:

(a) As a county sheriff as described in section 331.651.

(b) As a deputy sheriff appointed pursuant to section 341.1, Code 1981, or section 331.903.

(c) As a marshal or police officer in a city not covered under chapter 400.

b. Each county and applicable city and employee eligible for benefits under this subsection shall annually contribute an amount determined by the system, as a percentage of covered wages, to be necessary to pay for the additional benefits provided by this subsection. The annual contribution in excess of the employer and employee contributions required by this chapter shall be paid by the employer and the employee in the same proportion that employer and employee contributions are made under section 97B.11. The additional percentage of covered wages shall be calculated separately by the system for service under paragraph *"a"*, subparagraphs (1) and (2), and for service under paragraph *"a"*, subparagraph (3), and each shall be an actuarially determined amount for that type of service which, if contributed throughout the entire period of active service, would be sufficient to provide the pension benefit provided in this subsection.

8. *Correctional officer — July 1986 – July 1988.*

a. Notwithstanding sections of this chapter relating to eligibility for and determination of retirement benefits, a vested member who is or has been employed as a correctional officer by the Iowa department of corrections and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least thirty years of membership service as a correctional officer, may elect to receive, in lieu of the receipt of benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a correctional officer, with benefits payable during the member's lifetime.

b. The Iowa department of corrections and the system shall jointly determine the applicable merit system job classifications of correctional officers.

c. The Iowa department of corrections shall pay to the system, from funds appropriated to the Iowa department of corrections, an actuarially determined amount sufficient to pay for the additional benefits provided in this subsection. The amount is in addition to the employer contributions required in section 97B.11.

9. *Airport fire fighter — July 1986 – July 1988.*

a. Notwithstanding other provisions of this chapter, a member who is or has been employed by the office of disaster services as an airport fire fighter who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as an airport fire fighter, may elect to receive, in lieu of the receipt of any benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport fire fighter, with benefits payable during the member's lifetime.

b. An airport fire fighter who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport fire fighter multiplied by a fraction of years of service as an airport fire fighter. For the purpose of this subsection, *"fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service as an airport fire fighter, divided by twenty-five years. On or after July 1, 1986, but before July 1, 1988, if the airport fire fighter has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the airport fire fighter's retirement precedes the date on which the airport fire fighter attains sixty years of age.

c. The employer and each employee eligible for benefits under this subsection shall annually contribute an actuarially determined amount specified by the system, as a percentage of covered wages, that is necessary to pay for the additional benefits provided by this subsection. The annual contribution in excess of the employer and employee contributions required in section 97B.11 shall be paid by the employer and the employee in the same proportion that the employer and employee contributions are made under section 97B.11.

d. There is appropriated from the general fund of the state to the system from funds not otherwise appropriated an amount sufficient to pay the employer share of the cost of the additional benefits provided in this subsection.

10. *Protection occupation — July 1988 – July 1994.*

a. For purposes of this subsection:

(1) *"Applicable percentage"* means the applicable percentage multiplier defined in subsection 1, paragraph *"b"*, that applies on the date a member retires and becomes eligible to receive a monthly allowance as calculated pursuant to this subsection.

(2) *"Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service in a protection occupation divided by twenty-five years.

b. Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1988, and before July 1, 1994, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in a protection occupation multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

11. *Sheriffs and deputy sheriffs — July 1988 – July 1994.*

a. For purposes of this subsection:

(1) *"Applicable percentage"* means the applicable percentage multiplier as described in subsection 1, paragraph *"b"*, that applies on the date a member retires and becomes eligible to receive a monthly allowance as calculated pursuant to this subsection.

(2) *"Fraction of years of service"* means a number, not to exceed one, equal to the sum of the years of membership service as a sheriff or deputy sheriff divided by twenty-two years.

b. Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff or deputy sheriff on or after July 1, 1988, and before July 1, 1994, and at the time of retirement is at least fifty-five years of age may elect to receive, in lieu of the receipt of any benefits as calculated pursuant to subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed as a sheriff or deputy sheriff multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

12. *Probation and parole officers III — July 1994 – July 1998.* The system shall establish and maintain additional contribution accounts for employees of judicial district departments of correctional services who were employed as parole officers III and probation officers III during any portion of the period from July 1, 1994, through June 30, 1998. A probation officer III or parole officer III who made contributions to the retirement fund during the period from July 1, 1994, through June 30, 1998, as a member of a protection occupation shall have credited to an additional contribution account for that probation or parole officer an amount equal to the contributions made to the retirement fund in excess of three and seven-tenths percent of the probation or parole officer's covered wages paid from July 1, 1994, through June 30, 1998, plus interest at the applicable statutory interest rates established in this chapter. Moneys deposited in an additional contribution account established pursuant to this section shall be payable in a lump sum to the probation or parole officer at retirement or upon request for a refund of moneys in the account. If the probation or parole officer dies prior to receipt of moneys in the account, the beneficiary designated by that probation or parole officer shall receive a lump sum payment of moneys in the account. The payment of moneys from the account created in this subsection shall not be annuitized. A probation

officer III or parole officer III for which an account is established under this subsection shall not receive credit for eligible service as a member of a protection occupation for that service.

98 Acts, ch 1183, §41; 2000 Acts, ch 1077, §46; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1162, §32; 2003 Acts, ch 145, §286; 2008 Acts, ch 1031, §30; 2008 Acts, ch 1032, §201; 2016 Acts, ch 1073, §23

Referred to in §97.51, 97B.1A, 97B.43, 97B.46, 97B.48, 97B.48A, 97B.49A, 97B.50, 97B.50A, 97B.51, 97B.53, 97B.80, 97D.3, 602.11115, 602.11116

97B.49H Active member supplemental accounts.

1. There is established, for each active member, a supplemental account consisting of amounts credited to the account as provided in this section which shall be held and used for the exclusive benefit of the member pursuant to the requirements of this section.

2. Amounts shall be credited to a supplemental account of each active member pursuant to the requirements of this section following a determination by the system's actuary during the most recent annual actuarial valuation that the retirement system does not have an unfunded accrued liability. For purposes of this section, the retirement system does not have an unfunded accrued liability if the actuarial accrued liability of the retirement system based on the actuarial cost method used by the actuary does not exceed the actuarial value of assets of the retirement system as of the valuation date.

3. The system shall annually determine the amount to be credited to the supplemental accounts of active members. The total amount credited to the supplemental accounts of all active members shall not exceed the amount that the system determines, in consultation with the system's actuary, leaves the system fully funded following the crediting of the total amount to the supplemental accounts. The amount to be credited shall not be greater than the amount calculated by multiplying the member's covered wages for the applicable wage reporting period by the supplemental rate. For purposes of this subsection, the supplemental rate is the difference, if positive, between the combined employee and employer statutory contribution rates in effect under section 97B.11 and the normal cost rate of the retirement system as determined by the system's actuary in the most recent annual actuarial valuation of the retirement system. The credits shall be made to each member's account at the time that covered wages are reported for each wage reporting period during the calendar year following a determination that the retirement system will remain fully funded following the crediting of the total amount to the supplemental accounts. The normal cost rate, calculated according to the actuarial cost method used, is the percent of pay allocated to each year of service that is necessary to fund projected benefits over all members' service with the retirement system.

4. Amounts credited to a member's supplemental account shall be credited with interest quarterly pursuant to section 97B.70, subsection 2.

5. Amounts credited to a member's supplemental account shall be distributed as follows:

a. If a member terminates covered employment and files an application for a refund under section 97B.53, the member shall receive in a lump sum payment, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

b. If a member dies prior to retirement, the member's beneficiary shall receive in a lump sum payment, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

c. Upon retirement, the member shall elect to receive in a lump sum payment or in an annuity, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account. The annuity provided under this section shall be payable in the same form, at the same time, and to the same persons, including beneficiaries and contingent annuitants, that the member elects for the payments under the other provisions of this chapter providing for the monthly payment of allowances. The amount of an annuity provided under this section, including amounts payable to beneficiaries and contingent annuitants, shall be calculated using the amount credited to the member's

supplemental account as of the date of retirement, and the assumptions underlying the actuarial tables used to calculate optional allowances under section 97B.51.

98 Acts, ch 1183, §42, 43; 2000 Acts, ch 1077, §47; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §8; 2008 Acts, ch 1171, §35, 48

Referred to in §97B.1A, 97B.46, 97B.48, 602.11115, 602.11116

97B.49I Qualified benefits arrangement.

The system, by rule, may establish and maintain a qualified benefits arrangement under section 415(m) of the federal Internal Revenue Code. The amount of any annual benefit that would be payable pursuant to this chapter but for the limitation imposed by section 415 of the federal Internal Revenue Code shall be paid from a qualified benefits arrangement established and maintained pursuant to this section.

98 Acts, ch 1183, §44; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

97B.50 Early retirement.

1. Except as otherwise provided in this section, a vested member who is at least fifty-five years of age, upon retirement prior to the normal retirement date for that member, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in sections 97B.49A, 97B.49E, and 97B.49G, reduced as follows:

a. For a member who is not vested on June 30, 2012, by one-half of one percent per month for each month that the early retirement date precedes the date the member attains age sixty-five.

b. For a member who is vested on June 30, 2012, the member's retirement allowance shall be reduced as follows:

(1) For that portion of the member's retirement allowance based on years of service through June 30, 2012, by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the member's earliest normal retirement date using the member's age on the early retirement date and years of service as of June 30, 2012.

(2) For that portion of the member's retirement allowance based on years of service after June 30, 2012, by one-half of one percent per month for each month that the early retirement date precedes the date the member attains age sixty-five.

2. *a.* A vested member who retires from the retirement system due to disability and commences receiving disability benefits pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the retirement system at any time after July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments for no more than thirty-six months immediately preceding the month in which written application for retirement due to disability was received by the system.

b. A vested member who retires from the retirement system due to disability and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. §231 et seq., and who has not reached the normal retirement date, shall receive benefits as selected under section 97B.51, and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the retirement system at any time since July 4, 1953. Eligible members retiring on or after July 1, 2000, are entitled to the receipt of retroactive adjustment payments for no more than thirty-six months immediately preceding the month in which written application for retirement due to disability was received by the system.

c. A vested member who terminated service due to a disability, who has been issued

payment for a refund pursuant to section 97B.53, and who subsequently commences receiving disability benefits as a result of that disability pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq. or the federal Railroad Retirement Act, 45 U.S.C. §231 et seq., may receive credit for membership service for the period covered by the refund payment, upon repayment to the system of the actuarial cost of receiving service credit for the period covered by the refund payment, as determined by the system. For purposes of this paragraph, the actuarial cost of the service purchase shall be determined as provided in section 97B.80C. The payment to the system as provided in this paragraph shall be made within ninety days after July 1, 2000, or the date federal disability payments commenced, whichever occurs later. For purposes of this paragraph, the date federal disability payments commence shall be the date that the member actually receives the first such payment, regardless of any retroactive payments included in that payment. A member who repurchases service credit under this paragraph and applies for retirement benefits shall have the member's monthly allowance, including retroactive adjustment payments, determined in the same manner as provided in paragraph *"a"* or *"b"*, as applicable.

d. For a vested member who retires from the retirement system due to disability on or after July 1, 2009, and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. §231 et seq., or the federal Social Security Act, 42 U.S.C. §423 et seq., the system may require the vested member to certify on an annual basis continued eligibility for disability payments under the federal Railroad Retirement Act or the federal Social Security Act. If the vested member is under the age at which disability benefits are converted under the federal Social Security Act or the federal Railroad Retirement Act to retirement benefits and is no longer eligible for disability payments under either the federal Railroad Retirement Act or the federal Social Security Act, the vested member shall no longer be eligible to receive retirement benefits as provided by this subsection. If the system has paid retirement benefits to the member between the month the member was no longer eligible for payment pursuant to the federal Railroad Retirement Act or the federal Social Security Act and the month the system terminated retirement benefits under this paragraph, the member shall return all retirement benefits paid by the system following the termination of such federal disability benefits, plus interest. The system shall adopt rules pursuant to chapter 17A to implement this paragraph.

3. A member who is at least sixty-two years of age and less than sixty-five years of age, and who has completed twenty or more years of membership service and prior service, shall receive benefits under sections 97B.49A through 97B.49G, as applicable, determined as if the member had attained sixty-five years of age.

[C46, 50, §97.13, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.50]

84 Acts, ch 1285, §11, 12; 86 Acts, ch 1243, §19 – 21; 87 Acts, ch 227, §19, 20; 88 Acts, ch 1242, §45 – 47; 90 Acts, ch 1240, §37; 91 Acts, ch 105, §1; 92 Acts, ch 1201, §48, 49; 94 Acts, ch 1183, §43, 44; 96 Acts, ch 1187, §41; 98 Acts, ch 1183, §45, 77; 2000 Acts, ch 1077, §48 – 50; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §179, 286; 2004 Acts, ch 1101, §16; 2004 Acts, ch 1103, §39, 40; 2008 Acts, ch 1171, §36, 48; 2010 Acts, ch 1167, §30, 39

Referred to in §97B.48A, 97B.49A, 97B.49E, 97B.49G, 97B.50A, 97B.53

97B.50A Disability benefits for special service members.

1. *Definitions.* For purposes of this section, unless the context otherwise provides:

a. "Member" means a vested member who is classified as a special service member under section 97B.1A, subsection 22, at the time of the alleged disability. *"Member"* does not mean a volunteer fire fighter.

b. "Net disability retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the member for health insurance or similar health care coverage for the member and the member's dependents from the amount of the member's disability retirement allowance, including any dividends and distributions from supplemental accounts, paid for that year pursuant to this section.

c. "Reemployment comparison amount" means an amount equal to the current covered wages of an active special service member at the same position on the salary scale within the rank or position the member held at the time the member received a disability retirement

allowance pursuant to this section. If the rank or position held by the member at the time of retirement pursuant to this section is abolished, the amount shall be computed by the system as though the rank or position had not been abolished and salary increases had been granted on the same basis as granted to other ranks or positions by the former employer of the member. The reemployment comparison amount shall not be less than the three-year average covered wage of the member, based on all regular and special service covered under this chapter.

2. *In-service disability retirement allowance.*

a. A member who is injured in the performance of the member's duties, and otherwise meets the requirements of this subsection, shall receive an in-service disability retirement allowance under this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation as the natural and proximate result of an injury, disease, or exposure occurring or aggravated while in the actual performance of duty at some definite place and time shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The system shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the retirement system first commenced on or after July 1, 2000, the member shall not be eligible for benefits with respect to a disability which would not exist but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the system that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

c. (1) Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases.

(2) Disease under this subsection shall also mean cancer or infectious disease, as defined in section 411.1, and shall be presumed to have been contracted while on active duty as a result of that duty.

(3) However, if a person's special service membership in the retirement system first commenced on or after July 1, 2000, and the heart disease, disease of the lungs or respiratory tract, cancer, or infectious disease would not exist, but for a medical condition that was known to exist on the date that special service membership commenced, the presumption established in this paragraph "*c*" shall not apply.

d. Upon retirement for an in-service disability as provided by this subsection, a member shall have the option to receive a monthly in-service disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable, that the member would receive if the member had attained fifty-five years of age. The monthly in-service disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of sixty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

3. *Ordinary disability retirement allowance.*

a. A member who otherwise meets the requirements of this subsection shall receive an ordinary disability retirement allowance under this subsection in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation shall be eligible to retire under this subsection, provided that the medical board, as established by this section, shall certify that the member is mentally or physically incapacitated for further performance of

duty, that the incapacity is likely to be permanent, and that the member should be retired. The system shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's special service membership in the retirement system first commenced on or after July 1, 2000, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that special service membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the system that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service occupation position held by the member immediately prior to the application for disability benefits.

c. Upon retirement for an ordinary disability as provided by this subsection, a member shall receive the greater of a monthly ordinary disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly ordinary disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

4. *Waiver of allowance.* A member receiving a disability retirement allowance under this section may file an application to receive benefits pursuant to section 97B.50, subsection 2, in lieu of receiving a disability retirement allowance under this section, if the member becomes eligible for benefits under section 97B.50, subsection 2. An application to receive benefits pursuant to section 97B.50, subsection 2, shall be filed with the system within sixty days after the member becomes eligible for benefits pursuant to that section or the member shall be ineligible to elect coverage under that section. On the first of the month following the month in which a member's application is approved by the system, the member's election of coverage under section 97B.50, subsection 2, shall become effective and the member's eligibility to receive a disability retirement allowance pursuant to this section shall cease. Benefits payable pursuant to section 97B.50, subsection 2, shall be calculated using the option choice the member selected for payment of a disability retirement allowance pursuant to this section. An application to elect coverage under section 97B.50, subsection 2, is irrevocable upon approval by the system.

5. *Offset to allowance.*

a. Notwithstanding any provisions to the contrary in state law, or any applicable contract or policy, any amounts which may be paid or payable by the employer under any workers' compensation, unemployment compensation, employer-paid disability plan, program, or policy, or other law to a member, and any disability payments the member receives pursuant to the federal Social Security Act, 42 U.S.C. §423 et seq., shall be offset against and payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

b. Notwithstanding paragraph *"a"*, any workers' compensation benefits received by a member for past medical expenses or future medical expenses shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

c. Notwithstanding paragraph *"a"*, any workers' compensation benefits received by a member for reimbursement of vacation time used, sick time used, or for any unpaid time off from work shall not be offset against and not considered payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

6. *Reexamination of members retired on account of disability.*

a. Once each year during the first five years following the retirement of a member under this section, and once in every three-year period thereafter, the system may, and upon the member's application shall, require any member receiving an in-service or ordinary disability retirement allowance who has not yet attained the age of fifty-five years to undergo a medical examination as arranged by the medical board as established by this section. The examination shall be made by the medical board or by an additional physician or physicians designated by the medical board. If any member receiving an in-service or ordinary disability

retirement allowance who has not attained the age of fifty-five years refuses to submit to the medical examination, the allowance may be discontinued until the member's withdrawal of the refusal, and should the member's refusal continue for one year, all rights in and to the member's disability retirement allowance shall be revoked by the system.

b. If a member is determined under paragraph *"a"* to be no longer eligible for in-service or ordinary disability benefits, all benefits paid under this section shall cease. The member shall be eligible to receive benefits calculated under section 97B.49B or 97B.49C, as applicable, when the member reaches age fifty-five.

7. *Reemployment.*

a. If a member receiving a disability retirement allowance is returned to covered employment, the member's disability retirement allowance shall cease, the member shall again become an active member, and shall contribute thereafter at the same rate payable by similarly classified members. If a member receiving a disability retirement allowance returns to special service employment, then the period of time the member received a disability retirement allowance shall constitute eligible service as defined in section 97B.49B, subsection 1, or section 97B.49C, subsection 1, as applicable. Upon subsequent retirement, the member's retirement allowance shall be calculated as provided in section 97B.48A.

b. (1) If a member receiving a disability retirement allowance is engaged in a gainful occupation that is not covered employment, the member's disability retirement allowance shall be reduced, if applicable, as provided in this paragraph.

(2) If the member is engaged in a gainful occupation paying more than the difference between the member's net disability retirement allowance and one and one-half times the reemployment comparison amount for that member, then the amount of the member's disability retirement allowance shall be reduced to an amount such that the member's net disability retirement allowance plus the amount earned by the member shall equal one and one-half times the reemployment comparison amount for that member.

(3) The member shall submit sufficient documentation to the system to permit the system to determine the member's net disability retirement allowance and earnings from a gainful occupation that is not covered employment for the applicable year.

(4) This paragraph does not apply to a member who is at least fifty-five years of age and would have completed a sufficient number of years of service if the member had remained in active special service employment. For purposes of this subparagraph, a sufficient number of years of service shall be the applicable years of service for a special service member as described in section 97B.49B or twenty-two for a special service member as described in section 97B.49C.

8. *Death benefits.* A member who is receiving an in-service or ordinary disability retirement allowance under this section shall be treated as having elected a lifetime monthly retirement allowance with death benefits payable under section 97B.52, subsection 3, unless the member elects an optional form of benefit provided under section 97B.51, which shall be actuarially equivalent to the lifetime monthly retirement allowance provided under this section.

9. *Medical benefits.* An employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for a member who is injured in the performance of the member's duties and is receiving an in-service disability retirement allowance under subsection 2 or has waived an in-service disability retirement allowance under subsection 4, regardless of when the injury occurred or when the member's in-service disability allowance commenced.

10. *Medical board.* The system shall designate a medical board to be composed of three physicians from the university of Iowa hospitals and clinics who shall arrange for and pass upon the medical examinations required under this section and shall report in writing to the system the conclusions and recommendations upon all matters duly referred to the medical board. Each report of a medical examination under this section shall include the medical board's findings as to the extent of the member's physical or mental impairment. Except as required by this section, each report shall be confidential and shall be maintained in accordance with the federal Americans With Disabilities Act, and any other state or federal law containing requirements for confidentiality of medical records.

11. *Liability of third parties — subrogation.*

a. If a member receives an injury for which benefits are payable under this section, and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the system, the member or the member's legal representative may maintain an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

(1) The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the retirement system, with legal interest, except that the plaintiff member's attorney fees may be first allowed by the district court.

(2) The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the retirement system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

b. If a member fails to bring an action for damages against a third party within thirty days after the system requests the member in writing to do so, the system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

(1) A sum sufficient to repay the system for the amount of such benefits actually paid by the retirement system up to the time of the entering of the judgment.

(2) A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits for which the retirement system is liable, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

(3) Any balance shall be paid to the member.

c. Before a settlement is effective between the system and a third party who is liable for any injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the employer of the member or the system is located must consent in writing to the settlement.

d. For purposes of subrogation under this section, a payment made to an injured member or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to the member, shall be considered paid as damages because the injury was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

12. *Document submissions.* A member retired under this section, in order to be eligible for continued receipt of retirement benefits, shall submit to the system any documentation the system may reasonably request which will provide information needed to determine payments to the member under this section.

13. *Contributions.* The expenses incurred in the administration of this section by the system shall be paid through contributions as determined pursuant to section 97B.11.

14. *Applicability — retroactivity.*

a. This section applies to a member who becomes disabled on or after July 1, 2000, and also applies to a member who becomes disabled prior to July 1, 2000, if the member has not terminated special service employment as of June 30, 2000.

b. To qualify for benefits under this section, a member must file a completed application with the system within one year of the member's termination of employment. A member eligible for a disability retirement allowance under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the

month in which the completed application for receipt of a disability retirement allowance under this section is approved.

15. *Rules.* The system shall adopt rules pursuant to chapter 17A specifying the application procedure for members pursuant to this section.

2000 Acts, ch 1077, §51; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1119, §126; 2002 Acts, ch 1135, §24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §17, 18; 2004 Acts, ch 1103, §41; 2006 Acts, ch 1091, §9; 2008 Acts, ch 1171, §37, 48, 49; 2010 Acts, ch 1167, §31; 2021 Acts, ch 183, §28, 29

Subsection 5 amended
NEW subsection 9 and former subsections 9 – 14 renumbered as 10 – 15

97B.51 Allowance upon retirement.

1. Each member has the right prior to the member's retirement date to elect to have the member's retirement allowance payable under one of the options set forth in this section. The amount of the optional retirement allowance selected in paragraph "*a*", "*c*", "*d*", "*e*", or "*f*" shall be the actuarial equivalent of the amount of the retirement allowance otherwise payable to the member as determined by the system in consultation with the system's actuary. The member shall make an election by written request to the system and the election is subject to the approval of the system. If the member is married, election of an option under this section requires the written acknowledgment of the member's spouse. However, the system may accept a married member's election of a benefit option under this section without the written acknowledgment of the member's spouse if the member submits a notarized statement indicating that the member has been unable to locate the member's spouse to obtain the written acknowledgment of the spouse after reasonable diligent efforts. The member's election of a benefit option shall become effective upon filing the necessary forms, including the notarized statement, with the system. The system shall not be liable to the member, the member's spouse, or to any other person affected by the member's election of a benefit option, based upon an election of benefit option accomplished without the written acknowledgment of the member's spouse. The member may, if eligible, select one of the following options:

a. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments and shall be limited to the amount of the member's accumulated contributions. The amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable as provided in paragraph "*b*". A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the system as complying with the requirements of section 97B.39. The election of a death benefit amount under this paragraph shall be irrevocable upon payment of the first monthly retirement allowance.

b. A member may elect a retirement allowance otherwise payable to the member upon retirement under the retirement system pursuant to this chapter, to include the applicable provisions of sections 97B.49A through 97B.49G, and a death benefit as provided in section 97B.52, subsection 3.

c. A member may elect an increased retirement allowance during the member's lifetime with no death benefit after the member's retirement date.

d. (1) A member may elect to receive a decreased retirement allowance during the member's lifetime and have the decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant. The member cannot change the contingent annuitant after the member's retirement. In case of the election of a contingent annuitant, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of either the member or the contingent annuitant after the member's retirement.

(2) In lieu of a benefit as calculated under subparagraph (1), a member may elect to receive a decreased retirement allowance during the member's lifetime and have the

decreased retirement allowance, or a designated fraction thereof, continued after the member's death to another person, called a contingent annuitant, during the lifetime of the contingent annuitant, as determined by this subparagraph. In addition, if the contingent annuitant dies prior to the death of the member, the member shall receive a retirement allowance beginning with the first month following the death of the contingent annuitant as if the member had selected the option provided by paragraph "*b*" at the time of the member's first retirement. The member cannot change the contingent annuitant after the member's retirement. If a contingent annuitant receives a decreased retirement allowance under this subparagraph following the death of the member, no death benefits, as might otherwise be provided by this chapter, will be payable upon the death of the contingent annuitant.

e. A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. When the member designates multiple beneficiaries, the present value of the remaining payments shall be paid in a lump sum to each beneficiary, either in equal shares to the beneficiaries, or if the member specifies otherwise in a written request, in the specified proportion. A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39.

f. A member retiring under section 97B.49B or 97B.49C may select an allowance upon retirement as provided under paragraph "*a*", "*b*", "*c*", or "*e*", or paragraph "*d*", subparagraph (1), and may elect to have the monthly allowance otherwise payable to the member pursuant to the selected paragraph or subparagraph recalculated as provided in this paragraph. A member electing payment of a monthly allowance under this paragraph shall have the member's monthly allowance increased, as determined by the system's actuary, by an amount equal to the monthly federal social security benefit that would be payable to the member on the date the member would be first eligible to receive a reduced social security pension benefit based upon the member's account. Upon reaching the date the member would be first eligible to receive a reduced social security pension benefit, the member's monthly retirement allowance shall be permanently reduced, as determined by the system's actuary. A member electing payment of an allowance under this paragraph shall provide the system with a copy of the estimate provided by the federal social security administration of the member's monthly federal social security benefit that would be payable on the date the member would be first eligible to receive a reduced social security pension benefit at least sixty days prior to the member's first month of entitlement.

2. The election by a member of an option stated under this section shall be null and void if the member dies prior to the member's first month of entitlement.

3. A member who had elected to take an option stated in this section, may, at any time prior to retirement, revoke such an election by written notice to the system. A member shall not change or revoke an election once the first retirement allowance is paid.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.51]

84 Acts, ch 1285, §13; 86 Acts, ch 1243, §22; 92 Acts, ch 1201, §50; 95 Acts, ch 102, §8; 96 Acts, ch 1187, §42 – 44; 98 Acts, ch 1183, §47 – 49; 2000 Acts, ch 1077, §52, 78; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §25 – 27; 2003 Acts, ch 145, §286

Referred to in §97B.25, 97B.48, 97B.48A, 97B.49E, 97B.49G, 97B.49H, 97B.50, 97B.50A, 97B.52

97B.52 Payment to beneficiary.

1. If an inactive member who is vested by service, or any active member, dies prior to the member's first month of entitlement, the member's beneficiary shall be entitled to receive a death benefit equal to the greater of the amount provided in paragraph "*a*" or "*b*". If an inactive member who is not vested by service dies prior to the member's first month of entitlement, the member's beneficiary shall only be entitled to receive a death benefit, as a lump sum, equal to the amount provided in paragraph "*a*".

a. A lump sum payment equal to the accumulated contributions of the member at the

date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the applicable denominator. As used in this paragraph, *"applicable denominator"* means the following, based upon the type of membership service in which the member served either on the date of death, or if the member died after terminating service, on the date of the member's last termination of service:

(1) For regular service, the applicable denominator is thirty.

(2) For service in a protection occupation, as defined in section 97B.49B, the applicable denominator is the applicable years of service for the member as defined in section 97B.49B if the member had retired on the date of death.

(3) For service as a sheriff or deputy sheriff, as provided in section 97B.49C, the applicable denominator is twenty-two.

b. For a member who dies on or after January 1, 2001, a lump sum payment equal to the actuarial present value of the member's accrued benefit as of the date of death. The actuarial equivalent present value of the member's accrued benefit as of the date of death shall be calculated using the same interest rate and mortality tables that are used by the system and the system's actuary under section 97B.51, and shall assume that the member would have retired at the member's earliest normal retirement date.

c. The payment of a death benefit to a designated beneficiary as provided by this subsection shall be in a lump sum payment. However, if the designated beneficiary is a sole individual, the beneficiary may elect to receive, in lieu of a lump sum payment under this subsection, a monthly annuity payable for the life of the beneficiary. The monthly annuity shall be calculated by applying the annuity tables used by the system to the lump sum payment under this subsection based on the beneficiary's age. If the designated beneficiary is more than one individual, or if the designated beneficiary is an estate, trust, church, charity, or other similar organization, a death benefit under this subsection shall only be paid in a lump sum.

2. *a.* If the system determines, upon the receipt of evidence and proof, that the death of a member in special service was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a member in special service, a line of duty death benefit in an amount of one hundred thousand dollars shall be paid in a lump sum to the special service member's beneficiary. A line of duty death benefit payable under this subsection shall be in addition to any death benefit payable as provided in subsection 1.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the special service member's death.

(2) The death was caused by the intentional misconduct of the special service member or by the special service member's intent to cause the special service member's own death.

(3) The special service member was voluntarily intoxicated at the time of death.

(4) The special service member was performing the special service member's duties in a grossly negligent manner at the time of death.

(5) A beneficiary who would otherwise be entitled to a benefit under this subsection was, through the beneficiary's actions, a substantial contributing factor to the special service member's death.

(6) The death qualifies for a volunteer emergency services provider death benefit pursuant to section 100B.31.

3. If a member dies on or after the first day of the member's first month of entitlement, the excess, if any, of the accumulated contributions by the member as of said date over the total gross monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with section 97B.48 or with section 97B.51, subsection 1, paragraph *"a"*, *"c"*, *"d"*, or *"e"*.

4. *a.* Other than as provided in subsections 1, 2, and 3 of this section, or section 97B.51, all rights to any benefits under the retirement system shall cease upon the death of a member.

b. If a death benefit is due and payable on behalf of a member who dies prior to the member's first month of entitlement, interest shall continue to accumulate through the quarter preceding the quarter in which payment is made to the designated beneficiary, heirs at law, or the estate unless the payment of the death benefit is delayed because of a dispute between alleged heirs, in which case the benefit due and payable shall be placed in a noninterest bearing escrow account until the beneficiary is determined in accordance with this section.

5. *a.* In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the system within five years of the member's death. However, death benefits payable under this section shall not exceed the amount permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

b. The system shall reinstate a designated beneficiary's right to receive a death benefit beyond the five-year limitation if the designated beneficiary was the member's spouse at the time of the member's death and the distribution is required or permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

6. Following written notification to the system, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under section 97B.51, subsection 1, paragraphs "*a*", "*b*", and "*e*". Upon receipt of the waiver, the system shall pay the amount designated to be received by that beneficiary to the member's other surviving beneficiary or beneficiaries or to the estate of the deceased member, as elected by the beneficiary in the waiver. If the payments being waived are payable to the member's estate and an estate is not probated, the payments shall be paid to the deceased member's surviving spouse, or if there is no surviving spouse, to the member's heirs other than the beneficiary who waived the payments.

7. If a member has not filed a designation of beneficiary with the system, the death benefit is payable to the member's estate. If no designation has been filed and an estate is not probated, the death benefit shall be paid to the surviving spouse, if any. If no designation has been filed, no estate has been probated, and there is no surviving spouse, the death benefit shall be paid to the heirs as provided in this subsection. The system shall pay the full amount of a member's death benefits to those heirs who have presented a claim for such benefits within five years after the member's date of death. The system is not liable for the payment of any claims by heirs who make themselves known to the system more than five years after the date of death of the member. If a death benefit is not paid as provided by this subsection, the death benefit shall remain in the fund.

[C46, 50, §97.14 – 97.18, 97.39; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.52]

84 Acts, ch 1285, §14, 15; 90 Acts, ch 1240, §38; 92 Acts, ch 1201, §51 – 54; 95 Acts, ch 102, §9; 96 Acts, ch 1187, §45 – 47; 98 Acts, ch 1183, §50 – 54; 2000 Acts, ch 1077, §53 – 58; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §28, 37; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §42 – 45; 2006 Acts, ch 1103, §2; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §38, 48; 2010 Acts, ch 1167, §32

Referred to in §97B.49A, 97B.49F, 97B.49G, 97B.50A, 97B.51, 97B.53, 261.87, 509A.13C

97B.52A Eligibility for benefits — bona fide retirement.

1. A member has a bona fide retirement when the member terminates all employment covered under the chapter or formerly covered under the chapter pursuant to section 97B.42, files a completed application for benefits form with the system, survives into the month for which benefits are first payable, and meets the following applicable requirement:

a. For a member whose first month of entitlement is prior to July 1, 1998, the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits.

b. For a member whose first month of entitlement is July 1998 or later, but before July 2000, the member does not return to any employment with a covered employer until the member has qualified for no fewer than four calendar months of retirement benefits.

c. (1) For a member whose first month of entitlement is July 2000 or later, the member

does not return to any employment with a covered employer until the member has qualified for at least one calendar month of retirement benefits, and the member does not return to covered employment until the member has qualified for no fewer than four calendar months of retirement benefits.

(2) For purposes of determining a bona fide retirement under this paragraph *"c"*, the following provisions apply:

(a) Effective July 1, 2000, any employment with a covered employer does not include employment as an elective official or member of the general assembly if the member is not covered under this chapter for that employment.

(b) For a member whose first month of entitlement is July 2004 or later, but before July 2014, covered employment does not include employment as a licensed health care professional by a public hospital. For the purposes of this subparagraph, *"public hospital"* means a hospital licensed pursuant to chapter 135B and governed pursuant to chapter 145A, 347, 347A, or 392.

(c) Effective May 25, 2008, any employment with a covered employer does not include noncovered employment as a member of the national guard called to state active duty as defined in section 29A.1.

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements. However, a retired member who commences receiving a retirement allowance but fails to meet the applicable requirements of subsection 1 does not have a bona fide retirement and any retirement allowance received by such a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the system. Until the member has repaid the retirement allowance and interest, the system may withhold any future retirement allowance for which the member may qualify.

3. A member whose first month of entitlement is before July 1998 and who terminates covered employment but maintains an employment relationship with an employer that made contributions to the retirement system on the member's behalf does not have a bona fide retirement until all employment, including employment which is not covered by this chapter, with such employer is terminated for at least thirty days. In order to receive retirement benefits, the member must file a completed application for benefits form with the system before returning to any employment with the same employer.

4. The requirements of this section shall apply to a lump sum payment as provided by section 97B.48, subsection 1, and the payment of contributions as provided in section 97B.48A, subsection 4.

92 Acts, ch 1201, §55; 95 Acts, ch 102, §10; 96 Acts, ch 1187, §48; 98 Acts, ch 1183, §55, 56; 2000 Acts, ch 1077, §59 – 62; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §46; 2005 Acts, ch 167, §29, 66; 2006 Acts, ch 1092, §6; 2010 Acts, ch 1167, §33, 40; 2012 Acts, ch 1138, §21; 2013 Acts, ch 138, §115, 127

Referred to in §97B.1A, 97B.42

97B.53 Termination of employment — refund options.

Membership in the retirement system, and all rights to the benefits under the retirement system, cease upon a member's termination of employment with the employer prior to the member's retirement, other than by death, and upon receipt by the member of a refund of moneys in the member's account as provided in this section.

1. Upon the termination of employment with the employer prior to retirement other than by death of a member, the member's account, consisting of accumulated contributions by the member and, for a member who is vested on the date an application for a refund is filed, the member's share of the accumulated employer contributions for the vested member at the date of the termination, may be paid to the member upon application, except as provided in subsections 2, 4, and 8. For the purpose of this subsection, the *"member's share of the accumulated employer contributions"* is an amount equal to the accumulated employer contributions of the member multiplied by a fraction of years of service for that member as defined in section 97B.49A, 97B.49B, or 97B.49C.

2. If a vested member's employment is terminated prior to the member's retirement, other

than by death, the member may receive a monthly retirement allowance commencing on the first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of moneys in the member's account as provided under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either sections 97B.49A through 97B.49G, or in section 97B.50, whichever is applicable.

3. A terminated, vested member has the right, prior to the commencement of the member's retirement allowance, to receive a refund of moneys in the member's account, and in the event of the death of the member prior to the commencement of the member's retirement allowance and prior to the receipt of any such refund, the benefits authorized by section 97B.52, subsections 1 and 2, shall be paid.

4. A member has not terminated employment for purposes of this section if the member commences other covered employment within thirty days after the date employment was terminated with a covered employer, or if the member begins covered employment prior to filing a request for a refund with the system.

5. Within sixty days after a member has been issued payment for a refund of moneys in the member's account, the member may repay the moneys refunded, plus interest that would have accrued, as determined by the system, and receive credit for membership service for the period covered by the refund payment.

6. A member who does not withdraw moneys in the member's account upon termination of employment may at any time request the return of the moneys in the member's account, but if the member receives a return of moneys in the member's account the member has waived all claims for any other benefits and membership rights from the fund.

7. If a member is involuntarily terminated from covered employment, has been issued payment for a refund, and is retroactively reinstated in covered employment as a remedy for an employment dispute, the member may receive credit for membership service for the period covered by the refund payment upon repayment to the system within ninety days after the date of the order or agreement requiring reinstatement of the amount of the refund plus interest that would have accrued, as determined by the system.

8. The system is under no obligation to maintain the member account of a member who terminates covered employment prior to December 31, 1998, if the member was not vested at the time of termination. A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, if the person makes a claim for refund after January 1, 1964, be required to submit proof satisfactory to the system of the person's entitlement to the refund. The system is under no obligation to maintain the member accounts of such persons after January 1, 1964.

9. Any member whose employment is terminated may elect to leave the moneys in the member's member account in the retirement fund.

10. If an employee hired to fill a permanent position terminates the employee's employment within six months from the date of employment, the employer may file a claim with the system for a refund of the funds contributed to the system by the employer for the employee.

[C46, 50, §97.6, 97.13, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.53; 82 Acts, ch 1261, §24]

84 Acts, ch 1285, §16; 92 Acts, ch 1201, §56; 94 Acts, ch 1183, §45 – 47, 97; 96 Acts, ch 1187, §49; 98 Acts, ch 1183, §57 – 60, 78; 2000 Acts, ch 1077, §63; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §29; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §47; 2015 Acts, ch 29, §13

Referred to in §97B.1A, 97B.39, 97B.42, 97B.49A, 97B.49H, 97B.50, 97B.70, 97B.80C

97B.53A Duty of system.

Upon a member's termination of covered employment prior to the member's retirement, the system shall send the member by first class mail, to the member's last known mailing address, a notice setting forth the balance and status of the member's account and supplemental account and an explanation of the courses of action available to the member under this chapter.

90 Acts, ch 1240, §39; 2000 Acts, ch 1077, §64; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286

97B.53B Rollovers of members' accounts.

1. As used in this section, unless the context otherwise requires, and to the extent permitted by the internal revenue service:

a. *"Direct rollover"* means a payment by the system to the eligible retirement plan specified by an eligible person.

b. *"Eligible person"* means any of the following:

(1) The member.

(2) The member's surviving spouse.

(3) The member's spouse or former spouse as an alternate payee under a qualified domestic relations order.

(4) Effective January 1, 2007, the member's nonspouse beneficiaries who are designated beneficiaries as defined by section 401(a)(9)(E) of the federal Internal Revenue Code, as authorized under section 829 of the federal Pension Protection Act of 2006.

c. *"Eligible retirement plan"* means, for an eligible person, any of the following retirement plans that can accept an eligible rollover distribution from that eligible person:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

(3) An annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member.

(4) Effective January 1, 2002, an annuity contract described in section 403(b) of the federal Internal Revenue Code, and an eligible plan under section 457(b) of the federal Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that chooses to separately account for amounts transferred into such eligible retirement plan from the system.

(5) Effective January 1, 2008, a Roth individual retirement account or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code.

d. (1) *"Eligible rollover distribution"* includes any of the following:

(a) All or any portion of a member's account and supplemental account.

(b) Effective January 1, 2002, after-tax employee contributions, if the plan to which such amounts are to be transferred is an individual retirement account described in federal Internal Revenue Code section 408(a) or 408(b), or is a qualified defined contribution plan described in federal Internal Revenue Code section 401(a) or 403(a), and such plan agrees to separately account for the after-tax amount so transferred.

(c) Effective January 1, 2007, after-tax employee contributions to a qualified defined benefit plan described in federal Internal Revenue Code section 401(a) or 403(a), or a tax-sheltered annuity plan described in federal Internal Revenue Code section 403(b), and such plan agrees to separately account for the after-tax amount so transferred.

(2) An eligible rollover distribution does not include any of the following:

(a) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(b) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(c) Prior to January 1, 2002, the portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

2. An eligible person may elect, at the time and in the manner prescribed in rules adopted by the system and in rules of the receiving retirement plan, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan in a direct rollover. However, effective January 1, 2007, if the eligible person is a nonspouse beneficiary as described in subsection 1, paragraph "*b*", subparagraph (4), the nonspouse beneficiary may only have a direct rollover of the distribution to an individual retirement account or annuity as described in subsection 1, paragraph "*c*", subparagraphs (1), (2), and (5), established for the purpose of receiving the distribution on behalf of the nonspouse beneficiary, and such individual retirement account or annuity will be treated as an inherited individual retirement account or annuity pursuant to section 829 of the federal Pension Protection Act of 2006.

94 Acts, ch 1183, §48; 96 Acts, ch 1187, §50; 2000 Acts, ch 1077, §65; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §30, 38; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §48, 61; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1171, §39, 48, 49

97B.54 Repealed by 94 Acts, ch 1183, §88.

97B.55 Repealed by 2000 Acts, ch 1031, §1.

97B.56 Abolished system — liquidation fund.

The assets of the old-age and survivors' liquidation fund, established by sections 97.50 through 97.53 and any future payments or assets payable to the old-age and survivors' liquidation fund, are hereby transferred to the retirement fund, and all payments hereafter due in accordance with the provisions of said sections shall be paid from the retirement fund.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.56]

86 Acts, ch 1246, §723; 94 Acts, ch 1183, §49; 2021 Acts, ch 80, §54

Section amended

97B.57 Repealed by 2001 Acts, ch 68, §23, 24.

97B.58 Information furnished by employer.

To enable the system to administer this chapter and perform its functions, the employer shall, upon the request of and in the manner provided by the system, provide accurate, complete, and timely information to the system of all matters relating to the pay of all members, date of birth, their retirement, death, or other cause for termination of employment, and other pertinent facts the system may require in the manner provided by the system. The system shall not be liable to any member, retiree, or beneficiary for any monetary or other relief due to the failure of the employer to comply with this section.

[C46, 50, §97.23 – 97.25; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.58]

92 Acts, ch 1201, §57; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2010 Acts, ch 1167, §34

97B.59 through 97B.61 Repealed by 2001 Acts, ch 68, §23, 24. See §97B.4.

97B.62 Accepting employment deemed consent.

Every employee accepting employment or continuing in employment shall as long as the employee continues to be a member and has not become a member of another retirement system in the state which is maintained in whole or in part by public contributions or payments be deemed to consent and agree to any deductions from the employee's compensation required by this chapter and to all other provisions thereof.

[C46, 50, §97.2, 97.9; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.62]

97B.63 Reserved.

97B.64 Insurance laws not applicable.

None of the laws of this state regulating insurance or insurance companies shall apply to the system or to the retirement system or any of its funds.

[C46, 50, §97.47; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.64]

2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §180

97B.65 Revision rights reserved — limitation on increase of benefits — rates of contribution.

1. The right is reserved to the general assembly to alter, amend, or repeal any provision of this chapter or any application thereof to any person, provided, however, that to the extent of the funds in the retirement system the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to any member of the retirement system shall not be repudiated, provided further, however, that the amount of benefits accrued on account of prior service shall be adjusted to the extent of any unfunded accrued liability then outstanding.

2. An increase in the benefits or retirement allowances provided under this chapter shall not be enacted until after the system's actuary determines that the system is fully funded and will continue to be fully funded immediately following enactment of the increase and the increase can be absorbed within the contribution rates otherwise established for the membership group authorized to receive the increase. However, an increase in the benefits or retirement allowances provided under this chapter may be enacted if the statutory change providing for the increase is accompanied by an adjustment in the required contribution rate of the membership group affected that is necessary to support such increase as determined by the system's actuary.

[C46, 50, §97.11, 97.13; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.65]

2003 Acts, ch 145, §286; 2006 Acts, ch 1091, §10; 2008 Acts, ch 1171, §40, 48, 49

97B.66 Former members.

1. A vested or retired member who was a member of the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF) at any time between July 1, 1967, and June 30, 1971, and who became a member of the retirement system on July 1, 1971, upon submitting verification of service and wages earned during the applicable period of service under the teachers insurance and annuity association-college retirement equities fund, may make employer and employee contributions to the retirement system based upon the covered wages of the member and the covered wages and the contribution rates in effect for all or a portion of that period of service and receive credit for membership service under this retirement system equivalent to the applicable period of membership service in the teachers insurance and annuity association-college retirement equities fund for which the contributions have been made. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college retirement equities fund under this section who was a member of the retirement system on June 30, 1967, and withdrew the member's accumulated contributions because of membership on July 1, 1967, in the teachers insurance and annuity association-college retirement equities fund, may make employee contributions to the retirement system for all or a portion of the period of service under the retirement system prior to July 1, 1967. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more calendar quarters.

2. The contributions paid by the vested or retired member shall be equal to the accumulated contributions as defined in section 97B.1A, subsection 2, by the member for the applicable period of service, and the employer contribution for the applicable period of service under the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF), that would have been or had been contributed by the vested or retired

member and the employer, if applicable, plus interest on the contributions that would have accrued for the applicable period from the date the previous applicable period of service commenced under this retirement system or from the date the service of the member in the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF) commenced to the date of payment of the contributions by the member as provided in section 97B.70.

3. However, the system shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

84 Acts, ch 1285, §17; 92 Acts, ch 1201, §58; 93 Acts, ch 44, §8; 94 Acts, ch 1183, §51, 97; 96 Acts, ch 1187, §51 – 53; 98 Acts, ch 1183, §82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 108, §27; 2003 Acts, ch 145, §286; 2004 Acts, ch 1086, §22; 2017 Acts, ch 54, §76

97B.67 Reserved.

97B.68 Employees under federal civil service.

1. Effective July 1, 1996, a person who is a member of the federal civil service retirement program or the federal employee's retirement system is not eligible for membership in the Iowa public employees' retirement system for the same position, and this chapter does not apply to that employee. An employee whose membership in the federal civil service retirement program or the federal employee's retirement system is subsequently terminated shall immediately notify the employee's employer and the system of that fact, and the employee shall become subject to this chapter on the date the notification is received by the system.

2. Upon termination of membership in the Iowa public employees' retirement system under the provisions of this section, the employee shall be paid from the Iowa public employees' retirement fund within six months of the termination a lump sum cash amount equal to the sum of:

a. Such member's accumulated contributions as defined in section 97B.1A, subsection 2, computed as of July 4, 1959, plus

b. The total amount contributed to the Iowa old-age and survivors' insurance fund prior to July 1, 1953, by such member which was transferred to the retirement fund as of July 1, 1953, and would have been refundable to the member had the member not elected to receive prior service credit in accordance with section 97B.43, with interest on such amount at two percent per annum compounded annually from July 1, 1953, to July 4, 1959.

3. Effective July 1, 1996, an employee who participates in the federal civil service retirement program or the federal employee's retirement system may be covered under this chapter if otherwise eligible. The employee shall not be covered under this chapter, however, unless the employee is not credited for service in the federal civil service retirement system or the federal employee's retirement system for the position to be covered under this chapter. This subsection shall not be construed to permit any employer to contribute on behalf of an employee for the same position and the same period of service to both the Iowa public employees' retirement system and either the federal civil service retirement program or the federal employee's retirement system.

[C62, 66, 71, 73, 75, 77, 79, 81, §97B.68]

88 Acts, ch 1242, §48; 96 Acts, ch 1187, §54, 55; 98 Acts, ch 1183, §82; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2015 Acts, ch 29, §14

97B.69 Reserved.

97B.70 Interest and dividends to members.

1. For calendar years prior to January 1, 1997, interest at two percent per annum and interest dividends declared by the system shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions thereby.

a. The average rate of interest earned shall be determined upon the following basis:

(1) Investment income shall include interest and cash dividends on stock.

(2) Investment income shall be accounted for on an accrual basis.

(3) Capital gains and losses, realized or unrealized, shall not be included in investment income.

(4) Mean assets shall include fixed income investments valued at cost or on an amortized basis, and common stocks at market values or cost, whichever is lower.

(5) The average rate of earned interest shall be the quotient of the investment income and the mean assets of the retirement fund.

b. The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

(1) The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent.

(2) The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places.

(3) Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

2. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions and accumulated employer contributions account. For purposes of this subsection, the interest rate on one-year certificates of deposit shall be determined by the system based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions and the accumulated employer contributions as of the end of the previous calendar quarter.

3. Interest shall be credited to the accumulated contributions and accumulated employer contributions accounts, and supplemental accounts of active members, inactive vested members, and, effective January 1, 1999, to inactive nonvested members, until the quarter prior to the quarter in which the member's first retirement allowance is paid or in which the member is issued a refund under section 97B.53, or in which a death benefit is issued.

4. Prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently returns to covered employment. Upon return to covered employment but prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions and accumulated employer contributions account of the person commencing upon the date on which the person has covered wages.

5. If the system no longer maintains the accumulated contributions and accumulated employer contributions account of the person pursuant to this chapter, but the person submits satisfactory proof to the system that the person, or the person's employer, did make contributions that should be included in the accumulated contributions and accumulated employer contributions account, the system shall credit interest and interest dividends in the manner provided in subsection 4.

[C66, 71, 73, 75, 77, 79, 81, §97B.70]

94 Acts, ch 1183, §52, 97; 96 Acts, ch 1187, §56; 98 Acts, ch 1183, §61, 62; 2000 Acts, ch 1077, §67; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2008 Acts, ch 1032, §186

Referred to in §97B.1A, 97B.9, 97B.10, 97B.48A, 97B.49H, 97B.66, 97B.80C

97B.71 Repealed by 92 Acts, ch 1201, §77.

97B.72 through 97B.73A Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

97B.73B Patient advocates — unpaid contributions — service purchase. Repealed by 2008 Acts, ch 1171, §46, 48.

97B.74 Reinstatement as a vested member (buy-back). Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

97B.75 Prior service credit before January 1, 1946. Repealed by 2004 Acts, ch 1103, §60.

97B.76 through 97B.79 Reserved.

97B.80 Veteran's credit.

1. Effective July 1, 1992, a vested or retired member who has one or more full calendar years of covered wages and who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service, may make contributions to the retirement system for all or a portion of the period of time of the active duty service, in increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, the contributions to be paid, representing both employer and employee contributions, shall be based upon the member's covered wages for the most recent full calendar year in which the member had reportable wages at the applicable rates in effect for that year under sections 97B.11, 97B.49B, 97B.49C, and 97B.49G. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the system by an inflation factor to reflect changes in the economy.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to the actuarial cost of the service purchase. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. Verification of active duty service and payment of contributions shall be made to the system. However, a member is not eligible to make contributions under this section if the member is receiving, is eligible to receive, or may in the future be eligible to receive retirement pay from the United States government for active duty in the armed forces, except for retirement pay granted by the United States government under retired pay for nonregular service pursuant to 10 U.S.C. §12731 – 12739. A member receiving retired pay for nonregular service who makes contributions under this section shall provide information required by the system documenting time periods covered under retired pay for nonregular service.

4. Effective July 1, 2004, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to adjusted payments beginning with the month in which the member pays contributions under this section.

5. However, the system shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

88 Acts, ch 1242, §54; 90 Acts, ch 1240, §42; 92 Acts, ch 1201, §60; 93 Acts, ch 44, §14; 94 Acts, ch 1183, §59; 96 Acts, ch 1187, §67, 68; 97 Acts, ch 23, §11; 98 Acts, ch 1183, §68; 2001 Acts, ch 68, §21, 24; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §51, 52

97B.80A and 97B.80B Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

97B.80C Purchases of permissive service credit.

1. *Definitions.* For purposes of this section:

a. *"Nonqualified service"* means any of the following:

(1) Service that is not qualified service.

(2) Any period of time for which there was no performance of services.

(3) Service as described in subsection 1, paragraph *"c"*, subparagraph (2).

b. *"Permissive service credit"* means credit that will be recognized by the retirement system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the retirement system, and for which the member voluntarily contributes to the retirement system the amount required by the retirement system, not in excess of the amount necessary to fund the benefit attributable to such service.

c. (1) *"Qualified service"* means any of the following:

(a) Service with the United States government or any state or local government, including any agency or instrumentality thereof, regardless of whether that government, agency, or instrumentality was a covered employer at the time of the service.

(b) Service with an association representing employees of the United States government or any state or local government, including any agency or instrumentality thereof, regardless of whether that government, agency, or instrumentality was a covered employer at the time of the service.

(c) Service with an educational organization which normally maintains a regular faculty and curriculum, normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and is a public, private, or sectarian school which provides elementary education or secondary education through grade twelve.

(d) Military service other than military service required to be recognized under Internal Revenue Code section 414(u) or under the federal Uniformed Services Employment and Reemployment Rights Act.

(e) Service as a member of the general assembly.

(f) Previous service as a county attorney by a part-time county attorney.

(g) Service in public employment comparable to employment covered under this chapter in another state or in the federal government, or service as a member of another public retirement system in this state, including but not limited to the teachers insurance and annuity association-college retirement equities fund (TIAA-CREF), if the member was not retired under that system and has no further claim upon a retirement benefit from that other public system.

(h) Service as a member of the retirement system at any time on or after July 4, 1953, if the member received a refund of the member's accumulated contributions for that period of membership service.

(i) An approved leave of absence which does not constitute service as defined in section 97B.1A, which is granted on or after July 1, 1998.

(j) Employment of a person who at the time of the employment was not covered by this chapter, was employed by a covered employer under this chapter, and did not opt out of coverage under this chapter.

(k) Employment of a person as an adjunct instructor as defined in section 97B.1A, subsection 8.

(2) *"Qualified service"* does not include service as described in subparagraph (1) if the receipt of credit for such service would result in the member receiving a retirement benefit under more than one retirement plan for the same period of service.

2. *a.* A vested or retired member may make contributions to the retirement system to purchase up to the maximum amount of permissive service credit for qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n), the requirements of this section, and the system's administrative rules.

b. A vested or retired member of the retirement system may make contributions to the retirement system to purchase up to a maximum of twenty quarters of permissive service credit for nonqualified service as determined by the system, pursuant to Internal Revenue Code section 415(n), the requirements of this section, and the system's administrative rules. A vested or retired member must have at least twenty quarters of covered wages in order to purchase permissive service credit for nonqualified service.

c. A vested or retired member may convert regular member service credit to special service credit by payment of the amount actuarially determined as necessary to fund the resulting increase in the member's accrued benefit. The conversion shall be treated as a purchase of qualified service credit subject to the requirements of paragraph *"a"* if the service credit to be converted was or would have been for qualified service. The conversion shall be treated as a purchase of nonqualified service credit subject to the requirements of paragraph *"b"* if the service credit to be converted was purchased as nonqualified service credit.

3. *a.* A member making contributions for a purchase of permissive service credit under this section, except as otherwise provided by this subsection, shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase.

b. For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph *"c"*, subparagraph (1), subparagraph division (e), under this section, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. There is appropriated from the general fund of the state to the system an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph.

c. For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph *"c"*, subparagraph (1), subparagraph division (f), under this section, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. Upon notification of the applicable county board of supervisors of the member's election, the county board of supervisors shall pay to the system an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph.

d. For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph *"c"*, subparagraph (1), subparagraph division (h), in which, prior to July 1, 1998, the member received a refund of the member's accumulated contributions and subsequently returned to covered employment as a full-time employee for whom coverage under this chapter was mandatory the member shall receive a credit against the actuarial cost of the service purchase equal to the amount of the member's employer's accumulated contributions which were not paid to the member as a refund pursuant to section 97B.53 plus interest as calculated pursuant to section 97B.70.

e. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of permissive service credit.

4. Effective July 1, 2004, a member eligible for an increased retirement allowance because of the payment of contributions under this or any other section providing for the purchase of service credit is entitled to adjusted payments beginning with the month in which the member pays contributions under the applicable section.

5. Effective July 1, 2004, a purchase of service made in accordance with this or any other section providing for the purchase of service credit by a retired reemployed member shall be applied to the member's original retirement allowance. The member is eligible to receive adjustment payments beginning with the month of the purchase.

6. A member who is entitled to a benefit from another public retirement system and wishes to purchase the service covered by that public retirement system must waive, on a form provided by the Iowa public employees' retirement system, all rights to a retirement benefit under that other public system before purchasing credit in this system for the period of service covered by that other public system. The waiver must be accepted by the other public system. If the waiver is not obtained, a member may buy up to twenty quarters of such service credit. In no event can a member receive more than one service credit for any given calendar quarter.

7. The system shall ensure that the member, in exercising an option provided in this

section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

2002 Acts, ch 1135, §33; 2003 Acts, ch 145, §286; 2004 Acts, ch 1103, §53 – 56; 2008 Acts, ch 1171, §41 – 43, 48, 49; 2009 Acts, ch 41, §263

Referred to in §97B.43, 97B.50, 97B.82

Payment of applicable contribution amount to replace contributions not made because of employer-mandated reductions in hours or employee-exercised reduction in pay during the time period beginning on or after January 1, 2009, and ending June 30, 2011; 2009 Acts, ch 170, §51, 55; 2010 Acts, ch 1167, §36, 41

97B.81 Leaves of absence. Repealed by 2004 Acts, ch 1103, §60. See §97B.80C.

97B.82 Purchase of service credit — direct rollovers — direct transfers.

1. Effective July 1, 2002, a member may, to the extent permitted by the internal revenue service, purchase any service credit permitted under this chapter by means of a direct rollover or a direct transfer as provided in this section pursuant to rules adopted by the system and consistent with applicable requirements of the federal Internal Revenue Code. Purchases of service credit by means of a direct rollover or direct transfer under this section shall not exceed the amounts permitted under section 415(n) of the federal Internal Revenue Code and section 97B.80C as determined by the system.

2. *a.* A member may purchase service credit as authorized by this section through a direct rollover to the retirement system of an eligible rollover distribution from an eligible retirement plan as permitted by the internal revenue service under the federal Internal Revenue Code. The amount of the direct rollover into the retirement system cannot exceed the cost of the service purchase by a member under this chapter. Once a direct rollover is made, the member must forfeit the applicable service credit from the eligible retirement plan from which the eligible rollover distribution is received.

b. (1) For purposes of this subsection, *"an eligible rollover distribution from an eligible retirement plan"* includes distributions from any of the following:

(a) Qualified plans described in federal Internal Revenue Code sections 401(a) and 403(a).

(b) Annuity contracts described in federal Internal Revenue Code section 403(b).

(c) Eligible plans described under federal Internal Revenue Code section 457(b) which are maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(d) Individual retirement accounts described in federal Internal Revenue Code section 408(a) or 408(b).

(2) An eligible rollover distribution from an eligible retirement plan does not include any of the following:

(a) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(b) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(c) (i) For rollover service purchases prior to January 1, 2007, the portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(ii) For rollover service purchases on or after January 1, 2007, the portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, shall be treated as an eligible rollover distribution only when such portion is received from a qualified plan under section 401(a) or 403(a) of the federal Internal Revenue Code.

(d) Any amounts that are not permitted to be treated as eligible rollover distributions by the internal revenue service under the federal Internal Revenue Code.

3. A member may purchase any service credit as authorized by this section, to the extent permitted by the internal revenue service, by means of a direct transfer of pretax amounts, and effective January 1, 2007, any after-tax contributions, from an annuity contract qualified under federal Internal Revenue Code section 403(b), or an eligible plan described in federal

Internal Revenue Code section 457(b), maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. A direct transfer is a trustee-to-trustee transfer to the retirement system of contributions made to annuity contracts qualified under federal Internal Revenue Code section 403(b) and eligible governmental plans qualified under federal Internal Revenue Code section 457(b) for purposes of purchasing service credit in the retirement system.

2000 Acts, ch 1077, §72; 2002 Acts, ch 1135, §34; 2003 Acts, ch 145, §286; 2008 Acts, ch 1171, §44, 45, 48, 49

CHAPTER 97C

FEDERAL SOCIAL SECURITY ENABLING ACT

Referred to in §97.52, 97B.4, 97B.42, 294.12, 331.324, 331.424

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97C.1 Declaration of policy.

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old-age and survivors' insurance system embodied in the Social Security Act, Tit. II of the federal Social Security Act, it is hereby declared to be the policy of the general assembly, subject to the limitations of this chapter, that such steps be taken as to provide such protection to employees of the state and its political subdivisions on as broad a basis as is permitted under the Social Security Act, Tit. II.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.1]

2010 Acts, ch 1061, §180

97C.2 Definitions.

For the purposes of this chapter:

1. The term *"employee"* includes elective and appointive officials of the state or any political subdivision thereof, except elective officials in positions, the compensation for which is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions. However, a member of a county board of supervisors or a county attorney shall not be deemed to be an elective official in a part-time position, but every member of a county board of supervisors and every county attorney shall be deemed to be an employee under this chapter and is eligible to receive the benefits provided by this chapter to which the member may be entitled as an employee.

2. The term *"employer"* means the state of Iowa and all of its political subdivisions which employ persons eligible to coverage under an agreement entered into by this state and the federal security administrator under the provisions of the Social Security Act, Tit. II, of the Congress of the United States as amended.

3. The term *"employment"* means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except service which in

the absence of an agreement entered into under this chapter would constitute *"employment"* as defined in the Social Security Act; or service which under the Social Security Act may not be included in an agreement between the state and the federal security administrator entered into under this chapter.

4. The term *"federal Insurance Contributions Act"* means subchapter "A" of chapter nine of the federal Internal Revenue Code as such code has been and may from time to time be amended.

5. The term *"federal security administrator"* means the administrator of the federal security agency or the administrator's successor in function, and includes any individual to whom the federal security administrator has delegated any of the administrator's functions under the Social Security Act, Tit. II, with respect to coverage under such Act of employees of states and their political subdivisions.

6. The term *"political subdivision"* includes an instrumentality of the state of Iowa, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivisions.

7. The term *"Social Security Act"* means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," Tit. II, including regulations and requirements issued pursuant thereto, as such Act has been and may from time to time be amended.

8. The term *"state agency"* means the Iowa public employees' retirement system created in section 97B.1.

9. The term *"wages"* means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for *"employment"* within the meaning of the federal Insurance Contribution Act, would not constitute *"wages"* within the meaning of that Act.

[C46, 50, §97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.2]

86 Acts, ch 1245, §258; 87 Acts, ch 227, §22; 2003 Acts, ch 145, §181; 2005 Acts, ch 3, §23; 2010 Acts, ch 1061, §180; 2011 Acts, ch 25, §12; 2015 Acts, ch 29, §15

Referred to in §28I.1, 97C.3, 97C.10, 97C.21

97C.3 Federal-state agreement.

The state agency, with the approval of the governor and the attorney general, is hereby authorized to enter on behalf of the state into an agreement with the federal security administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors' insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute *"employment"* as defined in section 97C.2 of this chapter. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal security administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act, Tit. II, as to the services to be covered, such agreement shall provide in effect that:

1. Benefits will be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of Tit. II of said Social Security Act.

2. The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, Tit. II, contributions with respect to wages as defined in section 97C.2, equal to the sum of taxes which would be imposed by sections 1400 and 1410 of the federal Insurance Contributions Act, if the services covered by the agreement constituted employment within the meaning of that Act.

3. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year in which such

agreement is entered into or in which the modification of the agreement making it applicable to such services is entered into, provided that in the case of an agreement or modification made after May 3, 1953, and prior to January 1, 1954, such agreement or modification of the agreement shall be made effective with respect to any such services performed on or after January 1, 1951.

4. All services which constitute employment as defined in section 97C.2, and are performed in the employ of the state, or any political subdivision, by employees of the state, or of any political subdivision, shall be covered by the agreement.

[C46, 50, §97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.3]
2010 Acts, ch 1061, §180; 2011 Acts, ch 34, §25
Referred to in §97C.4, 97C.5, 97C.13, 97C.14, 97C.15, 97C.17, 97C.21

97C.4 Other states — joint agreements.

Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, to enter into an agreement with the federal security administrator whereby the benefits of the federal old-age and survivors' insurance system shall be extended to employees of such instrumentality; to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under section 97C.5 if they were covered by an agreement made pursuant to section 97C.3; and to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of section 97C.3 and other provisions of this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.4]
2011 Acts, ch 25, §13

97C.5 Tax on employees.

Every employee whose services are covered by an agreement entered into under section 97C.3 shall be required to pay for the period of such coverage into the contribution fund established by section 97C.12, a tax which is hereby imposed with respect to wages received during the calendar year of 1953, equal to such percentum of the wages received by the employee as imposed by Social Security Act, Tit. II, as such Act has been and may from time to time be amended. Such payment shall be considered a condition of employment as a public employee. Taxes deducted from the wages of the employee by the employer and taxes imposed upon the employer shall be forwarded to the state agency for recording and shall be deposited with the treasurer of state to the credit of the contribution fund established by section 97C.12 of this chapter.

[C46, 50, §97.9; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.5]
2012 Acts, ch 1023, §16
Referred to in §97C.4, 97C.6, 97C.9, 97C.12

97C.6 Collection of tax.

The tax imposed by sections 97C.5 and 97C.14 shall be collected by each employer from the employee by deducting the amount of the tax from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such taxes.

[C46, 50, §97.7, 97.9, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.6]

97C.7 Reserved.

97C.8 Statement to employees.

The employer shall furnish to all employees a written statement in a form prescribed by the state agency suitable for retention by the employees, showing the wages paid to the employee after January 1, 1953. Each statement shall cover a calendar year, or one, two or three quarters, whether or not within the same calendar year, and shall show the name of the employee, the period covered by the statement, the total amount of wages paid within such period, and the amount of tax imposed by this chapter with respect to such wages. Each

statement shall be furnished to the employee not later than thirty days following the period covered by the statement, except that, if the employee leaves the employ of the employer, this final statement shall be furnished within thirty days after the last payment of wages is made to the employee. The employer may, at its option, furnish such a statement to any employee at the time of each payment of wages to the employee during any calendar quarter, in lieu of a statement covering such quarter, and, in such case, the statement may show the date of payment of wages in lieu of the period covered by the statement.

[C46, 50, §97.11; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.8]

97C.9 Adjustments or refund.

If more or less than the correct amount of the tax imposed by section 97C.5 is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made in such manner and at such times as the state agency shall prescribe.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.9]

97C.10 Tax on employer.

In addition to all other taxes there is hereby imposed upon each employer as defined in section 97C.2, subsection 2, a tax equal to such percentum of the wages paid by the employer to each employee as imposed by the Social Security Act, Tit. II, as such Act has been and may from time to time be amended. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income available. The political subdivision is hereby authorized and directed to levy in addition to all other taxes a property tax sufficient to meet its obligations under the provisions of this chapter, if such tax levy is necessary because other funds are not available.

[C46, 50, §97.12; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.10]

2012 Acts, ch 1023, §17

Referred to in §97C.12

97C.11 Payment — adjustment or refund.

Taxes deducted by the employer from the earnings of employees or upon the employers shall be paid in a manner, at times and under conditions prescribed by the state agency. If more or less than the correct amount of the tax imposed upon the employer is paid or deducted, proper adjustments or refund, if adjustment is impracticable, shall be made in a manner and at times as the state agency prescribes.

[C46, 50, §97.7; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.11]

84 Acts, ch 1285, §20

Referred to in §97C.12

97C.12 Contribution fund.

1. There is hereby established in the office of the treasurer of state a special fund to be known as the contribution fund. Such fund shall consist of, and there shall be deposited in such fund:

a. All taxes, interest, and penalties collected under sections 97C.5, 97C.10, and 97C.11.

b. All moneys appropriated thereto under this chapter.

c. Any property or securities and earnings thereof acquired through the use of moneys belonging to the fund.

d. Interest earned upon any moneys in the fund.

e. All sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source.

2. Subject to the provisions of this chapter, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated,

which are necessary to the administration thereof and are consistent with the provisions of this chapter. All moneys in this fund shall be mingled and undivided.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.12]

2013 Acts, ch 30, §21

Referred to in §97C.5, 97C.14

97C.13 Fund kept separate.

The contribution fund shall be established and held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall be made for, and solely for, payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under section 97C.3, or the payment of refunds provided for in this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.13]

97C.13A Federal-state agreement administration — costs.

Actual costs incurred by the state agency in the fulfillment of its duties under this chapter shall be paid as an expense authorized by the executive council from the appropriations addressed in section 7D.29. Costs paid from appropriations as provided in this section shall not exceed ten thousand dollars each fiscal year.

2012 Acts, ch 1073, §1

97C.14 Elected officials — retroactive payments.

Any elective official of the state of Iowa, or any of its political subdivisions, who becomes subject to federal social security coverage under the provisions of the agreement referred to in section 97C.3 shall, not later than October 1, 1953, pay into the contribution fund established by section 97C.12 a tax sufficient to pay in the elected official's behalf an amount equal to three percent of the official's compensation received as a public official for each year or portion thereof that the public elected official has served as a public elective official since January 1, 1951, not to exceed thirty-six hundred dollars for any year of service. The state agency shall collect the tax hereby imposed and the proceeds from such tax shall be used for the purpose of obtaining retroactive federal social security coverage for elective officials, for the period beginning January 1, 1951, in the same manner as is provided in the case of other public employees by the provisions in section 97.51, subsection 2, in order to obtain retroactive federal social security coverage during this period of time, such contribution to be collected and guaranteed by the employer. The state agency will pay any such amount contributed to provide for retroactive federal social security coverage for the individual in question in the same manner as other payments are made for retroactive coverage of public employees. Provided that no member of a county board of supervisors shall be deemed to be an elective official in a part-time position, but every member of a county board of supervisors shall be deemed to be an employee within the purview of this chapter and shall be eligible to receive all of the benefits provided by this chapter to which the member may be entitled as an employee.

[C46, 50, §97.7, 97.45; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.14]

2015 Acts, ch 29, §16

Referred to in §97C.6

97C.15 Payments to secretary of treasury.

From the contribution fund the custodian of the fund shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 97C.3 and the Social Security Act, Tit. II.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.15]

2012 Acts, ch 1023, §18

97C.16 Custodian of fund.

The treasurer of state shall be ex officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of this chapter and the

directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.16]

97C.17 Standing appropriation.

There is hereby authorized to be appropriated annually from the general fund of the state of Iowa to the contribution fund, in addition to the taxes collected and paid into the contribution fund, such additional sums as are found to be necessary in order to make payments to the secretary of the treasury of the United States which the state is obliged to make pursuant to any agreement entered into under section 97C.3.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.17]

97C.18 Rules.

The state agency shall make and publish such rules, not inconsistent with the provisions of this chapter, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this chapter, and the state agency shall comply with regulations relating to payments and reports as may be prescribed by the federal security administrator.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.18]

97C.19 Apportionment of expense.

The money spent for personnel, rentals, supplies, and equipment used by the state agency in administering this chapter and chapters 97 and 97B shall be equitably apportioned and charged against the funds provided for the administration of this chapter and those chapters.

[C46, 50, §97.48; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.19]

86 Acts, ch 1245, §259; 2007 Acts, ch 22, §31

97C.20 Referenda by governor.

1. With respect to employees of the state the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision the governor shall authorize a referendum upon request of the governing body of such subdivision; and in either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. The notice of referendum required by section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accomplished by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

2. Upon receiving evidence satisfactory to the governor that with respect to any such referendum the conditions specified in section 218(d)(3) of the Social Security Act have been met, the governor shall so certify to the secretary of health and human services.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §97C.20]

83 Acts, ch 101, §11; 2015 Acts, ch 29, §17

97C.21 Voluntary coverage of elected officials.

Notwithstanding any provision of this chapter to the contrary, an employer of elected officials otherwise excluded from the definition of employee as provided in section 97C.2, may, but is not required to, choose to provide benefits to those elected officials as employees as provided by this chapter. Alternatively, the governor may authorize a statewide referendum of the appointed and elected officials of the state and its political subdivisions on the question of whether to include in or exclude from the definition of employee all such

positions. This choice shall be reflected in the federal-state agreement described in section 97C.3, and, if necessary, in this chapter. An employer who is providing benefits to elected officials otherwise excluded from the definition of employee prior to July 1, 2002, shall not be deemed to be in an erroneous reporting situation, and corrections for prior federal social security withholdings shall not be required. The implementation of this section shall be subject to the approval of the federal social security administration.

2002 Acts, ch 1135, §35; 2008 Acts, ch 1171, §60

CHAPTER 97D

PUBLIC RETIREMENT SYSTEMS GENERALLY

97D.1 Guiding goals for future changes in public retirement systems — social security — portability.
97D.2 Analysis of cost of proposed changes.
97D.3 Newly hired peace officers, police officers, and fire fighters — referendum.
97D.4 Public retirement systems committee established.
97D.5 Public retirement systems — annual actuarial valuations — required information.

97D.1 Guiding goals for future changes in public retirement systems — social security — portability.

1. The general assembly declares that legislative proposals for changes in specific public retirement systems should be considered within the context of all public retirement systems within the state, with emphasis on equity and equality among the systems. The following list of guiding goals shall apply to the consideration of proposed changes:

a. Select those benefit enhancement options which most successfully deliver the greatest good to the greatest number of employees.

b. Choose those options which best correct existing inequities between and among the various retirement groups in the state.

c. Determine those options which most ably serve the twin objectives of attracting and retaining quality employees.

d. Avoid enacting further incentives toward earlier retirement with full benefits.

e. Avoid further splintering of benefits by disproportionate enhancement of benefits for one group beyond those available to another.

f. Avoid enacting further benefit enhancements that fail to preserve or enhance intergenerational equity amongst all employees covered by the retirement system.

2. The public retirement systems committee established by section 97D.4 shall periodically weigh the advantages and disadvantages of establishing participation in the federal social security system for the members of public retirement systems operating under chapters 97A and 411 and the impact of such a change on total contributions and benefits.

3. The public retirement systems committee established by section 97D.4 shall consider proposals to achieve greater portability of pension benefits between the various public retirement systems in the state. Special attention should be given to the actuarial cost of transfers of value from one system to another.

90 Acts, ch 1240, §43; 98 Acts, ch 1183, §108

97D.2 Analysis of cost of proposed changes.

When the public retirement systems committee established by section 97D.4 or a standing committee of the senate or house of representatives recommends a proposal for a change in a public retirement system within this state, the committee shall require the development of actuarial information concerning the costs of the proposed change. If the proposal affects police and fire retirement under chapter 411, the committee shall arrange for the services of an actuarial consultant or request actuarial information from the statewide fire and police

retirement system created in chapter 411 to assist in developing the information. Actuarial information developed as provided under this section concerning the cost of a proposed change shall include information on the effect of the proposed change on the normal cost rate for that public retirement system using the entry age normal actuarial cost method.

90 Acts, ch 1240, §44; 2008 Acts, ch 1171, §61

97D.3 Newly hired peace officers, police officers, and fire fighters — referendum.

1. As soon as possible after July 1, 1990, the department of administrative services, in cooperation with the board of trustees of the public safety peace officers' retirement system and the board of trustees for the statewide fire and police retirement system created in section 411.36, shall submit to the members of retirement systems under chapters 97A and 411 in a referendum the question of requiring federal social security coverage for all persons newly hired as peace officers, as defined in section 97A.1, police officers, and fire fighters. The referendum shall be conducted before January 1, 1991. The referendum procedures shall comply with the requirements of federal law and regulations. If there is a favorable vote of a majority of the persons eligible to vote in the referendum, subsection 2 applies.

2. Upon a favorable vote in the referendum and notwithstanding sections 97A.3 and 411.3, all persons newly hired as peace officers, as defined in section 97A.1, police officers, and fire fighters after July 1, 1991, shall be members of the Iowa public employees' retirement system under chapter 97B, rather than members of retirement systems under chapters 97A and 411. Such members shall have federal social security coverage in addition to coverage under the Iowa public employees' retirement system and shall have the same benefits as county sheriffs and deputy sheriffs under section 97B.49C or 97B.49G, as applicable.

90 Acts, ch 1240, §45; 98 Acts, ch 1183, §70; 2003 Acts, ch 145, §286

97D.4 Public retirement systems committee established.

1. A public retirement systems committee is established.

a. The committee shall consist of three members of the senate appointed by the majority leader of the senate, two members of the senate appointed by the minority leader of the senate, three members of the house of representatives appointed by the speaker of the house of representatives, and two members of the house of representatives appointed by the minority leader of the house of representatives.

b. Members shall be appointed prior to January 31 of the first regular session of each general assembly and shall serve for terms ending upon the convening of the following general assembly or when their successors are appointed, whichever is later. A vacancy shall be filled in the same manner as the original appointment and shall be for the remainder of the unexpired term of the vacancy.

c. The committee shall elect a chairperson and vice chairperson. Meetings may be called by the chairperson or a majority of the members.

2. The members of the committee shall be reimbursed for actual and necessary expenses incurred in the performance of their duties and shall be paid a per diem as specified in section 2.10 for each day in which they engaged in the performance of their duties. However, per diem compensation and expenses shall not be paid when the general assembly is actually in session at the seat of government. Expenses and per diem shall be paid from funds appropriated pursuant to section 2.12.

3. The committee shall:

a. Develop and recommend retirement standards and a coherent state policy on public retirement systems.

b. Continuously survey pension and retirement developments in other states and in industry and business and periodically review the state's policy and standards in view of these developments and changing economic and social conditions.

c. Review the provisions in the public retirement systems in effect in this state.

d. Review individually sponsored bills relating to the public retirement systems.

e. Review proposals from interested associations and organizations recommending changes in the state's retirement laws.

f. Study the feasibility of adopting a consolidated retirement system for the public employees of this state.

g. Make recommendations to the general assembly.

4. The committee may:

a. Contract for actuarial assistance deemed necessary, and the costs of actuarial studies are payable from funds appropriated in section 2.12, subject to the approval of the legislative council.

b. Administer oaths, issue subpoenas, and cite for contempt with the approval of the general assembly when the general assembly is in session and with the approval of the legislative council when the general assembly is not in session.

5. Administrative assistance shall be provided by the legislative services agency.

86 Acts, ch 1243, §24

C87, §97B.76

90 Acts, ch 1240, §93; 90 Acts, ch 1256, §28

C91, §97D.4

2003 Acts, ch 35, §40, 49; 2008 Acts, ch 1032, §12, 13; 2008 Acts, ch 1156, §26, 58; 2010 Acts, ch 1193, §39

Referred to in §97D.1, 97D.2

97D.5 Public retirement systems — annual actuarial valuations — required information.

1. For purposes of this section, "*public retirement system*" means the public safety peace officers' retirement system created in chapter 97A, the Iowa public employees' retirement system created in chapter 97B, the statewide fire and police retirement system created in chapter 411, or the judicial retirement system created in chapter 602.

2. Effective with the fiscal year beginning July 1, 2008, a public retirement system shall include in each actuarial valuation or actuarial update required to be conducted by that public retirement system the following additional information, all as determined by using the entry age normal actuarial cost method:

a. The actuarially required contribution rate for the public retirement system which is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percent of payroll basis over thirty years.

b. The normal cost rate for the public retirement system which shall be determined for each individual member on a level percentage of salary basis and then summed for all members to obtain the total normal cost.

2008 Acts, ch 1171, §62

Referred to in §97A.5, 97B.4, 411.5, 602.9116

CHAPTERS 98 and 98A

RESERVED

SUBTITLE 4

GAMBLING

CHAPTER 99

HOUSES USED FOR PROSTITUTION OR GAMBLING

Nuisances in general, chapter 657

99.1	Definitions.	99.16	Delay in trial.
99.1A	Houses of prostitution or other nuisances.	99.17	Costs.
		99.18	Violation of injunction.
99.2	Injunction — procedure.	99.19	Procedure.
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99.14	Evidence.	99.30	Application of mulct tax.
99.15	Dismissal.	99.31	Mulct tax assessed.

99.1 Definitions.

As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

99.1A Houses of prostitution or other nuisances.

1. A person who erects, establishes, continues, maintains, uses, owns, or leases any building, erection, or place used for the purpose of prostitution or gambling, except as authorized under the laws of this state is guilty of a nuisance. The building, erection, or place, or the ground itself, in or upon which prostitution or gambling is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining the nuisance, are also declared a nuisance and shall be enjoined and abated as provided in this chapter.

2. The provisions of this section do not apply to social and charitable gambling conducted pursuant to chapter 99B or to devices lawful under section 99B.52 or 99B.53.

[SS15, §4944-h1; C24, 27, 31, 35, 39, §**1587;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.1]

C2001, §99.1A

2015 Acts, ch 99, §49; 2021 Acts, ch 80, §55

Referred to in §99.27

Nuisances, see chapter 657

Leasing premises for prostitution, see §725.4

Keeping gambling houses, see §725.5

Section amended

99.2 Injunction — procedure.

When a nuisance is kept, maintained, or exists, as defined in this chapter, the county attorney, or any citizen of the county, or any society, association, or body incorporated under the laws of this state, may maintain an action in equity in the name of the state of Iowa, upon the relation of such county attorney, citizen, or corporation to perpetually enjoin said

nuisance, the person or persons conducting or maintaining the same from further conducting or maintaining the same, and the owner or agent of the building or ground upon which said nuisance exists, from further permitting such building or ground or both to be so used.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1588;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.2]

99.3 Notice — temporary writ — without bond.

The defendants shall be served with notice as in other actions and in such action the court, or judge in vacation, shall upon the presentation of a petition therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if the existence of such nuisance shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony, or otherwise as the complainant may elect, unless the court or judge by previous order, shall have directed the form and manner in which such evidence shall be presented.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1589;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.3]

Time and manner of service, R.C.P. 1.302 – 1.315

99.4 Owner defined — notice.

The person in whose name the real estate affected by the action stands on the books of the county auditor, for the purposes of taxation, shall be presumed to be the owner thereof, and in case of unknown persons having or claiming any ownership, right, title, or interest in property affected by the action, such may be made parties to the action by designating them in the notice and petition as "all other persons unknown claiming any ownership, right, title, or interest in the property affected by the action" and service thereon may be had by publishing such notice in the manner prescribed for the publication of original notices in ordinary actions.

[SS15, §4944-h9; C24, 27, 31, 35, 39, §**1590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.4]

Service by publication, R.C.P. 1.310 et seq.

99.5 Trial.

Any person having or claiming such ownership, right, title, or interest, and any owner or agent in behalf of the agent and such owner may make, serve, and file an answer therein within twenty days after such service, and have trial of the person's rights in the premises by the court; and if said cause has already proceeded to trial or to findings and judgment, the court shall by order fix the time and place of such trial and shall modify, add to, or confirm such findings and judgment as the case may require. Other parties to said action shall not be affected thereby.

[SS15, §4944-h9; C24, 27, 31, 35, 39, §**1591;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.5]

99.6 Temporary restraining order.

If a temporary injunction is petitioned for, the court, on the application of plaintiff, may issue an ex parte restraining order, restraining the defendants and all other persons from removing or in any manner interfering with the furniture, fixtures, musical instruments, and movable property used in conducting the alleged nuisance, until the decision of the court granting or refusing the temporary injunction and until the further order of the court.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1592;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.6]

90 Acts, ch 1168, §12

99.7 Writ — how served.

The restraining order may be served by handing to and leaving a copy of said order with any person in charge of said property or residing in the premises or apartment wherein the same is situated, or by posting a copy thereof in a conspicuous place at or upon one or more

of the principal doors or entrances to such premises or apartment where such nuisance is alleged to be maintained, or by both such delivery and posting.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1593;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.7]

99.8 Inventory.

The officer serving such restraining order shall forthwith make and return into court an inventory of the personal property situated in and used in conducting or maintaining such nuisance.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1594;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.8]

99.9 Mutilation or removal of notice.

Where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided such posted order contains thereon or therein a notice to that effect.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1595;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.9]

99.10 Notice.

Three days' notice in writing shall be given the defendants of the hearing of the application for temporary injunction, and if then continued at the instance of defendant, the temporary writ as petitioned for shall be granted as a matter of course.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1596;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.10]

90 Acts, ch 1168, §13

99.11 Answer.

Each defendant so notified shall serve upon the complainant or the complainant's attorney a verified answer on or before the date fixed in the notice for a hearing, and the answer shall be filed with the clerk of the district court of the county where the cause is triable, but the court may allow additional time for so answering. However, an extension of time shall not prevent the issuing of the temporary writ as petitioned for. The allegations of the answer shall be deemed to be traversed without further pleading.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1597;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.11]

90 Acts, ch 1168, §14

99.12 Scope of injunction.

When an injunction has been granted, it shall be binding on the defendant throughout the judicial district in which it was issued, and any violation of the provisions of the injunction or temporary restraining order herein provided, shall be a contempt and punished as hereinafter provided.

[SS15, §4944-h2; C24, 27, 31, 35, 39, §**1598;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.12]

Punishment, §99.20

99.13 Reserved.

99.14 Evidence.

In such action evidence of the general reputation of the place shall be competent for the purpose of proving the existence of said nuisance and shall be prima facie evidence of such nuisance and of knowledge thereof and of acquiescence and participation therein on the part of the owners, lessors, lessees, users, and all those in possession of or having charge of, as

agent or otherwise, or having any interest in any form of property used in conducting or maintaining said nuisance.

[SS15, §4944-h3; C24, 27, 31, 35, 39, §**1600;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.14]

99.15 Dismissal.

If the complaint is filed by a citizen or a corporation, it shall not be dismissed except upon a sworn statement made by the complainant and the complainant's attorney, setting forth the reasons why the action should be dismissed and the dismissal approved by the county attorney in writing or in open court.

[SS15, §4944-h3; C24, 27, 31, 35, 39, §**1601;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.15]

99.16 Delay in trial.

If the court is of the opinion that the action ought not to be dismissed, the court may direct the county attorney to prosecute said action to judgment at the expense of the county, and if the action is continued beyond the first trial calendar to which assigned, any citizen of the county or the county attorney may be substituted for the complaining party and prosecute said action to judgment.

[SS15, §4944-h3; C24, 27, 31, 35, 39, §**1602;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.16]

99.17 Costs.

If the action is brought by a citizen or a corporation and the court finds there were no reasonable grounds or cause for said action, the costs may be taxed to such citizen or corporation.

[SS15, §4944-h3; C24, 27, 31, 35, 39, §**1603;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.17]

99.18 Violation of injunction.

In case of the violation of any injunction granted under the provisions of this chapter, or of a restraining order or the commission of any contempt of court in proceedings under this chapter, the court may summarily try and punish the offender.

[SS15, §4944-h4; C24, 27, 31, 35, 39, §**1604;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.18]

99.19 Procedure.

The proceedings shall be commenced by filing with the clerk of the court a complaint under oath, setting out and alleging facts constituting such violation, upon which the court shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses.

[SS15, §4944-h4; C24, 27, 31, 35, 39, §**1605;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.19]

99.20 Penalty.

A party found guilty of contempt under the provisions of this chapter shall be punished by a fine of not less than two hundred nor more than one thousand dollars or by imprisonment in the county jail not less than three nor more than six months or by both fine and imprisonment.

[SS15, §4944-h4; C24, 27, 31, 35, 39, §**1606;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.20]

99.21 Abatement — sale of property.

If the existence of the nuisance be admitted or established in an action as provided in this chapter, or in a criminal proceeding in the district court, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the

building or place of all fixtures, furniture, musical instruments, or movable property used in conducting the nuisance, and shall direct the sale of such in the manner provided for the sale of chattels under execution, and shall direct the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released as hereinafter provided.

[SS15, §4944-h5; C24, 27, 31, 35, 39, §**1607;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.21]

Referred to in §99.25
Sale of chattels, §626.74 et seq.

99.22 Fees.

For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as the officer would for levying upon and selling like property, on execution, and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

[SS15, §4944-h5; C24, 27, 31, 35, 39, §**1608;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.22]

Fees, §331.655(1)

99.23 Breaking and entering closed building — punishment.

If any person shall break and enter or use a building, erection, or place so directed to be closed, the person shall be punished as for contempt as provided in this chapter.

[SS15, §4944-h5; C24, 27, 31, 35, 39, §**1609;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.23]

Punishment, §99.20

99.24 Duty of county attorney.

In case the existence of such nuisance is established in a criminal proceeding in a court not having equitable jurisdiction, it shall be the duty of the county attorney to proceed promptly under this chapter to enforce the provisions and penalties thereof; and the finding of the defendant guilty in such criminal proceedings, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance.

[SS15, §4944-h6; C24, 27, 31, 35, 39, §**1610;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.24]

Referred to in §331.756(20)

99.25 Proceeds.

All moneys collected under this chapter shall be paid to the county treasurer. The proceeds of the sale of the personal property as provided in section 99.21 shall be applied in payment of the costs of the action and abatement or so much of such proceeds as may be necessary, except as hereinafter provided.

[SS15, §4944-h6; C24, 27, 31, 35, 39, §**1611;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.25]

99.26 Release of property.

If the owner of the premises in which said nuisance has been maintained appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the court in the full value of the property, to be ascertained by the court, conditioned that the owner will immediately abate said nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court, if satisfied of the owner's good faith, may order the premises, closed or sought to be closed under the order of abatement, delivered to said owner, and said order of abatement canceled so far as the same may relate to said real property. The release of the property under the provisions of this section shall not release it from the injunction herein provided against the property nor any of the defendants nor from any judgment, lien, penalty, or liability to which it may be subject by law.

[SS15, §4944-h7; C24, 27, 31, 35, 39, §**1612;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.26]

99.27 Mulct tax.

When a permanent injunction issues against any person for maintaining a nuisance as defined in section 99.1A, or against any owner or agent of the building kept or used for the purpose prohibited by this chapter, there shall be imposed upon said building and the ground upon which the same is located and against the person or persons maintaining the nuisance and the owner or agent of the premises, a mulct tax of three hundred dollars. The imposing of the mulct tax shall be made by the court as a part of the proceeding.

[SS15, §4944-h8; C24, 27, 31, 35, 39, §**1613;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.27]

2015 Acts, ch 30, §37

Nuisance defined, §99.1A

99.28 Certification and payment of mulct tax.

The clerk of said court shall make and certify a return of the imposition of the mulct tax forthwith to the county auditor, who shall enter the same as a tax upon the property, and against the persons upon which or whom the lien was imposed, as and when the other taxes are entered, and the same shall be and remain a lien on the land upon which such lien was imposed until fully paid. Any such lien imposed while the tax books are in the hands of the auditor shall be immediately entered in the tax books. The payment of the mulct tax shall not relieve the persons or property from any other penalties provided by law.

[SS15, §4944-h8; C24, 27, 31, 35, 39, §**1614;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.28]

2016 Acts, ch 1073, §24

Referred to in §331.512, 602.8102(24)

99.29 Collection of mulct tax.

The provisions of the law relating to the collection of taxes in this state, the delinquency thereof, and sale of property for taxes shall govern in the collection of the mulct tax prescribed in this chapter insofar as those provisions are applicable.

[SS15, §4944-h8; C24, 27, 31, 35, 39, §**1615;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.29]

2016 Acts, ch 1073, §25

Collection of taxes, chapter 445 et seq.

99.30 Application of mulct tax.

The mulct tax collected shall be applied toward the deficiency in the payment of costs of the action and abatement which exist after the application of the proceeds of the sale of personal property. The remainder of the tax together with the unexpended portion of the proceeds of the sale of personal property shall be paid to the treasurer of state for deposit in the general fund of the state, except that ten percent of the amount of the whole tax collected and of the whole proceeds of the sale of the personal property, as provided in this chapter, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

[SS15, §4944-h8; C24, 27, 31, 35, 39, §**1616;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.30]

83 Acts, ch 185, §2, 62; 83 Acts, ch 186, §10043, 10201, 10204; 2016 Acts, ch 1073, §26

99.31 Mulct tax assessed.

When such nuisance has been found to exist under any proceeding in the district court or as in this chapter provided, and the owner or agent of such building or ground whereon the nuisance has been found to exist was not a party to such proceeding, nor appeared therein, the mulct tax of three hundred dollars shall, nevertheless, be imposed against the persons served or appearing and against the property as set forth in this chapter.

[SS15, §4944-h9; C24, 27, 31, 35, 39, §**1617;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99.31]

2016 Acts, ch 1073, §27

CHAPTER 99A

POSSESSION OF GAMBLING DEVICES

99A.1	Definitions.	99A.7	Attorney general — duty.
99A.2	Intentional possession.	99A.8	Witnesses.
99A.3	Proceedings to revoke.	99A.9	Owner of premises — when penalized.
99A.4	Duties of peace officers.		
99A.5	Order to show cause.	99A.10	Manufacture and distribution of gambling devices permitted.
99A.6	Licenses revoked — appeal.		

99A.1 Definitions.

For the purpose of this chapter, the words, terms, and phrases defined in this section shall have the meanings given them.

1. *"Gambling devices"* means gambling devices as defined in section 725.9.

2. *"Issuing authority"* and *"authority issuing the license"* mean and include the officer, board, bureau, department, commission, or agency of the state, or of any of its municipalities, by whom any license is issued and include the councils and governing bodies of all municipalities.

3. *"License"* includes permits of every kind, nature and description issued pursuant to any statute or ordinance for the carrying on, or used in the carrying on, of any business, trade, vocation, commercial enterprise or undertaking.

4. *"Licensed business"* means any business, trade, vocation, commercial enterprise, or undertaking for which any license is issued.

5. *"Licensed premises"* means the place or building, or the room in a building of the licensed business, and all land adjacent thereto and used in connection with and in the operation of a licensed business, and all adjacent or contiguous rooms or buildings operated or used in connection with the buildings of the licensed business.

6. *"Licensee"* means any person to whom a license of any kind is issued.

7. *"Municipality"* means any county, city, village, or township.

8. *"Person"* means an individual, a partnership, an association, corporation, or any other entity or organization.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.1]

2008 Acts, ch 1032, §106

99A.2 Intentional possession.

1. The intentional possession or willful keeping of a gambling device upon any licensed premises, except as provided in this chapter, is cause for the revocation of any license upon the premises where the gambling device is found. Possession by an employee of the licensee on the premises of the licensee creates a presumption of intentional possession by the licensee.

2. All licenses of any licensed business shall be revoked if the intentional possession or willful keeping of any such gambling device upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.2]

83 Acts, ch 187, §31

99A.3 Proceedings to revoke.

The proceedings for revocation shall be had before the issuing authority, which shall have power to revoke the license or licenses involved, as hereinafter provided.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.3]

99A.4 Duties of peace officers.

Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer shall immediately report the finding of gambling devices at licensed premises to the authority or authorities issuing the license or licenses applicable to the premises in question.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.4]

94 Acts, ch 1173, §6

Referred to in §99A.5, 331.653

99A.5 Order to show cause.

Upon the receipt of such information from any of the peace officers referred to in section 99A.4, if any issuing authority is of the opinion that cause exists for the revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring the licensee to appear and show cause at a time and place within the county in which the licensed premises are located, not less than ten days after the date of the order, why the licensee's license should not be revoked. The order to show cause shall be served upon the licensee as an original notice, or by certified mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the county recorder at the owner's last known post office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other licenses to that licensee may have been issued, and any such other authority may participate in the revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the revocation proceedings in the first instance.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.5]

99A.6 Licenses revoked — appeal.

1. If, upon the hearing of the order to show cause, the issuing authority finds that the licensee intentionally possessed or willfully kept upon the licensee's licensed premises any gambling device, then the license or licenses under which the licensed business is operated, or used in the operation of such business on the licensed premises, shall be revoked.

2. Judicial review of actions of the issuing authorities may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Municipalities acting as issuing authorities shall be deemed state agencies solely for the purposes of bringing their actions under this chapter within the terms of section 17A.19. If the licensee has not filed a petition for judicial review in district court, revocation shall date from the thirty-first day following the date of the order of the issuing authority. If the licensee has filed a petition for judicial review, revocation shall date from the thirty-first day following entry of the order of the district court, if action by the district court is adverse to the licensee.

3. No new license or licenses shall be granted the licensee, nor for the same business if it is established that the owner had actual knowledge of the existence of the gambling devices resulting in the license revocation, upon the same premises, for the period of one year following the date of revocation.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.6]

2003 Acts, ch 44, §114; 2017 Acts, ch 54, §76

Referred to in §99A.7, 99A.9, 331.756(21)

99A.7 Attorney general — duty.

The attorney general shall attend the hearing, interrogate the witnesses, and advise the issuing authority. The attorney general shall also appear for the issuing authority in any certiorari proceeding taken pursuant to section 99A.6.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.7]

94 Acts, ch 1173, §7

Referred to in §331.756(21)

99A.8 Witnesses.

The issuing authority may issue subpoenas and compel the attendance of witnesses at any hearing. Witnesses duly subpoenaed and attending any such hearing shall be paid fees and mileage by the issuing authority equal to the fees and mileage paid witnesses in the district court.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.8]

99A.9 Owner of premises — when penalized.

When the license is revoked under the provisions of this chapter, subject to the provisions of section 99A.6, the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that the owner had knowledge of the existence of the gambling devices resulting in the license revocation.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §99A.9]

99A.10 Manufacture and distribution of gambling devices permitted.

A person may manufacture or act as a distributor for gambling devices for sale out of the state in another jurisdiction where possession of the device is legal or for sale in the state or use in the state if the use is permitted pursuant to either chapter 99B or chapter 99G.

85 Acts, ch 32, §117; 86 Acts, ch 1052, §1; 90 Acts, ch 1062, §1; 2003 Acts, ch 178, §101, 121; 2003 Acts, ch 179, §142

CHAPTER 99B

SOCIAL AND CHARITABLE GAMBLING

Referred to in §10A.104, 99.1A, 99A.10, 99F.2, 99G.3, 123.49, 232C.4, 321.105A, 422.16, 423.2, 423.3, 537A.4, 714B.10, 725.7, 725.9, 725.13, 725.15, 725.16, 725.17, 725.19

For certain fiscal years, certain fees collected by the department of inspections and appeals as a result of licensing and registration activities under chapters 99B, 137C, 137D, and 137F shall be retained by the department for purposes of enforcing those chapters; 2016 Acts, ch 1130, §12; 2017 Acts, ch 171, §13, 40; 2018 Acts, ch 1164, §11; 2019 Acts, ch 136, §13; 2020 Acts, ch 1121, §1; 2021 Acts, ch 142, §13

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SUBCHAPTER I

GENERAL PROVISIONS

99B.1 Definitions.

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

1. *"Amusement concession"* means a game of skill or game of chance with an instant win possibility where, if the participant completes a task, the participant wins a prize. *"Amusement concession"* includes but is not limited to carnival-style games that are conducted by a person for profit. *"Amusement concession"* does not include casino-style games, nudge games, swap games, or amusement devices required to be registered pursuant to section 99B.53.

2. *"Amusement device"* means an electrical or mechanical device possessed and used in accordance with this chapter. When possessed and used in accordance with this chapter, an amusement device is not a game of skill or game of chance, and is not a gambling device.

3. *"Applicant"* means an individual or an organization applying for a license under this chapter.

4. *"Bingo"* means a game, whether known as bingo or any other name, in which each participant uses one or more cards each of which is marked off into spaces arranged in horizontal and vertical rows of spaces, with each space being designated by number, letter, symbol, or picture, or combination of numbers, letters, symbols, or pictures. No two cards shall be identical. In the game of bingo, players shall cover spaces on the card or cards as the operator of the game announces to the players the number, letter, symbol, or picture, or combination of numbers, letters, symbols, or pictures, appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, symbols, or pictures, or combinations of numbers, letters, symbols, or pictures corresponding to the system used for designating the spaces. The winner of each game is the player or players first properly covering a predetermined and announced

pattern of spaces on a card. Each determination of a winner by the method described in this subsection is a single bingo game at any bingo occasion.

5. *"Bingo occasion"* means a single gathering or session at which a series of bingo games is played. A bingo occasion begins when the operator of a bingo game selects an object with a number, letter, symbol, or picture, or combination of numbers, letters, symbols, or pictures through which the winner of the first bingo game in a series of bingo games will be determined. A bingo occasion ends when at least one hour has elapsed since a bingo game is played or when an announcement by the operator of the bingo game is made that the bingo occasion is over, whichever first occurs.

6. *"Bona fide social relationship"* as used herein means a real, genuine, unfeigned social relationship between two or more persons wherein each person has an established knowledge of the other, which has not arisen for the purpose of gambling.

7. *"Bookmaking"* means the determining of odds and receipt and paying off of bets by an individual or publicly or privately owned enterprise not present when the wager or bet was undertaken.

8. *"Build-up or pyramid"* means a raffle or a game in which a prize must be returned in order to play another game or to be eligible for another bigger prize, a game in which a prize must be forfeited if a later game is lost, or a raffle which is multi-step and requires the participant to win at multiple steps to win the grand prize.

9. *"Calendar raffle"* means a raffle where a single entry is entered in one raffle where winners will be selected over multiple dates.

10. *"Casino-style games"* means any house banking game, including but not limited to casino-style card games such as poker, baccarat, chemin de fer, blackjack, and pai gow, and casino games such as roulette, craps, and keno. *"Casino-style games"* does not include a slot machine.

11. *"Charitable uses"* includes uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm when the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury, causing severe loss of income or incurring extraordinary medical expense when the loss is uncompensated by insurance.

12. A person *"conducts"* a specified activity if that person owns, promotes, sponsors, or operates a game or activity. A natural person does not *"conduct"* a game or activity if the person is merely a participant in a game or activity which complies with section 99B.45.

13. *"Department"* means the department of inspections and appeals.

14. *"Educational, civic, public, charitable, patriotic, or religious uses"* includes uses benefiting a society for the prevention of cruelty to animals or animal rescue league; uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government; and uses benefiting any bona fide nationally chartered fraternal or military veterans' corporation or organization which operates in Iowa a clubroom, post, dining room, or dance hall, but does not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property unless it is used for one or more of the uses described in this subsection.

15. *"Fair"* means an annual fair and exposition held by the Iowa state fair board and any fair event conducted by a fair under the provisions of chapter 174.

16. *"Gambling"* means any activity where a person risks something of value or other consideration for a chance to win a prize.

17. *"Game night"* means an event at which casino-style games may be conducted, in addition to games of skill and games of chance, within one consecutive twenty-four-hour period.

18. *"Game of chance"* means a game whereby the result is determined by chance and the player in order to win completes activities, such as aligning objects or balls in a prescribed pattern or order or makes certain color patterns appear. *"Game of chance"* specifically includes but is not limited to bingo. *"Game of chance"* does not include a slot machine or amusement device.

19. *"Game of skill"* means a game whereby the result is determined by the player's ability to do a task, such as directing or throwing objects to designated areas or targets, or by maneuvering water or an object into a designated area, or by maneuvering a dragline device to pick up particular items, or by shooting a gun or rifle.

20. *"Gross receipts"* means the total revenue received from the sale of rights to participate in a game of skill, game of chance, bingo, or raffle and admission fees or charges.

21. *"Licensed qualified organization"* means a qualified organization that is issued a license under this chapter and that complies with the requirements for a qualified organization issued a license under this chapter.

22. *"Merchandise"* means goods or services that are bought and sold in the regular course of business. *"Merchandise"* includes lottery tickets or shares sold or authorized under chapter 99G. The value of the lottery ticket or share is the price of the lottery ticket or share as established by the Iowa lottery authority pursuant to chapter 99G. *"Merchandise"* includes a gift card if the gift card is not redeemable for cash.

23. *"Net receipts"* means gross receipts less amounts awarded as prizes and less state and local sales tax paid upon the gross receipts.

24. *"Net rent"* means the total rental charge minus reasonable expenses, charges, fees, and deductions allowed by the department.

25. *"Nudge game"* means any game or phase of a game in which a participant spins reels or simulated reels and may choose to nudge one or more reels in any direction to complete a winning combination or pattern.

26. *"Public uses"* specifically includes dedication of net receipts to political parties as defined in section 43.2.

27. *"Qualified organization"* means an organization that has an active membership of not less than twelve persons, does not have a self-perpetuating governing body and officers, and meets any of the following requirements:

a. Is exempt from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3.

b. Is an agency or instrumentality of the United States government, this state, or a political subdivision of this state.

c. Is a parent-teacher organization or booster club that is recognized as a fund-raiser and supporter for a school district organized pursuant to chapter 274 or for a school within the school district, in a notarized letter signed by the president of the board of directors, the superintendent of the school district, or a principal of a school within that school district.

d. Is a political party, as defined in section 43.2, or a nonparty political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate's committee as defined in section 68A.102.

28. *"Raffle"* means a lottery in which each participant buys an entry for a chance at a prize with the winner determined by a random method and the winner is not required to be present to win. *"Raffle"* does not include a slot machine.

29. *"Swap game"* means any game or phase of a game in which a participant spins reels or simulated reels and may choose to swap, move, or substitute one or more icons or symbols to create a winning combination or pattern.

[C75, 77, 79, 81, §99B.1; 81 Acts, ch 44, §1 – 3]

84 Acts, ch 1220, §3; 86 Acts, ch 1042, §1; 86 Acts, ch 1201, §1; 86 Acts, ch 1245, §711; 87 Acts, ch 115, §14; 89 Acts, ch 231, §13 – 15; 90 Acts, ch 1233, §4; 94 Acts, ch 1062, §1; 2000 Acts, ch 1130, §1; 2003 Acts, ch 178, §102, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1019, §3; 2004 Acts, ch 1118, §1, 11; 2007 Acts, ch 173, §1; 2008 Acts, ch 1032, §187; 2015 Acts, ch 99, §1 – 6; 2021 Acts, ch 100, §1, 2

Referred to in §99B.12, 99D.8, 99F.5, 99F.6, 423.3, 717E.1
Subsection 1 amended
NEW subsection 25 and former subsections 25 – 27 renumbered as 26 – 28
NEW subsection 29

99B.2 Administrative rules.

The department may adopt rules pursuant to chapter 17A to carry out the provisions of this chapter. Rules adopted by the department may include but are not limited to the following:

1. Descriptions of books, records and accounting required.
2. Requirements for qualified organizations.
3. Methods of displaying costs and explanations of games and rules.
4. Defining unfair or dishonest games, acts or practices.

[C77, 79, 81, §99B.13]
89 Acts, ch 231, §25; 2015 Acts, ch 99, §56
C2016, §99B.2
Former §99B.2 repealed by 2015 Acts, ch 99, §47

99B.3 License denial, suspension, and revocation.

1. The department may deny, suspend, or revoke a license if the department finds that an applicant, licensee, or an agent of the licensee violated or permitted a violation of a provision of this chapter or a departmental rule adopted pursuant to chapter 17A, or for any other cause for which the director of the department would be or would have been justified in refusing to issue a license, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the licensed premises. However, the denial, suspension, or revocation of one type of gambling license does not require, but may result in, the denial, suspension, or revocation of a different type of gambling license held by the same licensee.

2. A person whose license is revoked under this section who is a person for whom a class "A", class "B", class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

3. A person whose license is revoked under this section who is a person for whom only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

4. The process for denial, suspension, or revocation of a license shall commence by delivering to the applicant or licensee notice, by means authorized by section 17A.18, setting forth the particular reasons for such action.

a. If a written request for a hearing is not received within thirty days after the delivery of notice as provided in this subsection, the denial, suspension, or revocation of a license shall become effective pending a final determination by the department. The determination involved in the notice may be affirmed, modified, or set aside by the department in a written decision.

b. If a request for a hearing is timely received by the department, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department and the denial, suspension, or revocation shall be deemed stayed until the department makes a final determination. However, the director may suspend a license prior to a hearing if the director finds that the public integrity of the licensed activity is compromised or there is a risk to public health, safety, or welfare. In addition, at any time during or prior to the hearing the department may rescind the notice of the denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of any such hearing, the determination involved in the notice may be affirmed, modified, or set aside by the department in a written decision.

5. A copy of the final decision of the department shall be sent by electronic mail or certified mail, with return receipt requested, or served personally upon the applicant or licensee. The applicant or licensee may seek judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

6. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department and chapter 17A.

7. If the department finds cause for denial of a license, the applicant may not reapply for the same license for a period of two years. If the department finds cause for suspension, the

license shall be suspended for a period determined by the department. If the department finds cause for revocation, the license shall be revoked for a period not to exceed two years.

[C77, 79, 81, §99B.14]

84 Acts, ch 1220, §12; 86 Acts, ch 1201, §11; 89 Acts, ch 231, §26; 2005 Acts, ch 106, §10; 2008 Acts, ch 1184, §51; 2015 Acts, ch 99, §29, 56

C2016, §99B.3

2016 Acts, ch 1073, §28

Former §99B.3 transferred to §99B.31; 2015 Acts, ch 99, §56

99B.4 Penalties.

In addition to any other penalty specified in this chapter, the following penalties shall apply:

1. A person who knowingly fails to comply with the requirements of this chapter and the rules adopted pursuant to chapter 17A commits a serious misdemeanor.

2. A person who intentionally files a false or fraudulent report or application as required by this chapter commits a fraudulent practice under chapter 714.

[C77, 79, 81, §99B.15]

86 Acts, ch 1002, §3; 89 Acts, ch 67, §22; 2003 Acts, ch 178, §105, 121; 2003 Acts, ch 179, §142; 2015 Acts, ch 99, §31, 56

C2016, §99B.4

Referred to in §99B.42, 99B.43

Former §99B.4 repealed by 2015 Acts, ch 99, §47

99B.5 Allowable forms for payment.

1. Social gambling, registered amusement devices, and amusement concessions not at a permanent location, require payment solely by cash.

2. Except as provided by subsection 1, a participant in an activity authorized by this chapter may make payment by cash, personal check, money order, bank check, cashier's check, electronic check, or debit card. In addition, a participant in an amusement concession at a fair as authorized by this chapter may also make payment by credit card.

3. The department shall adopt rules setting minimum standards to ensure compliance with applicable federal law and for the protection of personal information consistent with payment card industry compliance regulations.

[C77, 79, 81, §99B.17]

89 Acts, ch 231, §27; 2010 Acts, ch 1193, §110; 2015 Acts, ch 99, §34, 56

C2016, §99B.5

2018 Acts, ch 1014, §1

Former §99B.5 repealed by 2015 Acts, ch 99, §47

99B.6 Attorney general and county attorney — prosecution.

Upon request of the department of inspections and appeals or the division of criminal investigation of the department of public safety, the attorney general shall institute in the name of the state the proper proceedings against a person charged by either department with violating this chapter, and a county attorney, at the request of the attorney general, shall appear and prosecute an action when brought in the county attorney's county.

[S81, §99B.19; 81 Acts, ch 44, §14]

84 Acts, ch 1220, §13; 87 Acts, ch 115, §15; 89 Acts, ch 231, §28; 2015 Acts, ch 99, §56

C2016, §99B.6

Former §99B.6 transferred to §99B.43; 2015 Acts, ch 99, §56

99B.7 Division of criminal investigation.

The division of criminal investigation of the department of public safety may investigate to determine licensee compliance with the requirements of this chapter. Investigations may be conducted either on the criminal investigation division's own initiative or at the request of the department of inspections and appeals. The criminal investigation division and the department of inspections and appeals shall cooperate to the maximum extent possible on an investigation.

84 Acts, ch 1220, §2

C85, §99B.20

87 Acts, ch 115, §16; 89 Acts, ch 231, §29; 2015 Acts, ch 99, §56
C2016, §99B.7
Former §99B.7 repealed by 2015 Acts, ch 99, §47

99B.8 Tax on prizes.

All prizes awarded pursuant to a gambling activity under this chapter are Iowa earned income and are subject to state and federal income tax laws. A person conducting a game of skill, game of chance, bingo, or a raffle shall deduct state income taxes, pursuant to section 422.16, subsection 1, from a cash prize awarded to an individual. An amount deducted from the prize for payment of a state tax shall be remitted to the department of revenue on behalf of the prize winner.

86 Acts, ch 1201, §12
C87, §99B.21
92 Acts, 2nd Ex, ch 1001, §232; 2003 Acts, ch 145, §286; 2015 Acts, ch 99, §35, 56
C2016, §99B.8
Former §99B.8 repealed by 2015 Acts, ch 99, §47

99B.9 Reserved.

99B.9A and 99B.10 Repealed by 2015 Acts, ch 99, §47.

SUBCHAPTER II

QUALIFIED ORGANIZATIONS

99B.11 Definitions.

As used in this subchapter and subchapter III, unless the context otherwise requires:

1. *"Electronic bingo equipment"* means an electronic device that assists an individual with a disability in the use of a bingo card during a bingo game.
2. *"Large raffle"* means a raffle where the cumulative value of cash and prizes is more than ten thousand dollars but not more than one hundred thousand dollars.
3. *"Small raffle"* means a raffle where the cumulative value of cash and prizes is more than one thousand dollars but not more than ten thousand dollars.
4. *"Very large raffle"* means a raffle where the cumulative value of cash and prizes is more than one hundred thousand dollars but not more than two hundred thousand dollars or the prize is real property.
5. *"Very small raffle"* means a raffle where the cumulative value of the cash prize or prizes is one thousand dollars or less and the value of all entries sold is one thousand dollars or less, or the cumulative value of the donated merchandise prize or prizes is five thousand dollars or less and the value of all entries sold is five thousand dollars or less.

2015 Acts, ch 99, §25, 56
Former §99B.11 transferred to §99B.61; 2015 Acts, ch 99, §56

99B.12 Qualified organization licenses — general provisions — types of licenses.

1. *General provisions.*

a. A qualified organization shall submit an application for a license, along with any required fees, to the department at least thirty days in advance of the beginning of the gambling activity, including the sale of entries or promotion of the sale of entries for raffles.

b. For purposes of this section, a license is deemed to be issued on the first day of the period for which the license is issued.

c. An applicant that has not submitted an annual report required pursuant to section 99B.16 shall submit such report prior to approval of the application.

d. A license shall not be issued to an applicant whose previous license issued under this chapter or chapter 123 has been revoked until the period of revocation or revocations has elapsed.

e. The license fee is not refundable.

2. *Two-year qualified organization license.*

a. The license fee for a two-year qualified organization license is one hundred fifty dollars.

b. An applicant for a license under this subsection shall be a qualified organization that has been in existence for at least five years, or is a local chapter or an affiliate of a national tax-exempt organization that has been in existence for at least two years and has provided written authorization from the national organization to the department. The national tax-exempt organization shall be exempt from federal income taxes as described in section 99B.1, subsection 27, paragraph *"a"*, and have been in existence at least five years.

c. A qualified organization issued a two-year qualified organization license may conduct the following activities:

(1) Unlimited games of skill or games of chance except for bingo.

(2) An unlimited number of very small raffles and an unlimited number of small raffles, including electronic raffles.

(3) One large raffle, including an electronic raffle, each calendar year during the two-year period, subject to the requirements of section 99B.24.

(4) Up to three bingo occasions per week and up to fifteen bingo occasions per month.

(5) One game night per calendar month during the two-year period, subject to the requirements of section 99B.26.

3. *One-year qualified organization raffle license.*

a. The license fee for a one-year qualified organization raffle license is one hundred fifty dollars.

b. A qualified organization issued a one-year qualified organization raffle license may conduct the following activities:

(1) An unlimited number of very small raffles and an unlimited number of small raffles.

(2) Up to eight large raffles with each large raffle conducted in a different county during the one-year period, subject to the requirements of section 99B.24.

(3) One game night per calendar month during the one-year period, subject to the requirements of section 99B.26.

4. *One hundred eighty-day qualified organization raffle license.*

a. The license fee for a one hundred eighty-day qualified organization raffle license is seventy-five dollars.

b. A qualified organization issued a one hundred eighty-day qualified organization raffle license may conduct the following activities:

(1) An unlimited number of very small raffles and an unlimited number of small raffles.

(2) One large raffle during the period of one hundred eighty days, subject to the requirements of section 99B.24.

(3) One game night per calendar month during the period of one hundred eighty days, subject to the requirements of section 99B.26.

5. *Ninety-day qualified organization raffle license.*

a. The license fee for a ninety-day qualified organization raffle license is forty dollars.

b. A qualified organization issued a ninety-day qualified organization raffle license may conduct the following activities:

(1) An unlimited number of very small raffles and an unlimited number of small raffles.

(2) One large raffle during the period of ninety days, subject to the requirements of section 99B.24.

(3) One game night per calendar month during the period of ninety days, subject to the requirements of section 99B.26.

6. *Fourteen-day qualified organization license.*

a. The license fee for a fourteen-day qualified organization license is fifteen dollars.

b. A qualified organization issued a fourteen-day qualified organization license may conduct the following activities:

(1) Unlimited games of skill or games of chance except for bingo.

(2) An unlimited number of very small raffles and an unlimited number of small raffles.

(3) One large raffle during the period of fourteen days, subject to the requirements of section 99B.24.

(4) Two bingo occasions during the period of fourteen days with no limit on the number

of bingo games or the number of hours played during each designated bingo day. Bingo occasions conducted pursuant to a fourteen-day qualified organization license do not count toward the fifteen bingo occasions per month authorized for a two-year qualified organization license.

(5) One game night per calendar month during the period of fourteen days, subject to the requirements of section 99B.26.

7. *Qualified organizations — school provisions.* A school district or a public or nonpublic school may be issued a qualified organization license under this section subject to the following additional restrictions:

a. The application for a license shall be authorized by the board of directors of a school district for public schools within that district, or the policymaking body of a nonpublic school for a nonpublic school.

b. Activities authorized by the license may be held at bona fide school functions such as carnivals, fall festivals, bazaars, and similar events.

c. Each school shall obtain a license pursuant to this section prior to permitting the games or activities on the premises of that school.

d. The board of directors of a public school district may also be issued a license under this section. A board of directors of a public school district shall not spend or authorize the expenditure of public funds for the purpose of purchasing a license.

e. Upon written approval by the board of directors of a school district for public schools within that district or the policymaking body of a nonpublic school, the license may be used by any school group or parent support group in the district or at the nonpublic school to conduct activities authorized by this section. The board of directors or policymaking body shall not authorize a school group or parent support group to use the license to conduct more than two events in a calendar year.

8. *Qualified organizations — miscellaneous provisions.* A political party or party organization may contract with other qualified organizations to conduct the games of skill, games of chance, and raffles which may lawfully be conducted by the political party or party organization. A licensed qualified organization may promote the games of skill, games of chance, and raffles which it may lawfully conduct.

2015 Acts, ch 99, §27, 56; 2021 Acts, ch 106, §1 – 5
Referred to in §99B.13, 99B.16, 99B.22, 99B.26, 99B.27
Former §99B.12 transferred to §99B.45; 2015 Acts, ch 99, §56
Subsection 2, paragraph c, subparagraph (5) amended
Subsection 3, paragraph b, subparagraph (3) amended
Subsection 4, paragraph b, subparagraph (3) amended
Subsection 5, paragraph b, subparagraph (3) amended
Subsection 6, paragraph b, subparagraph (5) amended

99B.13 Licensed qualified organizations — general requirements.

A qualified organization licensed pursuant to section 99B.12 shall, as a condition of licensure under section 99B.12, comply with the requirements of this section.

1. *Authorized gambling activities — display of license.* A licensed qualified organization may only conduct gambling activities as authorized by the license and shall prominently display the license in the playing area where the gambling activities are conducted.

2. *Location requirements.*

a. Gambling activities, as authorized by the type of license, may be conducted on premises owned, leased, or rented by the licensee. The amount imposed and collected for rental or lease of such premises shall not be a percentage of, or otherwise related to, the amount of the receipts for the authorized gambling activities.

b. A gambling activity shall not take place on a gaming floor, as defined in section 99F.1, licensed by the state racing and gaming commission created in section 99D.5.

3. *Participation requirements.*

a. A person shall not receive or have any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or related to a gambling activity conducted by a licensee, except any amount which the person may win as a participant on the same basis as the other participants.

b. The price to participate in a gambling activity, including any discounts for the gambling activity, shall be the same for each participant during the course of the gambling activity.

c. The person conducting the gambling activity shall not participate in the game.

4. *Gambling activity requirements.*

a. A gambling activity shall not be operated on a build-up or pyramid basis.

b. Bookmaking shall not be allowed.

c. Concealed numbers or conversion charts shall not be used in conducting any gambling activity.

d. A gambling activity shall not be adapted with any control device to permit manipulation of the gambling activity by the operator in order to prevent a player from winning or to predetermine who the winner will be.

e. The object of the gambling activity must be attainable and possible to perform under the rules stated from the playing position of the player.

f. The gambling activity shall be conducted in a fair and honest manner.

g. Rules for each gambling activity shall be posted.

h. Casino-style games shall only be allowed during a game night as specified under section 99B.26 or during card game tournaments under section 99B.27.

2015 Acts, ch 99, §28, 56
Former §99B.13 transferred to §99B.2; 2015 Acts, ch 99, §56

99B.14 Distribution of proceeds — licensed qualified organizations.

1. A licensed qualified organization shall certify that the receipts from all charitable gambling conducted by the organization under this chapter, less reasonable expenses, charges, fees, taxes, and deductions, either will be distributed as prizes to participants or will be dedicated and distributed for educational, civic, public, charitable, patriotic, or religious uses. Reasonable expenses, charges, fees, taxes other than the state and local sales tax, and deductions allowed by the department shall not exceed forty percent of net receipts.

2. A licensed qualified organization shall dedicate and distribute the balance of the net receipts received within a calendar year and remaining after deduction of reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, before the annual report required under section 99B.16 is due.

a. A person desiring to hold the net receipts for a period longer than permitted under this subsection shall apply to the department for special permission and upon good cause shown the department may grant the request.

b. If permission is granted to hold the net receipts, the person shall, as a part of the annual report required by section 99B.16, report the amount of money being held and all expenditures of the funds. This report shall be filed even if the person no longer holds a gambling license.

3. Proceeds coming into the possession of a person under this section are deemed to be held in trust for payment of expenses and dedication to educational, civic, public, charitable, patriotic, or religious uses as required by this section.

4. A licensed qualified organization or agent of the organization who willfully fails to dedicate the required amount of proceeds to educational, civic, public, charitable, patriotic, or religious uses as required by this section commits a fraudulent practice under chapter 714.

5. Proceeds distributed to another charitable organization to satisfy the sixty percent dedication requirement shall not be used by the donee to pay any expenses in connection with the conducting of any gambling activity by the donor organization, or for any use that would not constitute a valid dedication under this section.

2015 Acts, ch 99, §30, 56
Referred to in §99B.21, 99B.27
Former §99B.14 transferred to §99B.3; 2015 Acts, ch 99, §56

99B.15 Prizes awarded by licensed qualified organizations.

1. Unless otherwise provided, a prize awarded by a licensed qualified organization shall comply with the following requirements:

a. Only merchandise prizes whose value does not exceed ten thousand dollars may be awarded for games of skill and games of chance. If a prize consists of more than one item,

unit, or part, the aggregate value of all items, units, or parts shall not exceed ten thousand dollars.

b. A merchandise prize shall not be repurchased.

c. No prize shall be displayed which cannot be won.

d. A cash prize may only be awarded in bingo and raffles.

e. A prize shall be distributed on the day the prize is won, except that if the winner is not present, notification to the winner shall be made as soon as practical.

2. A licensed qualified organization awarding a prize for bingo is subject to the restrictions provided in section 99B.21. A licensed qualified organization awarding a prize for a raffle is subject to the restrictions provided in section 99B.24.

2015 Acts, ch 99, §32, 56
Former §99B.15 transferred to §99B.4; 2015 Acts, ch 99, §56

99B.16 Records and reports — licensed qualified organization.

1. A qualified organization licensed pursuant to section 99B.12, unless otherwise provided, shall maintain proper books of account and records showing, in addition to any other information required by the department, the following:

a. Gross receipts and the amount of the gross receipts taxes collected or accrued with respect to gambling activities conducted by the licensed qualified organization.

b. All expenses, charges, fees, and other deductions.

c. The cash amounts, or the cost to the licensee of goods or other noncash valuables, distributed to participants in the licensed activity.

d. The amounts dedicated and the date and name and address of each person to whom distributed.

2. The books of account and records shall be made available to the department or a law enforcement agency for inspection at reasonable times, with or without notice. A failure to permit inspection is a serious misdemeanor.

3. A licensed qualified organization required to maintain records shall submit an annual report to the department on forms furnished by the department. The annual report shall be submitted by January 31 of each year for the prior calendar year period of January 1 through December 31.

2015 Acts, ch 99, §33, 56
Referred to in §99B.12, 99B.14, 99B.24, 99B.27
Former §99B.16 repealed by 2015 Acts, ch 99, §47

99B.17 Reserved.

99B.18 Company games. Repealed by 2015 Acts, ch 99, §47.

99B.19 and 99B.20 Reserved.

SUBCHAPTER III

CHARITABLE GAMBLING

Referred to in §99B.11

99B.21 Bingo.

A licensed qualified organization shall comply with the requirements of this section for the purposes of conducting bingo at a bingo occasion.

1. *Operational requirements.*

a. A bingo occasion shall not last for longer than four consecutive hours.

b. Only one licensed qualified organization may conduct bingo occasions within the same structure or building.

c. A licensed qualified organization shall not conduct or offer free bingo games.

d. A licensed qualified organization shall not conduct bingo within a building or structure that is licensed pursuant to chapter 99D or 99F.

2. *Prize requirements.*

a. A cash or merchandise prize may be awarded in the game of bingo.

b. A cash prize shall not exceed two hundred fifty dollars per game of bingo.

c. A merchandise prize may be awarded in the game of bingo, but the actual retail value of the prize, or if the prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts, shall not exceed two hundred fifty dollars in value.

d. A jackpot bingo game may be conducted twice during any twenty-four-hour period in which the prize may begin at not more than five hundred dollars in cash or actual retail value of merchandise prizes and may be increased by not more than two hundred dollars after each bingo occasion to a maximum prize of one thousand dollars for the first jackpot bingo game and two thousand five hundred dollars for the second jackpot bingo game.

3. *Equipment requirements.*

a. A licensed qualified organization conducting bingo shall purchase bingo equipment and supplies only from a manufacturer or distributor licensed by the department.

b. A licensed qualified organization may lease electronic bingo equipment from a manufacturer or distributor licensed by the department for the purposes of aiding individuals with disabilities during a bingo occasion.

4. *Accounting requirements.* A qualified organization conducting bingo occasions under a two-year qualified organization license and expecting annual gross receipts of more than ten thousand dollars shall establish and maintain one regular checking account designated the "bingo account" and may also maintain one or more interest-bearing savings accounts designated as "bingo savings account". The accounts shall be maintained in a financial institution in Iowa.

a. Funds derived from the conduct of bingo, less the amount awarded as cash prizes, shall be deposited in the bingo account.

(1) No other funds except limited funds of the organization deposited to pay initial or unexpected emergency expenses shall be deposited in the bingo account.

(2) Deposits shall be made no later than the next business day following the day of the bingo occasion on which the receipts were obtained.

b. Payments shall be paid from the bingo account only for the following purposes:

(1) The payment of reasonable expenses permitted under section 99B.14, subsection 1, incurred and paid in connection with the conduct of bingo.

(2) The disbursement of net proceeds derived from the conduct of bingo for educational, civic, public, charitable, patriotic, or religious uses as required by section 99B.14, subsection 1.

(3) The transfer of net proceeds derived from the conduct of bingo to a bingo savings account pending disbursement for educational, civic, public, charitable, patriotic, or religious uses.

(4) To withdraw initial or emergency funds deposited under paragraph *"a"*.

(5) To pay prizes if the qualified organization decides to pay prizes by check rather than cash.

c. Except as permitted by paragraph *"a"*, gross receipts derived from the conduct of bingo shall not be commingled with other funds of the licensed qualified organization. Except as permitted by paragraph *"b"*, subparagraphs (3) and (4), gross receipts shall not be transferred to another account maintained by the licensed qualified organization.

2015 Acts, ch 99, §36, 56
Referred to in §99B.15
Former §99B.21 transferred to §99B.8; 2015 Acts, ch 99, §56

99B.22 Bingo conducted at a fair or community festival.

1. For purposes of this section:

a. "Community festival" means a festival of no more than six consecutive days in length held by a community group.

b. "Community group" means an Iowa nonprofit, tax-exempt organization which is open to the general public and established for the promotion and development of the arts, history, culture, ethnicity, historic preservation, tourism, economic development, festivals,

or municipal libraries. *"Community group"* does not include a school, college, university, political party, labor union, fraternal organization, church, convention or association of churches, or organizations operated primarily for religious purposes, or which are operated, supervised, controlled, or principally supported by a church, convention, or association of churches.

2. Bingo may lawfully be conducted at a fair or a community festival if all the following conditions are met:

a. Bingo is conducted by the sponsor of the fair or community festival or a qualified organization licensed under section 99B.12 that has received permission from the sponsor of the fair or community festival to conduct bingo.

b. The sponsor of the fair or community festival or the qualified organization has submitted a license application and a fee of fifty dollars to the department, has been issued a license, and prominently displays the license at the area where the bingo occasion is being held. A license shall only be valid for the duration of the fair or community festival indicated on the application.

c. The number of bingo occasions conducted by a licensee under this section shall be limited to one for each day of the duration of the fair or community festival.

d. The rules for the bingo occasion are posted.

e. Except as provided in this section, the provisions of this chapter related to bingo shall apply.

3. An individual other than a person conducting the bingo occasion may participate in the bingo occasion conducted at a fair or community festival, whether or not conducted in compliance with this section.

4. Bingo occasions held under a license under this section shall not be counted in determining whether a qualified organization has conducted more than fifteen bingo occasions per month. In addition, bingo occasions held under this license shall not be limited to four consecutive hours.

2009 Acts, ch 181, §42
CS2009, §99B.5A
2011 Acts, ch 34, §26; 2011 Acts, ch 40, §1, 3; 2015 Acts, ch 99, §8 – 10, 56
C2016, §99B.22

99B.23 Bingo — licensing exception.

A person shall be authorized to conduct a bingo occasion without a license as otherwise required by this chapter if all of the following requirements are met:

1. Participants in the bingo occasion are not charged to enter the premises where bingo is conducted.
2. Participants in the bingo occasion are not charged to play.
3. Any prize awarded at the bingo occasion shall be donated.
4. The bingo occasion is conducted as an activity and not for fundraising purposes.

2003 Acts, ch 77, §2
CS2003, §99B.12A
2010 Acts, ch 1193, §109; 2015 Acts, ch 99, §56
C2016, §99B.23

99B.24 Raffles.

1. *General provisions.* A licensed qualified organization may conduct a raffle as permitted by the applicable license and in accordance with the following requirements:

a. The winner of a raffle shall not be required to be present to win.

b. If the winner is not present to win, notification to the winner shall be made as soon as practical.

c. A cash or merchandise prize may be awarded in a raffle. If a merchandise prize is awarded, the actual retail value of the prize, or if the prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts, shall not exceed the maximum value allowed for that raffle.

d. Calendar raffles and build-up or pyramid raffles are prohibited.

e. If a raffle is conducted at a fair, the licensed qualified organization shall receive written permission from the sponsor of the fair to conduct the raffle.

f. A licensed qualified organization shall, regardless of the number of licenses issued, only conduct one large raffle per calendar year. However, a licensed qualified organization issued a one-year qualified organization raffle license may conduct up to eight large raffles with each large raffle conducted in a different county during the one-year period.

2. *Very large raffles.* A licensed qualified organization may conduct one very large raffle per calendar year subject to the provisions of this subsection.

a. The licensed qualified organization shall submit a very large raffle license application and a fee of one hundred dollars to the department and be issued a license.

b. The licensed qualified organization shall prominently display the license at the drawing area of the raffle.

c. If the raffle prize is real property, the real property shall be acquired by gift or donation or shall have been owned by the licensed qualified organization for a period of at least five years.

d. The department shall conduct a special audit of a very large raffle to verify compliance with the applicable requirements of this chapter concerning raffles and very large raffles.

e. The licensed qualified organization shall submit to the department within sixty days of the very large raffle drawing a cumulative report for the raffle on a form determined by the department and one percent of the gross receipts from the very large raffle. The one percent of the gross receipts shall be retained by the department to pay for the cost of the special audit.

3. *Very small raffles.* A qualified organization may conduct one very small raffle per calendar year without obtaining a qualified organization license. A qualified organization conducting a very small raffle as authorized by this subsection shall comply with the requirements for conducting a raffle by a licensed qualified organization, including payment of applicable sales tax. However, a qualified organization holding only one very small raffle per calendar year shall be exempt from the reporting requirements in section 99B.16.

2015 Acts, ch 99, §37
Referred to in §99B.12, 99B.15, 99B.25, 423.3

99B.25 Electronic raffles.

1. A qualified organization with a two-year qualified organization license may conduct a raffle using an electronic raffle system, if the qualified organization complies with the requirements of section 99B.24 and this section.

2. The licensed qualified organization shall only use an electronic raffle system purchased from a manufacturer or distributor licensed pursuant to section 99B.32 and certified by an entity approved by the department. The electronic raffle system may include stationary and portable or wireless raffle sales units.

3. A licensed qualified organization shall hold only one raffle using an electronic raffle system per calendar day. A licensed qualified organization shall not hold a very large raffle using an electronic raffle system and may hold only one large raffle using an electronic raffle system per calendar year. A large raffle conducted using an electronic raffle system counts toward the limit of one large raffle per calendar year under section 99B.24, subsection 1, paragraph *"f"*.

4. Except for a large raffle conducted using an electronic raffle system, the prize for an electronic raffle shall be limited to the amount allowed for a small raffle.

5. Entries for a raffle using an electronic raffle system shall not be preprinted and shall be provided to the purchaser at the time of sale.

6. The electronic raffle receipt shall contain the following information:

a. The name of the licensed qualified organization.

b. The license identification number of the qualified organization.

c. The location, date, and time of the corresponding raffle drawing.

d. The unique printed entry number, or multiple entry numbers, of the raffle entry.

e. The price of the raffle entry.

f. An explanation of the prize to be awarded.

g. The statement, "Need not be present to win", and the contact information, including name, telephone number, and electronic mail address, of the individual from the qualified organization responsible for prize disbursements.

h. The date by which the prize shall be claimed which shall be no fewer than fourteen days following the drawing.

7. Each electronic raffle entry shall reflect a single unique printed entry number on the entry.

8. The licensed qualified organization shall use a manual draw procedure for the electronic raffle which ensures a draw number is randomly selected as a winner from the entries sold.

a. The winning entry shall be verified as a sold and valid entry prior to awarding the prize.

b. The drawing of the winning entry shall be done in such manner as to allow the purchasers to observe the drawing.

9. If the prize is not claimed, the licensed qualified organization shall donate the unclaimed prize to an educational, civic, public, charitable, patriotic, or religious use.

10. The department may determine any other requirements for conducting an electronic raffle by rule.

2015 Acts, ch 99, §38

99B.26 Game nights.

1. A licensed qualified organization may conduct one game night per calendar month subject to the provisions of this section.

2. A licensed qualified organization conducting a game night may do any of the following during the game night:

a. Charge an entrance fee or a fee to participate in the games.

b. Award cash or merchandise prizes in any games of skill, games of chance, casino-style games, or card games in an aggregate amount not to exceed ten thousand dollars and no participant shall win more than a total of five thousand dollars.

c. Allow participants at the game night that do not have a bona fide social relationship with the sponsor of the game night.

d. Allow participants to wager their own funds and pay an entrance or other fee for participation, but participants shall not be allowed to expend more than a total of two hundred fifty dollars for all fees and wagers.

3. Except as provided by section 99B.62, a person or organization that has not been issued a qualified organization license under section 99B.12 shall not be authorized to conduct a game night as authorized by this section.

2015 Acts, ch 99, §39; 2021 Acts, ch 106, §6
Referred to in §99B.12, 99B.13, 99B.27
Subsection 1 amended

99B.27 Card game tournaments conducted by qualified organizations representing veterans.

1. As used in this section, unless the context otherwise requires:

a. "Card game" includes but is not limited to poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, or cribbage.

b. "Qualified organization representing veterans" means any qualified organization which represents veterans, which is a post, branch, or chapter of a national association of veterans of the armed forces of the United States which is a federally chartered corporation, dedicates the net receipts of a game of skill, game of chance, or raffle as provided in section 99B.14, and is exempt from federal income taxes under section 501(c)(19) of the Internal Revenue Code as defined in section 422.3.

2. Notwithstanding any provision of this chapter to the contrary, card game tournaments lawfully may be conducted by a qualified organization representing veterans if all of the following are complied with:

a. The qualified organization representing veterans has been issued a license pursuant to section 99B.12. The license application shall identify the premises where the card game

tournaments are to be conducted and the occupancy limit of the premises, and shall include documentation that the qualified organization representing veterans has conducted regular meetings of the organization at the premises during the previous eight months.

b. The qualified organization representing veterans prominently displays the license in the playing area of the card game tournament.

c. The card games to be conducted during a card game tournament, including the rules of each card game and how winners are determined, shall be displayed prominently in the playing area of the card game tournament.

d. Each card game shall be conducted in a fair and honest manner.

e. Each card game shall not be operated on a build-up or pyramid basis.

f. Every participant in a card game tournament must be given the same chances of winning the tournament and shall not be allowed any second chance entries or multiple entries in the card game tournament.

g. Participation in a card game tournament shall only be open to members of the qualified organization representing veterans and guests of members of the qualified organization participating in the tournament, subject to the requirements of this section.

h. The total number of members and guests participating in a card game tournament shall not exceed the occupancy limit of the premises where the card game tournament is being conducted.

i. Participants in a card game tournament shall be at least twenty-one years of age.

j. (1) If the card game tournament is limited to one guest for each member of the qualified organization representing veterans participating in the tournament, then the requirements of this subparagraph (1) shall apply. The cost to participate in a card game tournament under this subparagraph (1) shall be limited to one hundred dollars and shall be the same for every participant in the card game tournament. Cash or merchandise prizes may be awarded during a card game tournament under this subparagraph (1) and shall not exceed one thousand dollars and no participant shall win more than a total of five hundred dollars.

(2) If the card game tournament is not limited to one guest for each member of the qualified organization representing veterans participating in the tournament, then the requirements of this subparagraph (2) shall apply. The cost to participate in a card game tournament under this subparagraph (2) shall be limited to twenty-five dollars and shall be the same for every participant in the card game tournament. Cash or merchandise prizes may be awarded during a card game tournament under this subparagraph (2) and shall not exceed three hundred dollars and no participant shall win more than a total of two hundred dollars.

k. A qualified organization representing veterans shall distribute amounts awarded as prizes on the day they are won and merchandise prizes shall not be repurchased. An organization conducting a card game tournament shall only display prizes in the playing area of the card game tournament that can be won.

l. The qualified organization representing veterans shall conduct each card game tournament and any card game conducted during the tournament and shall not contract with or permit another person to conduct the card game tournament or any card game during the tournament.

m. The card game tournament and any card game conducted during the tournament shall be conducted only on the premises of the qualified organization representing veterans as identified in the license application as required by this subsection.

n. A person shall not receive or have any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or related to a game in a card game tournament, except any amount which the person may win as a participant on the same basis as the other participants.

o. A qualified organization representing veterans licensed under this section shall not hold a card game tournament within six calendar days of another card game tournament conducted by that qualified organization representing veterans. Card game tournaments held during a game night conducted pursuant to section 99B.26 shall not count toward the limit of one card game tournament per six calendar days for a license holder. A qualified organization representing veterans shall be allowed to hold only one card game tournament during any

period of twenty-four consecutive hours, starting from the time the card game tournament begins.

p. The person conducting the card game tournament shall not do any of the following:

(1) Hold, currently, another license issued under this section.

(2) Own or control, directly or indirectly, any class of stock of another person who has been issued a license to conduct games under this section.

(3) Have, directly or indirectly, an interest in the ownership or profits of another person who has been issued a license to conduct games under this section.

3. The qualified organization representing veterans licensed to hold card game tournaments under this section shall keep a journal of all dates of events, amount of gross receipts, amount given out as prizes, expenses, amount collected for taxes, and the amount collected as revenue.

a. The qualified organization representing veterans shall dedicate and distribute the net receipts from each card game tournament as provided in section 99B.14.

b. Each qualified organization representing veterans shall withhold that portion of the gross receipts subject to taxation pursuant to section 423.2, subsection 4, which shall be kept in a separate account and sent to the state along with the organization's annual report required by section 99B.16.

c. A qualified organization representing veterans licensed to conduct card game tournaments may withhold no more than five percent of the gross receipts from each card game tournament for qualified expenses. Qualified expenses include but are not limited to the purchase of supplies and materials used in conducting card games. Any money collected for expenses and not used by the end of the state fiscal year shall be donated for educational, civic, public, charitable, patriotic, or religious uses. The qualified organization representing veterans shall attach a receipt for any donation made to the annual report required to be submitted pursuant to section 99B.16.

d. Each qualified organization representing veterans licensed under this section shall make recordkeeping and all deposit receipts available as provided in section 99B.16.

4. *a.* A person under twenty-one years of age who participates in a card game tournament in violation of this section is deemed to violate the legal age for gambling wagering provisions under section 725.19, subsection 1.

b. The department shall revoke, for a period of one year, the license of a qualified organization representing veterans to conduct card game tournaments under this section if the licensee knowingly permits a person under the age of twenty-one years to participate in a card game tournament.

2007 Acts, ch 119, §1
CS2007, §99B.7B
2012 Acts, ch 1117, §3; 2015 Acts, ch 99, §13 – 18, 56
C2016, §99B.27
2016 Acts, ch 1011, §33, 34; 2021 Acts, ch 106, §7
Referred to in §99B.13, 423.2, 423.3
Subsection 2, paragraph o amended

99B.28 through 99B.30 Reserved.

SUBCHAPTER IV

OTHER ACTIVITIES REQUIRING LICENSURE

99B.31 Amusement concessions.

1. A person may conduct an amusement concession if all of the following conditions are met:

a. The person conducting the amusement concession has submitted a license application and a fee of fifty dollars for each amusement concession, and has been issued a license for the amusement concession, and prominently displays the license at the playing area of the amusement concession. A license is valid for a period of one year from the date of issue.

b. The rules of the amusement concession are prominently posted and visible from all playing positions.

c. The cost to play a single amusement concession does not exceed five dollars.

d. A prize is not displayed which cannot be won.

e. Cash prizes are not awarded.

f. The amusement concession is not operated on a build-up or pyramid basis.

g. A pet, as defined in section 717E.1, is not awarded.

h. The actual retail value of any prize does not exceed nine hundred fifty dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed nine hundred fifty dollars.

i. Merchandise prizes are not repurchased from the participants. However, a participant may have the option, at no additional cost to the participant, of trading multiple smaller prizes for a single larger prize.

j. Concealed numbers or conversion charts are not used to play the amusement concession.

k. The amusement concession is not designed or adapted with any control device to permit manipulation of the amusement concession by the operator in order to prevent a participant from winning or to predetermine who the winner will be.

l. The object of the amusement concession must be attainable and possible to perform under the rules stated from all playing positions.

m. The amusement concession is conducted in a fair and honest manner.

2. An electronic or computerized game with a video display screen may be licensed by the department as an amusement concession if all of the following requirements are met:

a. Except as otherwise provided by this subsection, the game complies with all requirements of subsection 1 and all applicable rules promulgated by the department.

b. The game is conducted through continuous gameplay. For the purposes of this paragraph, "*continuous gameplay*" means play on a single video screen that is not refreshed, updated, or renewed through the expenditure of additional money, tokens, or credits by a game participant. The game may allow two or more persons to participate in the same continuous gameplay at the same time.

c. Prizes shall be awarded based solely upon a participant's successful completion of a required skill or task in the course of the game's play. A person shall actively participate in the game's play by directing or otherwise manipulating a game function or operation in order to complete the required skill or task. Participant skill shall be necessary to influence the outcome of the game's play but is not required to be the predominant factor in determining whether a prize is awarded.

d. The game is not a nudge game, swap game, or a mechanical or electrical device that displays spinning reels or simulated reels.

e. The game may be programmed to ensure a set payout percentage to participants of at least eighty percent. If a game is programmed with a set payout percentage, the operator shall prominently post in a manner visible to all playing positions the percentage applicable to the game's play.

f. The game may be programmed to award prizes by allowing a player to complete tasks or use skills at variable frequency or difficulty. The game may not be programmed to prevent the completion of any advertised or offered skills or tasks.

3. An individual other than a person conducting the amusement concession may participate in an amusement concession, whether or not the amusement concession is conducted in compliance with this section.

[C75, §99B.2, 99B.3; C77, 79, 81, §99B.3; 81 Acts, ch 44, §6]

88 Acts, ch 1274, §31; 95 Acts, ch 163, §1; 2015 Acts, ch 99, §7, 56

C2016, §99B.31

2018 Acts, ch 1072, §1, 2; 2021 Acts, ch 100, §3, 4

Referred to in §99B.62

Subsection 1, paragraph k amended

NEW subsection 2 and former subsection 2 renumbered as 3

99B.32 Manufacturers and distributors — bingo equipment and supplies — electronic raffle systems — transfer or use.

1. As used in this section, unless the context otherwise requires, *"manufacturer or distributor"* means a person engaged in business in this state who originally produces, or purchases from a business that originally produces, equipment or supplies which are specifically used in the conduct of a bingo occasion or an electronic raffle.

2. A person shall not engage in business in this state as a manufacturer or distributor without first obtaining a license from the department.

a. Upon receipt of an application and a fee of one thousand dollars for a manufacturer or distributor license, the department may issue an annual license.

b. A license may be renewed annually upon submission of an application, payment of the annual license fee, and compliance with this section and the rules adopted pursuant to this section.

3. A licensed manufacturer or distributor may sell bingo equipment or supplies or an electronic raffle system directly to a licensed qualified organization.

4. A licensed qualified organization under this chapter may dispose of, transfer, or sell excess bingo equipment or supplies on a nonroutine basis to another licensed qualified organization.

5. A licensed qualified organization shall not sublease, rent, borrow, or otherwise use another qualified organization's electronic raffle system.

94 Acts, ch 1062, §6
C95, §99B.7A
2015 Acts, ch 99, §12, 56
C2016, §99B.32
Referred to in §99B.25

99B.33 through 99B.40 Reserved.

SUBCHAPTER V

SOCIAL GAMBLING

99B.41 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. *"Public place"* means an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not, but not a place when used exclusively by one or more individuals for a private gathering or other personal purpose.

2. *"Social fantasy sports contest"* means any fantasy or simulated game or contest in which the value of all prizes and awards offered to winning participants are established and made known to the participants in advance of the contest and do not exceed a total of one thousand dollars or equivalent consideration, all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined by accumulated statistical results of the performance of individuals in events occurring over more than a twenty-four-hour period, including athletes in the case of sporting events, and no winning outcome is solely based on the score, point spread, or any performance or performances of any single actual team or solely on any single performance of an individual athlete or player in any single actual event. *"Social fantasy sports contest"* does not include an internet fantasy sports contest as defined in section 99E.1.

3. *"Social gambling"* means an activity in which social games are played between individuals for any sum of money or other property of any value.

4. *"Social games"* or *"social game"* means card and parlor games, including but not limited to poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominoes, checkers, chess, backgammon, pool, and darts. *"Social games"* do not include casino-style games, except poker.

5. *"Sports betting pool"* or *"pool"* means a game in which the participants select a square on a grid corresponding to numbers on two intersecting sides of the grid and winners are determined by whether the square selected corresponds to numbers relating to an athletic event in the manner prescribed by the rules of the game.

2015 Acts, ch 99, §40; 2019 Acts, ch 132, §49

99B.42 Social gambling general requirements.

1. Social gambling is lawful under section 99B.43, 99B.44, or 99B.45, when all of the following requirements are met:

a. The gambling occurs between two or more people who are together for purposes other than social gambling. A social relationship must exist beyond that apparent in the gambling situation.

b. The gambling shall not take place on a gaming floor, as defined in section 99F.1, licensed by the state racing and gaming commission created in section 99D.5.

c. Concealed numbers or conversion charts are not used to play any game.

d. A game is not adapted with any control device to permit manipulation of the game by the operator in order to prevent a player from winning or to predetermine who the winner will be.

e. The object of the game is attainable and possible to perform under the rules stated from the playing position of the player.

f. The game must be conducted in a fair and honest manner.

g. A person shall not receive or have any fixed or contingent right to receive, directly or indirectly, any amount wagered or bet or any portion of amounts wagered or bet, except an amount which the person wins as a participant while playing on the same basis as every other participant.

h. A cover charge, participation charge, or other charge shall not be imposed upon a person for the privilege of participating in or observing the social gambling, and a rebate, discount, credit, or other method shall not be used to discriminate between the charge for the sale of goods or services to participants in the social gambling and the charge for the sale of goods or services to nonparticipants. Satisfaction of an obligation into which a member of an organization enters to pay at regular periodic intervals a sum fixed by that organization for the maintenance of that organization is not a charge which is prohibited by this paragraph.

i. A participant shall not win or lose more than a total of two hundred dollars or equivalent consideration in one or more games permitted by this subchapter at any time during any period of twenty-four consecutive hours or over that entire period.

j. A participant is not participating as an agent of another person.

k. A representative of the department or a law enforcement agency is immediately admitted, upon request, to the premises with or without advance notice.

l. A person shall not engage in bookmaking on the premises.

m. A person shall not participate in any wager, bet, or pool which relates to an athletic event or contest and which is authorized or sponsored by one or more schools, educational institutions, or interscholastic athletic organizations, if the person is a coach, official, player, or contestant in the athletic event or contest.

2. The social gambling licensee is strictly accountable for compliance with this section. Proof of an act constituting a violation is grounds for revocation of the license issued pursuant to section 99B.43 or 99B.44 if the licensee permitted the violation to occur when the licensee knew or had reasonable cause to know of the act constituting the violation.

3. A participant in a social game or pool which is not in compliance with this section shall only be subject to a penalty under section 99B.4 if the participant has knowledge of or reason to know the facts constituting the violation.

4. The social gambling licensee, and every agent of the licensee who is required by the licensee to exercise control over the use of the premises, who knowingly permits or engages in an act or omission which constitutes a violation of this subchapter is subject to a penalty

under section 99B.4. A licensee has knowledge of an act or omission if any agent of the licensee has knowledge of the act or omission.

2015 Acts, ch 99, §41
Referred to in §99B.43, 99B.44, 99B.45

99B.43 Social gambling in licensed alcohol establishments.

1. Social gambling is lawful on the premises of an establishment for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license, or class "B" beer permit has been issued pursuant to chapter 123 when, subject to the provisions of section 99B.42, all of the following requirements are met:

a. The liquor control licensee or beer permittee has submitted an application for a social gambling license and a license fee of one hundred fifty dollars to the department, and a license has been issued.

b. The license is prominently displayed on the premises of the establishment.

c. The social gambling licensee or any agent or employee of the licensee does not participate in, sponsor, conduct, promote, or act as cashier or banker for any social gambling, except as a participant while playing on the same basis as every other participant.

d. A person under the age of twenty-one years shall not participate in the social games. A social gambling licensee or an agent or employee of the licensee who knowingly allows a person under the age of twenty-one to participate in the gambling prohibited by this section or a person who knowingly participates in gambling with a person under the age of twenty-one, is subject to a penalty under section 99B.4.

2. A liquor control licensee or beer permittee with a social gambling license issued pursuant to this section may conduct a sports betting pool if all of the requirements of this subsection are met.

a. The pool shall be publicly displayed and the rules of the pool, including the cost per participant and the amount or amounts that will be won, shall be conspicuously displayed on or near the pool.

b. A participant shall not wager more than five dollars in the pool.

c. The maximum winnings awarded to all participants in the pool shall not exceed five hundred dollars.

d. The provisions of section 99B.42, except section 99B.42, subsection 1, paragraphs *"a"* and *"h"*, are applicable to pools conducted under this subsection.

e. The use of concealed numbers in the pool is permissible. If the pool involves the use of concealed numbers, the numbers shall be selected by a random method and no person shall be aware of the numbers at the time wagers are made in the pool.

f. All moneys wagered in the pool shall be awarded as winnings to participants.

3. An establishment issued a social gambling license under this section that is required to obtain a new liquor license or permit under chapter 123 due to a change in ownership shall be required to obtain a new social gambling license under this section to conduct social gambling.

[C77, 79, 81, §99B.6; 81 Acts, ch 44, §7]

86 Acts, ch 1201, §4 – 6; 86 Acts, ch 1002, §1, 2; 87 Acts, ch 184, §3, 4; 88 Acts, ch 1274, §32; 89 Acts, ch 67, §20, 21; 89 Acts, ch 231, §17; 90 Acts, ch 1175, §3, 4; 94 Acts, ch 1021, §1; 2003 Acts, ch 178, §103, 121; 2003 Acts, ch 179, §142; 2007 Acts, ch 188, §3; 2015 Acts, ch 99, §11, 56

C2016, §99B.43
Referred to in §99B.42

99B.44 Social gambling in public places.

Social gambling in a public place is lawful, subject to the provisions of section 99B.42, if all of the following requirements are met:

1. The social gambling is conducted at any public place owned, leased, rented, or otherwise occupied by the licensee.

2. The person occupying the premises of the public place as an owner or tenant has

submitted an application for a license and a fee of one hundred dollars to the department, and a license has been issued.

3. The license is prominently displayed on the premises of the public place.

4. The licensee or any agent or employee of the licensee does not participate in, sponsor, conduct, promote, or act as cashier or banker for any gambling activities, except as a participant while playing on the same basis as every other participant.

[C77, 79, 81, §99B.9; 81 Acts, ch 44, §13]

89 Acts, ch 231, §22; 2003 Acts, ch 77, §1; 2004 Acts, ch 1086, §23; 2007 Acts, ch 119, §4; 2015 Acts, ch 99, §19, 56

C2016, §99B.44

Referred to in §99B.42

99B.45 Social gambling between individuals.

1. An individual may participate in social gambling if, subject to the requirements of section 99B.42, all of the following requirements are met:

a. The gambling is not participated in, either wholly or in part, on or in any schoolhouses, schoolhouse sites, or other property subject to chapter 297.

b. All participants in the gambling are individuals.

c. In any game requiring a dealer or operator, the participants must have the option to take their turn at dealing or operating the game in a regular order according to the standard rules of the game.

2. Social gambling allowed under this section is limited to any of the following:

a. Games of skill and games of chance, except casino-style games other than poker.

b. Wagers or bets between two or more individuals who are physically in the presence of each other with respect to any of the following:

(1) A contest specified in section 99B.61, except that no individual shall win or lose more than a total of two hundred dollars or equivalent consideration in one or more contests at any time during any period of twenty-four consecutive hours or over that entire period.

(2) Any other event or outcome which does not depend upon gambling or the use of a gambling device that is unlawful in this state.

c. A social fantasy sports contest.

[C75, §726.12; C77, 79, 81, §99B.12]

2002 Acts, ch 1068, §14; 2003 Acts, ch 44, §33; 2007 Acts, ch 119, §5; 2015 Acts, ch 99, §26, 56

C2016, §99B.45

2019 Acts, ch 132, §50

Referred to in §99B.1, 99B.42

99B.46 through 99B.50 Reserved.

SUBCHAPTER VI

ELECTRICAL OR MECHANICAL AMUSEMENT DEVICES

99B.51 Definitions.

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

1. *"Distributor"* means a person who owns an electrical or mechanical amusement device registered as provided in section 99B.53 that is offered for use at more than a single location or premise.

2. *"Manufacturer"* means a person who originally produces, or purchases an originally produced amusement device or an originally produced motherboard that will be installed into, an amusement device required to be registered under this subchapter for the purposes of reselling such device or motherboard.

3. *"Owner"* means a person who owns an operable amusement device required to be registered under section 99B.53 at no more than a single location or premise.

2015 Acts, ch 99, §42

99B.52 Electrical or mechanical amusement devices.

1. A person may own, possess, and offer for use at any location an electrical or mechanical amusement device, except for an amusement device required to be registered pursuant to section 99B.53. If the provisions of this section and other applicable provisions of this subchapter are complied with, the use of an electrical or mechanical amusement device shall not be deemed gambling. All electrical or mechanical amusement devices shall comply with this section.

2. A prize of merchandise not exceeding fifty dollars in value shall be awarded for use of an electrical or mechanical amusement device. An electrical or mechanical amusement device may be designed or adapted to award a prize of one or more free games or portions of games without payment of additional consideration by the participant.

3. A prize of cash shall not be awarded for use of an electrical or mechanical amusement device.

4. An amusement device shall not be designed or adapted to cause or to enable a person to cause the release of free games or portions of games when designated as a potential award for use of the device, and shall not contain any meter or other measurement device for recording the number of free games or portions of games which are awarded.

5. An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.

6. An award given for the use of an amusement device shall only be redeemed on the premises where the device is located and only for merchandise sold in the normal course of business for the premises.

7. The department may determine any other requirements by rule. Rules adopted pursuant to this section shall be formulated in consultation with affected state agencies and industry and consumer groups.

2015 Acts, ch 99, §43
Referred to in §99.1A, 99B.53, 99B.54, 99B.55

99B.53 Electrical or mechanical amusement devices — registration required.

1. In addition to the requirements of section 99B.52, an electrical or mechanical amusement device in operation or distributed in this state that awards a prize where the outcome is not primarily determined by skill or knowledge of the operator shall be registered by the department as provided in this section.

2. Except as provided in subsection 3, an electrical or mechanical amusement device requiring registration may be located on premises for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license has been issued pursuant to chapter 123.

3. *a.* An electrical or mechanical amusement device requiring registration may be located on premises for which a class "B" or class "C" beer permit has been issued pursuant to chapter 123, but the department shall not initially register an electrical or mechanical amusement device to an owner or distributor for a location for which a class "B" or class "C" beer permit has been issued pursuant to chapter 123 on or after April 28, 2004.

b. A distributor that owns an amusement device at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall not relocate an amusement device registered as provided in this section to a location other than a location for which a class "A", class "B", class "C", special class "C", or class "D" liquor license has been issued and shall not transfer, assign, sell, or lease an amusement device registered as provided in this section to another person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 after April 28, 2004.

c. If ownership of the location changes, the class "B" or class "C" beer permit does not lapse, and the device is not removed from the location, the device may remain at the location.

4. An electrical or mechanical amusement device required to be registered and at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall include on the device a security mechanism which prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device.

5. No more than four electrical or mechanical amusement devices registered as provided in this section shall be permitted or offered for use in any single location or premises meeting the requirements of this section.

6. The total number of electrical or mechanical amusement devices registered by the department under this section shall not exceed six thousand nine hundred twenty-eight.

7. Each person owning an electrical or mechanical amusement device in this state shall submit annually an application form designated by the department that shall contain the information required by the department by rule and a fee of twenty-five dollars for each device required to be registered. If approved, the department shall issue an annual registration tag.

8. A new amusement device registration tag shall be obtained if electronic or mechanical components have been adapted, altered, or replaced and such adaptation, alteration, or replacement changes the operational characteristics of the amusement device including but not limited to the game being changed. The amusement device shall not be placed into operation prior to obtaining a new amusement device registration tag.

9. An electrical or mechanical amusement device required to be registered under this section shall only be leased or purchased from a manufacturer or distributor registered with the department under section 99B.56.

10. A person owning or leasing an electrical or mechanical amusement device required to be registered by this section shall display the registration tag as required by rules adopted by the department.

11. A person owning or leasing an electrical or mechanical amusement device required to be registered by this section shall not allow the electrical or mechanical amusement device to be operated or made available for operation with an expired registration.

12. A person or employee of a person owning or leasing an electrical or mechanical amusement device required to be registered by this section shall not advertise or promote the availability of the device to the public as anything other than an electrical or mechanical amusement device pursuant to rules adopted by the department.

13. A person owning or leasing an electrical or mechanical amusement device required to be registered by this section shall not relocate and place into operation an amusement device in any location other than a location which has been issued an appropriate liquor control license in good standing and to which the device has been appropriately registered with the department.

14. A counting mechanism which establishes the volume of business of the electrical or mechanical amusement device shall be included on each device required to be registered by this section. The department and the department of public safety shall have immediate access to the information provided by the counting mechanism.

15. An electrical or mechanical amusement device required to be registered as provided by this section shall not be a gambling device, as defined in section 725.9, or a device that plays poker, blackjack, or keno.

2015 Acts, ch 99, §44

Referred to in §99.1A, 99B.1, 99B.51, 99B.52, 99B.54, 99B.55, 99B.56, 99B.57, 99B.58, 805.8C(4)(a)

99B.54 Electrical or mechanical amusement devices — criminal penalties.

1. A person who violates any provision of section 99B.52 or 99B.53, except as specified in subsection 2, commits a serious misdemeanor.

2. A person who violates any provision of section 99B.52, subsection 2 or 6; or section 99B.53, subsection 4, 8, 10, 11, 12, or 13, shall be subject to the following:

a. For a first offense under an applicable subsection, the person commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph *"b"*.

b. For a second or subsequent offense under the same applicable subsection, the person commits a serious misdemeanor.

3. Notwithstanding any provision of section 99B.52 or 99B.53 to the contrary, the following shall apply:

a. An individual other than an owner or distributor of an amusement device may operate

an amusement device, whether or not the amusement device is owned, possessed, or offered for use in compliance with section 99B.52 or 99B.53.

b. A distributor shall not be liable for a violation of section 99B.52 or 99B.53 unless the distributor or an employee of the distributor intentionally violates a provision of section 99B.52 or 99B.53.

2015 Acts, ch 99, §45
Referred to in §805.8C(4)(b)

99B.55 Revocation of registration — electrical or mechanical amusement devices — suspension of liquor license or beer permit.

1. *a.* The department may deny, suspend, or revoke a registration issued pursuant to section 99B.53 or 99B.56, if the department finds that an applicant, registrant, or an agent of a registrant violated or permitted a violation of a provision of section 99B.52, 99B.53, 99B.56, or 99B.57, or a departmental rule adopted pursuant to chapter 17A, or for any other cause for which the director of the department would be or would have been justified in refusing to issue a registration, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the premises where the registered amusement device is or is to be located.

b. The denial, suspension, or revocation of a registration for one amusement device does not require, but may result in, the denial, suspension, or revocation of the registration for a different amusement device held by the same distributor or owner.

c. A person who commits an offense of failing to include a security mechanism on an amusement device as required pursuant to section 99B.52, subsection 4, shall be subject to a civil penalty in the amount of two hundred fifty dollars. A person who commits, within two years, a second offense of failing to include a security mechanism on an amusement device shall be subject to the provisions of paragraph *"a"*.

2. *a.* A person who commits an offense of awarding a cash prize of fifty dollars or less in violation of section 99B.52, subsection 3, pursuant to rules adopted by the department, shall be subject to a civil penalty in the amount of two hundred fifty dollars. Additional sanctions beyond the civil penalty prescribed by this paragraph, including but not limited to the suspension or revocation of any liquor control license issued pursuant to chapter 123 or registration issued pursuant to section 99B.53 or 99B.56, shall not be applicable.

b. A person who commits, within two years, a second offense of awarding a cash prize of fifty dollars or less in violation of section 99B.52, subsection 3, or a person who commits an offense of awarding a cash prize of more than fifty dollars in violation of section 99B.52, subsection 3, pursuant to rules adopted by the department, shall be subject to revocation of the person's registration and the following:

(1) If the person whose registration is revoked under this paragraph *"b"* is a person for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license has been issued pursuant to chapter 123, the person's liquor control license shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

(2) If the person whose registration is revoked under this paragraph *"b"* is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123, the person's class "B" or class "C" beer permit shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

(3) If a person owning or employed by an establishment having a class "A", class "B", class "C", special class "C", or class "D" liquor control license issued pursuant to chapter 123 commits an offense as provided in this paragraph *"b"*, the liquor control license of the establishment shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

(4) If a person owning or employed by an establishment having a class "B" or class "C" beer permit issued pursuant to chapter 123 commits an offense as provided in this paragraph *"b"*, the beer permit of the establishment shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph *"a"*.

3. *a.* The process for denial, suspension, or revocation of a registration issued pursuant to

section 99B.53 or 99B.56 shall commence by delivering to the applicant or registrant notice, by means authorized by section 17A.18, setting forth the proposed action and the particular reasons for such action.

b. (1) If a written request for a hearing is not received within thirty days after the delivery of notice as provided by paragraph *"a"*, the denial, suspension, or revocation of a registration shall become effective pending a final determination by the department. The proposed action in the notice may be affirmed, modified, or set aside by the department in a written decision.

(2) If a request for a hearing is timely received by the department, the applicant or registrant shall be given an opportunity for a prompt and fair hearing before the department and the denial, suspension, or revocation shall be deemed stayed until the department makes a final determination. However, the director of the department may suspend a registration prior to a hearing if the director finds that the public integrity of the registered activity is compromised or there is a risk to public health, safety, or welfare. In addition, at any time during or prior to the hearing, the department may rescind the notice of the denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of any such hearing, the proposed action in the notice may be affirmed, modified, or set aside by the department in a written decision. The procedure governing hearings authorized by this subparagraph shall be in accordance with the rules adopted by the department and chapter 17A.

c. A copy of the final decision of the department shall be sent by electronic mail or certified mail, with return receipt requested, or served personally upon the applicant or registrant. The applicant or registrant may seek judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

d. If the department finds cause for denial of a registration issued pursuant to section 99B.53 or 99B.56, the applicant shall not reapply for the same registration for a period of two years. If the department finds cause for a suspension or revocation, the registration shall be suspended or revoked for a period not to exceed two years.

2003 Acts, ch 147, §3, 7

CS2003, §99B.10B

2004 Acts, ch 1118, §5, 11; 2007 Acts, ch 173, §5 – 7; 2008 Acts, ch 1032, §14; 2008 Acts, ch 1184, §50; 2012 Acts, ch 1089, §2, 3; 2015 Acts, ch 99, §21, 56

C2016, §99B.55

2016 Acts, ch 1073, §29

99B.56 Electrical or mechanical amusement device manufacturers, distributors, and for-profit owners — registration.

1. A person engaged in business in this state as a manufacturer, distributor, or for-profit owner of electrical or mechanical amusement devices required to be registered as provided in section 99B.53 shall register with the department. Each person who registers with the department under this section shall pay an annual registration fee in an amount as provided in subsection 2. Registration shall be submitted on application forms designated by the department that shall contain the information required by the department by rule. The department shall adopt rules establishing the criteria for approval or denial of a registration application and providing for the submission of information to the department by a person registered pursuant to this section if information in the initial registration is changed, including discontinuing the business in this state.

2. For purposes of this section, the annual registration fee shall be as follows:

a. For a manufacturer, two thousand five hundred dollars.

b. For a distributor, five thousand dollars.

c. For an owner of no more than four electrical or mechanical amusement devices registered as provided in section 99B.53 at a single location or premises that is not a qualified organization, two thousand five hundred dollars.

2003 Acts, ch 147, §2, 7

CS2003, §99B.10A

2004 Acts, ch 1118, §4, 11; 2007 Acts, ch 173, §3, 4; 2015 Acts, ch 99, §20, 56
C2016, §99B.56
Referred to in §99B.53, 99B.55, 99B.58

99B.57 Registered electrical or mechanical amusement devices — persons under twenty-one — penalties.

1. A person under the age of twenty-one years shall not participate in the operation of a registered electrical or mechanical amusement device. A person who violates this subsection commits a scheduled violation under section 805.8C, subsection 4.

2. A person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, who knowingly allows a person under the age of twenty-one years to participate in the operation of a registered electrical or mechanical amusement device, or a person who knowingly participates in the operation of a registered electrical or mechanical amusement device with a person under the age of twenty-one years, is guilty of a simple misdemeanor.

3. For purposes of this section, *"registered electrical or mechanical amusement device"* means an electrical or mechanical amusement device required to be registered as provided in section 99B.53.

2004 Acts, ch 1118, §6, 11
C2005, §99B.10C
2007 Acts, ch 173, §8; 2015 Acts, ch 99, §22, 56
C2016, §99B.57
Referred to in §99B.55, 805.8C(4)(a)

99B.58 Electrical or mechanical amusement devices — special fund.

Fees collected by the department pursuant to sections 99B.53 and 99B.56 shall be deposited in a special fund created in the state treasury. Moneys in the fund are appropriated to the department of inspections and appeals and the department of public safety for administration and enforcement of this subchapter, including employment of necessary personnel. The distribution of moneys in the fund to the department of inspections and appeals and the department of public safety shall be pursuant to a written policy agreed upon by the departments. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund. Notwithstanding section 8.33, moneys remaining in the fund at the end of a fiscal year shall not revert to the general fund of the state.

2005 Acts, ch 106, §8
CS2005, §99B.10D
2015 Acts, ch 99, §23, 56
C2016, §99B.58

99B.59 and 99B.60 Reserved.

SUBCHAPTER VII

ACTIVITIES NOT REQUIRING LICENSURE

99B.61 Bona fide contests.

1. A person may conduct, without a license, any of the contests specified in subsection 2, and may offer and pay awards to persons winning in those contests whether or not entry fees, participation fees, or other charges are assessed against or collected from the participants, if all of the following requirements are met:

a. A gambling device is not used in conjunction with or incident to the contest.

b. The contest is not conducted in whole or in part on or in any property subject to chapter 297, relating to schoolhouses and schoolhouse sites, unless the contest and the person conducting the contest has the express written approval of the governing body of that school district.

c. The contest is conducted in a fair and honest manner.

d. A contest shall not be designed or adapted to permit the operator of the contest to prevent a participant from winning or to predetermine who the winner will be.

e. The object of the contest must be attainable and possible to perform under the rules stated.

f. If the contest is a tournament, the tournament operator shall prominently display all tournament rules.

2. A contest, including a contest in a league or tournament, is lawful only if it falls into one of the following event categories:

a. Athletic or sporting events. Events in this category include basketball, volleyball, football, baseball, softball, soccer, wrestling, swimming, track and field, racquetball, tennis, squash, badminton, table tennis, rodeos, horse shows, golf, bowling, trap or skeet shoots, fly casting, tractor pulling, rifle, pistol, musket, or muzzle-loader shooting, billiards, darts, archery, and horseshoes.

b. Racing and skill-type events. Events in this category include horse races, harness racing, ski, airplane, snowmobile, raft, boat, bicycle, and motor vehicle races.

c. Arts and crafts-type events. Events in this category include cooking, horticulture, livestock, poultry, fish or other animals, artwork, hobbywork, and craftwork, except those prohibited by chapter 717A.

d. Card game-type and board game-type events. Events in this category include cribbage, bridge, euchre, chess, checkers, dominoes, and pinochle.

e. Trivia and trading card events.

f. Video game-type and video sporting-type events. Events in this category include pinball games, video games, and video machine golf tournament games, where skill is the predominant factor in determining the result of play and tournament scores. To be lawful, a player shall operate a video machine with a device which directly impacts the results of the game.

3. A poker, blackjack, craps, keno, or roulette contest, league, or tournament shall not be considered a bona fide contest under this section.

[C75, §99B.11, 726.13; C77, 79, 81, §99B.11]

2000 Acts, ch 1231, §36; 2002 Acts, ch 1068, §13; 2004 Acts, ch 1056, §1, 10; 2004 Acts, ch 1175, §365; 2005 Acts, ch 106, §9; 2015 Acts, ch 99, §24, 56

C2016, §99B.61

Referred to in §99B.45

99B.62 Game nights — licensing exceptions.

1. A person other than a qualified organization may lawfully conduct a game night without a license, and may award cash or merchandise prizes, under the following conditions:

a. A bona fide social, employment, or trade or professional association relationship exists between the sponsors and the participants.

b. The participants pay no consideration of any nature, either directly or indirectly, to participate in the games.

c. All money, play money, or other items of no intrinsic value which may be wagered are provided to the participant free, and the sponsor conducting the game receives no consideration, either directly or indirectly, other than goodwill.

d. The games may be conducted at any location, except at a fair or a location for which a license is required pursuant to section 99B.31.

e. During the entire time activities permitted by this subsection are being engaged in, no other gambling is engaged in at the same location.

2. A person or an organization may sponsor one or more game nights using play money for participation by students without the person or organization obtaining a license otherwise required by this chapter if the person or organization obtains prior approval for the game night from the board of directors of the accredited public school or the authorities in charge of the nonpublic school accredited by the state board of education for whose students the game night is to be held.

3. A gambling device intended for use or used as provided in this section is exempt from the provisions of section 725.9, subsection 2.

2015 Acts, ch 99, §46
Referred to in §99B.26

CHAPTER 99C

RESERVED

CHAPTER 99D

PARI-MUTUEL WAGERING

Referred to in §21.2, 21.11, 22.1, 80.25A, 80.26, 99B.21, 99E.1, 99F.1, 99F.2, 99F.4, 99F.4A, 99F.4B, 99F.4C, 99F.7, 99F.10, 99G.3, 123.49, 162.2, 162.2B, 162.10A, 232C.4, 422.16, 533C.103, 537A.4, 714B.10, 717D.3, 725.7, 725.13, 725.14

99D.1 Short title.
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99D.6 Headquarters, meetings, and election of chairperson — administrator — employees.
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99D.20 Audit of licensee operations.
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99D.24 Prohibited activities — penalty.
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99D.25A Administration of furosemide or phenylbutazone.
99D.26 Forfeiture of property.
99D.27 Racing dog adoption program.
99D.28 Setoff.

99D.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Pari-mutuel Wagering Act"*.

83 Acts, ch 187, §1

99D.2 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Applicant"* means an individual applying for an occupational license or the officers and members of the board of directors of a nonprofit corporation applying for a license to conduct a race where pari-mutuel wagering would be permitted under this chapter.

2. *"Breakage"* means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents.

3. *"Claimant agency"* means a public agency as defined in section 8A.504, subsection 1, or the state court administrator as defined in section 602.1101.

4. *"Commission"* means the state racing and gaming commission created under section 99D.5.

5. *"Holder of occupational license"* means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in within the racing industry in Iowa.

6. *"Licensee"* means a nonprofit corporation licensed under section 99D.9.

7. *"Pari-mutuel wagering"* means the system of wagering described in section 99D.11.

8. *"Race"*, *"racing"*, *"race meeting"*, *"track"*, and *"racetrack"* refer to dog racing and horse racing, including but not limited to quarterhorse, thoroughbred, and harness racing, as approved by the commission.

9. *"Racetrack enclosure"* means all real property utilized for the conduct of a race meeting, including the racetrack, grandstand, concession stands, offices, barns, kennels and barn areas, employee housing facilities, parking lots, and any additional areas designated by the commission. *"Racetrack enclosure"* also means all real property utilized by a licensee under this chapter who is not required to conduct live racing pursuant to the requirements of section 99D.9A, on which pari-mutuel wagering on simultaneously telecast horse or dog races may be conducted and lawful gambling is authorized and licensed as provided in this chapter and chapter 99F.

10. *"Wagering area"* means that portion of a racetrack in which a licensee may receive wagers of money from a person present in a licensed racetrack enclosure on a horse or dog in a race selected by the person making the wager as designated by the commission.

83 Acts, ch 187, §2; 84 Acts, ch 1265, §1; 84 Acts, ch 1266, §3; 89 Acts, ch 67, §23; 97 Acts, ch 9, §1; 2004 Acts, ch 1136, §2, 3; 2005 Acts, ch 3, §24; 2008 Acts, ch 1172, §1; 2014 Acts, ch 1036, §15; 2014 Acts, ch 1126, §1

Referred to in §99F.1, 99F.4, 99F.9

For future amendment to subsection 3 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §4, 28; 2020 Acts, ch 1118, §73, 74

99D.3 Scope of provisions.

This chapter does not apply to horse-race or dog-race meetings unless the pari-mutuel system of wagering is used or intended to be used in connection with the horse-race or dog-race meetings. If the pari-mutuel system is used or intended to be used a person shall not conduct a race meeting without a license as provided by section 99D.9.

83 Acts, ch 187, §3

99D.4 Pari-mutuel wagering legalized.

The system of wagering on the results of horse or dog races as provided by this chapter is legal, when conducted within the racetrack enclosure at a licensed horse-race or dog-race meeting.

83 Acts, ch 187, §4

99D.5 Creation of state racing and gaming commission.

1. A state racing and gaming commission is created within the department of inspections and appeals consisting of five members who shall be appointed by the governor subject to confirmation by the senate, and who shall serve not to exceed a three-year term at the pleasure of the governor. The term of each member shall begin and end as provided in section 69.19.

2. A vacancy on the commission shall be filled as provided in section 2.32.

3. Not more than three members of the commission shall belong to the same political party. A member of the commission shall not have a financial interest in a racetrack.

4. Commission members are each entitled to receive an annual salary of ten thousand dollars. Members shall also be reimbursed for actual expenses incurred in the performance of their duties to a maximum of thirty thousand dollars per year for the commission. Each member shall be covered by the blanket surety bond of the state purchased pursuant to section 8A.321, subsection 12.

5. *a.* A member or a holder of an official's license shall not knowingly:

(1) Have a pecuniary, equitable, or other interest in or engage in a business or employment

which would be a conflict of interest or interfere or conflict with the proper discharge of the duties of the commission including any of the following:

(a) A business which does business with a licensee.

(b) A business issued a concession operator's license.

(2) Participate directly or indirectly as an owner, owner-trainer, trainer of a horse or dog, or jockey of a horse in a race meeting conducted in this state.

(3) Place a wager on an entry in a race or on a gambling game operated on an excursion gambling boat or gambling structure.

b. A violation of this subsection is a serious misdemeanor. In addition, the individual may be subject to disciplinary actions pursuant to the commission rules.

6. *a.* A member, employee, or appointee of the commission, spouse of a member, employee, or appointee of the commission, or a family member related within the second degree of affinity or consanguinity to a member, employee, or appointee of the commission shall not do either of the following:

(1) Hold an occupational license except an official's license.

(2) Enter directly or indirectly into any business dealing, venture, or contract with an owner or lessee of a racetrack.

b. A member who knowingly approves of a violation of this subsection is guilty of a serious misdemeanor.

83 Acts, ch 187, §5, 36; 84 Acts, ch 1266, §4, 5; 86 Acts, ch 1245, §713, 714; 88 Acts, ch 1267, §17; 89 Acts, ch 67, §24, 25; 89 Acts, ch 83, §21; 89 Acts, ch 231, §30; 91 Acts, ch 266, §21; 92 Acts, ch 1203, §2; 2004 Acts, ch 1136, §4; 2005 Acts, ch 177, §15; 2007 Acts, ch 188, §4; 2008 Acts, ch 1032, §201

Referred to in §99B.13, 99B.42, 99D.2, 99E.1, 99F.1
Confirmation, see §2.32

99D.6 Headquarters, meetings, and election of chairperson — administrator — employees.

1. The commission shall have its headquarters in the city of Des Moines and shall meet in July of each year and at other times and places as it finds necessary for the discharge of its duties. The commission shall elect in July of each year one of its members as chairperson for the succeeding year.

2. The commission shall appoint an administrator of the commission subject to confirmation by the senate. The administrator shall serve a four-year term. The term shall begin and end in the same manner as set forth in section 69.19. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The administrator shall be covered by the blanket surety bond of the state purchased pursuant to section 8A.321, subsection 12. The compensation and employment terms of the administrator shall be set by the governor, taking into consideration the level of knowledge and experience of the administrator. The administrator shall keep a record of the proceedings of the commission and preserve the books, records, and documents entrusted to the administrator's care.

3. The administrator may hire other assistants and employees as necessary to carry out the commission's duties. Employees in the positions of equine veterinarian, canine veterinarian, and equine steward shall be exempt from the merit system provisions of chapter 8A, subchapter IV, and shall not be covered by a collective bargaining agreement. Some or all of the information required of applicants in section 99D.8A, subsections 1 and 2, may also be required of employees of the commission if the commission deems it necessary.

83 Acts, ch 187, §6; 84 Acts, ch 1265, §2; 86 Acts, ch 1245, §715; 87 Acts, ch 115, §17; 89 Acts, ch 231, §31; 2004 Acts, ch 1136, §5, 65; 2007 Acts, ch 215, §26; 2015 Acts, ch 29, §18

Referred to in §99D.10
Confirmation, see §2.32

99D.7 Powers.

The commission shall have full jurisdiction over and shall supervise all race meetings governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.

2. To identify occupations within the racing industry which require licensing and adopt standards for licensing the occupations including establishing fees for the occupational licenses. The fees shall be paid to the commission and used as required in section 99D.17.

3. To adopt standards regarding the duration of thoroughbred and quarter horse racing seasons, so that a thoroughbred racing season shall not be less than sixty-seven days, and so that a quarter horse racing season shall not be less than twenty-six days. The thoroughbred and quarter horse racing seasons shall be run independently unless mutually agreed upon by the associations representing the thoroughbred and quarter horse owners and the licensee of the horse racetrack located in Polk county.

4. To adopt standards under which all race meetings shall be held and standards for the facilities within which the race meetings shall be held.

5. *a.* To regulate the purse structure for race meetings including establishing a minimum purse.

b. The commission shall, beginning January 1, 2012, regulate the purse structure for all horse racing so that seventy-six percent is designated for thoroughbred racing, fifteen and one-quarter percent is designated for quarter horse racing, and eight and three-quarters percent is designated for standardbred racing. The purse moneys designated for standardbred racing may only be used to support standardbred harness racing purses, breeder's awards, or expenses at the state fair, county fairs, or other harness racing tracks approved by the commission, or for the maintenance, construction, or repair of harness racing tracks located in Iowa and at the fairgrounds for such fairs or other harness racing tracks located in Iowa and approved by the commission. The horse racetrack in Polk county shall not provide funding to support standardbred racing at such county fairs that is not otherwise provided for in this paragraph.

c. (1) The purse moneys designated for standardbred racing shall be payable to a nonprofit corporation operated exclusively for those purposes allowed an exempt organization under section 501(c)(4) of the Internal Revenue Code, as defined in section 422.3, which was organized under the laws of this state on or before January 1, 2008, which exists for the promotion of the sport of harness racing in this state, and which received supplemental payments from the horse racetrack in Polk county for the conduct of harness racing during the 2010 calendar year. The nonprofit corporation receiving such purse moneys shall complete and provide to the commission an annual audit and accounting of the allocation of such moneys.

(2) Of the purse moneys designated for thoroughbred racing, two percent shall be distributed to an organization representing owners of thoroughbred race horses for the purpose of paying the annual operating expenses of the organization and for the promotion and marketing of Iowa-bred horses. The organization receiving such purse moneys shall complete and provide to the commission an annual audit and accounting of the allocation of such moneys.

(3) Of the purse moneys designated for quarter horse racing, two percent shall be distributed to an organization representing owners of quarter horse race horses for the purpose of paying the annual operating expenses of the organization and for the promotion and marketing of Iowa-bred horses. The organization receiving such purse moneys shall complete and provide to the commission an annual audit and accounting of the allocation of such moneys.

6. To cooperate with the department of agriculture and land stewardship to establish and operate, or contract for, a laboratory and related facilities to conduct saliva, urine, and other tests on animals that are to run or that have run in races governed by this chapter.

7. To establish and provide for the disposition of fees for the testing of animals sufficient to cover the costs of the tests and to purchase the necessary equipment for the testing.

8. To enter the office, racetrack, facilities, or other places of business of a licensee to determine compliance with this chapter.

9. To investigate alleged violations of this chapter or the commission rules, orders, or

final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for the violation, or institute appropriate legal action for enforcement, or both. Information gathered during an investigation is confidential during the pendency of the investigation. Decisions by the commission are final agency actions pursuant to chapter 17A.

10. To authorize stewards, starters, and other racing officials to impose fines or other sanctions upon a person violating a provision of this chapter or the commission rules, orders, or final orders, including authorization to expel a tout, bookmaker, or other person deemed to be undesirable from the racetrack facilities.

11. To require the removal of a racing official, an employee of a licensee, or a holder of an occupational license, or employee of a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.

12. To prevent an animal from racing if the commission or commission employees with cause believe the animal or its owner, trainer, or an employee of the owner or trainer is in violation of this chapter or commission rules.

13. To withhold payment of a purse if the outcome of a race is disputed or until tests are performed on the animals to determine if they were illegally drugged.

14. To provide for immediate determination of the disposition of a challenge by a racing official or representative of the commission by establishing procedures for informal hearings before a panel of stewards at a racetrack.

15. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's racing activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the racing activities of each licensee.

16. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with chapter 17A, and to administer oaths and affirmations to the witnesses, when, in the judgment of the racing and gaming commission, it is necessary to enforce this chapter or the commission rules.

17. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.

18. To require all licensees to use a computerized totalizator system for calculating odds and payouts from the pari-mutuel wagering pool and to establish standards to insure the security of the totalizator system.

19. To revoke or suspend licenses and impose fines not to exceed one thousand dollars.

20. To require licensees to indicate in their racing programs those horses which are treated with the legal medication furosemide or phenylbutazone. The program shall also indicate if it is the first or subsequent time that a horse is racing with furosemide, or if the horse has previously raced with furosemide and the present race is the first race for the horse without furosemide following its use.

21. Notwithstanding any contrary provision in this chapter, to provide for interstate combined wagering pools related to simulcasting horse or dog races and all related interstate pari-mutuel wagering activities.

22. To cooperate with the gambling treatment program administered by the Iowa department of public health to incorporate information regarding the gambling treatment program and its toll-free telephone number in printed materials distributed by the commission. The commission may require licensees to have the information available in a conspicuous place as a condition of licensure.

23. To establish a process to allow a person to be voluntarily excluded from advance deposit wagering as defined in section 99D.11, from an internet fantasy sports contest as defined in section 99E.1, from advance deposit sports wagering as defined in section 99F.9, and from the wagering area of a racetrack enclosure, from the gaming floor, and from the sports wagering area, as defined in section 99F.1, of all other licensed facilities under this chapter and chapter 99F as provided in this subsection. The process shall provide that an initial request by a person to be voluntarily excluded shall be for a period of five years or life and any subsequent request following any five-year period shall be for a period of five years

or life. The process established shall require that licensees be provided electronic access to names and social security numbers of persons voluntarily excluded through a secured interactive internet site maintained by the commission and information regarding persons voluntarily excluded shall be disseminated to all licensees under this chapter, chapter 99E, and chapter 99F. The names, social security numbers, and information regarding persons voluntarily excluded shall be kept confidential unless otherwise ordered by a court or by another person duly authorized to release such information. The process established shall also require a person requesting to be voluntarily excluded be provided information compiled by the Iowa department of public health on gambling treatment options. The state and any licensee under this chapter, chapter 99E, or chapter 99F shall not be liable to any person for any claim which may arise from this process. In addition to any other penalty provided by law, any money or thing of value that has been obtained by, or is owed to, a voluntarily excluded person as a result of wagers made by the person after the person has been voluntarily excluded shall be forfeited by the person and shall be credited to the general fund of the state.

24. To require licensees to establish a process with the state for licensees to have electronic access to names and social security numbers of debtors of claimant agencies through a secured interactive internet site maintained by the state.

25. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

83 Acts, ch 187, §7; 84 Acts, ch 1265, §3; 84 Acts, ch 1266, §6; 88 Acts, ch 1137, §1; 89 Acts, ch 231, §32; 91 Acts, ch 166, §1; 91 Acts, ch 260, §1205; 94 Acts, ch 1100, §1; 95 Acts, ch 205, §34; 96 Acts, ch 1212, §11; 2004 Acts, ch 1136, §6 – 8; 2008 Acts, ch 1172, §2; 2009 Acts, ch 182, §101; 2011 Acts, ch 111, §1, 2; 2013 Acts, ch 90, §257; 2014 Acts, ch 1033, §1; 2017 Acts, ch 132, §1; 2018 Acts, ch 1099, §1; 2019 Acts, ch 132, §1, 22, 23; 2020 Acts, ch 1063, §50

Referred to in §12.10, 99D.10, 99D.11, 99D.22, 99D.28, 99F.6

For provisions governing authority of a person voluntarily excluded for life from all licensed facilities under chapters 99D and 99F prior to July 1, 2017, to revoke the exclusion, see 2017 Acts, ch 132, §3

99D.8 Horse or dog racing licenses — applications.

1. A qualifying organization, as defined in section 513(d)(2)(C) of the Internal Revenue Code, as defined in section 422.3, exempt from federal income taxation under sections 501(c)(3), 501(c)(4), or 501(c)(5) of the Internal Revenue Code or a nonprofit corporation organized under the laws of this state, whether or not it is exempt from federal income taxation, which is organized to distribute funds for educational, civic, public, charitable, patriotic, or religious uses, as defined in section 99B.1, or which regularly conducts an agricultural and educational fair or exposition for the promotion of the horse, dog, or other livestock breeding industries of the state, or an agency, instrumentality, or political subdivision of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least sixty days before the first day of the horse race or dog race meeting which the organization proposes to conduct, shall specify the day or days when and the exact location where it proposes to conduct racing, and shall be in a form and contain information as the commission prescribes.

2. If any part of the net income of a licensee is determined to be unrelated business taxable income as defined in sections 511 through 514 of the Internal Revenue Code, or is otherwise taxable, the licensee shall be required to distribute such amount to political subdivisions in the state and organizations described in section 501(c)(3) of the Internal Revenue Code in the county in which the licensee operates.

3. An organization which meets the requirements of this section, as amended, on or before July 1, 1988, shall be considered to have met the requirements of this section on the date that its initial application was originally filed.

83 Acts, ch 187, §8; 88 Acts, ch 1243, §1; 95 Acts, ch 176, §1; 2015 Acts, ch 99, §50; 2017 Acts, ch 54, §76

Referred to in §99D.9, 99D.10

99D.8A Requirements of applicant — penalty — consent to search.

1. A person shall not be issued a license to conduct races under this chapter or an occupational license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall state the full name, social security number, residence, date of birth and other personal identifying information of the applicant that the commission deems necessary. The application shall state whether the applicant has any of the following:

a. A record of conviction of a felony.

b. An addiction to alcohol or a controlled substance.

c. A history of mental illness or repeated acts of violence.

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check.

3. The commission shall charge the applicant a fee set by the department of public safety, division of criminal investigation, to defray the costs associated with the search and classification of fingerprints required in subsection 2. This fee is in addition to any other license fee charged by the commission.

4. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

5. The licensee or a holder of an occupational license shall consent to agents of the division of criminal investigation of the department of public safety or commission employees designated by the administrator of the commission to the search without a warrant of the licensee or holder's person, personal property and effects, and premises which are located within the racetrack enclosure or adjacent facilities under control of the licensee to inspect or investigate for criminal violations of this chapter or violations of rules adopted by the commission.

84 Acts, ch 1265, §4; 84 Acts, ch 1266, §7; 2002 Acts, ch 1044, §5, 11; 2003 Acts, ch 108, §29; 2005 Acts, ch 35, §31

Referred to in §99D.6, 99D.9, 99D.10, 99D.11

99D.9 Licenses — terms and conditions — revocation.

1. If the commission is satisfied that its rules and sections 99D.8 through 99D.25 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than three years. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types, or both dog and horse racing. However, only quarter horse and thoroughbred racing shall be allowed to be conducted at the horse racetrack located in Polk county. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. As used in this subsection, *"prime farmland"* means as defined by the United States department of agriculture in 7 C.F.R. §657.5(a). A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing. The commission shall conduct a neighborhood impact study to determine the impact of granting a license on the quality of life in neighborhoods adjacent to the proposed racetrack facility. The applicant for the license shall reimburse the commission for the costs incurred in making the study. A copy of the study shall be retained on file with the commission and shall be a public record. The study shall be completed before the commission may issue a license for the proposed facility.

2. A license shall only be granted to a nonprofit corporation or association upon the express condition that the nonprofit corporation or association shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the

operation of a race meeting licensed under this section or of the pari-mutuel system of wagering described in section 99D.11. This section does not prohibit a management contract approved by the commission.

3. A license shall not be granted to a nonprofit corporation if there is substantial evidence that the applicant for a license:

a. Has been suspended or ruled off a recognized course in another jurisdiction by the racing board or commission of that jurisdiction.

b. Has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.

c. Is not the true owner of the enterprise proposed.

d. Is not the sole owner, and other persons have ownership in the enterprise which fact has not been disclosed.

e. Is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.

f. Has knowingly made a false statement of a material fact to the commission.

g. Has failed to meet any monetary obligation in connection with a race meeting held in this state.

4. A license shall not be granted to a nonprofit corporation if there is substantial evidence that stockholders or officers of the nonprofit corporation are not of good repute and moral character.

5. A license shall not be granted to a licensee for racing on more than one racetrack at the same time.

6. *a.* A licensee shall not loan to any person money or any other thing of value for the purpose of permitting that person to wager on any race.

b. A licensee shall not permit a financial institution, vendor, or other person to dispense cash or credit through an electronic or mechanical device including but not limited to a satellite terminal as defined in section 527.2, that is located in the wagering area.

c. When technologically available, a licensee shall ensure that a person may voluntarily bar the person's access to receive cash or credit from a financial institution, vendor, or other person through an electronic or mechanical device including but not limited to a satellite terminal as defined in section 527.2, that is located on the licensed premises.

7. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.

8. The commission shall require that a licensee utilize Iowa resources, goods, and services in the operation of a racetrack enclosure. The commission shall develop standards to assure that a substantial amount of all resources and goods used in the operation of a racetrack enclosure emanate from and are made in Iowa and that a substantial amount of all services and entertainment are provided by Iowans.

83 Acts, ch 187, §9; 84 Acts, ch 1266, §8 – 10; 94 Acts, ch 1021, §2; 2004 Acts, ch 1136, §9 – 11; 2011 Acts, ch 111, §3

Referred to in §99D.2, 99D.3, 99D.9C, 99D.10, 99D.14

99D.9A Dog racetrack licensure — discontinuance of live racing requirement — fees.

1. Upon written notification to the commission by September 1, 2014, and agreement to comply with the requirements of this section, a licensee authorized to conduct pari-mutuel wagering at a dog racetrack and to conduct gambling games pursuant to section 99F.6 as of January 1, 2014, may, as of the live racing cessation date, continue to maintain a license as provided in this section for purposes of conducting gambling games and pari-mutuel wagering on simultaneously telecast horse or dog races without the requirement of scheduling performances of live races at the dog racetrack. For purposes of this section, the *"live racing cessation date"* is October 31, 2014, for the licensee of the pari-mutuel dog racetrack located in Dubuque county, and December 31, 2015, for the licensee of the pari-mutuel dog racetrack located in Pottawattamie county.

2. Upon the live racing cessation date of a licensee, all of the following shall occur:

a. The commission shall determine what portion of the unexpended moneys in the dog racing promotion fund created in section 99D.12 is attributable to the licensee as of the live racing cessation date of the licensee and shall transfer those moneys to the Iowa greyhound pari-mutuel racing fund created in section 99D.9B.

b. Any agreement which was approved by the commission for dog purse supplement payments for live racing by the licensee shall be terminated.

c. Within thirty days after the live racing cessation date of the licensee of the pari-mutuel dog racetrack located in Pottawattamie county, the kennel owners and operators and greyhound owners shall, at their expense, remove all of their property including the greyhounds from the racetrack.

3. *a.* To maintain a license under this chapter to conduct gambling games and pari-mutuel wagering on simultaneously telecast horse or dog races without the requirement of scheduling performances of live dog races, or to maintain a license under section 99F.4A, subsection 9, the licensee as of the date a payment under this subsection is due shall ensure payment of the live racing cessation fee to the commission for deposit in the Iowa greyhound pari-mutuel racing fund created in section 99D.9B, as required by this subsection.

b. Except as provided in paragraph "*c*", the live racing cessation fee shall be paid and determined as follows:

(1) For the licensee authorized to conduct gambling games in Dubuque county pursuant to a license issued pursuant to section 99F.4A, subsection 9, the payment of one million dollars by January 1, 2015, and one million dollars each succeeding January 1 for six consecutive calendar years.

(2) For the pari-mutuel dog racetrack located in Pottawattamie county, the payment of nine million two hundred eighty-five thousand eight hundred dollars by January 1, 2016, and nine million two hundred eighty-five thousand seven hundred dollars each succeeding January 1 for six consecutive calendar years. Payments required under this subparagraph shall be made by the manager of the pari-mutuel racetrack located in Pottawattamie county for deposit in the Iowa greyhound pari-mutuel racing fund created in section 99D.9B, as required by this subsection.

c. (1) If the licensee at the pari-mutuel racetrack located in Pottawattamie county as of January 1, 2014, fails to have the licensee's license renewed, the licensee's obligation and any obligation of the manager of the racetrack to make any further payments as provided in this subsection shall cease. However, the commission shall not issue a license to a subsequent or successor licensee at the pari-mutuel racetrack located in Pottawattamie county until all remaining unpaid installments of the live racing cessation fee required under this subsection are paid.

(2) If the licensee issued a license under section 99F.4A, subsection 9, fails to have the license renewed, the licensee's obligation to make any further payments as provided in this subsection shall cease. However, the commission shall not issue a license to a subsequent or successor licensee under section 99F.4A, subsection 9, until all remaining installments of the live racing cessation fee required under this subsection are paid.

(3) If the manager of the pari-mutuel racetrack located in Pottawattamie county as of January 1, 2014, pursuant to a management contract with the licensee, ceases to be the manager of the racetrack, the licensee's obligation and any obligation of the manager of the racetrack to make any further payments as provided in this subsection shall cease. However, the commission shall not approve a management contract with the licensee for a subsequent or successor manager until all remaining installments of the live racing cessation fee required under this subsection are paid.

4. Upon written notification to the commission by the licensee of the pari-mutuel dog racetrack located in Dubuque county as provided in subsection 1, all of the following shall occur:

a. The licensee shall be authorized to maintain a license issued to the licensee by the commission to conduct gambling games pursuant to the requirements of section 99F.4A, subsection 9.

b. The licensee shall maintain a license under this chapter until December 31, 2014. The licensee shall, until the live racing cessation date of the licensee, conduct

pari-mutuel wagering on live dog races and shall, until December 31, 2014, be authorized to simultaneously telecast horse or dog races as provided by an agreement to conduct live racing during the 2014 calendar year.

5. *a.* The licensee of the pari-mutuel dog racetrack located in Pottawattamie county who is not required to conduct live racing pursuant to the requirements of this section shall do all of the following:

(1) Remain licensed under this chapter and pursuant to section 99F.4A as a pari-mutuel dog racetrack licensed to conduct gambling games and pari-mutuel wagering on simultaneously telecast horse or dog races.

(2) Continue to pay the annual license fee and regulatory fee as a pari-mutuel dog racetrack licensed to conduct gambling games pursuant to the requirements of section 99F.4A.

(3) Comply with all other applicable requirements of this chapter and chapter 99F except for those requirements concerning live dog racing.

b. However, nothing in this chapter shall require the licensee of the pari-mutuel dog racetrack in Pottawattamie county to conduct pari-mutuel wagering on simultaneously telecast horse or dog races to remain licensed under this chapter or to conduct gambling games without the requirement of scheduling performances of live dog races.

6. *a.* Compliance with the requirements of this section and the establishment of the Iowa greyhound pari-mutuel racing fund in section 99D.9B shall constitute a full satisfaction of and discharge from any and all liability or potential liability of a licensee authorized to conduct gambling games in Dubuque county pursuant to section 99F.4A, subsection 9, the licensee of the pari-mutuel dog racetrack located in Pottawattamie county, and the Iowa greyhound association which may arise out of either of the following:

(1) The discontinuance of live dog racing or simulcasting.

(2) Distributions made or not made from the Iowa greyhound pari-mutuel racing fund created in section 99D.9B or the purse escrow fund created in the arbitration decision issued in December 1995 with regard to the purse supplements to be paid at the pari-mutuel dog racetrack in Pottawattamie county.

b. Compliance with the requirements of this section and establishment of the Iowa greyhound pari-mutuel racing fund in section 99D.9B shall immunize a licensee authorized to conduct gambling games in Dubuque county pursuant to a license issued pursuant to section 99F.4A, subsection 9, the licensee of the pari-mutuel dog racetrack located in Pottawattamie county, and the Iowa greyhound association and their respective officers, directors, employees, board members, and agents against claims of liability as described in paragraph *"a"* made by any person or entity.

2014 Acts, ch 1126, §2
Referred to in §99D.2, 99D.9, 99D.9B, 99D.9C, 99D.10, 99D.11, 99F.1, 99F.4A, 99F.6

99D.9B Iowa greyhound pari-mutuel racing fund.

1. An Iowa greyhound pari-mutuel racing fund is created in the state treasury under the control of the racing and gaming commission.

2. The fund shall consist of all of the following:

a. Moneys in the dog racing promotion fund created in section 99D.12 that were deposited in the fund from a dog racetrack licensee that is no longer required to conduct live dog races pursuant to section 99D.9A.

b. Moneys deposited in the fund from the live racing cessation fee established in section 99D.9A.

3. *a.* Fifty percent of the moneys deposited in the fund shall first be distributed to the Iowa greyhound association for deposit in the escrow account established by the Iowa greyhound association pursuant to the requirements of section 99D.9C, provided the Iowa greyhound association is licensed under this chapter to conduct pari-mutuel wagering on live dog races or simultaneously telecast horse or dog races pursuant to the requirements of section 99D.9C, by December 15, 2014.

b. Moneys remaining in the fund following distribution to the Iowa greyhound association as provided in this subsection shall be under the sole control of the commission. The

commission shall determine the method by which moneys remaining in the fund will be distributed, provided that the commission shall distribute a portion of the moneys in the fund to no-kill animal adoption agencies to facilitate care for and adoption of greyhounds no longer racing as a result of the discontinuance of live racing. The commission may consider objective evidence, including purse payments to greyhound industry participants for the period beginning January 1, 2010, and ending December 31, 2014, in determining the method of distribution. The commission may hire an expert to assist in the task of making distributions from the fund. The commission may distribute moneys from the fund to greyhound industry participants and to kennel owners and operators and greyhound owners for costs incurred in removing property from the dog racetrack located in Pottawattamie county as required by section 99D.9A, subsection 2, paragraph *"c"*. Prior to adoption of any formula for distribution, the commission shall allow for input from greyhound industry participants. The distribution decisions of the commission shall be final. The commission may use moneys in the fund to pay its direct and indirect administrative expenses incurred in administering the fund, including the hiring of experts to assist in the commission's distribution determination. Members of the commission, employees of the commission, and any experts hired by the commission pursuant to this section shall be held harmless against any claim of liability made by any person arising out of the distribution of moneys from the fund by the commission.

4. Section 8.33 does not apply to moneys in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

5. The commission shall adopt rules to administer this section.

2014 Acts, ch 1126, §3; 2015 Acts, ch 29, §19
Referred to in §99D.9, 99D.9A, 99D.9C, 99D.10

99D.9C Alternative dog racetrack and simulcasting licensure — live racing — lease agreement with gambling games licensee.

1. *a.* The Iowa greyhound association may submit an application to the commission for a license under this chapter to conduct pari-mutuel wagering on live dog races or simultaneously telecast horse or dog races, subject to the requirements of this section. Unless inconsistent with the requirements of this section, the Iowa greyhound association shall comply with all requirements for submitting an application for a license under this chapter. If an application is submitted by October 1, 2014, the commission shall, subject to the requirements of section 99D.9 and this section, determine whether to approve the application for a license by December 1, 2014.

b. If the commission approves an application for a license submitted by the Iowa greyhound association pursuant to section 99D.9 and this section, the terms and conditions of the license shall, notwithstanding any provision of law to the contrary, authorize the licensee to conduct pari-mutuel wagering on live dog races or simultaneously telecast horse or dog races conducted at a racetrack enclosure located in Dubuque county subject to the requirements of a lease agreement entered into pursuant to the requirements of this section. The terms and conditions of the license shall also authorize the licensee to conduct pari-mutuel wagering on simultaneously telecast horse or dog races at the facility of a licensee authorized to conduct gambling games under chapter 99F pursuant to an agreement with the licensee of that facility as authorized by this section. A licensee issued a license pursuant to this section shall comply with all requirements of this chapter applicable to licensees unless otherwise inconsistent with the provisions of this section.

2. *a.* The Iowa greyhound association shall establish an escrow fund under its control for the receipt and deposit of moneys transferred to the Iowa greyhound association pursuant to section 99D.9B. The Iowa greyhound association shall use moneys in the escrow fund to pay all reasonable and necessary costs and fees associated with conducting live racing and pari-mutuel wagering on simultaneously telecast horse or dog races, including but not limited to regulatory and administrative fees, capital improvements, purse supplements, operational costs, obligations pursuant to any purse supplement agreement as amended and approved by the commission, payment of rents for leased facilities and costs of maintenance

of leased facilities, payment for products and services provided by the licensee authorized to conduct gambling games in Dubuque county pursuant to section 99F.4A, subsection 9, costs to maintain the license, costs for posting a bond as required by section 99D.10, and administrative costs and fees incurred in connection with the pursuit of the continuation of live greyhound racing.

b. However, if the Iowa greyhound association is not licensed to conduct pari-mutuel wagering on live dog races or simultaneously telecast horse or dog races subject to the requirements of this section or fails to conduct live dog racing during any calendar year beginning on or after January 1, 2015, the Iowa greyhound association shall transfer any unused moneys in the escrow fund to the commission for deposit in the Iowa greyhound pari-mutuel racing fund created in section 99D.9B and shall receive no further distributions from the fund created in section 99D.9B. The commission shall require that an annual audit be conducted and submitted to the commission, in a manner determined by the commission, concerning the operation of the escrow fund.

3. *a.* A license issued pursuant to this section shall authorize the licensee to enter into an agreement with any licensee authorized to operate an excursion gambling boat or gambling structure under chapter 99F to conduct, without the requirement to conduct live horse or dog races at the facility, pari-mutuel wagering on simultaneously telecast horse or dog races at the facility of the licensee authorized to operate an excursion gambling boat or gambling structure under chapter 99F.

b. If a lease agreement entered into with the city of Dubuque pursuant to this section is terminated or is not renewed or extended, the licensee authorized to conduct gambling games in Dubuque county pursuant to a license issued pursuant to section 99F.4A, subsection 9, shall be authorized to enter into an agreement with a licensee issued a license pursuant to this section to conduct pari-mutuel wagering on simultaneously telecast horse or dog races at the facility of the licensee as provided by this subsection.

c. If the Iowa greyhound association is licensed as provided in this section and ceases to conduct live dog racing, all revenue generated from an agreement to simultaneously telecast horse or dog races as authorized by this subsection shall be used solely for the purpose of supplementing Iowa-whelped dogs racing at out-of-state facilities.

4. *a.* Upon written request by the Iowa greyhound association to the city of Dubuque by July 8, 2014, the city of Dubuque shall be authorized to enter into an initial five-year lease agreement with a single option to renew the lease for an additional five years with the Iowa greyhound association beginning January 1, 2015, to permit the Iowa greyhound association to conduct pari-mutuel wagering on live dog races and simultaneously telecast horse or dog races at the dog racetrack located in Dubuque county. The lease agreement shall be contingent upon the Iowa greyhound association obtaining a license pursuant to the requirements of this section.

b. The lease agreement shall provide for the following:

(1) An annual lease payment of one dollar during the initial five-year lease for the racetrack enclosure, which includes the racetrack, kennels, grandstand, and space for a new simulcast facility, and one five-year renewal of the lease agreement at a fair market rental rate.

(2) Employees at the racetrack enclosure involved in pari-mutuel wagering as of the live racing cessation date, as provided in section 99D.9A, shall be offered employment by the Iowa greyhound association at the racetrack.

(3) Existing collective bargaining agreements concerning employees at the racetrack shall be honored.

(4) Live dog racing requirements. The requirements shall provide that the Iowa greyhound association conduct, for calendar year 2015, no fewer than sixty live race days with nine live races per day during the racing season, and for calendar year 2016 and subsequent calendar years covered by the lease agreement, no fewer than ninety-five live race days with nine live races per day during each racing season. However, upon mutual agreement by the parties subject to approval by the commission, the number of race days for one or more live racing seasons may be reduced so long as the Iowa greyhound association conducts a minimum number of live races and racing days during that season.

(5) Termination provisions, to include termination of the agreement on January 1 of the year following the calendar year in which live dog racing as required by the agreement was not conducted by the Iowa greyhound association.

(6) Terms concerning contracts entered into for the conduct of pari-mutuel wagering at the racetrack prior to the live racing cessation date, as provided in section 99D.9A, at the racetrack.

(7) Any other related items concerning the conduct of pari-mutuel wagering at the dog racetrack and the operation of the dog racetrack facility.

c. (1) If the parties are unable to reach agreement on any of the terms of the initial lease agreement by October 1, 2014, or to reach agreement on the fair market rental rate for purposes of the one five-year lease renewal by June 30, 2018, if the Iowa greyhound association requests arbitration concerning the renewal by June 18, 2018, the disputed terms of the lease shall be determined by binding arbitration in accordance with the rules of the American arbitration association as of the date for arbitration. A request for arbitration shall be in writing and a copy of the request shall be delivered to the other party. The parties shall each select one arbitrator and the two arbitrators shall choose a third arbitrator to complete the three-person arbitration panel. Each party shall deliver its final offer on each of the disputed items to the other party within fourteen days after the request for arbitration. After consultation with the parties, the arbitrators shall set a time and place for an arbitration hearing. The parties may continue to negotiate all offers until an agreement is reached or a decision is rendered by the arbitrators. For purposes of determining the fair market rental rate for purposes of the one five-year lease renewal, either party may argue, and present arguments and evidence, that the renewal lease rental rate should be based upon the market value of similarly situated undeveloped land, or upon its use as a greyhound track. The submission of the disputed items to the arbitrators shall be limited to those items upon which the parties have not reached agreement. However, the arbitrators shall have no authority to extend the term of the lease agreement beyond the initial five-year term or the one five-year renewal.

(2) The arbitrators shall render a decision within fifteen days after the hearing. The arbitrators shall give written explanation for the decision and the decision of the arbitrators shall be final and binding on the parties, and any decision of the arbitrators may be entered in any court having competent jurisdiction. The decision by the arbitrators and the items agreed upon by the parties shall be deemed to be the lease agreement between the parties and such final lease agreement shall not be subject to the approval of the governing body of the city of Dubuque, the Iowa greyhound association, the commission, or any other government body. Each party to the arbitration shall bear its own expenses, including attorney fees, and the parties shall share equally the filing and other administrative fees of the American arbitration association and the expenses of the arbitrators.

2014 Acts, ch 1126, §4
Referred to in §99D.9, 99D.9B, 99D.10, 99D.11, 99D.20

99D.10 Bond of licensee.

A licensee licensed under section 99D.9, including a licensee issued a license subject to the requirements of section 99D.9C, shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its racing in conformity with sections 99D.6 through 99D.23 and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days' notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

83 Acts, ch 187, §10; 2014 Acts, ch 1126, §5
Referred to in §99D.9, 99D.9C

99D.11 Pari-mutuel wagering — advance deposit wagering — televising races — age restrictions.

1. Except as permitted in this section, the licensee shall permit no form of wagering on the results of the races.

2. Licensees shall only permit the pari-mutuel or certificate method of wagering, or the advance deposit method of wagering, as defined in this section.

3. The licensee may receive wagers of money only from a person present in a licensed racetrack enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race or from a person engaging in advance deposit wagering as defined in this section. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

4. The licensee shall issue to each person wagering a certificate on which shall be shown the number of the race, the amount wagered, and the number or name of the horse or dog selected as first winner.

5. As each race is run the licensee shall deduct sixteen percent from the total sum wagered on all horses or dogs as first winners. However, the commission shall authorize at the request of the licensee a deduction of a higher or lower percentage of the total sum wagered not to exceed eighteen percent and the additional deduction shall be retained by the licensee. The balance, after deducting breakage, shall be paid to the holders of certificates on the winning horse or dog in the proportion that the amount wagered by each certificate holder bears to the total amount wagered on all horses or dogs in the race as first winners. The licensee may pay a larger amount if approved by the commission. The licensee shall likewise receive other wagers on horses or dogs in places or combinations the commission may authorize. The method, procedure, and the authority and right of the licensee, as well as the deduction allowed to the licensee, shall be as specified with respect to wagers upon horses or dogs selected to run first. However, the commission shall authorize at the request of the licensee a deduction of a higher or lower percent of the total sum wagered not to exceed twenty-four percent on multiple or exotic wagering involving not more than two horses or dogs. The deduction authorized above twenty percent on the multiple or exotic wagering involving not more than two dogs or horses shall be retained by the licensee. For exotic wagering involving three or more horses or dogs, the commission shall authorize at the request of the licensee a deduction of a higher or lower percent of the total sum wagered not to exceed twenty-five percent on the exotic wagers. The additional deduction authorized above twenty-two percent on the multiple or exotic wagers involving more than two horses or dogs shall be retained by the licensee. One percent of the exotic wagers on three or more horses or dogs shall be distributed as provided in section 99D.12.

6. *a.* All wagering shall be conducted within the racetrack enclosure where the licensed race is held, except as provided in paragraphs "*b*" and "*c*".

b. (1) The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure or at the facility of a licensee authorized to operate an excursion gambling boat or gambling structure under chapter 99F, for the purpose of pari-mutuel wagering, a horse or dog race licensed by the racing authority of another state or foreign jurisdiction. It is the responsibility of each licensee to obtain the consent of appropriate racing officials in other states as required by the federal Interstate Horseracing Act of 1978, 15 U.S.C. §3001 – 3007, to televise races for the purpose of conducting pari-mutuel wagering.

(2) A licensee may also obtain the permission of a person licensed by the commission to conduct horse or dog races in this state to televise races conducted by that person for the purpose of conducting pari-mutuel wagering. However, arrangements made by a licensee to televise any race for the purpose of conducting pari-mutuel wagering are subject to the approval of the commission, and the commission shall select the races to be televised. The races selected by the commission shall be the same for all licensees approved by the commission to televise races for the purpose of conducting pari-mutuel wagering. Except for a licensee that is not obligated to schedule performances of live races pursuant to section 99D.9A, or a licensee issued a license subject to the requirements of section 99D.9C, the commission shall not authorize the simultaneous telecast or televising of and a licensee shall

not simultaneously telecast or televise any horse or dog race for the purpose of conducting pari-mutuel wagering unless the simultaneous telecast or televising is done at the racetrack of a licensee that schedules no less than sixty performances of nine live races each day of the season.

(3) For purposes of the taxes imposed under this chapter, races televised by a licensee for purposes of pari-mutuel wagering shall be treated as if the races were held by the licensee. Notwithstanding any contrary provision in this chapter, the commission may allow a licensee to adopt the same deductions as those of the pari-mutuel racetrack from which the races are being simultaneously telecast.

c. (1) The commission shall authorize the licensee of the horse racetrack located in Polk county to conduct advance deposit wagering. An advance deposit wager may be placed in person at a licensed racetrack enclosure, or from any other location via a telephone-type device or any other electronic means. The commission may also issue an advance deposit wagering operator license to an entity who complies with subparagraph (3) and section 99D.8A.

(2) For the purposes of this section, *"advance deposit wagering"* means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering. Of the net revenue, less all taxes paid and expenses directly related to account deposit wagering incurred by the licensee of the horse racetrack located in Polk county, received through advance deposit wagering, fifty percent shall be designated for the horse purses created pursuant to section 99D.7, subsection 5, and fifty percent shall be designated for the licensee for the pari-mutuel horse racetrack located in Polk county.

(3) Before granting an advance deposit wagering operator license to an entity other than the licensee of the horse racetrack located in Polk county, the commission shall enter into an agreement with the licensee of the horse racetrack located in Polk county, the Iowa horsemen's benevolent and protective association, and the prospective advance deposit wagering operator for the purpose of determining the payment of statewide source market fees and the host fees to be paid on all races subject to advance deposit wagering. The commission shall establish the term of such an advance deposit wagering operator license. Such an advance deposit wagering operator licensee shall accept wagers on live races conducted at the horse racetrack in Polk county from all of its account holders if it accepts wagers from any residents of this state.

(4) An unlicensed advance deposit wagering operator or an individual taking or receiving wagers from residents of this state is guilty of a class "D" felony.

(5) For the purposes of this paragraph *"c"*, *"advance deposit wagering operator"* means an advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk county and the Iowa horsemen's benevolent and protective association to provide advance deposit wagering.

7. A person under the age of twenty-one years shall not make or attempt to make a pari-mutuel wager. A person who violates this subsection commits a scheduled violation under section 805.8C, subsection 5, paragraph *"a"*.

83 Acts, ch 187, §11; 84 Acts, ch 1266, §11 – 13; 89 Acts, ch 216, §1; 90 Acts, ch 1175, §5; 90 Acts, ch 1261, §31; 91 Acts, ch 166, §2, 3; 92 Acts, ch 1163, §23; 92 Acts, ch 1203, §3, 4; 92 Acts, ch 1207, §1; 94 Acts, ch 1021, §3, 4; 96 Acts, ch 1211, §32; 2004 Acts, ch 1136, §12; 2005 Acts, ch 3, §25; 2009 Acts, ch 88, §1; 2011 Acts, ch 111, §4 – 7; 2012 Acts, ch 1023, §19, 20; 2014 Acts, ch 1033, §2; 2014 Acts, ch 1126, §6; 2021 Acts, ch 156, §1

Referred to in §99D.2, 99D.7, 99D.9, 99D.10, 99D.13, 99D.16, 99D.24, 99F.4, 805.8C(5)(a)

Subsection 6, paragraph b, subparagraph (1) amended

99D.12 Breakage.

A licensee shall deduct the breakage from the pari-mutuel pool which shall be distributed to the breeders of Iowa-foaled horses and Iowa-whelped dogs in the manner described in section 99D.22. The remainder of the breakage shall be distributed as follows:

1. In horse races the breakage shall be retained by the licensee to supplement purses for races restricted to Iowa-foaled horses or to supplement purses won by Iowa-foaled horses

by finishing first, second, third, or fourth in any other race. The purse supplements will be paid in proportion to the purse structure of the race. Two percent shall be deposited by the commission into a special fund to be known as the horse racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of horse racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

2. In dog races the breakage shall be distributed as follows:

a. Seventy-three percent shall be retained by the licensee to supplement purses for races won by Iowa-whelped dogs as provided in section 99D.22.

b. Twenty-five percent shall be retained by the licensee and shall be put into a stake race for Iowa-whelped dogs. An amount equal to twelve percent of the winner's share shall be set aside and distributed to the breeder of the winning greyhound in accordance with section 99D.22 and the remainder shall be apportioned as purse moneys for the stake race. All dogs racing in the stake race must have run in at least twelve races during the current racing season at the track sponsoring the stake race to qualify to participate.

c. Two percent shall be deposited by the commission into a special fund to be known as the dog racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of dog racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

83 Acts, ch 187, §12; 84 Acts, ch 1266, §14; 88 Acts, ch 1137, §2; 89 Acts, ch 216, §2, 3; 91 Acts, ch 166, §4; 92 Acts, ch 1203, §6

Referred to in §99D.9, 99D.9A, 99D.9B, 99D.10, 99D.11, 99D.22

99D.13 Unclaimed winnings — appropriation.

1. Winnings provided in section 99D.11 not claimed by the person who placed the wager within sixty days of the close of the racing meet during which the wager was placed shall be forfeited.

2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer section 99D.22. The remainder shall be paid over to the commission to pay all or part of the cost of drug testing at the tracks. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness race meetings, the remainder shall be used as provided in subsection 3. To the extent the remainder paid to the commission, less the cost of drug testing, is from unclaimed winnings from licensed dog tracks, the commission shall remit annually five thousand dollars, or an equal portion of that amount, to each licensed dog track to carry out the racing dog adoption program pursuant to section 99D.27. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, on an annual basis, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.

3. *a.* One hundred twenty thousand dollars of winnings from wagers placed at harness race meetings forfeited under subsection 1 in a calendar year that escheat to the state and are paid over to the commission are appropriated to the racing commission for the fiscal year beginning in that calendar year to be used as follows:

(1) Eighty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks to supplement the purses for those harness races in

which only Iowa-bred or owned horses may run. However, beginning with the allocation of the appropriation made for the fiscal year beginning July 1, 1992, the races for which the purses are to be supplemented under this paragraph shall be those in which only Iowa-bred two-year and three-year olds may run. In addition, the races must be held under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a fair, as defined under section 174.1.

(2) Twenty percent of the amount appropriated shall be allocated to qualified harness racing tracks, to be used by the tracks for maintenance of and improvements to the tracks. Races held at the tracks must be under the control or jurisdiction of the Iowa state fair board, established under section 173.1, or of a fair, as defined under section 174.1.

(3) For purposes of this subsection, *"qualified harness racing track"* means a harness racing track that has either held at least one harness race meeting between July 1, 1985, and July 1, 1989, or after July 1, 1989, has applied to and been approved by the racing commission for the allocation of funds under this subsection. The racing commission shall approve an application if the harness racing track has held at least one harness race meeting during the year preceding the year for which the track seeks funds under this subsection.

b. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this subsection.

83 Acts, ch 187, §13; 86 Acts, ch 1246, §509; 89 Acts, ch 216, §4, 5; 90 Acts, ch 1233, §5; 90 Acts, ch 1261, §32; 91 Acts, ch 166, §5; 2004 Acts, ch 1019, §4; 2005 Acts, ch 3, §26; 2005 Acts, ch 179, §113, 114; 2008 Acts, ch 1032, §201

Referred to in §99D.9, 99D.10

99D.14 Race meetings — tax — fees — tax exemption.

1. A licensee under section 99D.9 shall pay the tax imposed by section 99D.15.

2. *a.* (1) A licensee shall pay a regulatory fee to be charged as provided in this section. In determining the regulatory fee to be charged as provided under this section, the commission shall use the amount appropriated to the commission plus the cost of salaries for no more than three special agents assigned pursuant to the provisions of section 80.25A, for each racetrack that has not been issued a table games license under chapter 99F or no more than three special agents assigned pursuant to the provisions of section 80.25A, for each racetrack that has been issued a table games license under chapter 99F, plus any direct and indirect support costs for the division of criminal investigation's duties pursuant to chapters 99D, 99E, and 99F, and section 80.25A, as the basis for determining the amount of revenue to be raised from the regulatory fee.

(2) Indirect support costs under this section shall be calculated at the same rate used in accordance with the federal office of management and budget cost principles for state, local, and Indian tribal governments that receive a federally approved indirect cost rate.

b. Notwithstanding sections 8.60 and 99D.17, the portion of the fee paid pursuant to paragraph *"a"* relating to the costs of special agents plus any direct and indirect support costs for the agents, for the division of criminal investigation's racetrack activities, shall be deposited into the gaming enforcement revolving fund established in section 80.43. However, the department of public safety shall transfer, on an annual basis, the portion of the regulatory fee attributable to the indirect support costs of the special agents to the general fund of the state.

c. Notwithstanding sections 8.60 and 99D.17, the portion of the fee paid pursuant to paragraph *"a"* relating to the costs of the commission shall be deposited into the gaming regulatory revolving fund established in section 99F.20.

d. The aggregate amount of the regulatory fee assessed under paragraph *"a"* during each fiscal year shall be reduced by an amount equal to the unexpended moneys from the previous fiscal year that were deposited into the revolving funds established in sections 80.43 and 99F.20 during that previous fiscal year.

e. By January 1, 2015, and by January 1 of every year thereafter, the division of criminal investigation shall provide the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, the legislative services agency, and the

commission with a report detailing the activities of the division during the previous fiscal year for each racetrack enclosure.

f. The division of criminal investigation shall conduct a review relating to the number of special agents permitted for each racetrack under this subsection and the activities of such agents. The review shall also include comments from the commission and licensees and be combined with the review conducted under section 99F.10, subsection 4, paragraph "*g*". The division of criminal investigation shall file a report detailing the review conducted pursuant to this paragraph with the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by July 1, 2020.

3. The licensee shall also pay to the commission a licensee fee of two hundred dollars for each racing day of each horse-race or dog-race meeting for which a license has been issued.

4. No other license tax, permit tax, occupation tax, or racing fee, shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.

5. No other excise tax shall be levied, assessed, or collected from the licensee on horse racing, dog racing, pari-mutuel wagering or admission charges by the state or by a political subdivision, except as provided in this chapter.

6. Real property used in the operation of a racetrack or racetrack enclosure which is exempt from property taxation under another provision of the law, including being exempt because it is owned by a city, county, state, or charitable or nonprofit entity, may be subject to real property taxation by any taxing district in which the real property used in the operation of the racetrack or racetrack enclosure is located. To subject such real property to taxation, the taxing authority of the taxing district shall pass a resolution imposing the tax and, if the resolution is passed prior to September 1, 1997, shall notify the local assessor and the owner of record of the real property by September 1, 1997, preceding the fiscal year in which the real property taxes are due and payable. The assessed value shall be determined and notice of the assessed value shall be provided to the county auditor by the local assessor by October 15, 1997, and the owner may protest the assessed value to the local board of review by December 1, 1997. For resolutions passed on or after September 1, 1997, the taxing authority shall notify the local assessor and owner of record prior to the next assessment year and the valuation and appeal shall be done in the manner and time as for other valuations. Property taxes due as a result of this subsection shall be paid to the county treasurer in the manner and time as other property taxes. The county treasurer shall remit the tax revenue to those taxing authorities imposing the property tax under this subsection. Real property subject to tax as provided in this subsection shall continue to be taxed until such time as the taxing authority of the taxing district repeals the resolution subjecting the property to taxation.

83 Acts, ch 187, §14; 84 Acts, ch 1266, §15, 16; 89 Acts, ch 216, §6; 97 Acts, ch 9, §2; 97 Acts, ch 158, §47; 2000 Acts, ch 1229, §17; 2004 Acts, ch 1136, §13, 14; 2010 Acts, ch 1190, §24; 2011 Acts, ch 127, §46, 89; 2012 Acts, ch 1134, §15, 21; 2013 Acts, ch 139, §48, 49; 2013 Acts, ch 142, §34; 2021 Acts, ch 166, §25

Referred to in §12.10, 80.43, 99D.9, 99D.10, 99D.17, 99F.4A, 99F.10, 99F.20
Subsection 2, paragraph a, subparagraph (1) amended

99D.15 Pari-mutuel wagering taxes — rate — credit.

1. A tax of six percent is imposed on the gross sum wagered by the pari-mutuel method at each horse race meeting. The tax imposed by this subsection shall be paid by the licensee to the commission within ten days after the close of each horse race meeting and shall be distributed as follows:

a. If the racetrack is located in a city, five percent of the gross sum wagered shall be deposited with the commission. One-half of one percent of the gross sum wagered shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. The remaining one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

b. If the racetrack is located in an unincorporated part of a county, five and one-half percent of the gross sum wagered shall be deposited with the commission. The remaining

one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county.

2. A tax credit of up to five percent of the gross sum wagered per year shall be granted to licensees licensed for horse races and paid into a special fund to be used for debt retirement or operating expenses. However, the tax credit is equal to six percent of the gross sum wagered in a year when the gross sum wagered is less than ninety million dollars. Any portion of the credit not used in a particular year shall be retained by the commission. A tax credit shall first be assessed against any share going to a city, then to the share going to a county, and then to the share going to the state.

3. *a.* A tax is imposed on the gross sum wagered by the pari-mutuel method at each track licensed for dog races. The tax imposed by this subsection shall be paid by the licensee to the commission within ten days after the close of the track's racing season. The rate of tax on each track is as follows:

(1) Six percent, if the gross sum wagered in the racing season is fifty-five million dollars or more.

(2) Five percent, if the gross sum wagered in the racing season is thirty million dollars or more but less than fifty-five million dollars.

(3) Four percent, if the gross sum wagered in the racing season is less than thirty million dollars.

b. The tax revenue shall be distributed as follows:

(1) If the racetrack is located in a city, one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the city in which the racetrack is located and shall be deposited in the general fund of the city. One-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county. The remaining amount shall be deposited with the commission.

(2) If the racetrack is located in an unincorporated part of a county, one-half of one percent of the gross sum wagered shall be remitted to the treasurer of the county in which the racetrack is located and shall be deposited in the general fund of the county. The remaining amount shall be deposited with the commission.

c. If the rate of tax imposed under paragraph "*a*" is six percent, five percent, or four percent, a licensee shall set aside for retiring any debt of the licensee, for capital improvement to the facilities of the licensee, for funding of possible future operating losses, or for charitable giving, the following amount:

(1) If the rate of tax paid by the licensee is six percent, one-sixth of the tax liability by the licensee during the racing season shall be set aside.

(2) If the rate of tax paid by the licensee is five percent, one percent of the gross sum wagered in the racing season shall be set aside.

(3) If the rate of tax paid by the licensee is four percent, two percent of the gross sum wagered in the racing season shall be set aside.

4. A tax of two percent is imposed on the gross sum wagered by the pari-mutuel method on horse races and dog races which are simultaneously telecast. The tax imposed by this subsection is in lieu of the taxes imposed pursuant to subsection 1 or 3, but the tax revenue from simulcast horse races shall be distributed as provided in subsection 1 and the tax revenue from simulcast dog races shall be distributed as provided in subsection 3.

83 Acts, ch 187, §15; 84 Acts, ch 1266, §17; 89 Acts, ch 216, §7 – 9; 90 Acts, ch 1261, §33; 91 Acts, ch 166, §6; 91 Acts, ch 268, §427; 92 Acts, ch 1203, §8 – 10; 92 Acts, ch 1207, §2; 94 Acts, ch 1107, §6; 2004 Acts, ch 1136, §15, 16; 2009 Acts, ch 182, §102

Referred to in §99D.9, 99D.10, 99D.14, 99D.17

99D.16 Withholding tax on winnings.

All winnings provided in section 99D.11 are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from winnings for payment of the state

tax, pursuant to section 422.16, subsection 1, shall be remitted to the department of revenue on behalf of the individual who won the wager.

87 Acts, ch 214, §1; 92 Acts, 2nd Ex, ch 1001, §233; 2003 Acts, ch 145, §286
Referred to in §99D.9, 99D.10

99D.17 Use of funds.

Funds received pursuant to sections 99D.14 and 99D.15 shall be deposited as provided in section 8.57, subsection 5, and shall be subject to the requirements of section 8.60. These funds shall first be used to the extent appropriated by the general assembly. The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

83 Acts, ch 187, §17; 90 Acts, ch 1261, §34; 91 Acts, ch 260, §1206; 92 Acts, ch 1163, §24; 93 Acts, ch 131, §2; 94 Acts, ch 1107, §33; 2013 Acts, ch 142, §35
Referred to in §8.57, 99D.7, 99D.9, 99D.10, 99D.14, 99G.39, 123.17

99D.18 Reserved.

99D.19 Licensees — records, reports, supervision — confidentiality.

1. A licensee shall keep its books and records so as to clearly show the following:

a. The total number of admissions for each day of operation.

b. The total amount of money wagered for each day of operation.

2. The licensee shall furnish to the commission reports and information as the commission may require with respect to its activities. The commission may designate a representative to attend a licensed race meeting, who shall have full access to all places within the enclosure of the meeting and who shall supervise and check the admissions. The compensation of the representative shall be fixed by the commission but shall be paid by the licensee.

3. The records of the commission shall be governed by the provisions of chapter 22, provided that, in addition to records that may be kept confidential pursuant to section 22.7, the following records provided by a licensee to the commission shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

a. Promotional play receipts records.

b. Patron and customer records.

c. Surveillance records.

d. Security reports and network audits.

e. Internal control and compliance records.

f. Employee records.

g. Marketing expenses.

h. Supplemental schedules to the certified audit, except for those books and records as described in subsection 1 of this section, that are obtained by the commission in connection with the annual audit under section 99D.20.

i. Any information specifically requested for inspection by the commission or a representative of the commission.

83 Acts, ch 187, §19; 2004 Acts, ch 1136, §17; 2017 Acts, ch 22, §1
Referred to in §99D.9, 99D.10

99D.20 Audit of licensee operations.

Within ninety days after the end of each calendar year, the licensee, including a licensee issued a license subject to the requirements of section 99D.9C, shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the licensee's total racing and gaming operations, including an itemization of all expenses and subsidies. All audits shall be conducted by certified public accountants authorized to practice in the state

of Iowa under chapter 542 who are selected by the board of supervisors of the county in which the licensee operates.

83 Acts, ch 187, §20; 2001 Acts, ch 55, §21, 38; 2004 Acts, ch 1136, §18; 2005 Acts, ch 3, §27; 2009 Acts, ch 29, §1, 3; 2014 Acts, ch 1126, §7

Referred to in §99D.9, 99D.10, 99D.19

99D.21 Annual report of commission.

The commission shall make an annual report to the governor, for the period ending December 31 of each year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

83 Acts, ch 187, §21; 84 Acts, ch 1266, §19

Referred to in §99D.9, 99D.10

99D.22 Native horses or dogs.

1. *a.* (1) A licensee shall hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs as defined by the department of agriculture and land stewardship using standards consistent with this section. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted.

(2) If Iowa-foaled horses are in a race not limited to Iowa-foaled horses that is not a stakes race, the licensee shall allow any Iowa-foaled horse an additional three-pound weight allowance beyond the stated conditions of the race.

b. A sum equal to twelve percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. The twelve percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund. The department shall pay the amount deposited in the fund that is withheld from the purse won by an Iowa-foaled horse to the breeder of the winning Iowa-foaled horse by December 31 of each calendar year. The department shall pay the amount deposited in the fund that is withheld from the purse won by an Iowa-whelped dog to the breeder of the winning Iowa-whelped dog by March 31 of each calendar year. For the purposes of this section, the breeder of a horse shall be considered to be the owner of the brood mare at the time the foal is dropped.

c. No less than twenty percent of all net purse moneys distributed to each breed, as described in section 99D.7, subsection 5, paragraph *"b"*, shall be designated for registered Iowa-bred foals in the form of breeder's awards or purse supplement awards to enhance and foster the growth of the horse breeding industry.

2. For the purposes of this chapter, the following shall be considered in determining if a horse is an Iowa-foaled thoroughbred horse, quarter horse, or standardbred horse:

a. All thoroughbred horses, quarter horses, or standardbred horses foaled in Iowa which are registered by the jockey club, American quarter horse association, or United States trotting association as Iowa foaled shall be considered to be Iowa foaled.

b. Eligibility for brood mare residence shall be achieved by meeting at least one of the following rules:

(1) Thirty days residency until the foal is inspected, if in foal to a registered Iowa stallion.

(2) Thirty days residency until the foal is inspected for brood mares which are bred back to registered Iowa stallions.

(3) Continuous residency from December 31 until the foal is inspected if the mare was bred by other than an Iowa registered stallion and is not bred back to an Iowa registered stallion.

c. To be eligible for registration as an Iowa thoroughbred, quarter horse, or standardbred stallion, stallion residency from January 1 through July 31 for the year of registration shall be

met. However, horses going to stud for the first year shall be eligible upon registration with residency to continue through July 31.

d. State residency shall not be required for owners of brood mares.

3. To facilitate the implementation of this section, the department of agriculture and land stewardship shall do all of the following:

a. Adopt standards to qualify thoroughbred, quarter horse, or standardbred stallions for Iowa breeding. A stallion shall stand for service in the state at the time of the foal's conception and shall not stand for service at any place outside the state during the calendar year in which the foal is conceived.

b. Provide for the registration of Iowa-foaled horses and that a horse shall not compete in a race limited to Iowa-foaled horses unless the horse is registered with the department of agriculture and land stewardship. The department may prescribe such forms as necessary to determine the eligibility of a horse.

c. The secretary of agriculture shall appoint investigators to determine the eligibility for registration of Iowa-foaled horses.

d. Establish a registration fee imposed on each horse which is a thoroughbred, quarter horse, or standardbred which shall be paid by the breeder of the horse. The department shall not impose the registration fee more than once on each horse. The amount of the registration fee shall not exceed thirty dollars. The moneys paid to the department from registration fees shall be considered repayment receipts as defined in section 8.2, and shall be used for the administration and enforcement of this subsection.

4. *a.* The department of agriculture and land stewardship shall adopt rules establishing a schedule of registration fees to be imposed on owners of dogs that are whelped and raised for the first six months of their lives in Iowa for purposes of promoting native dogs as provided in this chapter, including section 99D.12 and this section. The amount of the registration fees shall be imposed as follows:

(1) An owner of a dam registering the dam, twenty-five dollars.

(2) An owner of a litter registering the litter, ten dollars.

(3) An owner of a dog registering the dog, five dollars.

b. The moneys paid to the department from registration fees as provided in paragraph *"a"* shall be considered repayment receipts as defined in section 8.2, and shall be used for the administration and enforcement of programs for the promotion of native dogs.

5. To qualify for the Iowa horse and dog breeders fund, a dog shall have been whelped in Iowa and raised for the first six months of its life in Iowa in a state inspected licensed facility. In addition, the owner of the dog shall have been a resident of the state for at least two years prior to the whelping. The department of agriculture and land stewardship shall adopt rules and prescribe forms to bring Iowa breeders into compliance with residency requirements of dogs and breeders in this subsection.

83 Acts, ch 187, §22; 84 Acts, ch 1266, §20, 21; 85 Acts, ch 67, §12; 95 Acts, ch 133, §1 – 7; 2001 Acts, ch 129, §2; 2005 Acts, ch 172, §19, 20; 2007 Acts, ch 211, §35; 2011 Acts, ch 111, §8; 2014 Acts, ch 1057, §1; 2015 Acts, ch 103, §1, 2; 2018 Acts, ch 1088, §1

Referred to in §99D.9, 99D.10, 99D.12, 99D.13

99D.23 Commission veterinarian and chemist.

1. The commission shall employ one or more chemists or contract with a qualified chemical laboratory to determine by chemical testing and analysis of saliva, urine, blood, hair, or other excretions or body fluids whether a substance or drug has been introduced which may affect the outcome of a race or whether an action has been taken or a substance or drug has been introduced which may interfere with the testing procedure. The commission shall adopt rules under chapter 17A concerning procedures and actions taken on positive drug reports. The commission may adopt by reference nationally recognized standards as determined by the commission or may adopt any other procedure or standard. The commission has the authority to retain and preserve by freezing, test samples for future analysis.

2. The commission shall employ or contract with one or more veterinarians to extract or procure the saliva, urine, blood, hair, or other excretions or body fluids of the horses or

dogs for the chemical testing purposes of this section. A commission veterinarian shall be in attendance at every race meeting held in this state.

3. A chemist or veterinarian who willfully or intentionally fails to perform the functions or duties of employment required by this section shall be banned for life from employment at a race meeting held in this state.

4. The commission veterinarian shall keep a continuing record of all horses determined to be sick, unsafe, unsound, or unfit to race by a commission veterinarian at a racetrack.

83 Acts, ch 187, §23; 88 Acts, ch 1137, §3, 4; 94 Acts, ch 1100, §2; 2004 Acts, ch 1136, §19; 2018 Acts, ch 1088, §2

Referred to in §99D.9, 99D.10

99D.24 Prohibited activities — penalty.

1. A person is guilty of an aggravated misdemeanor for doing any of the following:

a. Holding or conducting a race or race meeting where the pari-mutuel system of wagering is used or to be used without a license issued by the commission.

b. Holding or conducting a race or race meeting where wagering is permitted other than in the manner specified by section 99D.11.

c. Committing any other corrupt or fraudulent practice as defined by the commission in relation to racing which affects or may affect the result of a race.

2. A person knowingly permitting a person under the age of twenty-one years to make a pari-mutuel wager is guilty of a simple misdemeanor.

3. A person wagering or accepting a wager at any location outside the wagering area is subject to the penalties in section 725.7.

4. A person commits a class "D" felony and, in addition, shall be barred for life from racetracks under the jurisdiction of the commission, if the person does any of the following:

a. Offers, promises, or gives anything of value or benefit to a person who is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with racing including, but not limited to, an officer or employee of a licensee, an owner of a horse, a jockey or driver, a trainer, or handler, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a race, or to influence official action of a member of the commission.

5. A person commits a class "D" felony and the commission shall suspend or revoke a license held by the person if the person:

a. Uses, possesses, or conspires to use or possess a device other than the ordinary whip or spur for the purpose of stimulating or depressing a horse or dog during a race or workout.

b. Sponges a horse's or dog's nostrils or windpipe or uses any method, injurious or otherwise, for the purpose of stimulating or depressing a horse or dog or affecting its speed in a race or a workout.

6. A person commits a serious misdemeanor if the person has in the person's possession within the confines of a racetrack, stable, shed, building or grounds, or within the confines of a stable, shed, building or grounds where a horse or dog is kept which is eligible to race over a racetrack licensed under this chapter, an appliance other than the ordinary whip or spur which can be used for the purpose of stimulating or depressing a horse or dog or affecting its speed at any time.

83 Acts, ch 187, §24; 84 Acts, ch 1265, §5; 91 Acts, ch 195, §1; 94 Acts, ch 1021, §5; 2004 Acts, ch 1086, §24; 2005 Acts, ch 19, §31

Referred to in §99D.9

99D.25 Drugging or numbing — exception — tests — reports — penalties.

1. As used in this section, unless the context otherwise requires:

a. *"Drugging"* means administering to a horse or dog any substance foreign to the natural horse or dog prior to the start of a race. However, in counties with a population of two hundred fifty thousand or more, *"drugging"* does not include administering to a horse the drugs furosemide and phenylbutazone in accordance with section 99D.25A and rules adopted by the commission.

b. *"Numbing"* means the applying of a freezing device or substance to the limbs of a horse or dog within two hours before the start of a race, or a surgical or other procedure which was, at any time, performed in which the nerves of a horse or dog were severed, destroyed, injected, or removed. For purposes of this paragraph, ice is not a freezing device or substance.

c. *"Entered"* means that a horse or dog has been registered as a participant in a specified race, and not withdrawn prior to presentation of the horse or dog for inspection and testing.

2. The general assembly finds that the practice of drugging or numbing a horse or dog prior to a race:

a. Corrupts the integrity of the sport of racing and promotes criminal fraud in the sport;

b. Misleads the wagering public and those desiring to purchase a horse or dog as to the condition and ability of the horse or dog;

c. Poses an unreasonable risk of serious injury or death to the rider of a horse and to the riders of other horses competing in the same race; and

d. Is cruel and inhumane to the horse or dog so drugged or numbed.

3. The following conduct is prohibited:

a. The entering of a horse or dog in a race by the trainer or owner of the horse or dog if the trainer or owner knows or if by the exercise of reasonable care the trainer or owner should know that the horse or dog is drugged or numbed;

b. The drugging or numbing of a horse or dog with knowledge or with reason to believe that the horse or dog will compete in a race while so drugged or numbed. However, the commission may by rule establish permissible trace levels of substances foreign to the natural horse or dog that the commission determines to be innocuous;

c. The willful failure by the operator of a racing facility to disqualify a horse or dog from competing in a race if the operator has been notified that the horse or dog is drugged or numbed, or was not properly made available for tests or inspections as required by the commission; and

d. The willful failure by the operator of a racing facility to prohibit a horse or dog from racing if the operator has been notified that the horse or dog has been suspended from racing.

4. The owners of a horse or dog and their agents and employees shall permit a member of the commission or a person employed or appointed by the commission to make tests as the commission deems proper in order to determine whether a horse or dog has been improperly drugged. The fact that purse money has been distributed prior to the issuance of a test report shall not be deemed a finding that no chemical substance has been administered unlawfully to the horse or dog earning the purse money. The findings of the commission that a horse or dog has been improperly drugged by a narcotic or other drug are prima facie evidence of the fact. The results of the tests shall be kept on file by the commission for at least one year following the tests.

5. Every horse which suffers a breakdown on the racetrack, in training, or in competition, and is destroyed, and every other horse which expires while stabled on the racetrack under the jurisdiction of the commission, shall undergo a postmortem examination by a veterinarian or a veterinary pathologist at a time and place acceptable to the commission veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. Test samples may be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. When practical, blood and urine test samples should be procured prior to euthanasia. The owner of the deceased horse is responsible for payment of any charges due to conduct the postmortem examination. A record of every postmortem shall be filed with the commission by the veterinarian or veterinary pathologist who performed the postmortem within seventy-two hours of the death. Each owner and trainer accepts the responsibility for the postmortem

examination provided herein as a requisite for maintaining the occupational license issued by the commission.

6. Any horse which in the opinion of the commission veterinarian has suffered a traumatic injury or disability such that a controlled program of phenylbutazone administration would not aid in restoring the racing soundness of the horse shall not be allowed to race while medicated with phenylbutazone or with phenylbutazone present in the horse's bodily systems.

7. A person found within or in the immediate vicinity of a security stall who is in possession of unauthorized drugs or hypodermic needles or who is not authorized to possess drugs or hypodermic needles shall, in addition to any other penalties, be barred from entry into any racetrack in Iowa and any occupational license the person holds shall be revoked.

8. Before a horse is allowed to race using phenylbutazone, the veterinarian attending the horse shall certify to the commission the course of treatment followed in administering the phenylbutazone.

9. The commission shall conduct random tests of bodily substances of horses entered to race each day of a race meeting to aid in the detection of any unlawful drugging. The tests may be conducted both prior to and after a race. The commission may also test any horse that breaks down during a race and shall perform an autopsy on any horse that is killed or subsequently destroyed as a result of an accident during a race. When practical, blood and urine test samples should be procured prior to euthanasia.

10. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all medications and other substances which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of a racetrack shall be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

11. A person who violates this section is guilty of a class "D" felony.

83 Acts, ch 187, §25; 88 Acts, ch 1137, §5 – 12; 94 Acts, ch 1100, §3, 4; 2004 Acts, ch 1136, §20 – 22, 65; 2007 Acts, ch 48, §1, 7; 2008 Acts, ch 1032, §189; 2017 Acts, ch 73, §1, 4

Referred to in §99D.9

99D.25A Administration of furosemide or phenylbutazone.

1. As used in this section unless the context otherwise requires:

a. *"Bleeder"* means, according to its context, any of the following:

(1) A horse which, during a race or exercise, is observed by the commission veterinarian or a licensed practicing veterinarian to be shedding blood from one or both nostrils and in which no upper airway injury is noted during an examination by the commission veterinarian or a licensed practicing veterinarian immediately following such a race or exercise.

(2) A horse which, within one and one-half hours of such a race or exercise, is observed by the commission veterinarian or a licensed practicing veterinarian, through visual or endoscopic examination, to be shedding blood from the lower airway.

(3) A horse which has been certified as a bleeder in another state.

(4) A horse which has furosemide listed on its most recent past performance.

(5) A horse which, by recommendation of a licensed practicing veterinarian, is prescribed furosemide to control or prevent bleeding from the lungs.

b. *"Bleeder list"* means a tabulation of all bleeders maintained by the commission veterinarian.

c. *"Detention barn"* means a secured structure designated by the commission.

2. Phenylbutazone may be administered to a horse in dosage amounts as set by rule by the commission.

3. If a horse is to race with phenylbutazone in its system, the trainer, or trainer's designee, shall be responsible for marking the information on the entry blank for each race in which the horse shall use phenylbutazone. Changes made after the time of entry must be submitted on the prescribed form to the commission veterinarian no later than scratch time.

4. If a test detects concentrations of phenylbutazone in the system of a horse in excess of the level permitted in this section, the commission shall assess a civil penalty against the

trainer of at least two hundred dollars for the first offense and at least five hundred dollars for a second offense. The penalty for a third or subsequent offense shall be in the discretion of the commission.

5. Furosemide may be administered to certified bleeders. Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of furosemide. Once a horse has raced with furosemide, it must continue to race with furosemide in all subsequent races unless a request is made to discontinue the use. If the use of furosemide is discontinued, the horse shall be prohibited from again racing with furosemide unless it is later observed to be bleeding. Requests for the use of or discontinuance of furosemide must be made to the commission veterinarian by the horse's trainer or assistant trainer on a form prescribed by the commission on or before the day of entry into the race for which the request is made.

6. Once a horse has been permitted the use of furosemide, the horse must be treated with furosemide in the horse's stall, unless the commission provides that a horse must be brought to the detention barn for treatment. After the furosemide treatment, the commission, by rule, may authorize the release of the horse from the horse's stall or detention barn before the scheduled post time. If a horse is brought to the detention barn late, the commission shall assess a civil penalty of one hundred dollars against the trainer.

7. A horse entered to race with furosemide must be treated at least four hours prior to post time. The furosemide shall be administered intravenously by a veterinarian issued a current occupational license by the commission. The commission shall adopt rules to ensure that furosemide is administered as provided in this section. The commission shall require that the veterinarian deliver an affidavit signed by the veterinarian which certifies information regarding the treatment of the horse. The affidavit must be delivered to a commission veterinarian following the treatment. The affidavit must at least include the name of the veterinarian, the tattoo number of the horse, the location of the barn and stall where the treatment occurred, the race number of the horse, the name of the trainer, and the time that the furosemide was administered. Furosemide shall only be administered in a dose level of no less than one hundred fifty milligrams and no more than five hundred milligrams.

8. A person found within or in the immediate vicinity of the detention barn or horse stall who is in possession of unauthorized drugs or hypodermic needles or who is not authorized to possess drugs or hypodermic needles shall, in addition to any other penalties, be barred from entry into any racetrack in Iowa and any occupational license the person holds shall be revoked.

88 Acts, ch 1137, §13; 92 Acts, ch 1203, §11; 94 Acts, ch 1100, §5; 97 Acts, ch 23, §12; 98 Acts, ch 1006, §1, 2; 98 Acts, ch 1217, §10; 2004 Acts, ch 1136, §23; 2007 Acts, ch 48, §2 – 5, 7; 2014 Acts, ch 1033, §3; 2017 Acts, ch 73, §2, 4

Referred to in §99D.25

99D.26 Forfeiture of property.

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances are subject to forfeiture to the state of Iowa if the item was used for any of the following:

a. In exchange for a bribe intended to affect the outcome of a race.

b. In exchange for or to facilitate a violation of this chapter.

2. All moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

83 Acts, ch 187, §26

99D.27 Racing dog adoption program.

A track licensed to race dogs under this chapter shall maintain a racing dog adoption program. The track shall advertise the availability of adoptable dogs in the media, including but not limited to racing programs. The track shall compile a list of persons applying to adopt a dog. A dog's owner or dog's trainer acting with the consent of the owner may

participate in the program by placing the dog for adoption. The ownership of the dog shall be transferred from the owner of the dog to the person who is adopting the dog. A dog shall not be transferred to a person for purposes related to racing, breeding, hunting, laboratory research, or scientific experimentation. A dog shall not be transferred unless the dog has been examined by a veterinarian and found to be free of disease requiring extensive medical treatment. A dog shall not be transferred, until a veterinarian has certified that the dog has been sterilized. The track may transfer a dog to a governmental agency or nonprofit organization without examination or certification. However, other requirements relating to the transfer of a dog to a person by a track under this section apply to the transfer of a dog to a person by the agency or organization. A person violating this section is guilty of a simple misdemeanor.

89 Acts, ch 216, §10; 90 Acts, ch 1155, §1
Referred to in §99D.13, 162.20

99D.28 Setoff.

1. A licensee or a person acting on behalf of a licensee shall be provided electronic access to the names of the persons indebted to a claimant agency pursuant to the process established pursuant to section 99D.7, subsection 24. The electronic access provided by the claimant agency shall include access to the names of the debtors, their social security numbers, and any other information that assists the licensee in identifying the debtors. If the name of a debtor provided to the licensee through electronic access is retrieved by the licensee and the winnings are required to be reported on internal revenue service form W-2G for gambling winnings, the retrieval of such a name shall constitute a valid lien upon and claim of lien against the winnings of the debtor whose name is electronically retrieved from the claimant agency. If a debtor's winnings are required to be reported on internal revenue service form W-2G for gambling winnings, the full amount of the debt shall be collectible from any winnings due the debtor without regard to limitations on the amounts that may be collectible in increments through setoff or other proceedings.

2. The licensee is authorized and directed to withhold any winnings of a debtor which are paid out directly by the licensee subject to the lien created by this section and provide notice of such withholding to the winner when the winner appears and claims winnings in person. The licensee shall pay the funds over to the collection entity which administers the setoff program pursuant to section 8A.504.

3. Notwithstanding any other provision of law to the contrary, the licensee may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section, and likewise the claimant agency may provide all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the licensee in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. An employee or prior employee of a claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the claimant agency.

5. The information obtained by a licensee from a claimant agency in accordance with this section shall retain its confidentiality and only be used by the licensee in the pursuit of debt collection duties and practices. An employee or prior employee of a licensee who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the licensee.

6. Except as otherwise provided in this chapter, attachments, setoffs, or executions authorized and issued pursuant to law shall be withheld if timely served upon the licensee.

7. A claimant agency or licensee, acting in good faith, shall not be liable to any person for actions taken pursuant to this section.

8. For purposes of this section, *"licensee"* shall also include an advance deposit wagering operator.

2008 Acts, ch 1172, §3; 2010 Acts, ch 1031, §171, 172; 2017 Acts, ch 73, §3; 2020 Acts, ch 1066, §1

For future amendment to subsection 2 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §5, 28; 2020 Acts, ch 1118, §73, 74

CHAPTER 99E

INTERNET FANTASY SPORTS CONTESTS

Referred to in §80.25A, 99D.7, 99D.14, 99F.2, 99F.4, 99F.4B, 99F.10, 232C.4, 714B.10, 725.7, 725.13, 725.15

99E.1 Definitions.
99E.2 Internet fantasy sports contests authorized.
99E.3 Commission — powers.
99E.4 Requirements of applicant — fee.
99E.5 Licenses — fees — terms and conditions — revocation.
99E.6 Internet fantasy sports contest tax — rate — allocation.
99E.7 Internet fantasy sports contests — age restrictions.
99E.8 Licensees — records — reports — confidentiality.
99E.9 Annual audit of licensee operations.
99E.10 Civil penalty.

99E.1 Definitions.

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

1. *"Applicant"* means an internet fantasy sports contest service provider applying for a license to conduct internet fantasy sports contests under this chapter.

2. *"Commission"* means the state racing and gaming commission created under section 99D.5.

3. *"Fantasy sports contest"* includes any fantasy or simulated game or contest in which the fantasy sports contest operator is not a participant in the game or contest, the value of all prizes and awards offered to winning participants are established and made known to the participants in advance of the contest, all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events, and no winning outcome is solely based on the score, point spread, or any performance or performances of any single actual team or solely on any single performance of an individual athlete or player in any single actual event. However, until May 1, 2020, *"fantasy sports contest"* does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in section 99F.1.

4. *"Internet fantasy sports contest"* means a method of entering a fantasy sports contest by which a person may establish an account with an internet fantasy sports contest service provider, deposit money into the account, and use the account balance for entering a fantasy sports contest by utilizing electronic communication.

5. *"Internet fantasy sports contest adjusted revenues"* means, for each internet fantasy sports contest, the amount equal to the total charges and fees collected from all participants entering the internet fantasy sports contest less winnings paid to participants in the contest, multiplied by the location percentage.

6. *"Internet fantasy sports contest player"* means a person who is at least twenty-one years of age and participates in an internet fantasy sports contest operated by an internet fantasy sports contest service provider.

7. *"Internet fantasy sports contest service provider"* means a person, including a licensee under chapter 99D or 99F, who conducts an internet fantasy sports contest as authorized by this chapter.

8. *"Licensee"* means any person licensed under section 99E.5 to conduct internet fantasy sports contests.

9. *"Location percentage"* means, for each internet fantasy sports contest, the percentage,

rounded to the nearest tenth of a percent, equal to the total charges and fees collected from all internet fantasy sports contest players located in this state divided by the total charges and fees collected from all participants in the internet fantasy sports contest.

2019 Acts, ch 132, §26, 45, 46

Referred to in §80.43, 99B.41, 99D.7, 99F.1, 99F.4, 99F.20

99E.2 Internet fantasy sports contests authorized.

The system of entering an internet fantasy sports contest as provided by this chapter is legal when conducted by a licensed internet fantasy sports contest service provider as provided in this chapter.

2019 Acts, ch 132, §27, 45, 46

99E.3 Commission — powers.

1. The commission shall have full jurisdiction over and shall supervise internet fantasy sports contests and internet fantasy sports contest service providers as governed by this chapter.

2. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to administer and implement this chapter:

a. To review and investigate applicants and determine the eligibility of applicants for a license to conduct internet fantasy sports contests, pursuant to rules adopted by the commission.

b. To license and regulate internet fantasy sports contest service providers subject to the requirements of this chapter.

c. To provide for the prevention of practices detrimental to the public and to provide for the best interests of internet fantasy sports contests.

d. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee, or institute appropriate legal action for enforcement, or both. Information gathered during an investigation is confidential during the pendency of the investigation.

e. To assess fines and revoke or suspend licenses and to impose penalties for violations of this chapter.

f. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

2019 Acts, ch 132, §28, 45, 46

99E.4 Requirements of applicant — fee.

1. An applicant for a license to conduct internet fantasy sports contests shall complete and sign an application on the form prescribed and published by the commission. The application shall include such information of the applicant that the commission deems necessary for purposes of issuing a license pursuant to this chapter.

2. An applicant shall submit fingerprints and information that the commission deems necessary to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check. The results of a criminal history record check conducted pursuant to this subsection shall be considered a confidential record under chapter 22.

3. Before a license is granted, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the applicant for a license to conduct internet fantasy sports contests. The applicant shall provide information on a form as required by the division of criminal investigation.

4. The commission shall charge the applicant a reasonable fee set by the division of criminal investigation of the department of public safety, to defray those costs associated with the fingerprint and national criminal history check requirements of subsection 2 and background investigations conducted by agents of the division of criminal investigation as provided in subsection 3. These fees and costs are in addition to any other license fees and

costs charged by the commission. The fees and costs received by the commission shall be deposited in the gaming enforcement revolving fund established in section 80.43.

5. The commission shall not grant a license to an applicant if there is substantial evidence that any of the following apply:

a. A license issued to the applicant to conduct internet fantasy sports contests in another jurisdiction has been revoked, or a request for a license to conduct internet fantasy sports contests in another jurisdiction has been denied, by an entity licensing persons to conduct such contests in that jurisdiction.

b. The applicant has not demonstrated financial responsibility sufficient to adequately meet the requirements of the enterprise proposed.

c. The applicant does not adequately disclose the true owners of the enterprise proposed.

d. The applicant has knowingly made a false statement of a material fact to the commission.

e. The applicant has failed to meet a monetary obligation in connection with conducting an internet fantasy sports contest.

f. The applicant is not of good repute and moral character or the applicant has pled guilty to, or has been convicted of, a felony.

g. Any member of the board of directors of the applicant is not twenty-one years of age or older.

6. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

7. For the purposes of this section, *"applicant"* includes each member of the board of directors of an internet fantasy sports contest service provider.

2019 Acts, ch 132, §29, 45, 46
Referred to in §80.43, 99E.5

99E.5 Licenses — fees — terms and conditions — revocation.

1. If the commission is satisfied that the requirements of this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall, upon payment of an initial license fee of five thousand dollars, issue a license for a period of not more than three years to an applicant to conduct internet fantasy sports contests in this state.

2. A licensed internet fantasy sports contest service provider shall use reasonable methods to comply with all of the following requirements:

a. Prevent employees of the internet fantasy sports contest service provider and relatives living in the same household of such employees from competing in any internet fantasy sports contest on the service provider's digital platform in which the service provider offers a cash prize to the public.

b. Verify that an internet fantasy sports contest player located in this state is twenty-one years of age or older.

c. Ensure that coaches, officials, players, contestants, or other individuals who participate in a game or contest that is the subject of an internet fantasy sports contest are restricted from entering an internet fantasy sports contest in which the outcome is determined, in whole or in part, by the accumulated statistical results of a team of individuals in the game or contest in which they participate.

d. Include on the internet site or mobile application used by the licensee to conduct internet fantasy sports contests the statewide telephone number authorized by the Iowa department of public health to provide problem gambling information and extensive responsible gaming features in addition to those described in section 99F.4, subsection 22.

e. Allow individuals to establish an account with an internet fantasy sports contest service provider by utilizing electronic communication.

f. Disclose the number of entries a single internet fantasy sports contest player may submit to each internet fantasy sports contest and take reasonable steps to prevent players from submitting more than the allowable number of entries for that internet fantasy sports contest.

g. Segregate internet fantasy sports contest player funds from operational funds or maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit,

payment processor reserves and receivables, a bond, or a combination thereof in the amount of the deposits in internet fantasy sports contest player accounts for the benefit and protection of internet fantasy sports contest player funds held in internet fantasy sports contest accounts by the internet fantasy sports contest service provider.

h. Conduct an annual audit under section 99E.9.

i. Pay the tax as provided in section 99E.6.

j. Prohibit participants in an internet fantasy sports contest from making any payments by credit card.

3. The annual license fee to conduct internet fantasy sports contests shall be one thousand dollars or, for a licensed internet fantasy sports contest service provider with total annual internet fantasy sports contest adjusted revenues for the year prior to the annual license fee renewal date of one hundred fifty thousand dollars or greater, five thousand dollars. Moneys collected by the commission from the license fees paid under this section shall be considered repayment receipts as defined in section 8.2.

4. *a.* A licensed internet fantasy sports contest service provider shall pay a regulatory fee to the commission. The regulatory fee shall be established by the commission based on the costs of administering and enforcing this chapter.

b. A licensed internet fantasy sports contest service provider shall receive a credit for the amount of the regulatory fee paid by the provider against the taxes to be paid pursuant to section 99E.6.

c. Notwithstanding section 8.60, the portion of the fee paid pursuant to paragraph *"a"* relating to the costs of the commission shall be deposited into the gaming regulatory revolving fund established in section 99F.20.

5. Upon a violation of any of the conditions listed in section 99E.4 or this section by a licensee, the commission shall immediately revoke the license.

2019 Acts, ch 132, §30, 45, 46; 2020 Acts, ch 1066, §2
Referred to in §99E.1, 99F.20

99E.6 Internet fantasy sports contest tax — rate — allocation.

1. A tax is imposed on internet fantasy sports contest adjusted revenues received each fiscal year by an internet fantasy sports contest service provider from internet fantasy sports contests authorized under this chapter at the rate of six and three-quarters percent.

2. The taxes imposed by this section for internet fantasy sports contests authorized under this chapter shall be paid by the internet fantasy sports contest service provider to the treasurer of state as determined by the commission and shall be credited as provided in section 8.57, subsection 6.

2019 Acts, ch 132, §31, 45, 46
Referred to in §99E.5

99E.7 Internet fantasy sports contests — age restrictions.

A person under the age of twenty-one years shall not enter an internet fantasy sports contest. A person who violates this section with respect to entering an internet fantasy sports contest commits a scheduled violation under section 805.8C, subsection 12.

2019 Acts, ch 132, §32, 45, 46
Referred to in §805.8C(12)

99E.8 Licensees — records — reports — confidentiality.

1. An internet fantasy sports contest service provider shall keep its books and records so as to clearly show the internet fantasy sports contest adjusted revenues for each internet fantasy sports contest subject to tax in this state.

2. *a.* The licensee shall furnish to the commission reports and information as the commission may require with respect to the licensee's activities.

b. A licensee shall promptly report to the commission any criminal or disciplinary proceedings commenced against the licensee or its employees in connection with the licensee conducting an internet fantasy sports contest, any abnormal contest activity or patterns that may indicate a concern about the integrity of an internet fantasy sports contest, and any other conduct with the potential to corrupt an outcome of an internet

fantasy sports contest for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal internet fantasy sports contest activities, including the use of funds derived from illegal activity, deposits of money to enter an internet fantasy sports contest to conceal or launder funds derived from illegal activity, use of agents to enter an internet fantasy sports contest, or use of false identification. The commission is required to share any information received pursuant to this paragraph with the division of criminal investigation, any other law enforcement entity upon request, or any regulatory agency the commission deems appropriate. The commission shall promptly report any information received pursuant to this paragraph with any sports team or sports governing body as the commission deems appropriate, but shall not share any information that would interfere with an ongoing criminal investigation.

3. Except as provided in subsection 4, the books and records kept by a licensee as provided by this section are public records and the examination, publication, and dissemination of the books and records are governed by the provisions of chapter 22.

4. The records of the commission shall be governed by the provisions of chapter 22, provided that, in addition to records that may be kept confidential pursuant to section 22.7, the following records provided by a licensee to the commission shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

a. Patron and customer records.

b. Security reports and network audits.

c. Internal control and compliance records.

d. Employee records.

e. Marketing expenses.

f. Supplemental schedules to the certified audit, except for those books and records as described in subsection 1 of this section, that are obtained by the commission in connection with the annual audit under section 99E.9.

g. Any information specifically requested for inspection by the commission or a representative of the commission.

2019 Acts, ch 132, §33, 45, 46

99E.9 Annual audit of licensee operations.

Within one hundred eighty days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the licensee's total internet fantasy sports contest operations, including an itemization of all expenses and subsidies. Each audit shall be conducted by a certified public accountant authorized to practice in the state of Iowa under chapter 542 who is selected by the licensee and approved by the commission.

2019 Acts, ch 132, §34, 45, 46

Referred to in §99E.5, 99E.8

99E.10 Civil penalty.

A person who willfully fails to comply with the requirements of this chapter and the rules adopted pursuant to chapter 17A under this chapter shall be liable for a civil penalty of not more than one thousand dollars for each violation, not to exceed ten thousand dollars for violations arising out of the same transaction or occurrence, which shall accrue to the state and may be recovered in a civil action.

2019 Acts, ch 132, §35, 45, 46

CHAPTER 99F

GAMBLING GAMES AND SPORTS WAGERING REGULATION

Referred to in §15E.311, 15J.2, 21.2, 80.25A, 80.26, 99B.21, 99D.2, 99D.7, 99D.9A, 99D.9C, 99D.11, 99D.14, 99E.1, 99G.3, 123.30, 123.49, 142D.4, 232C.4, 422.16, 533C.103, 537A.4, 714B.10, 725.7, 725.13, 725.15

99F.1 Definitions.
99F.2 Scope of provisions.
99F.3 Gambling games and sports wagering authorized.
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99F.4A Gambling games at pari-mutuel racetracks — fees and taxes.
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99F.5 License to conduct gambling games on excursion gambling boats and at gambling structures — license to operate boat — applications — operating agreements — fee.
99F.6 Requirements of applicant — fee — penalty.
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99F.7A Sports wagering — license — terms and conditions — fees.
99F.8 Bond of licensee.
99F.9 Wagering — advance deposit sports wagering — age restrictions.
99F.10 Regulatory fee — local fees — initial license fee.
99F.11 Gambling games and sports wagering taxes — rate — allocations.
99F.12 Licensees — records — reports — supervision — confidentiality.
99F.13 Annual audit of licensee operations.
99F.14 Annual report of commission.
99F.15 Prohibited activities — penalties.
99F.16 Forfeiture of property.
99F.17 Distributors and manufacturers — licenses.
99F.17A Inspection of gambling games or implements of gambling.
99F.18 Tax on winnings.
99F.19 Setoff.
99F.20 Gaming regulatory revolving fund.

99F.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Adjusted gross receipts"* means the gross receipts on gambling games less winnings paid to wagerers on gambling games and less promotional play receipts on gambling games. However, for each fiscal year during the time period beginning July 1, 2021, and ending June 30, 2026, *"adjusted gross receipts"* shall include promotional play receipts on gambling games.

2. *"Applicant"* means any person applying for an occupational license or applying for a license to operate an excursion gambling boat, or the officers and members of the board of directors of a qualified sponsoring organization located in Iowa applying for a license to conduct gambling games on an excursion gambling boat.

3. *"Authorized sporting event"* means a professional sporting event, collegiate sporting event, international sporting event, or professional motor race event. *"Authorized sporting event"* does not include a race as defined in section 99D.2, a fantasy sports contest as defined in section 99E.1, minor league sporting event, or any athletic event or competition of an interscholastic sport as defined in section 9A.102.

4. *"Cheat"* means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

5. *"Claimant agency"* means a public agency as defined in section 8A.504, subsection 1, or the state court administrator as defined in section 602.1101.

6. *"Collegiate sporting event"* means an athletic event or competition of an intercollegiate sport as defined in section 9A.102.

7. *"Commission"* means the state racing and gaming commission created under section 99D.5.

8. *"Distributor"* means a person who sells, markets, or otherwise distributes gambling games or implements of gambling which are usable in the lawful conduct of gambling games pursuant to this chapter, to a licensee authorized to conduct gambling games pursuant to this chapter.

9. *"Division"* means the division of criminal investigation of the department of public safety as provided in section 80.4.

10. *"Dock"* means the location where an excursion gambling boat moors for the purpose of embarking passengers for and disembarking passengers from a gambling excursion.

11. *"Excursion boat"* means a self-propelled, floating vessel that is or has been previously certified for operation as a vessel.

12. *"Excursion gambling boat"* means an excursion boat or moored barge on which lawful gambling is authorized and licensed as provided in this chapter.

13. *"Gambling excursion"* means the time during which gambling games may be operated on an excursion gambling boat whether docked or during a cruise.

14. *"Gambling game"* means any game of chance authorized by the commission. However, for racetrack enclosures, *"gambling game"* does not include table games of chance or video machines which simulate table games of chance, unless otherwise authorized by this chapter. *"Gambling game"* does not include sports wagering.

15. *"Gambling structure"* means any man-made stationary structure approved by the commission that does not include a racetrack enclosure which is subject to land-based building codes rather than maritime or Iowa department of natural resources inspection laws and regulations on which lawful gambling is authorized and licensed as provided in this chapter.

16. *"Gaming floor"* means that portion of an excursion gambling boat, gambling structure, or racetrack enclosure in which gambling games are conducted as designated by the commission.

17. *"Gross receipts"* means the total sums wagered under this chapter.

18. *"Holder of occupational license"* means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in the excursion gambling boat industry in Iowa.

19. *"International sporting event"* means an international team or individual sporting event governed by an international sports federation or sports governing body, including sporting events governed by the international olympic committee and the international federation of association football.

20. *"Licensee"* means any person licensed under section 99F.7 or 99F.7A.

21. *"Manufacturer"* means a person who designs, assembles, fabricates, produces, constructs, or who otherwise prepares a product or a component part of a product of any implement of gambling usable in the lawful conduct of gambling games pursuant to this chapter.

22. *"Minor league sporting event"* means a sporting event conducted by a sports league which is not regarded as the premier league in the sport as determined by the commission.

23. *"Moored barge"* means a barge or vessel that is not self-propelled.

24. *"Professional sporting event"* means an event, excluding a minor league sporting event, at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event.

25. *"Promotional play receipts"* means the total sums wagered with tokens, chips, electronic credits, or other forms of cashless wagering provided by the licensee without an exchange of money as described in section 99F.9, subsection 3.

26. *"Qualified sponsoring organization"* means a nonprofit corporation organized under the laws of this state, whether or not it is exempt from federal income taxation, or a person or association that can show to the satisfaction of the commission that the person or association is eligible for exemption from federal income taxation under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3.

27. *"Racetrack enclosure"* means all real property utilized for the conduct of a race meeting, including the racetrack, grandstand, concession stands, offices, barns, kennels and barn areas, employee housing facilities, parking lots, and any additional areas designated by the commission. *"Racetrack enclosure"* also means all real property utilized by a licensee under chapter 99D who is not required to conduct live racing pursuant to the requirements of section 99D.9A, on which pari-mutuel wagering on simultaneously telecast horse or dog

races may be conducted and lawful gambling is authorized and licensed as provided in this chapter.

28. *"Sports wagering"* means the acceptance of wagers on an authorized sporting event by any system of wagering as authorized by the commission. *"Sports wagering"* does not include placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is a participant, or placing a wager on the performance of athletes in an individual international sporting event governed by the international olympic committee in which any participant in the international sporting event is under eighteen years of age.

29. *"Sports wagering area"* means an area, as designated by the commission, in which sports wagering is conducted.

30. *"Sports wagering net receipts"* means the gross receipts less winnings paid to wagerers and less promotional play receipts on sports wagering.

89 Acts, ch 67, §1; 92 Acts, ch 1203, §14; 94 Acts, ch 1021, §7 – 9; 95 Acts, ch 176, §2; 97 Acts, ch 9, §3; 2003 Acts, ch 44, §34; 2004 Acts, ch 1136, §24 – 30, 65; 2007 Acts, ch 188, §5, 6; 2008 Acts, ch 1172, §4; 2014 Acts, ch 1036, §16; 2014 Acts, ch 1126, §8; 2016 Acts, ch 1099, §1, 2; 2019 Acts, ch 24, §98; 2019 Acts, ch 132, §2 – 4, 22, 23; 2020 Acts, ch 1063, §51; 2021 Acts, ch 177, §68

Referred to in §99B.13, 99B.42, 99D.7, 99E.1

For future amendment to subsection 5 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §6, 28; 2020 Acts, ch 1118, §73, 74

Subsections 1, 25, and 30 amended

99F.2 Scope of provisions.

This chapter does not apply to the pari-mutuel system of wagering used or intended to be used in connection with the horse-race or dog-race meetings as authorized under chapter 99D, internet fantasy sports contests authorized under chapter 99E, lottery or lotto games authorized under chapter 99G, or bingo or games of skill or chance authorized under chapter 99B.

89 Acts, ch 67, §2; 2003 Acts, ch 178, §106, 121; 2003 Acts, ch 179, §142; 2019 Acts, ch 132, §36, 45, 46

99F.3 Gambling games and sports wagering authorized.

The system of wagering on a gambling game and sports wagering as provided by this chapter is legal, when conducted by a licensee as provided in this chapter.

89 Acts, ch 67, §3; 2007 Acts, ch 188, §7; 2019 Acts, ch 132, §5, 22, 23

99F.4 Powers.

The commission shall have full jurisdiction over and shall supervise all gambling operations governed by this chapter. The commission shall have the following powers and shall adopt rules pursuant to chapter 17A to implement this chapter:

1. To investigate applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa.

2. To license qualified sponsoring organizations, to license the operators of excursion gambling boats, to identify occupations within the excursion gambling boat operations which require licensing, and to adopt standards for licensing the occupations including establishing fees for the occupational licenses and licenses for qualified sponsoring organizations. The fees shall be paid to the commission and deposited in the general fund of the state. All revenue received by the commission under this chapter from license fees and regulatory fees shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60.

3. To adopt standards under which all excursion gambling boat operations shall be held and standards for the facilities within which the gambling operations are to be held. The commission may authorize the operation of gambling games on an excursion gambling boat and sports wagering in a sports wagering area which is also licensed to sell or serve alcoholic beverages, wine, or beer as defined in section 123.3.

4. To license the licensee of a pari-mutuel dog or horse racetrack enclosure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling except as otherwise provided in section 99F.4A.

5. To enter the office, excursion gambling boat, facilities, or other places of business of a licensee to determine compliance with this chapter.

6. To investigate alleged violations of this chapter or the commission rules, orders, or final decisions and to take appropriate disciplinary action against a licensee or a holder of an occupational license for a violation, or institute appropriate legal action for enforcement, or both. Information gathered during an investigation is confidential during the pendency of the investigation.

7. To require a licensee, an employee of a licensee or holder of an occupational license to remove a person violating a provision of this chapter or the commission rules, orders, or final orders, or other person deemed to be undesirable, from the excursion gambling boat facilities.

8. To require the removal of a licensee, an employee of a licensee, or a holder of an occupational license for a violation of this chapter or a commission rule or engaging in a fraudulent practice.

9. To require a licensee to file an annual balance sheet and profit and loss statement pertaining to the licensee's gambling activities in this state, together with a list of the stockholders or other persons having any beneficial interest in the gambling activities of each licensee.

10. To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other pertinent documents in accordance with chapter 17A, and to administer oaths and affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce this chapter or the commission rules.

11. To keep accurate and complete records of its proceedings and to certify the records as may be appropriate.

12. To assess a fine and revoke or suspend licenses.

13. To take any other action as may be reasonable or appropriate to enforce this chapter and the commission rules.

14. To require all licensees of gambling game operations to utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, or chips which only can be used for wagering on the excursion gambling boat.

15. To determine the payouts from the gambling games authorized under this chapter. In making the determination of payouts, the commission shall consider factors that provide gambling and entertainment opportunities which are beneficial to the gambling licensees and the general public.

16. To set the payout rate for all slot machines.

17. To define the excursion season and the duration of an excursion. While an excursion gambling boat is docked, passengers may embark or disembark at any time during its business hours.

18. To provide for the continuous recording of all gambling activities on an excursion gambling boat. The recording shall be performed under guidelines set by rule of the division of criminal investigation and the rules may require that all or part of the original recordings be submitted to the division on a timely schedule.

19. To provide for adequate security aboard each excursion gambling boat.

20. Drug testing, as permitted by section 730.5, shall be required periodically, not less than every sixty days, of persons employed as captains, pilots, or physical operators of excursion gambling boats under the provisions of this chapter.

21. To provide that a licensee prominently display at each gambling facility the annual percentage rate of state and local tax revenue collected by state and local government from the gambling facility annually.

22. To establish a process to allow a person to be voluntarily excluded from advance deposit wagering as defined in section 99D.11, from an internet fantasy sports contest as defined in section 99E.1, from advance deposit sports wagering as defined in section 99F.9, from the gaming floor and sports wagering area of an excursion gambling boat, from the

wagering area, as defined in section 99D.2, and from the gaming floor and sports wagering area of all other licensed facilities under this chapter and chapter 99D as provided in this subsection. The process shall provide that an initial request by a person to be voluntarily excluded shall be for a period of five years or life and any subsequent request following any five-year period shall be for a period of five years or life. The process established shall require that licensees be provided electronic access to names and social security numbers of persons voluntarily excluded through a secured interactive internet site maintained by the commission and information regarding persons voluntarily excluded shall be disseminated to all licensees under this chapter, chapter 99D, and chapter 99E. The names, social security numbers, and information regarding persons voluntarily excluded shall be kept confidential unless otherwise ordered by a court or by another person duly authorized to release such information. The process established shall also require a person requesting to be voluntarily excluded be provided information compiled by the Iowa department of public health on gambling treatment options. The state and any licensee under this chapter, chapter 99D, or chapter 99E shall not be liable to any person for any claim which may arise from this process. In addition to any other penalty provided by law, any money or thing of value that has been obtained by, or is owed to, a voluntarily excluded person as a result of wagers made by the person after the person has been voluntarily excluded shall be forfeited by the person and shall be credited to the general fund of the state.

23. To approve a licensee's application to operate as a moored barge, an excursion boat that will cruise, or an excursion boat that will not cruise, as submitted pursuant to section 99F.7.

24. To conduct a socioeconomic study on the impact of gambling on Iowans, every eight years beginning in calendar year 2013, and issue a report on that study. The commission shall ensure that the results of each study are readily accessible to the public.

25. To license the licensee of a gambling structure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling and as provided in section 99F.4D.

26. To require licensees to establish a process with the state for licensees to have electronic access to names and social security numbers of debtors of claimant agencies through a secured interactive internet site maintained by the state.

27. To adopt standards under which all sports wagering is conducted, including the scope and type of wagers allowed, to identify occupations within sports wagering which require licensing, and to adopt standards for licensing and background qualifications for occupations including establishing fees for the occupational license. All revenue received by the commission under this chapter from license fees shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. All revenue received by the commission from regulatory fees shall be deposited into the gaming regulatory revolving fund established in section 99F.20.

89 Acts, ch 67, §4; 89 Acts, ch 139, §1; 91 Acts, ch 260, §1207; 93 Acts, ch 131, §4; 94 Acts, ch 1021, §10 – 12; 94 Acts, ch 1107, §35; 2000 Acts, ch 1231, §37; 2004 Acts, ch 1136, §31 – 35; 2007 Acts, ch 188, §8; 2007 Acts, ch 215, §86; 2008 Acts, ch 1172, §5; 2009 Acts, ch 182, §103; 2013 Acts, ch 90, §257; 2017 Acts, ch 132, §2; 2018 Acts, ch 1026, §36; 2018 Acts, ch 1099, §2; 2019 Acts, ch 132, §6, 7, 22, 23

Referred to in §99E.5, 99F.7A, 99F.10, 99F.17, 99F.19, 99F.20

For provisions governing authority of a person voluntarily excluded for life from all licensed facilities under chapters 99D and 99F prior to July 1, 2017, to revoke the exclusion, see 2017 Acts, ch 132, §3

99F.4A Gambling games at pari-mutuel racetracks — fees and taxes.

1. Upon application, the commission shall license the licensee of a pari-mutuel dog or horse racetrack to conduct gambling games at a pari-mutuel racetrack enclosure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling except as otherwise provided in this section.

2. A license to conduct gambling games shall be issued only to a licensee holding a valid license to conduct pari-mutuel dog or horse racing pursuant to chapter 99D on January 1, 1994.

3. A person holding a valid license pursuant to chapter 99D to conduct pari-mutuel

wagering at a dog or horse racetrack is exempt from further investigation and examination for licensing to conduct gambling games pursuant to this chapter. However, the commission may order future investigations or examinations as the commission finds appropriate.

4. The regulatory fee imposed in section 99D.14, subsection 2, shall be collected from a licensee of a racetrack enclosure where gambling games are licensed to operate in lieu of the regulatory fee imposed in section 99F.10.

5. In lieu of the annual license fee specified in section 99F.5, the annual license fee for conducting gambling games at a pari-mutuel racetrack shall be one thousand dollars.

6. The adjusted gross receipts received from gambling games shall be taxed at the same rates and the proceeds distributed in the same manner as provided in section 99F.11.

7. A licensee shall keep its books and records regarding the operation of gambling games in compliance with section 99F.12, as applicable.

8. *a.* The commission shall, upon the immediate payment of the applicable table games license fee and submission to the commission by June 1, 2005, of an application by a licensee of a pari-mutuel dog or horse racetrack licensed to conduct gambling games at a pari-mutuel racetrack enclosure, issue a license to the licensee to conduct table games of chance, including video machines that simulate table games of chance, at the pari-mutuel racetrack enclosure subject to the requirements of this subsection. However, a table games license may only be issued to a licensee required to pay a table games license fee of three million dollars under this subsection if the licensee, and all other licensees of an excursion gambling boat in that county, file an agreement with the commission authorizing the granting of a table games license under this subsection and permitting all licensees of an excursion gambling boat to operate a moored barge as of a specific date. The licensee shall be granted a table games license by the commission upon payment of the applicable license fee to the commission which table games license fee may be offset by the licensee against taxes imposed on the licensee by section 99F.11, to the extent of twenty percent of the table games license fee paid pursuant to this subsection for each of five consecutive fiscal years beginning with the fiscal year beginning July 1, 2008. Fees paid pursuant to this subsection are not refundable to the licensee. A licensee shall not be required to pay a fee to renew a table games license issued pursuant to this subsection. Moneys collected by the commission from a table games license fee paid under this subsection shall be deposited in the rebuild Iowa infrastructure fund created in section 8.57.

b. For purposes of this subsection, the applicable license fee for a licensee shall be three million dollars if the adjusted gross receipts from gambling games for the licensee in the previous fiscal year was less than one hundred million dollars, and shall be ten million dollars if the adjusted gross receipts from gambling games for the licensee in the previous fiscal year was one hundred million dollars or more.

9. *a.* Upon application, the commission shall issue a license to the licensee of the pari-mutuel dog racetrack located in Dubuque county as of May 30, 2014, to conduct gambling games at a gambling structure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling. The licensee shall not be required to pay any additional fees or be assessed any additional costs for issuance of the license pursuant to this subsection and shall be exempt, for purposes of the initial issuance of a license under this subsection, from further investigation and examination for a license to conduct gambling games pursuant to this chapter.

b. To maintain a license pursuant to this subsection on or after July 1, 2014, the licensee shall provide written notification to the commission by September 1, 2014, as provided in section 99D.9A, subsection 1, pay the live racing cessation fee as provided in section 99D.9A, and otherwise comply with the requirements of section 99D.9A applicable to the licensee. In addition, the licensee shall pay the annual license fee as specified in section 99F.5 and regulatory fee as a licensee of a gambling structure and shall otherwise be required to comply

with all requirements of this chapter applicable to a gambling games licensee not otherwise inconsistent with the requirements of this subsection.

94 Acts, ch 1021, §13; 2000 Acts, ch 1229, §19; 2002 Acts, 2nd Ex, ch 1003, §168, 172; 2004 Acts, ch 1136, §36, 37, 65; 2008 Acts, ch 1032, §201; 2011 Acts, ch 111, §10, 13, 14; 2014 Acts, ch 1126, §9, 10, 13

Referred to in §99D.9A, 99D.9C, 99F.4, 99F.6

99F.4B Rules.

The department of inspections and appeals shall cooperate to the maximum extent possible with the division of criminal investigation in adopting rules relating to the gaming operations in this chapter and chapters 99D and 99E.

94 Acts, ch 1199, §46; 2019 Acts, ch 132, §37, 45, 46

99F.4C Gambling games prohibition area.

1. Notwithstanding any provision of this chapter or chapter 99D to the contrary, the commission shall not grant a license to conduct gambling games to a facility to be located in the applicable area as described in this section.

2. For purposes of this section, the *"applicable area"* means that portion of the city of Des Moines in Polk county bounded by a line commencing at the point East Euclid avenue intersects East Fourteenth street, then proceeding south along East Fourteenth street and Southeast Fourteenth street until it intersects Park avenue, then proceeding west along Park avenue until it intersects Fleur drive, then proceeding north along Fleur drive until it intersects Eighteenth street, then proceeding north along Eighteenth street until it intersects Ingersoll avenue, then proceeding west along Ingersoll avenue until it intersects Martin Luther King Jr. parkway, then proceeding northerly along Martin Luther King Jr. parkway until it intersects Euclid avenue, then proceeding east along Euclid avenue and East Euclid avenue to the point of origin. For purposes of this section, such reference to a street or other boundary means such street or boundary as it was delineated on the official Pub. L. No. 94-171 census maps used for redistricting following the 2000 United States decennial census.

2004 Acts, ch 1136, §38; 2005 Acts, ch 3, §28

99F.4D Gambling games at gambling structures — requirements — licensing.

1. Unless otherwise provided by this chapter, the provisions of this chapter applicable to an excursion gambling boat shall also apply to a gambling structure.

2. A licensee authorized to conduct gambling games on an excursion boat may convert the license to authorize the conducting of gambling games on a gambling structure with the approval of the commission. In addition, a licensee authorized to conduct gambling games on a moored barge may elect to have the license treated to allow the conducting of gambling games on a gambling structure with the approval of the commission.

2007 Acts, ch 188, §9

Referred to in §99F.4

99F.5 License to conduct gambling games on excursion gambling boats and at gambling structures — license to operate boat — applications — operating agreements — fee.

1. A qualified sponsoring organization may apply to the commission for a license to conduct gambling games on an excursion gambling boat or gambling structure as provided in this chapter. A person may apply to the commission for a license to operate an excursion gambling boat. An operating agreement entered into on or after May 6, 2004, between a qualified sponsoring organization and an operator of an excursion gambling boat or gambling structure shall provide for a minimum distribution by the qualified sponsoring organization for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.1, that averages at least three percent of the adjusted gross receipts for each license year and, if applicable, three-quarters of one percent of sports wagering net receipts for each license year. The application shall be filed with the administrator of the commission at least ninety days before the first day of the next excursion season as determined by the commission, shall identify the excursion gambling boat upon which gambling games will be authorized, shall specify the exact location where the excursion gambling boat will be

docked, and shall be in a form and contain information as the commission prescribes. The minimum capacity of an excursion gambling boat or gambling structure is two hundred fifty persons.

2. The annual license fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew, for which the excursion gambling boat is registered. For a gambling structure, the annual license fee shall be based on the capacity of the gambling structure. The annual fee shall be five dollars per person capacity.

89 Acts, ch 67, §5; 94 Acts, ch 1021, §14; 2004 Acts, ch 1136, §39, 65; 2007 Acts, ch 188, §10; 2015 Acts, ch 99, §51; 2019 Acts, ch 132, §8, 22, 23

Referred to in §99F.4A

99F.6 Requirements of applicant — fee — penalty.

1. A person shall not be issued a license to conduct gambling games on an excursion gambling boat or a license to operate an excursion gambling boat under this chapter, an occupational license, a distributor license, or a manufacturer license unless the person has completed and signed an application on the form prescribed and published by the commission. The application shall include the full name, residence, date of birth and other personal identifying information of the applicant that the commission deems necessary. The application shall also indicate whether the applicant has any of the following:

a. A record of conviction of a felony.

b. An addiction to alcohol or a controlled substance.

c. A history of mental illness.

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check.

3. The commission shall charge the applicant a fee set by the department of public safety, division of criminal investigation, to defray the costs associated with the search and classification of fingerprints required in subsection 2 and background investigations conducted by agents of the division of criminal investigation. This fee is in addition to any other license fee charged by the commission.

4. *a.* (1) Before a license is granted, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the division of criminal investigation.

(2) A qualified sponsoring organization licensed to operate gambling games under this chapter shall distribute the receipts of all gambling games, less reasonable expenses, charges, taxes, fees, and deductions allowed under this chapter, as winnings to players or participants or shall distribute the receipts for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.1. A qualified sponsoring organization shall provide that any organization exempt from federal income taxes under section 501(c)(19) of the Internal Revenue Code, as defined in section 422.3, shall be eligible for a distribution of adjusted gross receipts for educational, civic, public, charitable, patriotic, or religious uses as required by this subparagraph. However, a licensee to conduct gambling games under this chapter shall, unless an operating agreement for an excursion gambling boat otherwise provides, distribute at least three percent of the adjusted gross receipts and, if applicable, three-quarters of one percent of sports wagering net receipts for each license year for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.1. However, if a licensee who is also licensed to conduct pari-mutuel wagering at a horse racetrack has unpaid debt from the pari-mutuel racetrack operations, the first receipts of the gambling games operated within the racetrack enclosure less reasonable operating expenses, taxes, and fees allowed under this chapter shall be first used to pay the annual indebtedness.

(3) The commission shall authorize, subject to the debt payments for horse racetracks

and the provisions of paragraph *"b"* for dog racetracks, a licensee who is also licensed to conduct pari-mutuel dog or horse racing to use receipts from gambling games and sports wagering within the racetrack enclosure to supplement purses for races particularly for Iowa-bred horses pursuant to an agreement which shall be negotiated between the licensee and representatives of the dog or horse owners. For agreements subject to commission approval concerning purses for horse racing beginning on or after January 1, 2006, the agreements shall provide that total annual purses for all horse racing shall be four percent of sports wagering net receipts and promotional play receipts on sports wagering and no less than eleven percent of the first two hundred million dollars of net receipts, and six percent of net receipts above two hundred million dollars. In addition, live standardbred horse racing shall not be conducted at the horse racetrack in Polk county, but the purse moneys designated for standardbred racing pursuant to section 99D.7, subsection 5, paragraph *"b"*, shall be included in calculating the total annual purses required to be paid pursuant to this subsection. Agreements that are subject to commission approval concerning horse purses for a period of time beginning on or after January 1, 2006, shall be jointly submitted to the commission for approval.

(4) A qualified sponsoring organization shall not make a contribution to a candidate, political committee, candidate's committee, state statutory political committee, county statutory political committee, national political party, or fund-raising event as these terms are defined in section 68A.102. The membership of the board of directors of a qualified sponsoring organization shall represent a broad interest of the communities.

(5) For purposes of this paragraph, *"net receipts"* means the annual adjusted gross receipts from all gambling games and, beginning July 1, 2026, promotional play receipts on all gambling games less the annual amount of money pledged by the owner of the facility to fund a project approved to receive vision Iowa funds as of July 1, 2004.

b. (1) The commission shall authorize the licensee of the pari-mutuel dog racetrack located in Dubuque county to conduct gambling games as provided in section 99F.4A if the licensee schedules at least one hundred thirty performances of twelve live races each day during a season of twenty-five weeks. For the pari-mutuel dog racetrack located in Pottawattamie county, the commission shall authorize the licensee to conduct gambling games as provided in section 99F.4A if the licensee schedules at least two hundred ninety performances of twelve live races each day during a season of fifty weeks. However, the requirement to schedule performances of live races for purposes of conducting gambling games under this chapter shall not apply to a licensee as of the live racing cessation date of the licensee as provided in section 99D.9A.

(2) If a pari-mutuel dog racetrack authorized to conduct gambling games as of January 1, 2014, is required to schedule performances of live races for purposes of conducting gambling games under this chapter during any calendar year, the commission shall approve an annual contract to be negotiated between the annual recipient of the dog racing promotion fund and each dog racetrack licensee to specify the percentage or amount of gambling game proceeds which shall be dedicated to supplement the purses of live dog races. The parties shall agree to a negotiation timetable to insure no interruption of business activity. If the parties fail to agree, the commission shall impose a timetable. If the two parties cannot reach agreement, each party shall select a representative and the two representatives shall select a third person to assist in negotiating an agreement. The two representatives may select the commission or one of its members to serve as the third party. Alternately, each party shall submit the name of the proposed third person to the commission who shall then select one of the two persons to serve as the third party. All parties to the negotiations, including the commission, shall consider that the dog racetracks were built to facilitate the development and promotion of Iowa greyhound racing dogs in this state and shall negotiate and decide accordingly.

5. Before a license is granted, an operator of an excursion gambling boat shall work with the economic development authority to promote tourism throughout Iowa. Tourism information from local civic and private persons may be submitted for dissemination.

6. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

7. For the purposes of this section, applicant includes each member of the board of directors of a qualified sponsoring organization.

8. *a.* The licensee or a holder of an occupational license shall consent to the search, without a warrant, by agents of the division of criminal investigation of the department of public safety or commission employees designated by the administrator of the commission, of the licensee's or holder's person, personal property, and effects, and premises which are located on the excursion gambling boat or adjacent facilities under control of the licensee, in order to inspect or investigate for violations of this chapter or rules adopted by the commission pursuant to this chapter. The department or commission may also obtain administrative search warrants under section 808.14.

b. However, this subsection shall not be construed to permit a warrantless inspection of living quarters or sleeping rooms on the riverboat if all of the following are true:

(1) The licensee has specifically identified those areas which are to be used as living quarters or sleeping rooms in writing to the commission.

(2) Gaming is not permitted in the living quarters or sleeping rooms, and devices, records, or other items relating to the licensee's gaming operations are not stored, kept, or maintained in the living quarters or sleeping rooms.

(3) Alcoholic beverages are not stored, kept, or maintained in the living quarters or sleeping rooms except those legally possessed by the individual occupying the quarters or room.

c. The commission shall adopt rules to enforce this subsection.

9. The board of directors of a qualified sponsoring organization licensed to conduct or operate gambling games under this chapter shall be residents of this state and shall include, at the option of each applicable county and city, as ex officio, nonvoting members of the board, a member of the county board of supervisors and a member of a city council for each county and city that has a licensed gambling games facility which is conducted or operated by the qualified sponsoring organization. If a vacancy for any ex officio member occurs, the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term of the vacancy. However, this subsection shall not apply to an agency, instrumentality, or political subdivision of the state that is licensed to conduct gambling games under this chapter.

89 Acts, ch 67, §6; 89 Acts, ch 231, §33; 94 Acts, ch 1021, §15; 95 Acts, ch 176, §3; 2002 Acts, ch 1044, §10, 11; 2003 Acts, ch 108, §32; 2004 Acts, ch 1136, §40; 2005 Acts, ch 35, §31; 2007 Acts, ch 48, §6, 7; 2011 Acts, ch 111, §9; 2011 Acts, ch 118, §85, 89; 2014 Acts, ch 1126, §11; 2015 Acts, ch 99, §52; 2019 Acts, ch 132, §9, 22, 23, 51; 2019 Acts, ch 143, §1; 2020 Acts, ch 1066, §3; 2021 Acts, ch 177, §69

Referred to in §99D.9A, 99F.7A, 99F.9

Subsection 4, paragraph a, subparagraphs (3) and (5) amended

99F.7 Licenses — terms and conditions — revocation.

1. If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license for a period of not more than three years to an applicant to own a gambling game operation, to an applicant to operate a gambling structure, and to an applicant to operate an excursion gambling boat. The commission shall decide which of the gambling games authorized under this chapter the commission will permit. The commission shall decide the number, location, and type of gambling structures and excursion gambling boats licensed under this chapter. The commission shall allow the operation of an excursion boat or moored barge on or within one thousand feet of the high water marks of the rivers, lakes, and reservoirs of this state as established by the commission in consultation with the United States army corps of engineers, the department of natural resources, or other appropriate regulatory agency. The license shall set forth, as applicable, the name of the licensee, the type of license granted, the location of the gambling structure or the place where the excursion gambling boats will operate and dock, and the time and number of days during the excursion season and the off season when gambling may be conducted by the licensee.

2. *a.* An applicant for a license to conduct gambling games on an excursion gambling

boat, and each licensee by June 30 of each year thereafter, shall indicate and have noted on the license whether the applicant or licensee will operate a moored barge, an excursion boat that will cruise, or an excursion boat that will not cruise subject to the requirements of this subsection. If the applicant or licensee will operate a moored barge or an excursion boat that will not cruise, the requirements of this chapter concerning cruising shall not apply. If the applicant's or licensee's excursion boat will cruise, the applicant or licensee shall comply with the cruising requirements of this chapter and the commission shall not allow such a licensee to conduct gambling games on an excursion gambling boat while docked during the off season if the licensee does not operate gambling excursions for a minimum number of days during the excursion season. The commission may delay the commencement of the excursion season at the request of a licensee.

b. However, an applicant or licensee of an excursion gambling boat that is located in the same county as a racetrack enclosure conducting gambling games shall not be allowed to operate a moored barge unless either of the following applies:

(1) If the licensee is located in the same county as a racetrack enclosure conducting gambling games that had less than one hundred million dollars in adjusted gross receipts from gambling games for the fiscal year beginning July 1, 2003, the licensee of an excursion gambling boat is authorized to operate a moored barge if the licensee, the licensee of the racetrack enclosure, and all other licensees of an excursion gambling boat in that county file an agreement with the commission agreeing to the granting of a table games license under this chapter and permitting all licensees of an excursion gambling boat in the county to operate a moored barge as of a specific date.

(2) If the licensee is located in the same county as a racetrack enclosure conducting gambling games that had one hundred million dollars or more in adjusted gross receipts from gambling games for the fiscal year beginning July 1, 2003, the licensee of an excursion gambling boat is authorized to operate a moored barge the earlier of July 1, 2007, or the date any form of gambling games, as defined in this chapter, is operational in any state that is contiguous to the county where the licensee is located.

c. A person awarded a new license to conduct gambling games on an excursion gambling boat or gambling structure in the same county as another licensed excursion gambling boat or gambling structure shall only be licensed to operate an excursion gambling boat or gambling structure that is located at a similarly situated site and operated as a substantially similar facility as any other excursion gambling boat or gambling structure in the county.

3. A license shall only be granted to an applicant upon the express conditions that:

a. The applicant shall not, by a lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation of an excursion gambling boat licensed under this section or of the system of wagering described in section 99F.9. This section does not prohibit a management contract approved by the commission.

b. The applicant shall not in any manner permit a person other than the licensee to have a share, percentage, or proportion of the money received for admissions to the excursion gambling boat.

4. The commission shall require, as a condition of granting a license, that an applicant to operate an excursion gambling boat develop and, as nearly as practicable, re-create boats or moored barges that resemble Iowa's riverboat history.

5. The commission shall require that an applicant utilize Iowa resources, goods and services in the operation of an excursion gambling boat. The commission shall develop standards to assure that a substantial amount of all resources and goods used in the operation of an excursion gambling boat emanate from and are made in Iowa and that a substantial amount of all services and entertainment are provided by Iowans.

6. The commission shall, as a condition of granting a license, require an applicant to provide written documentation that, on each excursion gambling boat:

a. An applicant shall make every effort to ensure that a substantial number of the staff and entertainers employed are residents of Iowa.

b. A section is reserved for promotion and sale of arts, crafts, and gifts native to and made in Iowa.

7. It is the intent of the general assembly that employees be paid at least twenty-five percent above the federal minimum wage level in effect on December 31, 2020.

8. A license shall not be granted if there is substantial evidence that any of the following apply:

a. The applicant has been suspended from operating a game of chance or gambling operation in another jurisdiction by a board or commission of that jurisdiction.

b. The applicant has not demonstrated financial responsibility sufficient to meet adequately the requirements of the enterprise proposed.

c. The applicant is not the true owner of the enterprise proposed.

d. The applicant is not the sole owner, and other persons have ownership in the enterprise, which fact has not been disclosed.

e. The applicant is a corporation and ten percent of the stock of the corporation is subject to a contract or option to purchase at any time during the period for which the license is to be issued unless the contract or option was disclosed to the commission and the commission approved the sale or transfer during the period of the license.

f. The applicant has knowingly made a false statement of a material fact to the commission.

g. The applicant has failed to meet a monetary obligation in connection with an excursion gambling boat.

9. A license shall not be granted if there is substantial evidence that the applicant is not of good repute and moral character or if the applicant has pled guilty to, or has been convicted of, a felony.

10. *a.* A licensee shall not loan to any person money or any other thing of value for the purpose of permitting that person to wager on any game of chance.

b. A licensee shall not permit a financial institution, vendor, or other person to dispense cash or credit through an electronic or mechanical device including but not limited to a satellite terminal, as defined in section 527.2, that is located on the gaming floor.

c. When technologically available, a licensee shall ensure that a person may voluntarily bar the person's access to receive cash or credit from a financial institution, vendor, or other person through an electronic or mechanical device including but not limited to a satellite terminal as defined in section 527.2 that is located on the licensed premises.

11. *a.* A license to conduct gambling games in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, and subject to the requirements of paragraph *"e"*, shall direct the commissioner of elections to submit to the registered voters of the county a proposition to approve or disapprove the conduct of gambling games in the county. The proposition shall be submitted at an election held on a date specified in section 39.2, subsection 4, paragraph *"a"*. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued.

b. If a license to conduct gambling games is in effect pursuant to a referendum as set forth in this section and is subsequently disapproved by a referendum of the county electorate, the license issued by the commission after a referendum approving gambling games shall remain valid and is subject to renewal for a total of nine years from the date of original issue or one year from the date of the referendum disapproving the conduct of gambling games, whichever is later, unless the commission revokes a license at an earlier date as provided in this chapter.

c. If a licensee of a pari-mutuel racetrack who held a valid license issued under chapter 99D as of January 1, 1994, requests a license to operate gambling games as provided in this chapter, the board of supervisors of a county in which the licensee of a pari-mutuel racetrack requests a license to operate gambling games shall submit to the county electorate a proposition to approve or disapprove the operation of gambling games at pari-mutuel racetracks at an election held on a date specified in section 39.2, subsection 4, paragraph *"a"*. If the operation of gambling games at the pari-mutuel racetrack is not approved by a

majority of the county electorate voting on the proposition at the election, the commission shall not issue a license to operate gambling games at the racetrack.

d. If the proposition to operate gambling games is approved by a majority of the county electorate voting on the proposition, the board of supervisors shall submit a proposition requiring the approval or defeat of gambling games to the county electorate as provided in paragraph "*e*", unless the operation of gambling games is terminated earlier as provided in this chapter or chapter 99D. However, if a proposition to operate gambling games is approved by a majority of the county electorate voting on the proposition in two successive elections, a subsequent submission and approval of a proposition under this subsection shall not thereafter be required to authorize the conduct of gambling games pursuant to this chapter.

e. After a referendum has been held which approved or defeated a proposal to conduct gambling games as provided in this section, another referendum on a proposal to conduct gambling games shall not be held until the eighth calendar year thereafter.

12. If a docking fee is charged by a city or a county, a licensee operating an excursion gambling boat shall pay the docking fee one year in advance.

13. A licensee shall not be delinquent in the payment of property taxes or other taxes or fees or in the payment of any other contractual obligation or debt due or owed to a city or county.

14. When applicable, an excursion gambling boat operated on inland waters of this state or an excursion boat that has been removed from navigation and is designated as a permanently moored vessel by the United States coast guard shall be subject to the exclusive jurisdiction of the department of natural resources and meet all of the requirements of chapter 462A and is further subject to an inspection of its sanitary facilities to protect the environment and water quality before a certificate of registration is issued by the department of natural resources or a license is issued or renewed under this chapter.

15. If a licensed excursion boat stops at more than one harbor and travels past a county without stopping at any port in that county, the commission shall require the excursion boat operator to develop a schedule for ports of call that have the necessary facilities to handle the boat. The commission may limit the schedule to only one port of call per county.

16. Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license.

17. The commission shall require each licensee operating gambling games to post in conspicuous locations specified by the commission the average percentage payout from the gambling machines.

89 Acts, ch 67, §7; 89 Acts, ch 139, §2 – 5; 92 Acts, ch 1203, §15, 16; 93 Acts, ch 143, §42; 94 Acts, ch 1021, §16 – 18; 95 Acts, ch 49, §2; 95 Acts, ch 176, §4, 5; 2004 Acts, ch 1136, §41 – 47, 65; 2004 Acts, ch 1175, §328; 2007 Acts, ch 188, §11, 12; 2008 Acts, ch 1115, §30, 71; 2011 Acts, ch 111, §11 – 14; 2021 Acts, ch 147, §47, 54; 2021 Acts, ch 174, §46

Referred to in §99F.1, 99F.4, 99F.8, 99F.10
Subsection 7 amended
Subsection 11, paragraph a amended

99F.7A Sports wagering — license — terms and conditions — fees.

1. The commission shall, upon payment of an initial license fee of forty-five thousand dollars and submission of an application to the commission consistent with the requirements of section 99F.6, issue a license to conduct sports wagering to a licensee authorized to conduct gambling games at a pari-mutuel racetrack enclosure or a licensee authorized to operate an excursion gambling boat or gambling structure, subject to the requirements of this chapter. The annual renewal fee for a license to conduct sports wagering shall be ten thousand dollars.

2. A licensee under this section shall do all of the following:

a. Include on the internet site or mobile application used by the licensee to conduct advance deposit sports wagering as authorized in section 99F.9 the statewide telephone number authorized by the Iowa department of public health to provide problem gambling information and extensive responsible gaming features in addition to those described in section 99F.4, subsection 22.

b. Establish, subject to commission approval, sports wagering rules that specify the

amounts to be paid on winning sports wagers, the effect of changes in the scheduling of an authorized sporting event subject to sports wagering, and the source of the information used to determine the outcome of a sports wager. The sports wagering rules shall be displayed in the licensee's sports wagering area, posted on the internet site or mobile application used by the licensee to conduct advance deposit sports wagering as authorized in section 99F.9, and included in the terms and conditions of the licensee's advance deposit sports wagering system.

3. A licensee under this section may enter into operating agreements with one or two entities to have up to a total of two individually branded internet sites to conduct advance deposit sports wagering for the licensee, unless one additional operating agreement or individually branded internet site is authorized by the commission. However, a person shall not sell, grant, assign, or turn over to another person the operation of an individually branded internet site to conduct advance deposit sports wagering for the licensee without the approval of the commission. This section does not prohibit an agreement entered into between a licensee under this section and an advanced deposit sports wagering operator as approved by the commission.

4. A licensee issued a license to conduct sports wagering under this section shall employ reasonable steps to prohibit coaches, athletic trainers, officials, players, or other individuals who participate in an authorized sporting event that is the subject of sports wagering from sports wagering under this chapter. In addition, a licensee shall employ reasonable steps to prohibit persons who are employed in a position with direct involvement with coaches, players, athletic trainers, officials, players, or participants in an authorized sporting event that is the subject of sports wagering from sports wagering under this chapter.

2019 Acts, ch 89, §37; 2019 Acts, ch 132, §10, 22, 23; 2021 Acts, ch 80, §56
Referred to in §99F.1, 99F.9, 99F.12
Subsection 3 amended

99F.8 Bond of licensee.

A licensee licensed under section 99F.7 shall post a bond to the state of Iowa before the license is issued in a sum as the commission shall fix, with sureties to be approved by the commission. The bond shall be used to guarantee that the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its gambling games and sports wagering in conformity with this chapter and the rules adopted by the commission. The bond shall not be canceled by a surety on less than thirty days' notice in writing to the commission. If a bond is canceled and the licensee fails to file a new bond with the commission in the required amount on or before the effective date of cancellation, the licensee's license shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

89 Acts, ch 67, §8; 2019 Acts, ch 132, §11, 22, 23

99F.9 Wagering — advance deposit sports wagering — age restrictions.

1. Except as permitted in this section, the licensee shall not permit sports wagering or any form of wagering on gambling games.

2. The licensee may receive wagers only from a person present on a licensed excursion gambling boat, licensed gambling structure, or in a licensed racetrack enclosure.

3. The licensee shall exchange the money of each wagerer for tokens, chips, or other forms of credit to be wagered on the gambling games. However, nickels and quarters of legal tender may be used for wagering in lieu of tokens or other forms of credit. The licensee shall exchange the gambling tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

4. *a.* For the purposes of this section, unless the context otherwise requires:

(1) *"Advance deposit sports wagering"* means a method of sports wagering in which an eligible individual may, in an account established with a licensee under section 99F.7A, deposit moneys into the account and use the account balance to pay for sports wagering. Prior to January 1, 2021, an account must be established by an eligible individual in person with a licensee.

(2) *"Advance deposit sports wagering operator"* means an advance deposit sports wagering operator licensed by the commission who has entered into an agreement with a licensee under section 99F.7A to provide advance deposit sports wagering.

(3) *"Eligible individual"* means an individual who is at least twenty-one years of age or older who is located within this state.

b. The commission may authorize a licensee under section 99F.7A to conduct advance deposit sports wagering. An advance deposit sports wager may be placed in person in the sports wagering area, or from any other location via a telephone-type device or any other electronic means. The commission may also issue an advance deposit sports wagering operator license to an entity who complies with this subsection and section 99F.6 and may require the advance deposit sports wagering operator to conduct an audit consistent with the requirements of section 99F.13.

c. An unlicensed person taking or receiving sports wagers from residents of this state is guilty of a class "D" felony.

5. A person under the age of twenty-one years shall not make or attempt to make a wager pursuant to subsection 4 or on an excursion gambling boat, gambling structure, or in a racetrack enclosure and shall not be allowed on the gaming floor of an excursion gambling boat or gambling structure or in the wagering area, as defined in section 99D.2, or on the gaming floor of a racetrack enclosure. However, a person eighteen years of age or older may be employed to work on the gaming floor of an excursion gambling boat or gambling structure or in the wagering area or on the gaming floor of a racetrack enclosure. A person who violates this subsection with respect to making or attempting to make a wager commits a scheduled violation under section 805.8C, subsection 5, paragraph *"a"*.

6. *a.* A person under the age of twenty-one years shall not enter or attempt to enter the gaming floor or wagering area, as defined in section 99D.2, of a facility licensed under this chapter to operate gambling games.

b. A person under the age of twenty-one years does not violate this subsection if any of the following circumstances apply:

(1) The person is employed to work at the facility.

(2) The person is an employee or agent of the commission, the division, a distributor, or a manufacturer, and acting within the scope of the person's employment.

(3) The person is present in a racetrack enclosure and does not enter or attempt to enter the gaming floor or wagering area of the facility.

c. A person who violates this subsection commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 5, paragraph *"b"*.

7. A licensee shall not accept a credit card as defined in section 537.1301, subsection 17, for sports wagering or to purchase coins, tokens, or other forms of credit to be wagered on gambling games.

89 Acts, ch 67, §9; 89 Acts, ch 139, §6; 91 Acts, ch 144, §1; 94 Acts, ch 1021, §19 – 24; 2004 Acts, ch 1136, §48; 2007 Acts, ch 188, §13; 2009 Acts, ch 88, §2, 3; 2014 Acts, ch 1026, §23; 2019 Acts, ch 132, §12 – 14, 22, 23; 2020 Acts, ch 1066, §4

Referred to in §99D.7, 99F.1, 99F.4, 99F.7, 99F.7A, 99F.15, 99F.16, 805.8C(5)(a), 805.8C(5)(b)

99F.10 Regulatory fee — local fees — initial license fee.

1. A qualified sponsoring organization conducting gambling games on an excursion gambling boat or gambling structure licensed under section 99F.7 shall pay the tax imposed by section 99F.11.

2. An excursion gambling boat or gambling structure licensee shall pay to the commission a regulatory fee to be charged as provided in this section.

3. Subject to approval of excursion gambling boat docking by the voters, a city may adopt, by ordinance, an admission fee not exceeding fifty cents for each person embarking on an excursion gambling boat docked within the city, or a county may adopt, by ordinance, an admission fee not exceeding fifty cents for each person embarking on an excursion gambling boat docked outside the boundaries of a city. The admission revenue received by a city or a county shall be credited to the city general fund or county general fund as applicable.

4. *a.* In determining the license fees and state regulatory fees to be charged as provided

under section 99F.4 and this section, the commission shall use as the basis for determining the amount of revenue to be raised from the license fees and regulatory fees the amount appropriated to the commission plus the cost of salaries for no more than three special agents for each excursion gambling boat or gambling structure as assigned pursuant to the provisions of section 80.25A, plus any direct and indirect support costs for the division of criminal investigation's duties pursuant to chapters 99D, 99E, and 99F, and section 80.25A.

b. Notwithstanding sections 8.60 and 99F.4, the portion of the fee paid pursuant to paragraph "*a*" relating to the costs of special agents and officers plus any direct and indirect support costs for the agents and officers, for the division of criminal investigation's excursion gambling boat or gambling structure activities, shall be deposited into the gaming enforcement revolving fund established in section 80.43. However, the department of public safety shall transfer, on an annual basis, the portion of the regulatory fee attributable to the indirect support costs of the special agents and gaming enforcement officers to the general fund of the state.

c. Notwithstanding sections 8.60 and 99F.4, the portion of the fee paid pursuant to paragraph "*a*" relating to the costs of the commission shall be deposited into the gaming regulatory revolving fund established in section 99F.20.

d. Indirect support costs under paragraph "*a*" shall be calculated at the same rate used in accordance with the federal office of management and budget cost principles for state, local, and Indian tribal governments that receive a federally approved indirect cost rate.

e. The aggregate amount of the regulatory fee assessed under paragraph "*a*" during each fiscal year shall be reduced by an amount equal to the unexpended moneys from the previous fiscal year that were deposited into the revolving funds established in section 80.43 or 99F.20 during that previous fiscal year.

f. By January 1, 2015, and by January 1 of every year thereafter, the division of criminal investigation shall provide the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, the legislative services agency, and the commission with a report detailing the activities of the division during the previous fiscal year for each excursion gambling boat and gambling structure.

g. The division of criminal investigation shall review the number of special agents permitted for each excursion gambling boat or gambling structure under this subsection and the activities of such agents. The review shall also include comments from the commission and licensees and be combined with the review conducted under section 99D.14, subsection 2, paragraph "*f*". The division of criminal investigation shall file a report detailing the review conducted pursuant to this paragraph with the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by July 1, 2020.

5. For the fiscal year beginning July 1, 2021, and each fiscal year thereafter, the seven licensees with the lowest adjusted gross receipts for the previous fiscal year shall pay a reduced regulatory fee. The division of criminal investigation shall calculate the regulatory fee to be paid by each licensee using a methodology that reduces the regulatory fee for the seven licensees with the lowest adjusted gross receipts by an amount equivalent to the portion of the regulatory fees associated with one special agent.

6. No other license tax, permit tax, occupation tax, excursion fee, or taxes on fees shall be levied, assessed, or collected from a licensee by the state or by a political subdivision, except as provided in this chapter.

7. No other excise tax shall be levied, assessed, or collected from the licensee relating to gambling excursions or admission charges by the state or by a political subdivision, except as provided in this chapter.

8. In addition to any other fees required by this chapter, a person awarded a new license to conduct gambling games pursuant to section 99F.7 on or after January 1, 2004, shall pay the applicable initial license fee to the commission as provided by this subsection. A person awarded a new license shall pay one-fifth of the applicable initial license fee immediately upon the granting of the license, one-fifth of the applicable initial license fee within one year of the granting of the license, one-fifth of the applicable initial license fee within two years of the granting of the license, one-fifth of the applicable initial license fee within three years

of the granting of the license, and the remaining one-fifth of the applicable initial license fee within four years of the granting of the license. However, the license fee provided for in this subsection shall only apply when a new license is issued to a person for a facility that increases the number of licensed facilities in the applicable county or counties. Fees paid pursuant to this subsection are not refundable to the licensee. For purposes of this subsection, the applicable initial license fee shall be five million dollars if the population of the county where the licensee shall conduct gambling games is fifteen thousand or less based upon the most recent federal decennial census, shall be ten million dollars if the population of the county where the licensee shall conduct gambling games is more than fifteen thousand and less than one hundred thousand based upon the most recent federal decennial census, and shall be twenty million dollars if the population of the county where the licensee shall conduct gambling games is one hundred thousand or more based upon the most recent federal decennial census. Moneys collected by the commission from an initial license fee paid under this subsection shall be deposited in the rebuild Iowa infrastructure fund created in section 8.57.

89 Acts, ch 67, §10; 91 Acts, ch 267, §605; 95 Acts, ch 207, §22; 2000 Acts, ch 1229, §18; 2004 Acts, ch 1136, §49; 2005 Acts, ch 48, §1; 2007 Acts, ch 188, §14; 2010 Acts, ch 1190, §25; 2011 Acts, ch 127, §47, 89; 2012 Acts, ch 1134, §16, 21; 2013 Acts, ch 139, §50; 2013 Acts, ch 142, §36; 2016 Acts, ch 1091, §1, 2; 2020 Acts, ch 1063, §52; 2021 Acts, ch 166, §26, 27; 2021 Acts, ch 174, §47

Referred to in §80.43, 99D.14, 99F.4A, 99F.20
Retention of special agents on or after July 1, 2016; 2016 Acts, ch 1137, §22
Subsection 4, paragraph a amended
NEW subsection 5 and former subsections 5 – 7 renumbered as 6 – 8

99F.11 Gambling games and sports wagering taxes — rate — allocations.

1. A tax is imposed on the adjusted gross receipts received each fiscal year from gambling games authorized under this chapter at the rate of five percent on the first one million dollars of adjusted gross receipts and at the rate of ten percent on the next two million dollars of adjusted gross receipts.

2. The tax rate imposed each fiscal year on any amount of adjusted gross receipts over three million dollars shall be as follows:

a. If the licensee is an excursion gambling boat or gambling structure, twenty-two percent.

b. If the licensee is a racetrack enclosure conducting gambling games and another licensee that is an excursion gambling boat or gambling structure is located in the same county, then the following rate, as applicable:

(1) If the licensee of the racetrack enclosure has not been issued a table games license during the fiscal year or if the adjusted gross receipts from gambling games of the licensee in the prior fiscal year were less than one hundred million dollars, twenty-two percent.

(2) If the licensee of the racetrack enclosure has been issued a table games license during the fiscal year or prior fiscal year and the adjusted gross receipts from gambling games of the licensee in the prior fiscal year were one hundred million dollars or more, twenty-two percent on adjusted gross receipts received prior to the operational date and twenty-four percent on adjusted gross receipts received on or after the operational date. For purposes of this subparagraph, the operational date is the date the commission determines table games became operational at the racetrack enclosure.

c. If the licensee is a racetrack enclosure conducting gambling games and no licensee that is an excursion gambling boat or gambling structure is located in the same county, twenty-four percent.

3. *a.* Notwithstanding any provision of this section to the contrary, the tax rate imposed on a licensee each fiscal year on any amount of promotional play receipts on gambling games included as adjusted gross receipts shall be determined by multiplying the adjusted percentage by the wagering tax applicable to the licensee pursuant to subsection 2.

b. For purposes of this subsection, *"adjusted percentage"* means as follows:

(1) For the fiscal year beginning July 1, 2021, and ending June 30, 2022, eighty-three and one-third percent.

(2) For the fiscal year beginning July 1, 2022, and ending June 30, 2023, sixty-six and two-thirds percent.

(3) For the fiscal year beginning July 1, 2023, and ending June 30, 2024, fifty percent.

(4) For the fiscal year beginning July 1, 2024, and ending June 30, 2025, thirty-three and one-third percent.

(5) For the fiscal year beginning July 1, 2025, and ending June 30, 2026, sixteen and two-thirds percent.

c. This subsection is repealed July 1, 2026.

4. The taxes imposed by this section on adjusted gross receipts from gambling games authorized under this chapter shall be paid by the licensee to the treasurer of state within ten days after the close of the day when the wagers were made and shall be distributed as follows:

a. If the gambling excursion originated at a dock located in a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the city in which the dock is located and shall be deposited in the general fund of the city. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county.

b. If the gambling excursion originated at a dock located in a part of the county outside a city, one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the county in which the dock is located and shall be deposited in the general fund of the county. Another one-half of one percent of the adjusted gross receipts shall be remitted to the treasurer of the Iowa city nearest to where the dock is located and shall be deposited in the general fund of the city.

c. Eight-tenths of one percent of the adjusted gross receipts tax shall be deposited in the county endowment fund created in section 15E.311.

d. Two-tenths of one percent of the adjusted gross receipts tax shall be allocated each fiscal year as follows:

(1) Five hundred twenty thousand dollars is appropriated each fiscal year to the department of cultural affairs with one-half of the moneys allocated for operational support grants and the remaining one-half allocated for the community cultural grants program established under section 303.3.

(2) One-half of the moneys remaining after the appropriation in subparagraph (1) is appropriated to the community development division of the economic development authority for the purposes of regional tourism marketing. The moneys appropriated in this subparagraph shall be disbursed to the authority in quarterly allotments. However, none of the moneys appropriated under this subparagraph shall be used for administrative purposes.

(3) One-half of the moneys remaining after the appropriation in subparagraph (1) shall be credited, on a quarterly basis, to the rebuild Iowa infrastructure fund created in section 8.57.

e. The remaining amount of the adjusted gross receipts tax shall be credited as provided in section 8.57, subsection 5.

5. *a.* A tax is imposed on the sports wagering net receipts received each fiscal year by a licensed operator from sports wagering authorized under this chapter at the rate of six and three-quarters percent.

b. The taxes imposed by this subsection for sports wagering authorized under this chapter shall be paid by the licensed operator to the treasurer of state as determined by the commission and shall be credited as provided in section 8.57, subsection 6.

89 Acts, ch 67, §11; 89 Acts, ch 139, §7; 94 Acts, ch 1021, §25; 94 Acts, ch 1186, §33; 98 Acts, ch 1221, §11; 2003 Acts, ch 178, §107, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1136, §50; 2006 Acts, ch 1151, §6, 8; 2007 Acts, ch 100, §1; 2007 Acts, ch 188, §15; 2007 Acts, ch 215, §87; 2009 Acts, ch 182, §104; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 126, §12 – 14; 2013 Acts, ch 142, §37 – 39; 2014 Acts, ch 1026, §24; 2019 Acts, ch 132, §15, 16, 22, 23; 2021 Acts, ch 177, §70

Referred to in §8.57, 99F.4A, 99F.10, 99G.39, 123.17

See Iowa Acts for special provisions relating to appropriations in a given year

NEW subsection 3 and former subsections 3 and 4 redesignated as 4 and 5

99F.12 Licensees — records — reports — supervision — confidentiality.

1. A licensee shall keep its books and records so as to clearly show all of the following:

a. The total number of admissions for each day of operation.

b. The total amount of money wagered and the adjusted gross receipts for each day of operation.

2. *a.* The licensee shall furnish to the commission reports and information as the commission may require with respect to the licensee's activities.

b. A licensee under section 99F.7A shall promptly report to the commission any criminal or disciplinary proceedings commenced against the licensee or its employees in connection with the licensee conducting sports wagering or advance deposit sports wagering, any abnormal wagering activity or patterns that may indicate a concern about the integrity of an authorized sporting event or events, and any other conduct with the potential to corrupt a wagering outcome of an authorized sporting event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification. The commission is required to share any information received pursuant to this paragraph with the division of criminal investigation, any other law enforcement entity upon request, or any regulatory agency the commission deems appropriate. The commission shall promptly report any information received pursuant to this paragraph with any sports team or sports governing body as the commission deems appropriate, but shall not share any information that would interfere with an ongoing criminal investigation.

c. The gross receipts and adjusted gross receipts from gambling shall be separately handled and accounted for from all other moneys received from operation of an excursion gambling boat or from operation of a racetrack enclosure or gambling structure licensed to conduct gambling games. The commission may designate a representative to board a licensed excursion gambling boat or to enter a racetrack enclosure or gambling structure licensed to conduct gambling games. The representative shall have full access to all places within the enclosure of the boat, the gambling structure, or the racetrack enclosure and shall directly supervise the handling and accounting of all gross receipts and adjusted gross receipts from gambling. The representative shall supervise and check the admissions. The compensation of a representative shall be fixed by the commission but shall be paid by the licensee.

d. With the approval of the commission, a licensee under section 99F.7A shall cooperate with investigations conducted by sports governing bodies, including but not limited to providing or facilitating the provision of account-level betting information and audio or video files relating to persons placing wagers. However, a licensee shall not share information that would interfere with an ongoing criminal investigation.

3. Except as provided in subsection 4, the books and records kept by a licensee as provided by this section are public records and the examination, publication, and dissemination of the books and records are governed by the provisions of chapter 22.

4. The records of the commission shall be governed by the provisions of chapter 22, provided that, in addition to records that may be kept confidential pursuant to section 22.7, the following records provided by a licensee to the commission shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

a. Promotional play receipts records.

b. Patron and customer records.

c. Surveillance records.

d. Security reports and network audits.

e. Internal control and compliance records.

f. Employee records.

g. Marketing expenses.

h. Supplemental schedules to the certified audit, except for those books and records as described in subsection 1 of this section, that are obtained by the commission in connection with the annual audit under section 99F.13.

i. Any information specifically requested for inspection by the commission or a representative of the commission.

89 Acts, ch 67, §12; 89 Acts, ch 139, §8; 2004 Acts, ch 1136, §51; 2007 Acts, ch 188, §16; 2008 Acts, ch 1032, §15; 2017 Acts, ch 22, §2, 3; 2019 Acts, ch 132, §17, 22, 23

Referred to in §99F.4A

99F.13 Annual audit of licensee operations.

Within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the licensee's total gambling operations, including an itemization of all expenses and subsidies. For a licensed subsidiary of a parent company, an audit of the parent company meets the requirements of this section. All audits shall be conducted by certified public accountants authorized to practice in the state of Iowa under chapter 542.

89 Acts, ch 67, §13; 91 Acts, ch 166, §7; 2001 Acts, ch 55, §22, 38; 2004 Acts, ch 1136, §52; 2009 Acts, ch 29, §2, 3; 2019 Acts, ch 89, §38

Referred to in §99F.9, 99F.12

99F.14 Annual report of commission.

The commission shall make an annual report to the governor, for the period ending December 31 of each year. Included in the report shall be an account of the commission's actions, its financial position and results of operation under this chapter, the practical results attained under this chapter, and any recommendations for legislation which the commission deems advisable.

89 Acts, ch 67, §14

99F.15 Prohibited activities — penalties.

1. A person is guilty of an aggravated misdemeanor for any of the following:

a. Operating a gambling excursion where wagering is used or to be used without a license issued by the commission.

b. Operating a gambling excursion where wagering is permitted other than in the manner specified by section 99F.9.

c. Acting, or employing a person to act, as a shill or decoy to encourage participation in a gambling game or sports wagering.

2. A person knowingly permitting a person under the age of twenty-one years to make a wager is guilty of a simple misdemeanor.

3. A person wagering or accepting a wager at any location outside an excursion gambling boat, gambling structure, or a racetrack enclosure is in violation of section 725.7.

4. A person commits a class "D" felony and, in addition, shall be barred for life from excursion gambling boats and gambling structures under the jurisdiction of the commission, if the person does any of the following:

a. Offers, promises, or gives anything of value or benefit to a person who is connected with an excursion gambling boat or gambling structure operator including, but not limited to, an officer or employee of a licensee or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.

b. Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with an excursion gambling boat or gambling structure including, but not limited to, an officer or employee of a licensee, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the commission.

c. Uses a device to assist in any of the following:

(1) In projecting the outcome of the game.

(2) In keeping track of the cards played.

(3) In analyzing the probability of the occurrence of an event relating to the gambling game.

(4) In analyzing the strategy for playing or betting to be used in the game except as permitted by the commission.

d. Cheats at a gambling game, including but not limited to committing any act which alters the outcome of the game, or cheats at sports wagering.

e. Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this chapter.

f. Instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of the chapter.

g. Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players.

h. Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games or sports wagering, with intent to defraud, without having made a wager contingent on winning a gambling game or sports wager, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won.

i. Knowingly entices or induces a person to go to any place where a gambling game or sports wagering is being conducted or operated in violation of the provisions of this chapter with the intent that the other person plays or participates in that gambling game or sports wagering.

j. Uses counterfeit chips or tokens in a gambling game.

k. Knowingly uses, other than chips, tokens, coin, or other methods or credit approved by the commission, legal tender of the United States of America, or uses coin not of the denomination as the coin intended to be used in the gambling games.

l. Has in the person's possession any device intended to be used to violate a provision of this chapter.

m. Has in the person's possession, except a gambling licensee or employee of a gambling licensee acting in furtherance of the employee's employment, any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of a gambling game.

5. The possession of more than one of the devices described in subsection 4, paragraphs "*c*", "*e*", "*l*", or "*m*", permits a rebuttable inference that the possessor intended to use the devices for cheating.

6. *a.* A person who places, removes, increases, or decreases a bet after acquiring knowledge of the outcome of the gambling game which is the subject of the bet or who aids a person in acquiring the knowledge for the purpose of placing, removing, increasing, or decreasing a bet contingent on that outcome commits the offense of unlawful betting.

b. (1) A person is guilty of a class "D" felony if the person commits the offense of unlawful betting where the potential winnings from the bet exceed one thousand dollars in value.

(2) A person is guilty of an aggravated misdemeanor if the person commits the offense of unlawful betting where the potential winnings from the bet exceed five hundred dollars in value but do not exceed one thousand dollars in value.

(3) A person is guilty of a serious misdemeanor if the person commits the offense of unlawful betting where the potential winnings from the bet exceed two hundred dollars in value but do not exceed five hundred dollars in value.

(4) A person is guilty of a simple misdemeanor if the person commits the offense of unlawful betting where the potential winnings from the bet do not exceed two hundred dollars in value.

c. Two convictions of the offense of unlawful betting as provided in this subsection shall result in the person being barred for life from excursion gambling boats and gambling structures under the jurisdiction of the commission.

7. Except for wagers on gambling games or exchanges for money as provided in section

99F.9, subsection 3, a licensee who exchanges tokens, chips, or other forms of credit to be used on gambling games for anything of value commits a simple misdemeanor.

89 Acts, ch 67, §15; 89 Acts, ch 139, §9; 91 Acts, ch 144, §2; 94 Acts, ch 1021, §27, 28; 2007 Acts, ch 188, §17 – 19; 2014 Acts, ch 1026, §138; 2015 Acts, ch 44, §1 – 3; 2016 Acts, ch 1073, §30; 2019 Acts, ch 132, §18, 19, 22, 23

99F.16 Forfeiture of property.

1. Anything of value, including all traceable proceeds including but not limited to real and personal property, moneys, negotiable instruments, securities, and conveyances, is subject to forfeiture to the state of Iowa if the item was used for any of the following:

a. In exchange for a bribe intended to affect the outcome of a gambling game.

b. In exchange for or to facilitate a violation of this chapter.

2. Except for coins authorized in section 99F.9, subsection 3, all moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

3. Subsections 1 and 2 do not apply if the act or omission which would give rise to the forfeiture was committed or omitted without the owner's knowledge or consent.

4. Upon receipt of forfeited property, the county attorney or attorney general shall permit an owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty days the option is terminated, unless the time for exercising the option is extended by the county attorney or attorney general.

5. A person having a valid, recorded lien or property interest in forfeited property, which has not been purchased pursuant to subsection 4, shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

6. This section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by criminal use, caused the property to become forfeited to the state.

89 Acts, ch 67, §16; 91 Acts, ch 167, §1; 94 Acts, ch 1021, §29; 2014 Acts, ch 1026, §139

99F.17 Distributors and manufacturers — licenses.

1. A manufacturer or distributor of gambling games or implements of gambling shall annually apply for a license upon a form prescribed by the commission before the first day of April in each year and shall submit the appropriate license fee. An applicant shall provide the necessary information as the commission requires. The license fee for a distributor is one thousand dollars, and the license fee for a manufacturer is two hundred fifty dollars. The license fees shall be credited to the general fund of the state as provided for in section 99F.4, subsection 2.

2. A licensee shall acquire all gambling games or implements of gambling from a distributor licensed pursuant to this chapter. A licensee shall not sell or give gambling games or implements of gambling to another licensee.

3. A licensee shall not be a manufacturer or distributor of gambling games or implements of gambling.

4. The commission may suspend or revoke the license of a distributor or manufacturer for a violation of this chapter or a rule adopted pursuant to this chapter committed by the distributor or manufacturer or an officer, director, employee, or agent of the manufacturer or distributor.

5. The manufacturer or distributor of gambling games or implements of gambling shall provide the commission with written notice showing the items shipped to the licensee.

6. Subsection 2 does not apply in the following cases, if approved by the commission:

a. Gambling games or implements of gambling previously installed in a gambling location licensed in another jurisdiction.

b. Gambling games or implements of gambling previously installed in a gambling location licensed in this state.

89 Acts, ch 67, §17; 92 Acts, ch 1203, §18; 94 Acts, ch 1100, §6, 7; 94 Acts, ch 1107, §37; 2004 Acts, ch 1136, §53

Referred to in §99F.17A

99F.17A Inspection of gambling games or implements of gambling.

A licensed manufacturer or distributor of gambling games or implements of gambling shall deliver the gambling games or implements of gambling to a location approved by the commission for inspection and approval prior to being placed in operation. Gambling games or implements of gambling acquired pursuant to section 99F.17, subsection 6, shall be inspected and approved by the commission prior to being placed in operation. Gambling games or implements of gambling passing inspection and receiving approval may then be placed in operation on an excursion gambling boat.

92 Acts, ch 1207, §3; 94 Acts, ch 1100, §8

99F.18 Tax on winnings.

All winnings derived from slot machines operated pursuant to this chapter are Iowa earned income and are subject to state and federal income tax laws. An amount deducted from winnings for payment of the state tax, pursuant to section 422.16, subsection 1, shall be remitted to the department of revenue on behalf of the winner.

92 Acts, 2nd Ex, ch 1001, §235; 2003 Acts, ch 145, §286

99F.19 Setoff.

1. A licensee or a person acting on behalf of a licensee shall be provided electronic access to the names of the persons indebted to a claimant agency pursuant to the process established pursuant to section 99F.4, subsection 26. The electronic access provided by the claimant agency shall include access to the names of the debtors, their social security numbers, and any other information that assists the licensee in identifying the debtors. If the name of a debtor provided to the licensee through electronic access is retrieved by the licensee and the winnings are required to be reported on internal revenue service form W-2G for gambling winnings, the retrieval of such a name shall constitute a valid lien upon and claim of lien against the winnings of the debtor whose name is electronically retrieved from the claimant agency. If a debtor's winnings are required to be reported on internal revenue service form W-2G for gambling winnings, the full amount of the debt shall be collectible from any winnings due the debtor without regard to limitations on the amounts that may be collectible in increments through setoff or other proceedings.

2. The licensee is authorized and directed to withhold any winnings of a debtor which are paid out directly by the licensee subject to the lien created by this section and provide notice of such withholding to the winner when the winner appears and claims winnings in person. The licensee shall pay the funds over to the collection entity which administers the setoff program pursuant to section 8A.504.

3. Notwithstanding any other provision of law to the contrary, the licensee may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section, and likewise the claimant agency may provide all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the licensee in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. An employee or prior employee of a claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the claimant agency.

5. The information obtained by a licensee from a claimant agency in accordance with this section shall retain its confidentiality and only be used by the licensee in the pursuit of debt collection duties and practices. An employee or prior employee of a licensee who unlawfully

discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the licensee.

6. Except as otherwise provided in this chapter, attachments, setoffs, or executions authorized and issued pursuant to law shall be withheld if timely served upon the licensee.

7. A claimant agency or licensee, acting in good faith, shall not be liable to any person for actions taken pursuant to this section.

2008 Acts, ch 1172, §6; 2010 Acts, ch 1031, §173, 174; 2020 Acts, ch 1066, §5

For future amendment to subsection 2 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §7, 28; 2020 Acts, ch 1118, §73, 74

99F.20 Gaming regulatory revolving fund.

1. A gaming regulatory revolving fund is created in the state treasury under the control of the department of inspections and appeals. The fund shall consist of fees collected and deposited into the fund paid by licensees pursuant to section 99D.14, subsection 2, paragraph *"c"*, fees paid by licensees pursuant to section 99E.5, subsection 4, paragraph *"c"*, regulatory fees paid by licensees pursuant to section 99F.4, subsection 27, and fees paid by licensees pursuant to section 99F.10, subsection 4, paragraph *"c"*. All costs relating to racetrack, excursion boat, gambling structure, internet fantasy sports contests as defined in section 99E.1, and sports wagering regulation shall be paid from the fund as provided in appropriations made for this purpose by the general assembly. The department shall provide quarterly reports to the department of management and the legislative services agency specifying revenues billed and collected and expenditures from the fund in a format as determined by the department of management in consultation with the legislative services agency.

2. To meet the department's cash flow needs, the department may temporarily use funds from the general fund of the state to pay expenses in excess of moneys available in the revolving fund if those additional expenditures are fully reimbursable and the department reimburses the general fund of the state and ensures all moneys are repaid in full by the close of the fiscal year. Notwithstanding any provision to the contrary, the department shall, to the fullest extent possible, make an estimate of billings and make such billings as early as possible in each fiscal year, so that the need for the use of general fund moneys is minimized to the lowest extent possible. Periodic billings shall be deemed sufficient to satisfy this requirement. Because any general fund moneys used shall be fully reimbursed, such temporary use of funds from the general fund of the state shall not constitute an appropriation for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54.

3. Section 8.33 does not apply to any moneys credited or appropriated to the revolving fund from any other fund.

4. The establishment of the revolving fund pursuant to this section shall not be interpreted in any manner to compromise or impact the accountability of, or limit authority with respect to, the department under state law. Any provision applicable to, or responsibility of, the department shall not be altered or impacted by the existence of the fund and shall remain applicable to the same extent as if the department were receiving moneys pursuant to a general fund appropriation. The department shall comply with directions by the governor to executive branch departments regarding restrictions on out-of-state travel, hiring justifications, association memberships, equipment purchases, consulting contracts, and any other expenditure efficiencies that the governor deems appropriate.

2011 Acts, ch 127, §48, 89; 2019 Acts, ch 132, §20, 22, 23

Referred to in §99D.14, 99E.5, 99F.4, 99F.10

CHAPTER 99G

IOWA LOTTERY AUTHORITY

Referred to in §99A.10, 99B.1, 99F.2, 123.49, 232C.4, 422.16, 423.3, 537A.4, 714B.10, 725.9, 725.15

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99G.1 Title.

This chapter may be cited as the *"Iowa Lottery Authority Act"*.

2003 Acts, ch 178, §63, 121; 2003 Acts, ch 179, §142

99G.2 Statement of purpose and intent.

The general assembly finds and declares the following:

1. That net proceeds of lottery games conducted pursuant to this chapter should be transferred to the general fund of the state in support of a variety of programs and services.

2. That lottery games are an entrepreneurial enterprise and that the state should create a public instrumentality of the state in the form of a nonprofit authority known as the Iowa lottery authority with comprehensive and extensive powers to operate a state lottery in an entrepreneurial and businesslike manner and which is accountable to the governor, the general assembly, and the people of the state through a system of audits, reports, legislative oversight, and thorough financial disclosure as required by this chapter.

3. That lottery games shall be operated and managed in a manner that provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free from political influence.

2003 Acts, ch 178, §64, 121; 2003 Acts, ch 179, §142

99G.3 Definitions.

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

1. *"Administrative expenses"* includes, but is not limited to, personnel costs, travel, purchase of equipment, and all other expenses not directly associated with the operation or sale of a game.

2. *"Authority"* means the Iowa lottery authority.

3. *"Board"* means the board of directors of the authority.

4. *"Chief executive officer"* means the chief executive officer of the authority.

5. *"Game specific rules"* means rules governing the particular features of specific games, including, but not limited to, setting the name, ticket price, prize structure, and prize claim period of the game.

6. *"Instant lottery"* or *"instant ticket"* means a game that offers preprinted tickets such that when a protective coating is scratched or scraped away, it indicates immediately whether the player has won.

7. *"Lottery"*, *"lotteries"*, *"lottery game"*, *"lottery games"*, or *"lottery products"* means any game of chance approved by the board and operated pursuant to this chapter and games using mechanical or electronic devices, provided that the authority shall not authorize a monitor vending machine or a player-activated gaming machine that utilizes an internal randomizer to determine winning and nonwinning plays and that upon random internal selection of a winning play dispenses coins, currency, or a ticket, credit, or token to the player that is redeemable for cash or a prize, and excluding gambling or gaming conducted pursuant to chapter 99B, 99D, or 99F.

8. *"Major procurement contract"* means a consulting agreement or a contract with a business organization for the printing of tickets or the purchase or lease of equipment or services essential to the operation of a lottery game.

9. *"Monitor vending machine"* means a machine or other similar electronic device that includes a video monitor and audio capabilities that dispenses to a purchaser lottery tickets that have been determined to be winning or losing tickets by a predetermined pool drawing machine prior to the dispensing of the tickets.

10. *"Net proceeds"* means all revenue derived from the sale of lottery tickets or shares and all other moneys derived from the lottery, less operating expenses.

11. *"On-line lotto"* means a lottery game connected to a central computer via telecommunications in which the player selects a specified group of numbers, symbols, or characters out of a predetermined range.

12. *"Operating expenses"* means all costs of doing business, including, but not limited to, prizes and associated prize reserves, computerized gaming system vendor expense, instant and pull-tab ticket expense, and other expenses directly associated with the operation or sale of any game, compensation paid to retailers, advertising and marketing costs, and administrative expenses.

13. *"Pull-tab ticket"* or *"pull-tab"* means a game that offers preprinted paper tickets with the play data hidden beneath a protective tab or seal that when opened reveals immediately whether the player has won.

14. *"Retailer"* means a person who sells lottery tickets or shares on behalf of the authority pursuant to a license issued by the authority.

15. *"Self-service kiosk"* means a machine or other similar electronic device that dispenses only on-line lotto tickets, instant tickets, pull-tab tickets, or other printed lottery products, and that does not provide a visual or audio representation of lottery game play. A *"self-service kiosk"* is not a monitor vending machine or player-activated gaming machine for purposes of this chapter.

16. *"Share"* means any intangible evidence of participation in a lottery game.

17. *"Ticket"* means any tangible evidence issued by the lottery to provide participation in a lottery game.

18. *"Vendor"* means a person who provides or proposes to provide goods or services to the authority pursuant to a major procurement contract, but does not include an employee of the authority, a retailer, or a state agency or instrumentality thereof.

2003 Acts, ch 178, §65, 121; 2003 Acts, ch 179, §142; 2006 Acts, ch 1005, §1, 2, 4, 5; 2016 Acts, ch 1031, §1, 3; 2021 Acts, ch 94, §1

Referred to in §725.12
Subsection 14 amended

99G.4 Iowa lottery authority created.

1. An Iowa lottery authority is created, effective September 1, 2003, which shall administer the state lottery. The authority shall be deemed to be a public authority and an instrumentality

of the state, and not a state agency. However, the authority shall be considered a state agency for purposes of chapters 17A, 21, 22, 28E, 68B, 91B, 97B, 509A, and 669.

2. The income and property of the authority shall be exempt from all state and local taxes, and the sale of lottery tickets and shares issued and sold by the authority and its retail licensees shall be exempt from all state and local sales taxes.

2003 Acts, ch 178, §66, 121; 2003 Acts, ch 179, §142

99G.5 Chief executive officer.

The chief executive officer of the authority shall be appointed by the governor subject to confirmation by the senate and shall serve a four-year term of office beginning and ending as provided in section 69.19. The chief executive officer shall be qualified by training and experience to manage a lottery. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office. Compensation and employment terms of the chief executive officer shall be set by the governor, taking into consideration the officer's level of education and experience, as well as the success of the lottery. The chief executive officer shall be an employee of the authority and shall direct the day-to-day operations and management of the authority and be vested with such powers and duties as specified by the board and by law.

2003 Acts, ch 178, §67, 121; 2003 Acts, ch 179, §142

Confirmation, see §2.32

99G.6 Power to administer oaths and take testimony — subpoena.

The chief executive officer or the chief executive officer's designee if authorized to conduct an inquiry, investigation, or hearing under this chapter may administer oaths and take testimony under oath relative to the matter of inquiry, investigation, or hearing. At a hearing ordered by the chief executive officer, the chief executive officer or the designee may subpoena witnesses and require the production of records, paper, or documents pertinent to the hearing.

2003 Acts, ch 178, §68, 121; 2003 Acts, ch 179, §142

99G.7 Duties of the chief executive officer.

1. The chief executive officer of the authority shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the administrative rules, policies, and procedures adopted by the board. The chief executive officer shall do all of the following:

a. Facilitate the initiation and supervise and administer the operation of the lottery games.

b. Employ an executive vice president, who shall act as chief executive officer in the absence of the chief executive officer, and employ and direct other such personnel as deemed necessary.

c. Contract with and compensate such persons and firms as deemed necessary for the operation of the lottery.

d. Promote or provide for promotion of the lottery and any functions related to the authority.

e. Prepare a budget for the approval of the board.

f. Require bond from such retailers and vendors in such amounts as required by the board.

g. Report semiannually to the general assembly's standing committees on government oversight regarding the operations of the authority.

h. Report quarterly and annually to the board, the governor, the auditor of state, and the general assembly a full and complete statement of lottery revenues and expenses for the preceding quarter, and with respect to the annual report, for the preceding year, and transfer proceeds to the general fund within thirty days following the end of the quarter.

i. Perform other duties generally associated with a chief executive officer of an authority of an entrepreneurial nature.

2. The chief executive officer shall conduct an ongoing study of the operation and administration of lottery laws similar to this chapter in other states or countries, of available

literature on the subject, of federal laws and regulations which may affect the operation of the lottery and of the reaction of citizens of this state to existing or proposed features of lottery games with a view toward implementing improvements that will tend to serve the purposes of this chapter.

3. The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the administrative rules, policies, and procedures of the board.

4. The chief executive officer or the chief executive officer's designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

2003 Acts, ch 178, §69, 121; 2003 Acts, ch 179, §142; 2010 Acts, ch 1069, §10

99G.8 Board of directors.

1. The authority shall be administered by a board of directors comprised of five members appointed by the governor subject to confirmation by the senate. Board members appointed when the senate is not in session shall serve only until the end of the next regular session of the general assembly, unless confirmed by the senate.

2. Board members shall serve staggered terms of four years beginning and ending as provided in section 69.19. No more than three board members shall be from the same political party.

3. Board members may be removed by the governor for neglect of duty, misfeasance, or nonfeasance in office.

4. No officer or employee of the authority shall be a member of the board.

5. Board members shall be residents of the state of Iowa, shall be prominent persons in their respective businesses or professions, and shall not have been convicted of any felony offense. Of the members appointed, the governor shall appoint to the board an attorney admitted to the practice of law in Iowa, an accountant, a person who is or has been a law enforcement officer, and a person having expertise in marketing.

6. A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the authority.

7. Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

8. No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

9. Board members shall be considered to hold public office and shall give bond as required in chapter 64.

10. Board members shall be entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties as members. No person who serves as a member of the board shall by reason of such membership be eligible for membership in the Iowa public employees' retirement system and service on the board shall not be eligible for service credit for any public retirement system.

11. The board shall meet at least quarterly and at such other times upon call of the chairperson or the chief executive officer. Notice of the time and place of each board meeting shall be given to each member. The board shall also meet upon call of three or more of the board members. The board shall keep accurate and complete records of all its meetings.

12. Meetings of the board shall be governed by the provisions of chapter 21.

13. Board members shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the authority including but not limited to an interest in a major procurement contract or a participating retailer.

14. The members shall elect from their membership a chairperson and vice chairperson.

15. The board of directors may delegate to the chief executive officer of the authority such

powers and duties as it may deem proper to the extent such delegation is not inconsistent with the Constitution of the State of Iowa.

2003 Acts, ch 178, §70, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1086, §25; 2004 Acts, ch 1101, §19; 2006 Acts, ch 1010, §49

Confirmation, see §2.32

99G.9 Board duties.

The board shall provide the chief executive officer with private-sector perspectives of a large marketing enterprise. The board shall do all of the following:

1. Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the authority.

2. Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer.

3. Adopt policies and procedures and promulgate administrative rules pursuant to chapter 17A relating to the management and operation of the authority. The administrative rules promulgated pursuant to this subsection may include but shall not be limited to the following:

a. The type of games to be conducted.

b. The sale price of tickets or shares and the manner of sale, including but not limited to authorization of sale of tickets or shares at a discount for marketing purposes; provided, however, that a retailer may accept payment by cash, check, money order, debit card, or electronic funds transfer and shall not extend or arrange credit for the purchase of a ticket or share. As used in this section, *"cash"* means United States currency.

c. The number and amount of prizes, including but not limited to prizes of free tickets or shares in lottery games conducted by the authority and merchandise prizes. The authority shall maintain and make available for public inspection at its offices during regular business hours a detailed listing of the estimated number of prizes of each particular denomination that are expected to be awarded in any game that is on sale or the estimated odds of winning the prizes and, after the end of the claim period, shall maintain and make available a listing of the total number of tickets or shares sold in a game and the number of prizes of each denomination that were awarded.

d. The method and location of selecting or validating winning tickets or shares.

e. The manner and time of payment of prizes, which may include lump-sum payments or installments over a period of years.

f. The manner of payment of prizes to the holders of winning tickets or shares after performing validation procedures appropriate to the game and as specified by the board.

g. The frequency of games and drawings or selection of winning tickets or shares.

h. The means of conducting drawings, provided that drawings shall be open to the public and witnessed by an independent certified public accountant. Equipment used to select winning tickets or shares or participants for prizes shall be examined by an independent certified public accountant prior to and after each drawing.

i. The manner and amount of compensation to lottery retailers.

j. Any and all other matters necessary, desirable, or convenient toward ensuring the efficient and effective operation of lottery games, the continued entertainment and convenience of the public, and the integrity of the lottery.

4. Adopt game specific rules. The promulgation of game specific rules shall not be subject to the requirements of chapter 17A. However, game specific rules shall be made available to the public prior to the time the games go on sale and shall be kept on file at the office of the authority.

5. Perform such other functions as specified by this chapter.

2003 Acts, ch 178, §71, 121; 2003 Acts, ch 179, §108, 142

99G.9A Limited series of lottery games providing aid for veterans. Repealed by 2015 Acts, ch 15, §4.

99G.10 Authority personnel.

1. All employees of the authority shall be considered public employees.

2. Subject to the approval of the board, the chief executive officer shall have the sole power to designate particular employees as key personnel, but may take advice from the department of administrative services in making any such designations. All key personnel shall be exempt from the merit system described in chapter 8A, subchapter IV. The chief executive officer and the board shall have the sole power to employ, classify, and fix the compensation of key personnel. All other employees shall be employed, classified, and compensated in accordance with chapter 8A, subchapter IV, and chapter 20.

3. The chief executive officer and the board shall have the exclusive power to determine the number of full-time equivalent positions, as defined in chapter 8, necessary to carry out the provisions of this chapter.

4. The chief executive officer shall have the sole responsibility to assign duties to all authority employees.

5. The authority may establish incentive programs for authority employees.

6. An employee of the authority shall not have a financial interest in any vendor doing business or proposing to do business with the authority. However, an employee may own shares of a mutual fund which may hold shares of a vendor corporation provided the employee does not have the ability to influence the investment functions of the mutual fund.

7. An employee of the authority with decision-making authority shall not participate in any decision involving a retailer with whom the employee has a financial interest.

8. A background investigation shall be conducted by the department of public safety, division of criminal investigation, on each applicant who has reached the final selection process prior to employment by the authority. For positions not designated as sensitive by the board, the investigation may consist of a state criminal history background check, work history, and financial review. The board shall identify those sensitive positions of the authority which require full background investigations, which positions shall include, at a minimum, any officer of the authority, and any employee with operational management responsibilities, security duties, or system maintenance or programming responsibilities related to the authority's data processing or network hardware, software, communication, or related systems. In addition to a work history and financial review, a full background investigation may include a national criminal history check through the federal bureau of investigation. The screening of employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history repository to the federal bureau of investigation. The results of background investigations conducted pursuant to this section shall not be considered public records under chapter 22.

9. A person who has been convicted of a felony or bookmaking or other form of illegal gambling or of a crime involving moral turpitude shall not be employed by the authority.

10. The authority shall bond authority employees with access to authority funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

2003 Acts, ch 145, §286; 2003 Acts, ch 178, §72, 121; 2003 Acts, ch 179, §60, 84, 142; 2004 Acts, ch 1086, §26

99G.11 Conflicts of interest.

1. A member of the board, any officer, or other employee of the authority shall not directly or indirectly, individually, as a member of a partnership or other association, or as a shareholder, director, or officer of a corporation have an interest in a business that contracts for the operation or marketing of the lottery as authorized by this chapter, unless the business is controlled or operated by a consortium of lotteries in which the authority has an interest.

2. Notwithstanding the provisions of chapter 68B, a person contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of the lottery, an applicant for a license to sell tickets or shares in the lottery, or a retailer shall not offer a member of the board, any officer, or other employee of the authority, or a member of their immediate family a gift, gratuity, or other thing having a value of more than the limits established in chapter 68B, other than food and beverage consumed at a meal. For purposes of this subsection, "*member of their immediate family*" means a spouse, child, stepchild,

brother, brother-in-law, stepbrother, sister, sister-in-law, stepsister, parent, parent-in-law, or step-parent of the board member, the officer, or other employee who resides in the same household in the same principal residence of the board member, officer, or other employee.

3. If a board member, officer, or other employee of the authority violates a provision of this section, the board member, officer, or employee shall be immediately removed from the office or position.

4. Enforcement of this section against a board member, officer, or other employee shall be by the attorney general who upon finding a violation shall initiate an action to remove the board member, officer, or employee.

5. A violation of this section is a serious misdemeanor.

2003 Acts, ch 178, §73, 121; 2003 Acts, ch 179, §142

99G.12 Self-service kiosks.

1. The authority may operate self-service kiosks to dispense authorized lottery tickets or products in locations where lottery games and lottery products are sold, subject to the requirements of this chapter.

2. A self-service kiosk operated to dispense authorized lottery tickets or products shall meet all of the following requirements:

a. The self-service kiosk shall be owned or leased by the authority.

b. The self-service kiosk shall only be located in a retail location licensed by the authority pursuant to this chapter. The authority shall determine, in its sole discretion, the placement of the self-service kiosk.

c. The self-service kiosk may dispense change to a purchaser but shall not be used to dispense cash winnings for a lottery ticket or product to a player.

d. The self-service kiosk shall not extend or arrange credit for the purchase of a lottery ticket or product.

2016 Acts, ch 1031, §2, 3

99G.13 through 99G.20 Reserved.

99G.21 Authority powers, transfer of assets, liabilities, and obligations.

1. Funds of the state shall not be used or obligated to pay the expenses or prizes of the authority.

2. The authority shall have any and all powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter which are not in conflict with the Constitution of the State of Iowa, including, but without limiting the generality of the foregoing, the following powers:

a. To sue and be sued and to complain and defend in all courts.

b. To adopt and alter a seal.

c. To procure or to provide insurance.

d. To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto.

e. To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this chapter and administrative rules, policies, and procedures adopted pursuant thereto.

f. To enter into written agreements with one or more other states or territories of the United States, or one or more political subdivisions of another state or territory of the United States, or any entity lawfully operating a lottery outside the United States for the operation, marketing, and promotion of a joint lottery or joint lottery game. For the purposes of this subsection, any lottery with which the authority reaches an agreement or compact shall meet the criteria for security, integrity, and finance set by the board.

g. To conduct such market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game, and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication.

h. Subject to the provisions of subsection 3, to acquire or lease real property and make

improvements thereon and acquire by lease or by purchase, personal property, including but not limited to computers; mechanical, electronic, and on-line equipment and terminals; and intangible property, including but not limited to computer programs, systems, and software.

i. Subject to the provisions of subsection 3, to enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial bank or credit provider.

j. To select and contract with vendors and retailers.

k. To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks.

l. To enter into contracts of any and all types on such terms and conditions as the authority may determine necessary.

m. To establish and maintain banking relationships, including but not limited to establishment of checking and savings accounts and lines of credit.

n. To advertise and promote the lottery and lottery games.

o. To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise.

p. Notwithstanding any other provision of law to the contrary, to purchase meals for attendees at authority business meetings.

q. To exercise all powers generally exercised by private businesses engaged in entrepreneurial pursuits, unless the exercise of such a power would violate the terms of this chapter or of the Constitution of this state.

3. Notwithstanding any other provision of law, any purchase of real property and any borrowing of more than one million dollars by the authority shall require written notice from the authority to the general assembly's standing committees on government oversight and the prior approval of the executive council.

4. The powers enumerated in this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter and no such powers limit or restrict any other powers of the authority.

5. Departments, boards, commissions, or other agencies of this state shall provide reasonable assistance and services to the authority upon the request of the chief executive officer.

2003 Acts, ch 178, §74, 121; 2003 Acts, ch 179, §142; 2006 Acts, ch 1010, §50; 2010 Acts, ch 1069, §11

99G.22 Vendor background review.

1. The authority shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement contract. Before a major procurement contract is awarded, the division of criminal investigation of the department of public safety shall conduct a background investigation of the vendor to whom the contract is to be awarded. The chief executive officer and board shall consult with the division of criminal investigation and shall provide for the scope of the background investigation and due diligence to be conducted in connection with major procurement contracts. At the time of submitting a bid, proposal, or offer to the authority on a major procurement contract, the authority shall require that each vendor submit to the division of criminal investigation appropriate investigation authorization to facilitate this investigation, together with an advance of funds to meet the anticipated investigation costs. If the division of criminal investigation determines that additional funds are required to complete an investigation, the vendor will be so advised. The background investigation by the division of criminal investigation may include a national criminal history check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history repository to the federal bureau of investigation.

2. If at least twenty-five percent of the cost of a vendor's contract is subcontracted, the

vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

3. A major procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in this section, and any contract with such a vendor is voidable at the option of the authority. Any contract with a vendor that does not comply with the requirements for periodically updating such disclosures during the tenure of the contract as may be specified in such contract may be terminated by the authority. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the authority of the competence, integrity, background, and character of vendors for major procurements.

4. A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

5. A major procurement contract shall not be entered into with any vendor if such vendor has an ownership interest in an entity that had supplied consultation services under contract to the authority regarding the request for proposals pertaining to those particular goods or services.

6. If, based on the results of a background investigation, the board determines that the best interests of the authority, including but not limited to the authority's reputation for integrity, would be served thereby, the board may disqualify a potential vendor from contracting with the authority for a major procurement contract or from acting as a subcontractor in connection with a contract for a major procurement contract.

2003 Acts, ch 178, §75, 121; 2003 Acts, ch 179, §61, 142

99G.23 Vendor bonding, tax filing, and competitive bidding.

1. The authority may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The authority may make procurements that integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the authority shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for state programs.

2. Each vendor shall, at the execution of the contract with the authority, post a performance bond or letter of credit from a bank or credit provider acceptable to the authority in an amount as deemed necessary by the authority for that particular bid or contract.

3. Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state.

4. All major procurement contracts must be competitively bid pursuant to policies and procedures approved by the board unless there is only one qualified vendor and that vendor has an exclusive right to offer the service or product.

2003 Acts, ch 178, §76, 121; 2003 Acts, ch 179, §142

99G.24 Retailer compensation — licensing.

1. The general assembly recognizes that to conduct a successful lottery, the authority must develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

2. The board shall determine the compensation to be paid to licensed retailers. Compensation may include provision for variable payments based on sales volume or incentive considerations.

3. The authority shall issue a license certificate to each person with whom it contracts as a retailer for purposes of display as provided in this section. Every lottery retailer shall post its license certificate, or a facsimile thereof, and keep it conspicuously displayed in a location on the premises accessible to the public. No license shall be assignable or transferable.

Once issued, a license shall remain in effect until canceled, suspended, or terminated by the authority.

4. A licensee shall cooperate with the authority by using point-of-purchase materials, posters, and other marketing material when requested to do so by the authority. Lack of cooperation is sufficient cause for revocation of a retailer's license.

5. The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and on-line retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The criteria shall include but not be limited to the volume of expected sales and the sufficiency of existing licensees to serve the public convenience.

6. The applicant shall be current in filing all applicable tax returns to the state of Iowa and in payment of all taxes, interest, and penalties owed to the state of Iowa, excluding items under formal appeal pursuant to applicable statutes. The department of revenue is authorized and directed to provide this information to the authority.

7. A person, partnership, unincorporated association, authority, or other business entity shall not be selected as a lottery retailer if the person or entity meets any of the following conditions:

a. Has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction.

b. Has been convicted of any illegal gambling activity, false statements, perjury, fraud, or a felony in this or any other jurisdiction.

c. Has been found to have violated the provisions of this chapter or any regulation, policy, or procedure of the authority or of the lottery division unless either ten years have passed since the violation or the board finds the violation both minor and unintentional in nature.

d. Is a vendor or any employee or agent of any vendor doing business with the authority.

e. Resides in the same household as an officer of the authority.

f. Is less than eighteen years of age.

g. Does not demonstrate financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.

h. Has not demonstrated that the applicant is the true owner of the business proposed to be licensed and that all persons holding at least a ten percent ownership interest in the applicant's business have been disclosed.

i. Has knowingly made a false statement of material fact to the authority.

8. Persons applying to become lottery retailers may be charged a uniform application fee for each lottery outlet.

9. Any lottery retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the chief executive officer or the chief executive officer's designee if the retailer is found to have violated any provision of this chapter or objective criteria established by the board. Cause for suspension, revocation, or termination may include, but is not limited to, sale of tickets or shares to a person under the age of twenty-one and failure to pay for lottery products in a timely manner.

2003 Acts, ch 145, §286; 2003 Acts, ch 178, §77, 121; 2003 Acts, ch 179, §142

99G.25 License not assignable.

Any lottery retailer license certificate or contract shall not be transferable or assignable. The authority may issue a temporary license when deemed in the best interests of the state. A lottery retailer shall not contract with any person for lottery goods or services, except with the approval of the board.

2003 Acts, ch 178, §78, 121; 2003 Acts, ch 179, §142

99G.26 Retailer bonding.

The authority may require any retailer to post an appropriate bond, as determined by the authority, using a cash bond or an insurance company acceptable to the authority.

2003 Acts, ch 178, §79, 121; 2003 Acts, ch 179, §142

99G.27 Lottery retail licenses — cancellation, suspension, revocation, or termination.

1. A lottery retail license issued by the authority pursuant to this chapter may be canceled, suspended, revoked, or terminated by the authority for reasons including, but not limited to, any of the following:

a. A violation of this chapter, a regulation, or a policy or procedure of the authority.

b. Failure to accurately or timely account or pay for lottery products, lottery games, revenues, or prizes as required by the authority.

c. Commission of any fraud, deceit, or misrepresentation.

d. Insufficient sales.

e. Conduct prejudicial to public confidence in the lottery.

f. The retailer filing for or being placed in bankruptcy or receivership.

g. Any material change as determined in the sole discretion of the authority in any matter considered by the authority in executing the contract with the retailer.

h. Failure to meet any of the objective criteria established by the authority pursuant to this chapter.

i. Other conduct likely to result in injury to the property, revenue, or reputation of the authority.

2. A lottery retailer license may be temporarily suspended by the authority without prior notice if the chief executive officer or designee determines that further sales by the licensed retailer are likely to result in immediate injury to the property, revenue, or reputation of the authority.

3. The board shall adopt administrative rules governing appeals of lottery retailer licensing disputes.

2003 Acts, ch 178, §80, 121; 2003 Acts, ch 179, §142

99G.28 Proceeds held in trust.

All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the authority directly, through electronic funds transfer to the authority, or through the authority's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold products received but not paid for by a lottery retailer and cash proceeds of the sale of any lottery products net of allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers. Sales proceeds of pull-tab tickets shall include the sales price of the lottery product net of allowable sales commission and prizes contained in the product. Sales proceeds and unused instant tickets shall be delivered to the authority or its authorized collection representative upon demand.

2003 Acts, ch 178, §81, 121; 2003 Acts, ch 179, §142

99G.29 Retailer rental calculations — lottery ticket sales treatment.

If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state-operated or state-managed lottery, only the compensation received by the lottery retailer from the authority may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

2003 Acts, ch 178, §82, 121; 2003 Acts, ch 179, §142

99G.30 Ticket sales requirements — penalties.

1. Lottery tickets or shares may be distributed by the authority for promotional purposes.

2. A ticket or share shall not be sold at a price other than that fixed by the authority and a sale shall not be made other than by a retailer or an employee of the retailer who is authorized by the retailer to sell tickets or shares. A person who violates a provision of this subsection is guilty of a simple misdemeanor.

3. A ticket or share shall not be sold to a person who has not reached the age of twenty-one. Any person who knowingly sells a lottery ticket or share to a person under the

age of twenty-one shall be guilty of a simple misdemeanor. It shall be an affirmative defense to a charge of a violation under this section that the retailer reasonably and in good faith relied upon presentation of proof of age in making the sale. A prize won by a person who has not reached the age of twenty-one but who purchases a winning ticket or share in violation of this subsection shall be forfeited. This section does not prohibit the lawful purchase of a ticket or share for the purpose of making a gift to a person who has not reached the age of twenty-one. The board shall adopt administrative rules governing the payment of prizes to persons who have not reached the age of twenty-one.

4. Except for the authority, a retailer shall only sell lottery products on the licensed premises and not through the mail or by technological means except as the authority may provide or authorize.

5. The retailer may accept payment by cash, check, money order, debit card, or electronic funds transfer. The retailer shall not extend or arrange credit for the purchase of a ticket or share. As used in this subsection, *"cash"* means United States currency.

6. Nothing in this chapter shall be construed to prohibit the authority from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

7. No elected official's name shall be printed on tickets.

2003 Acts, ch 178, §83, 121; 2003 Acts, ch 179, §142

99G.30A Monitor vending machine — tax imposed.

1. If revenues are generated from monitor vending machines on or after forty-five days following March 20, 2006, then there shall be a monitor vending machine excise tax imposed on net monitor vending machine revenue receipts at the rate of sixty-five percent.

2. *a.* The director of revenue shall administer the monitor vending machine excise tax as nearly as possible in conjunction with the administration of state sales tax laws. The director shall provide appropriate forms or provide appropriate entries on the regular state tax forms for reporting local sales and services tax liability.

b. All powers and requirements of the director to administer the state sales and use tax law are applicable to the administration of the monitor vending machine excise tax, including but not limited to the provisions of section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70 through 422.75, section 423.14, subsection 1 and subsection 2, paragraphs *"b"* through *"e"*, and sections 423.15, 423.23, 423.24, 423.25, 423.31 through 423.35, 423.37 through 423.42, 423.46, and 423.47.

c. Frequency of deposits and quarterly reports of the monitor vending machine excise tax with the department of revenue are governed by the tax provisions in section 423.31. Monitor vending machine excise tax collections shall not be included in computation of the total tax to determine frequency of filing under section 423.31.

3. For purposes of this section, *"net monitor vending machine revenue receipts"* means the gross receipts received from monitor vending machines less prizes awarded.

2006 Acts, ch 1005, §3 – 5; 2008 Acts, ch 1032, §16

99G.31 Prizes.

1. The chief executive officer shall award the designated prize to the holder of the ticket or share upon presentation of the winning ticket or confirmation of a winning share. The prize shall be given to only one person as provided in this section; however, a prize shall be divided between holders of winning tickets if there is more than one winning ticket.

2. The authority shall only pay prizes for lottery tickets or shares that the authority determines were legally purchased, legally possessed, and legally presented.

3. The authority shall adopt administrative rules, policies, and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, subject to the following requirements:

a. The prize shall be given to the person who presents a winning ticket. A prize may be given to only one person per winning ticket. However, a prize shall be divided between holders of winning tickets if there is more than one winning ticket. Payment of a prize may be

made to the estate of a deceased prize winner or to another person pursuant to an appropriate judicial order issued by an Iowa court of competent jurisdiction.

b. A prize shall not be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received, or not recorded by the authority within applicable deadlines; lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or not in compliance with such additional specific administrative rules, policies, and public or confidential validation and security tests of the authority appropriate to the particular lottery game involved.

c. No particular prize in any lottery game shall be paid more than once, and in the event of a determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

d. Unclaimed prize money for the prize on a winning ticket or share shall be retained for a period deemed appropriate by the chief executive officer, subject to approval by the board. If a valid claim is not made for the money within the applicable period, the unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions. Notwithstanding this subsection, the disposition of unclaimed prize money from multijurisdictional games shall be made in accordance with the rules of the multijurisdictional game.

e. No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of this section.

f. The authority is discharged of all liability upon payment of a prize pursuant to this section.

g. No ticket or share issued by the authority shall be purchased by and no prize shall be paid to any member of the board of directors; any officer or employee of the authority; or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person.

h. No ticket or share issued by the authority shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

i. The proceeds of any lottery prize shall be subject to state and federal income tax laws. An amount deducted from the prize for payment of a state tax, pursuant to section 422.16, subsection 1, shall be transferred by the authority to the department of revenue on behalf of the prize winner.

2003 Acts, ch 145, §286; 2003 Acts, ch 178, §84, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1101, §20; 2021 Acts, ch 94, §2

Referred to in §99G.36

NEW subsection 2 and former subsection 2 renumbered as 3

99G.32 Authority legal representation.

The authority shall retain the services of legal counsel to advise the authority and the board and to provide representation in legal proceedings. The authority may retain the attorney general or a full-time assistant attorney general in that capacity and provide reimbursement for the cost of advising and representing the board and the authority.

2003 Acts, ch 178, §85, 121; 2003 Acts, ch 179, §142

99G.33 Law enforcement investigations.

The department of public safety, division of criminal investigation, shall be the primary state agency responsible for investigating criminal violations under this chapter. The chief executive officer shall contract with the department of public safety for investigative services, including the employment of special agents and support personnel, and procurement of necessary equipment to carry out the responsibilities of the division of criminal investigation under the terms of the contract and this chapter.

2003 Acts, ch 178, §86, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1086, §27

99G.34 Open records — exceptions.

The records of the authority shall be governed by the provisions of chapter 22, provided that, in addition to records that may be kept confidential pursuant to section 22.7, the following records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

1. Marketing plans, research data, and proprietary intellectual property owned or held by the authority under contractual agreements.
2. Personnel, vendor, and player social security or tax identification numbers.
3. Computer system hardware, software, functional and system specifications, and game play data files.
4. Security records pertaining to investigations and intelligence-sharing information between lottery security officers and those of other lotteries and law enforcement agencies, the security portions or segments of lottery requests for proposals, proposals by vendors to conduct lottery operations, and records of the security division of the authority pertaining to game security data, ticket validation tests, and processes.
5. Player name and address lists, provided that the names and addresses of prize winners shall not be withheld.
6. Operational security measures, systems, or procedures and building plans.
7. Security reports and other information concerning bids or other contractual data, the disclosure of which would impair the efforts of the authority to contract for goods or services on favorable terms.
8. Information that is otherwise confidential obtained pursuant to investigations as provided in section 99G.35.

2003 Acts, ch 178, §87, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1101, §21
Referred to in §99G.41

99G.35 Security.

1. The authority's chief security officer and investigators shall be qualified by training and experience in law enforcement to perform their respective duties in support of the activities of the security office. The chief security officer and investigators shall not have sworn peace officer status. The lottery security office shall perform all of the following activities in support of the authority mission:

a. Supervise ticket or share validation and lottery drawings, provided that the authority may enter into cooperative agreements with multijurisdictional lottery administrators for shared security services at drawings and game show events involving more than one participating lottery.

b. Inspect at times determined solely by the authority the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract.

c. Report any suspected violations of this chapter to the appropriate county attorney or the attorney general and to any law enforcement agencies having jurisdiction over the violation.

d. Upon request, provide assistance to any county attorney, the attorney general, the department of public safety, or any other law enforcement agency.

e. Upon request, provide assistance to retailers in meeting their licensing contract requirements and in detecting retailer employee theft.

f. Monitor authority operations for compliance with internal security requirements.

g. Provide physical security at the authority's central operations facilities.

h. Conduct on-press product production surveillance, testing, and quality approval for printed scratch and pull-tab tickets.

i. Coordinate employee and retailer background investigations conducted by the department of public safety, division of criminal investigation.

2. The authority may enter into intelligence-sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation

agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

3. Records, documents, and information in the possession of the authority received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the authority with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to chapter 22 and shall not be released under any condition without the permission of the person or agency providing the record or information.

2003 Acts, ch 178, §88, 121; 2003 Acts, ch 179, §142
Referred to in §99G.34

99G.36 Forgery — fraud — penalties.

1. A person who, with intent to defraud, falsely makes, alters, forges, utters, passes, redeems, or counterfeits a lottery ticket or share or attempts to falsely make, alter, forge, utter, pass, redeem, or counterfeit a lottery ticket or share, or commits theft or attempts to commit theft of a lottery ticket or share, is guilty of a class "D" felony.

2. Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be guilty of a class "D" felony.

3. A person who knowingly or intentionally passes a lottery ticket or share in order to avoid the application of an offset under section 99G.41 commits the following:

a. If passing the lottery ticket or share would avoid an amount that exceeds ten thousand dollars, a class "C" felony.

b. If passing the lottery ticket or share would avoid an amount that exceeds one thousand five hundred dollars but does not exceed ten thousand dollars, a class "D" felony.

c. If passing the lottery ticket or share would avoid an amount that exceeds seven hundred fifty dollars but does not exceed one thousand five hundred dollars, an aggravated misdemeanor.

d. If passing the lottery ticket or share would avoid an amount that exceeds three hundred dollars but does not exceed seven hundred fifty dollars, a serious misdemeanor.

e. If passing the lottery ticket or share would avoid an amount that does not exceed three hundred dollars, a simple misdemeanor.

4. A person who knowingly or intentionally passes a lottery ticket or share in order to circumvent prohibited player provisions found in section 99G.31, subsection 3, paragraph "*g*" or "*h*", or applicable game specific rules commits a class "D" felony.

5. No person shall knowingly or intentionally make a material false statement in any lottery prize claim, make a material false statement in any application for a license or proposal to conduct lottery activities, or make a material false entry in any book or record which is compiled or maintained or submitted to the authority or the board pursuant to the provisions of this chapter. Any person who violates the provisions of this section shall be guilty of a class "D" felony.

2003 Acts, ch 178, §89, 121; 2003 Acts, ch 179, §142; 2021 Acts, ch 94, §3, 4
NEW subsections 3 and 4 and former subsection 3 amended and renumbered as 5

99G.37 Competitive bidding.

1. The authority shall enter into a major procurement contract pursuant to competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. The board shall adopt procedures for competitive bidding. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the authority, and the best service and products for the public.

2. In any bidding process, the authority may administer its own bidding and procurement or may utilize the services of the department of administrative services or other state agency.

2003 Acts, ch 178, §90, 121; 2003 Acts, ch 179, §62, 84, 142

99G.38 Authority finance — self-sustaining.

1. The authority may borrow, or accept and expend, in accordance with the provisions of this chapter, such moneys as may be received from any source, including income from the authority's operations, for effectuating its business purposes, including the payment of the initial expenses of initiation, administration, and operation of the authority and the lottery.

2. The authority shall be self-sustaining and self-funded. Moneys in the general fund of the state shall not be used or obligated to pay the expenses of the authority or prizes of the lottery, and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the authority operating account.

3. The state of Iowa offset program, as provided in section 8A.504, shall be available to the authority to facilitate receipt of funds owed to the authority.

2003 Acts, ch 178, §91, 121; 2003 Acts, ch 179, §63, 84, 142

For future amendment to subsection 3 effective upon the later of January 1, 2021, or the effective date of rules adopted by the department of revenue to implement 2020 Acts, ch 1064, see 2020 Acts, ch 1064, §8, 28; 2020 Acts, ch 1118, §73, 74

99G.39 Allocation, appropriation, transfer, and reporting of funds.

1. Upon receipt of any revenue, the chief executive officer shall deposit the moneys in the lottery fund created pursuant to section 99G.40. At least fifty percent of the projected annual revenue accruing from the sale of tickets or shares shall be allocated for payment of prizes to the holders of winning tickets. After the payment of prizes, the expenses of conducting the lottery shall be deducted from the authority's revenue prior to disbursement. Expenses for advertising production and media purchases shall not exceed four percent of the authority's gross revenue for the year.

2. The director of the department of management shall not include lottery revenues in the director's fiscal year revenue estimates.

3. Two million five hundred thousand dollars in lottery revenues shall be transferred each fiscal year to the veterans trust fund established pursuant to section 35A.13 prior to deposit of the lottery revenues in the general fund pursuant to section 99G.40. However, if the balance of the veterans trust fund is fifty million dollars or more, the moneys shall be appropriated to the department of revenue for distribution to county directors of veteran affairs, with fifty percent of the moneys to be distributed equally to each county and fifty percent of the moneys to be distributed to each county based upon the population of veterans in the county, so long as the moneys distributed to a county do not supplant moneys appropriated by that county for the county director of veteran affairs.

4. One hundred thousand dollars in lottery revenues shall be transferred each fiscal year to the public safety survivor benefits fund established pursuant to section 80.47 prior to deposit of the lottery revenues in the general fund pursuant to section 99G.40.

5. One hundred thousand dollars in lottery revenues shall be transferred each fiscal year to the department of corrections survivor benefits fund established pursuant to section 904.321 prior to deposit of the lottery revenues in the general fund pursuant to section 99G.40.

6. *a.* Notwithstanding subsection 1, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the vision Iowa fund during the fiscal year pursuant to section 8.57, subsection 5, paragraph "*e*", the difference shall be paid from lottery revenues prior to deposit of the lottery revenues in the general fund, transfer of lottery revenues to the veterans trust fund as provided in subsection 3, and the transfer of lottery revenues to the public safety survivor benefits fund as provided in subsection 4. If lottery revenues are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from lottery revenues prior to deposit of lottery revenues in the general fund, the transfer of lottery revenues to the veterans trust fund as provided in subsection 3, and the transfer of lottery revenues to the public safety survivor benefits fund as provided in subsection 4 in subsequent fiscal years as such revenues become available.

b. The treasurer of state shall, each quarter, prepare an estimate of the gaming revenues and lottery revenues that will become available during the remainder of the appropriate fiscal year for the purposes described in paragraph "*a*". The department of management and the department of revenue shall take appropriate actions to provide that the amount of gaming

revenues and lottery revenues that will be available during the remainder of the appropriate fiscal year is sufficient to cover any anticipated deficiencies.

2003 Acts, ch 145, §286; 2003 Acts, ch 178, §92, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1136, §54; 2009 Acts, ch 182, §105; 2012 Acts, ch 1021, §135; 2015 Acts, ch 15, §2, 3; 2015 Acts, ch 29, §114; 2019 Acts, ch 163, §39, 40; 2021 Acts, ch 166, §31, 34, 35

Referred to in §8.22A, 8.57, 35A.13, 80.47, 904.321

Subsection 5 applies retroactively to March 1, 2021; 2021 Acts, ch 166, §35

NEW subsection 5 and former subsection 5 renumbered as 6

99G.40 Audits and reports — lottery fund.

1. To ensure the financial integrity of the lottery, the authority shall do all of the following:

a. Submit quarterly and annual reports to the governor, state auditor, and the general assembly disclosing the total lottery revenues, prize disbursements, and other expenses of the authority during the reporting period. The fourth quarter report shall be included in the annual report made pursuant to this section. The annual report shall include a complete statement of lottery revenues, prize disbursements, and other expenses, and recommendations for changes in the law that the chief executive officer deems necessary or desirable. The annual report shall be submitted within one hundred twenty days after the close of the fiscal year. The chief executive officer shall report immediately to the governor, the treasurer of state, and the general assembly any matters that require immediate changes in the law in order to prevent abuses or evasions of this chapter or rules adopted or to rectify undesirable conditions in connection with the administration or operation of the lottery.

b. Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the authority.

c. The authority shall deposit in the lottery fund created in subsection 2 any moneys received by retailers from the sale of tickets or shares less the amount of any compensation due the retailers. The chief executive officer may require licensees to file with the authority reports of receipts and transactions in the sale of tickets or shares. The reports shall be in the form and contain the information the chief executive officer requires.

2. A lottery fund is created in the office of the treasurer of state and shall exist as the recipient fund for authority receipts. The fund consists of all revenues received from the sale of lottery tickets or shares and all other moneys lawfully credited or transferred to the fund. The chief executive officer shall certify quarterly that portion of the fund that has been transferred to the general fund of the state under this chapter and shall cause that portion to be transferred to the general fund of the state. However, upon the request of the chief executive officer and subject to the approval by the treasurer of state, an amount sufficient to cover the foreseeable administrative expenses of the lottery for a period of twenty-one days may be retained from the lottery fund. Prior to the quarterly transfer to the general fund of the state, the chief executive officer may direct that lottery revenue shall be deposited in the lottery fund and in interest-bearing accounts designated by the treasurer of state. Interest or earnings paid on the deposits or investments is considered lottery revenue and shall be transferred to the general fund of the state in the same manner as other lottery revenue.

3. The chief executive officer shall certify before the last day of the month following each quarter that portion of the lottery fund resulting from the previous quarter's sales to be transferred to the general fund of the state.

4. For informational purposes only, the chief executive officer shall submit to the department of management by October 1 of each year a proposed operating budget for the authority for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be deposited into the general fund during the succeeding fiscal year. This budget shall be on forms prescribed by the department of management. A copy of the information required to be submitted to the department of management pursuant to this subsection shall be submitted to the general assembly's standing committees on government oversight and the legislative services agency by October 1 of each year.

5. The authority shall adopt the same fiscal year as that used by state government and shall be audited annually by the auditor of state or a certified public accounting firm appointed by the auditor. The auditor of state or a designee conducting an audit under this chapter shall

have access and authority to examine any and all records of licensees necessary to determine compliance with this chapter and the rules adopted pursuant to this chapter. The cost of audits and examinations conducted by the auditor of state or a designee shall be paid for by the authority.

2003 Acts, ch 178, §93, 121; 2003 Acts, ch 179, §109, 142; 2004 Acts, ch 1009, §1; 2010 Acts, ch 1069, §12

Referred to in §99G.39

99G.41 Prize offsets — garnishments.

1. Any claimant agency may submit to the authority a list of the names of all persons indebted to such claimant agency or to persons on whose behalf the claimant agency is acting. The full amount of the debt shall be collectible from any lottery winnings due the debtor without regard to limitations on the amounts that may be collectible in increments through garnishment or other proceedings. Such list shall constitute a valid lien upon and claim of lien against the lottery winnings of any debtor named in such list. The list shall contain the names of the debtors, their social security numbers if available, and any other information that assists the authority in identifying the debtors named in the list.

2. The authority is authorized and directed to withhold any winnings paid out directly by the authority subject to the lien created by this section and send notice to the winner. However, if the winner appears and claims winnings in person, the authority shall notify the winner at that time by hand delivery of such action. The authority shall pay the funds over to the agency administering the offset program.

3. Notwithstanding the provisions of section 99G.34 which prohibit disclosure by the authority of certain portions of the contents of prize winner records or information, and notwithstanding any other confidentiality statute, the authority may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the authority in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. Any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the authority.

5. Except as otherwise provided in this chapter, attachments, garnishments, or executions authorized and issued pursuant to law shall be withheld if timely served upon the authority.

6. The provisions of this section shall only apply to prizes paid directly by the authority and shall not apply to any retailers authorized by the board to pay prizes of up to six hundred dollars after deducting the price of the ticket or share.

2003 Acts, ch 178, §94, 121; 2003 Acts, ch 179, §142

Referred to in §99G.36

99G.42 Compulsive gamblers — treatment program information.

The authority shall cooperate with the gambling treatment program administered by the Iowa department of public health to incorporate information regarding the gambling treatment program and its toll-free telephone number in printed materials distributed by the authority.

2003 Acts, ch 178, §95, 121; 2003 Acts, ch 179, §142

Gambling treatment program, §135.150

SUBTITLE 5

FIRE CONTROL

CHAPTER 100

STATE FIRE MARSHAL

Referred to in §237A.12, 237C.4, 279.49, 455B.390

Enforcement of law relating to combustible and flammable liquids and liquefied gases, chapter 101
Rules for hotels, food establishments, and food processing plants, §137C.18, 137F.15
Inspections of health care facilities, §135C.9

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SUBCHAPTER I

GENERAL PROVISIONS

100.1 Fire marshal.

The chief officer of the division of state fire marshal in the department of public safety shall be known as the state fire marshal. The fire marshal's duties shall be as follows:

1. To enforce all laws of the state relating to the suppression of arson, and to apprehend those persons suspected of arson;
2. To investigate into the cause, origin, and circumstances of fires;
3. To promote fire safety and reduction of loss by fire through educational methods;
4. To enforce all laws, and the rules and regulations of the Iowa department of public safety, concerned with:

a. The prevention of fires;

b. The storage, transportation, handling, and use of flammable liquids, combustibles, fireworks, and explosives;

c. The storage, transportation, handling, and use of liquid petroleum gas;

d. The electric wiring and heating, and adequate means of exit in case of fire, from churches, schools, hotels, theaters, amphitheaters, asylums, hospitals, health care facilities as defined in section 135C.1, college buildings, lodge halls, public meeting places, and all other structures in which persons congregate from time to time, whether publicly or privately owned;

5. To promulgate fire safety rules. The state fire marshal shall have exclusive right to promulgate fire safety rules as they apply to enforcement or inspection requirements by the state fire marshal, but the rules shall be promulgated pursuant to chapter 17A. Wherever by any statute the fire marshal or the department of public safety is authorized or required to promulgate, proclaim, or amend rules and minimum standards regarding fire hazards or fire safety or protection in any establishment, building, or structure, the rules and standards shall promote and enforce fire safety, fire protection, and the elimination of fire hazards as the rules may relate to the use, occupancy, and construction of the buildings, establishments, or structures. The word "*construction*" shall include but is not limited to electrical wiring, plumbing, heating, lighting, ventilation, construction materials, entrances and exits, and all other physical conditions of the building which may affect fire hazards, safety, or protection. The rules and minimum standards shall be in substantial compliance except as otherwise specifically provided in this chapter, with the standards of the national fire protection association relating to fire safety as published in the national fire codes.

6. To adopt rules designating a fee to be assessed to each building, structure, or facility for which a fire safety inspection or plan review by the state fire marshal is required by law. The fee designated by rule shall be set in an amount that is reasonably related to the costs of conducting the applicable inspection or plan review. The fees collected by the state fire marshal shall be deposited in the general fund of the state.

7. To administer the fire extinguishing system contractor, alarm system contractor, and alarm system installer certification program established in chapter 100C.

8. To order the suspension of the use of consumer fireworks, display fireworks, or novelties, as described in section 727.2, if the fire marshal determines that the use of such devices would constitute a threat to public safety.

[S13, §2468-a, -m; C24, 27, 31, 35, 39, §**1619;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.1; 81 Acts, ch 46, §1]

92 Acts, ch 1163, §25; 2000 Acts, ch 1229, §20; 2003 Acts, ch 165, §17; 2003 Acts, ch 166, §1; 2004 Acts, ch 1125, §1; 2007 Acts, ch 197, §1, 50; 2008 Acts, ch 1032, §190; 2010 Acts, ch 1014, §1; 2017 Acts, ch 115, §1, 2, 12

Referred to in §101C.2, 237.3

100.2 Duties of fire officials.

The chief of the fire department or the chief's designee of every city or township in which a fire department is established or the chief of the fire department or the chief's designee responding to every township fire where there is a contract for fire protection in effect shall investigate into the cause, origin and circumstances of every fire occurring in the city or township by which property has been destroyed or damaged or which results in bodily injury to a person, and determine whether the fire was the result of natural causes, negligence or design. The state fire marshal may assist in the investigation or may direct the investigation if the fire marshal finds it necessary.

[S13, §2468-d, -e; C24, 27, 31, 35, 39, §**1624;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.2]

84 Acts, ch 1095, §1

Referred to in §100.3, 100.4

100.3 Reports of fires and emergency responses.

When death, serious bodily injury, or property damage in excess of two hundred thousand dollars has occurred as a result of a fire, or if arson is suspected, the fire official required

by section 100.2 to make fire investigations, shall notify the state fire marshal's division immediately. For all other fires causing an estimated damage of fifty dollars or more or emergency responses by the fire service, the fire official required by section 100.2 to investigate shall file a report with the fire marshal's division within ten days following the end of the month. The report shall indicate all fire incidents occurring which have an estimated damage of fifty dollars or more and state for each incident the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, the origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incident. The report on each emergency response shall include the nature of the incident and other facts, statistics and circumstances concerning the emergency response.

[S13, §2468-e; C24, 27, 31, 35, 39, §**1625;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.3]

84 Acts, ch 1095, §2; 86 Acts, ch 1018, §1

Referred to in §100.4, 100.5

100.4 Penalty for nonreporting.

The failure or refusal of a fire official to make an investigation or report required by sections 100.2 and 100.3 is a simple misdemeanor.

[S13, §2468-e; C24, 27, 31, 35, 39, §**1626;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.4]

84 Acts, ch 1095, §3

100.5 Reports — when public records.

1. Reports required by section 100.3 shall be kept on file for public inspection in the fire marshal's office. In those circumstances where disclosure of particular facts in the reports would plainly and seriously jeopardize an investigation of criminal activity, the portions of the reports pertaining to the facts are classified as peace officers' investigative reports and subject to section 22.7.

2. Reports and records on investigations made by the state fire marshal's office are the same as peace officers' investigative reports and subject to section 22.7.

[S13, §2468-f; C24, 27, 31, 35, 39, §**1627;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.5; 81 Acts, ch 47, §1]

84 Acts, ch 1095, §4; 2019 Acts, ch 24, §104

Arson investigation disclosures; see chapter 100A

100.6 Testimony under oath.

The fire marshal or the fire marshal's designated subordinate shall, when in the fire marshal's or subordinate's opinion further investigation is necessary, take or cause to be taken the testimony under oath of all persons supposed to have knowledge of any facts, or to have means of knowledge in relation to the matter in which an examination is herein required to be made, and shall cause the same to be reduced to writing.

[S13, §2468-g; C24, 27, 31, 35, 39, §**1628;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.6]

100.7 Oaths — attendance of witnesses.

The fire marshal and the fire marshal's designated subordinates shall each have power in any county in the state to administer an oath and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which is by the provisions of this chapter a subject of inquiry and investigation, and may require the production of any books, papers, or documents necessary for such investigation.

[S13, §2468-h; C24, 27, 31, 35, 39, §**1629;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.7]

100.8 Refusal to testify or produce books.

Any witness who refuses to be sworn, except as otherwise provided by law, or who disobeys any lawful order of said fire marshal, or the fire marshal's designated subordinates, or who

fails to produce any books, papers, or documents touching any matter under examination, shall be guilty of a simple misdemeanor.

[S13, §2468-h; C24, 27, 31, 35, 39, §**1630;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.8]

100.9 Crimes in connection with fires.

If the fire marshal shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, the fire marshal shall cause such person to be arrested and charged with the offense, or either of them, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses and all of the information obtained, including a copy of all matter and testimony taken in the case.

[S13, §2468-g; C24, 27, 31, 35, 39, §**1631;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.9]

100.10 Authority to enter and inspect.

The state fire marshal, and the fire marshal's designated subordinates, in the performance of their duties, shall have authority to enter any building or premises and to examine the same and the contents thereof.

[S13, §2468-i; C24, 27, 31, 35, 39, §**1632;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.10]

100.11 Fire escapes.

It shall be the duty of the fire marshal to enforce all laws relating to fire escapes.

[C39, §**1632.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.11]

100.12 Authority for inspection — orders.

The chief of a fire department or an authorized subordinate who is trained in fire prevention safety standards may enter a building or premises at a reasonable hour to examine the building or premises and its contents. The examining official shall order the correction of a condition which is in violation of this chapter, a rule adopted under this chapter, or a city or county fire safety ordinance. The order shall be in writing or, if the danger is imminent, orally followed by a written order. The examining official shall enforce the order in accordance with the applicable law or ordinance. At the request of the examining official the state fire marshal may assist in an enforcement action.

[C31, 35, §1632-c1; C39, §**1632.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.12; 82 Acts, ch 1157, §1]

84 Acts, ch 1095, §5

100.13 Violations — orders.

1. If a person has violated or is violating a provision of this chapter or a rule adopted pursuant to this chapter, the state fire marshal, the chief of any fire department, or the fire prevention officer of a fire department organized under chapter 400 may issue an order directing the person to desist in the practice which constitutes the violation and to take corrective action as necessary to ensure that the violation will cease. The order shall be in writing and shall specify a reasonable time by which the person shall comply with the order. The person to whom the order is issued may appeal the order as provided in chapter 17A. On appeal, the administrative law judge may affirm, modify, or vacate the order. Judicial review may be sought in accordance with chapter 17A.

2. Notwithstanding any other provision of law to the contrary, if the state fire marshal determines that an emergency exists respecting any matter affecting or likely to affect the public safety, the fire marshal may issue any order necessary to terminate the emergency without notice or hearing. An emergency order is binding and effective immediately, until or

unless the order is modified, vacated, or stayed at an administrative hearing or by a district court.

[S13, §2468-j; C24, 27, 31, 35, 39, §**1633;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.13; 82 Acts, ch 1157, §2]

94 Acts, ch 1078, §1
Referred to in §100.14

100.14 Legal proceedings — penalties — injunctive relief.

At the request of the state fire marshal, the county attorney shall institute any legal proceedings on behalf of the state necessary to obtain compliance or enforce the penalty provisions of this chapter or rules or orders adopted or issued pursuant to this chapter, including, but not limited to, a legal action for injunctive relief. The county attorney or any other attorney acting on behalf of the chief of a fire department or a fire prevention officer may institute legal proceedings, including, but not limited to, a legal action for injunctive relief, to obtain compliance or enforce the penalty provisions or orders issued pursuant to section 100.13.

[C24, 27, 31, 35, 39, §**1634;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.14]

94 Acts, ch 1078, §2
Referred to in §100.16

100.15 Hearing on review. Repealed by 94 Acts, ch 1078, §9.

100.16 Judicial review — court costs.

1. Judicial review of actions of the fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act pursuant to chapter 17A. If legal proceedings have been instituted pursuant to section 100.14, all related issues which could otherwise be raised in a proceeding for judicial review shall be raised in the legal proceedings instituted pursuant to section 100.14.

2. Upon judicial review of the fire marshal's action, if the court affirms the agency action, the court shall tax all court costs of the review proceeding against the appellant. However, if the court reverses, revokes, or annuls the fire marshal's action, the court shall tax all court costs of the review proceeding against the agency. If the fire marshal's action is modified or the matter is remanded to the agency for further proceedings, the court shall apportion the court costs within the discretion of the court.

[S13, §2468-j; C24, 27, 31, 35, 39, §**1636;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.16]

94 Acts, ch 1078, §3

100.17 Bond — suspension of order. Repealed by 94 Acts, ch 1078, §9.

100.18 Smoke detectors.

1. As used in this section:

a. "Carbon monoxide alarm" means a device which detects carbon monoxide and which incorporates an alarm-sounding unit operated from a power supply either in the unit or obtained at the point of installation.

b. "Dormitory" means a residential building or portion of a building at an educational institution which houses students in rooms not individually equipped with cooking facilities.

c. "Fuel" means coal, kerosene, oil, fuel gases, or other petroleum products or hydrocarbon products such as wood that emit carbon monoxide as a by-product of combustion.

d. "Multiple-unit residential building" means a residential building, an apartment house, or a portion of a building or an apartment house with two or more units, hotel, motel, dormitory, or rooming house.

e. "Smoke detector" means a device which detects visible or invisible particles of combustion and which incorporates control equipment and an alarm-sounding unit operated from a power supply either in the unit or obtained at the point of installation.

2. *a.* Except as provided in subsection 4, multiple-unit residential buildings and

single-family dwellings the construction of which is begun on or after July 1, 1991, shall include the installation of smoke detectors in compliance with the rules established by the state fire marshal under subsection 5.

b. The rules shall require the installation of smoke detectors in existing single-family rental units and multiple-unit residential buildings. Existing single-family dwelling units shall be equipped with approved smoke detectors. A person who files for a homestead credit pursuant to chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector installed in compliance with this section, or that one will be installed within thirty days of the date the filing for the credit is made. The state fire marshal shall adopt rules and establish appropriate procedures to administer this subsection.

c. An owner or an owner's agent of a multiple-unit residential building or single-family dwelling shall supply light-emitting smoke detectors, upon request, for a tenant who is deaf or hard of hearing.

3. *a.* Multiple-unit residential buildings and single-family dwellings, the construction of which is begun on or after July 1, 2018, and that have a fuel-fired heater or appliance, a fireplace, or an attached garage, shall include the installation of carbon monoxide alarms in compliance with the rules established by the state fire marshal under subsection 5.

b. The rules shall require the installation of carbon monoxide alarms in existing single-family rental units and multiple-unit residential buildings that have a fuel-fired heater or appliance, a fireplace, or an attached garage. Existing single-family dwellings that have a fuel-fired heater or appliance, a fireplace, or an attached garage shall be equipped with approved carbon monoxide alarms. For purposes of this paragraph, *"approved carbon monoxide alarm"* means a carbon monoxide alarm that meets the standards established by the underwriters' laboratories or is approved by the state fire marshal as established by rule under subsection 5. A person who files for a homestead credit pursuant to chapter 425 shall certify that the single-family dwelling for which the credit is filed and that has a fuel-fired heater or appliance, a fireplace, or an attached garage, has carbon monoxide alarms installed in compliance with this section, or that such alarms will be installed within thirty days of the date the filing for the credit is made. The state fire marshal shall adopt rules and establish appropriate procedures to administer this subsection.

c. An owner of a multiple-unit residential building or a single-family rental unit that has a fuel-fired heater or appliance, a fireplace, or an attached garage, or an owner's agent, shall supply light-emitting carbon monoxide alarms, upon request, for a tenant who is deaf or hard of hearing.

d. The owner of a building requiring the installation of carbon monoxide alarms under this subsection shall install a carbon monoxide alarm in a location as specified by rules established by the state fire marshal under subsection 5, taking into account the number and location of all fuel sources in the building.

4. This section does not require the following:

a. The installation of smoke detectors in multiple-unit residential buildings which, on July 1, 1981, are equipped with heat detection devices or a sprinkler system with alarms approved by the state fire marshal.

b. The installation of smoke detectors in hotels, motels, and dormitories equipped with an automatic smoke detection system approved by the state fire marshal.

5. The state fire marshal shall enforce the requirements of subsections 2 and 3 and may implement a program of inspections to monitor compliance with the provisions of those subsections. Upon inspection, the state fire marshal shall issue a written notice to the owner or manager of a multiple-unit residential building or single-family rental unit informing the owner or manager of compliance or noncompliance with this section. The state fire marshal may contract with any political subdivision without fee assessed to either the state fire marshal or the political subdivision, for the performance of the inspection and notification responsibilities. The inspections authorized under this section are limited to the placement, repair, and operability of smoke detectors and carbon monoxide alarms. Any broader inspection authority is not derived from this section. The state fire marshal shall adopt rules under chapter 17A as necessary to enforce this section including rules concerning the placement of smoke detectors and carbon monoxide alarms and the use of acceptable

smoke detectors and carbon monoxide alarms. The smoke detectors and carbon monoxide alarms shall display a label or other identification issued by an approved testing agency or another label specifically approved by the state fire marshal.

6. The inspection of a building or notification of compliance or noncompliance under this section is not the basis for a legal cause of action against the political subdivision, state fire marshal, the fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials due to a failure to discover a latent defect in the course of the inspection.

7. If a smoke detector or carbon monoxide alarm is found to be inoperable, the owner or manager of the multiple-unit residential building or single-family rental unit shall correct the situation within thirty days after written notification to the owner or manager by the tenant, guest, roomer, state fire marshal, fire marshal's subordinates, chiefs of local fire departments, building inspectors, or other fire, building, or safety officials. If the owner or manager of a multiple-unit residential building or single-family rental unit fails to correct the situation within the thirty days the tenant, guest, or roomer may cause the smoke detector or carbon monoxide alarm to be repaired or purchase and install a smoke detector or carbon monoxide alarm required under this section and may deduct the repair cost or purchase price from the next rental payment or payments made by the tenant, guest, or roomer. However, a lessor or owner may require a lessee, tenant, guest, or roomer who has a residency of longer than thirty days to provide the battery for a battery operated smoke detector or carbon monoxide alarm.

8. No person may render inoperable a smoke detector or carbon monoxide alarm which is required to be installed by this section by tampering.

9. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

[81 Acts, ch 45, §1, 2; 82 Acts, ch 1157, §7]

83 Acts, ch 198, §13; 91 Acts, ch 64, §1 – 6; 94 Acts, ch 1078, §4; 2008 Acts, ch 1032, §17; 2016 Acts, ch 1092, §1 – 4; 2020 Acts, ch 1102, §3, 4

100.19 Consumer fireworks seller licensing — penalty — fund.

1. As used in this section:

a. "APA 87-1" means the American pyrotechnics association standard 87-1, as published in December 2001.

b. "Community group" means a nonprofit entity that is open for membership to the general public which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code or a fraternal benefit society, as that term is defined in section 512B.3.

c. "First-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:

(1) Aerial shell kits and reloadable tubes.
(2) Chasers.
(3) Helicopter and aerial spinners.
(4) Firecrackers.
(5) Mine and shell devices.
(6) Missile-type rockets.
(7) Roman candles.
(8) Sky rockets and bottle rockets.
(9) Multiple tube devices under this paragraph "*c*" that are manufactured in accordance with APA 87-1, section 3.5.

d. "Retailer" means as defined in section 423.1.

e. "Second-class consumer fireworks" means the following consumer fireworks, as described in APA 87-1, chapter 3:

(1) Cone fountains.
(2) Cylindrical fountains.
(3) Flitter sparklers.
(4) Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.

(5) Ground spinners.

(6) Illuminating torches.

(7) Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.

(8) Wheels.

(9) Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.

2. *a.* The state fire marshal shall establish a consumer fireworks seller license. An application for a consumer fireworks seller license shall be made on a form provided by the state fire marshal. The state fire marshal shall adopt rules consistent with this section establishing minimum requirements for a retailer or community group to be issued a consumer fireworks seller license.

b. A person shall possess a consumer fireworks seller license under this section in order to sell consumer fireworks.

3. *a.* The state fire marshal shall establish a fee schedule for consumer fireworks seller licenses as follows:

(1) For a retailer at a permanent building who devotes fifty percent or more of the retailer's retail floor space to the sale or display of first-class consumer fireworks, an annual fee of one thousand dollars.

(2) For a retailer at a temporary structure who devotes fifty percent or more of the retailer's retail floor space to the sale or display of first-class consumer fireworks, an annual fee of five hundred dollars.

(3) For a retailer who devotes less than fifty percent of the retailer's retail floor space to the sale or display of first-class consumer fireworks, an annual fee of four hundred dollars.

(4) For a community group that offers for sale, exposes for sale, or sells first-class consumer fireworks, an annual fee of four hundred dollars.

(5) For a retailer or community group that offers for sale, exposes for sale, or sells second-class consumer fireworks, but not first-class consumer fireworks, an annual fee of one hundred dollars.

b. A license issued to a retailer or community group pursuant to paragraph "*a*", subparagraph (1), (2), (3), or (4), shall allow the licensee to sell both first-class consumer fireworks and second-class consumer fireworks.

4. The state fire marshal shall adopt rules to:

a. Require that any retailer or community group offering for sale at retail any consumer fireworks, as described in APA 87-1, chapter 3, shall do so in accordance with the national fire protection association standard 1124, published in the code for the manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles, 2006 edition.

b. Require that a retailer or community group to be issued a license pursuant to this section provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

c. Permit a retailer or community group issued a license pursuant to this section to sell consumer fireworks, as described in APA 87-1, chapter 3, at the following locations as specified:

(1) At a permanent building that meets the requirements of paragraph "*a*", between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

(2) At a temporary structure that meets the requirements of paragraph "*a*" between June 13 and July 8 each year, both dates inclusive.

5. A retailer or community group shall not transfer consumer fireworks, as described in APA 87-1, chapter 3, to a person who is under eighteen years of age.

6. *a.* The state fire marshal shall adopt rules to provide that a person's consumer fireworks seller license may be revoked for the intentional violation of this section. The proceedings for revocation shall be held before the division of the state fire marshal, which may revoke the license or licenses involved as provided in paragraph "*b*".

b. (1) If, upon the hearing of the order to show cause, the division of the state fire marshal finds that the licensee intentionally violated this section, then the license or licenses

under which the licensed retailer or community group sells first-class consumer fireworks or second-class consumer fireworks, shall be revoked.

(2) Judicial review of actions of the division of the state fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. If the licensee has not filed a petition for judicial review in district court, revocation shall date from the thirty-first day following the date of the order of the division of the state fire marshal. If the licensee has filed a petition for judicial review, revocation shall date from the thirty-first day following entry of the order of the district court, if action by the district court is adverse to the licensee.

(3) A new license shall not be issued to a person whose license has been revoked, or to the business in control of the premises on which the violation occurred if it is established that the owner of the business had actual knowledge of the violation resulting in the license revocation, for the period of one year following the date of revocation.

7. *a.* A consumer fireworks fee fund is created in the state treasury under the control of the state fire marshal. Notwithstanding section 12C.7, interest or earnings on moneys in the consumer fireworks fee fund shall be credited to the consumer fireworks fee fund. Moneys in the fund are appropriated to the state fire marshal to be used to fulfill the responsibilities of the state fire marshal for the administration and enforcement of this section and section 100.19A and to provide grants pursuant to paragraph *"b"*. The fund shall include the fees collected by the state fire marshal under the fee schedule established pursuant to subsection 3 and the fees collected by the state fire marshal under section 100.19A for wholesaler registration.

b. The state fire marshal shall establish a local fire protection and emergency medical service providers grant program to provide grants in the following order of priority:

(1) Local fire protection service providers and local emergency medical service providers to establish or provide fireworks safety education programming to members of the public, and for the purchase of necessary enforcement, protection, or emergency response equipment related to the sale and use of consumer fireworks in this state.

(2) Local volunteer fire protection service providers for the purchase of necessary enforcement, protection, or emergency response equipment.

8. The state fire marshal shall adopt rules for the administration of this section.

9. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

2017 Acts, ch 115, §3, 12; 2018 Acts, ch 1041, §37, 38; 2021 Acts, ch 110, §1
Referred to in §100.19A, 727.2
Subsection 7, paragraph b stricken and rewritten

100.19A Consumer fireworks wholesaler — registration — penalty.

1. For purposes of this section:

a. "Consumer fireworks" means first-class consumer fireworks and second-class consumer fireworks, as those terms are defined in section 100.19.

b. "Wholesaler" means a person who engages in the business of selling or distributing consumer fireworks for the purpose of resale in this state.

2. The state fire marshal shall adopt rules to require all wholesalers to annually register with the state fire marshal. The state fire marshal may also adopt rules to regulate the storage or transfer of consumer fireworks by wholesalers and to require wholesalers to maintain insurance.

3. The state fire marshal shall establish an annual registration fee of one thousand dollars for wholesalers of consumer fireworks within the state. Registration fees collected pursuant to this section shall be deposited in the consumer fireworks fee fund created in section 100.19.

4. A person who violates a provision of this section or a rule adopted pursuant to this section is guilty of a simple misdemeanor.

2017 Acts, ch 115, §4, 12
Referred to in §100.19

100.20 County attorney.
The county attorney shall represent the state and the fire marshal, but not to the exclusion of any other attorney who may be engaged in said cause.
[C24, 27, 31, 35, 39, §**1640;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.20]
Referred to in §331.756(22)

100.21 and 100.22 Reserved.

100.23 Costs. Repealed by 94 Acts, ch 1078, §9.

100.24 and 100.25 Reserved.

100.26 Time for compliance with order — penalty.
If a petition of review has not been filed or the court on review has affirmed or modified an order for the removal, destruction, or repair of a building, or the removal of any of its contents, or the change of any of its conditions, the owner, lessee, or occupant shall comply with the order within thirty days after the delivery of the order or a copy of the order to the person, either personally or by certified letter to the last known address, or by service upon the person's appointed agent. Failure of the owner, lessee, or occupant to comply with the order shall subject the owner, lessee, or occupant to a penalty of ten dollars for each day of failure or neglect after the expiration of the period. The penalty shall be recovered in the name of the state and paid into the treasury of the political subdivision which issues the order or the treasurer of state if the order is issued by the state. If the owner, lessee, or occupant cannot reasonably comply with the order within thirty days and a good faith effort at compliance has been made within thirty days, the owner, lessee, or occupant shall not be subject to a penalty under this section. However, the penalty may be imposed on the person upon a failure to continue the good faith compliance with the order.
[S13, §2468-j; C24, 27, 31, 35, 39, §**1646;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.26]
84 Acts, ch 1095, §6; 94 Acts, ch 1078, §5

100.27 through 100.29 Repealed by 94 Acts, ch 1078, §9.

100.30 Investigation may be private.
Investigation by or under the direction of the state fire marshal or the fire marshal's designated subordinates may in their discretion be private. They may exclude from the place where such investigation is held all persons other than those required to be present, and witnesses may be kept separate from each other and not allowed to communicate with each other until they have been examined.
[C24, 27, 31, 35, 39, §**1650;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.30]

100.31 Fire and tornado drills in schools — warning systems — inspections.
1. It shall be the duty of the state fire marshal and the fire marshal's designated subordinates to require all private and public school officials and teachers to conduct not less than four fire drills and not less than four tornado drills in all school buildings during each school year when school is in session; and to require the officials and teachers of all schools to keep all doors and exits of their respective rooms and buildings unlocked when occupied during school hours or when such areas are being used by the public at other times. Not less than two drills of each type shall be conducted between July 1 and December 31 of each year and not less than two drills of each type shall be conducted between January 1 and June 30 of each year.
2. Every school building with two or more classrooms shall have a warning system for fires of a type approved by the underwriters' laboratories and by the state fire marshal. The warning system shall be used only for fire drills or as a warning for emergency. Schools may modify the fire warning system for use as a tornado warning system or shall install a separate tornado warning system. Every school building shall also be equipped with portable

fire extinguishers, with the type, size and number in accordance with national fire protection association standards and approved by the state fire marshal.

3. The state fire marshal or the fire marshal's deputies shall cause each public or private school, college or university to be inspected at least once every two years to determine whether each school meets the fire safety standards of this Code and is free from other fire hazards. Provided, however, that cities which employ fire department inspectors shall cause such inspections to be made.

[S13, §2468-k; C24, 27, 31, 35, 39, §**1651;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.31]

94 Acts, ch 1078, §6

Referred to in §280.30

100.32 Bulletin. Repealed by 98 Acts, ch 1008, §4.

100.33 Annual report.

The state fire marshal shall file with the governor annually, at the time provided by law, a detailed report of the fire marshal's official acts and of the affairs of the fire marshal's office which report shall be published and distributed as the reports of other state officers.

[S13, §2468-n; C24, 27, 31, 35, 39, §**1653;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §100.33]

100.34 Reserved.

100.35 Rules of marshal — penalties.

1. The fire marshal shall adopt, and may amend rules under chapter 17A, which include standards relating to exits and exit lights, fire escapes, fire protection, fire safety and the elimination of fire hazards, in and for churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, apartment buildings, food establishments as defined in section 137F.1, and all other buildings or structures in which persons congregate from time to time, whether publicly or privately owned. Violation of a rule adopted by the fire marshal is a simple misdemeanor. However, upon proof that the fire marshal gave written notice to the defendant of the violation, and proof that the violation constituted a clear and present danger to life, and proof that the defendant failed to eliminate the condition giving rise to the violation within thirty days after receipt of notice from the fire marshal, the penalty is that provided by law for a serious misdemeanor. Each day of the continuing violation of a rule after conviction of a violation of the rule is a separate offense. A conviction is subject to appeal as in other criminal cases.

2. Rules by the fire marshal affecting the construction of new buildings, additions to buildings or rehabilitation of existing buildings and related to fire protection, shall be substantially in accord with the provisions of the nationally recognized building and related codes adopted as the state building code pursuant to section 103A.7 or with codes adopted by a local subdivision which are in substantial accord with the codes comprising the state building code.

3. The rules adopted by the state fire marshal under this section shall provide standards for fire resistance of cellulose insulation sold or used in this state, whether for public or private use. The rules shall provide for approval of the cellulose insulation by at least one nationally recognized independent testing laboratory.

[S13, §2514-j, -k, -l; SS15, §2514-i, -n, -o, 4999-a10; C24, 27, 31, 35, 39, §**1671, 2843 – 2850;** C46, 50, 54, §103.12, 170.38 – 170.45; C58, §100.35, 103.12, 170.38 – 170.45; C62, 66, 71, 73, 75, 77, §100.35, 103.12, 107.38; C79, 81, §100.35, 103.12, 170.38, 170A.9, 170B.13; 81 Acts, ch 46, §2, 4; 82 Acts, ch 1157, §3]

88 Acts, ch 1278, §23; 98 Acts, ch 1162, §2, 30; 2004 Acts, ch 1086, §28; 2017 Acts, ch 54, §76

Referred to in §100.51, 137C.18, 137C.35, 137F.15

100.36 and 100.37 Reserved.

100.38 Conflicting statutes.

Provisions of this chapter in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

[C73, 75, 77, 79, 81, §100.38]

2004 Acts, ch 1086, §29

100.39 Fire extinguishers in high-rise buildings.

1. All buildings approved for construction after July 1, 1998, that exceed four stories in height, or seventy-five feet above grade, shall require the installation of an approved automatic fire extinguishing system designed and installed in conformity with rules promulgated by the state fire marshal pursuant to this chapter.

2. The requirements of this section shall not apply to the following:

a. Any noncombustible elevator storage structure or any noncombustible plant building with noncombustible contents.

b. Any combustible elevator storage structure that is equipped with an approved drypipe, nonautomatic sprinkler and automatic alarm system.

c. Buildings in existence or under construction on August 15, 1975. However, if subsequent to that date any building is enlarged or altered beyond the height limitations applicable to new buildings, such building in its entirety shall be subject to all the provisions of this section.

d. Any open parking garage structure which is in compliance with rules adopted by the state fire marshal.

3. Plans and installation of systems shall be approved by the state fire marshal, a designee of the state fire marshal, or local authorities having jurisdiction. Except where local fire protection regulations are more stringent, the provisions of this section shall be applicable to all buildings, whether privately or publicly owned. The definition of terms shall be in conformity, insofar as possible, with definitions found in the state building code adopted pursuant to section 103A.7.

4. Any person violating the provisions of this section is guilty of a misdemeanor and shall, upon conviction, be subject to a fine not to exceed one hundred dollars or by imprisonment in the county jail for not more than thirty days, or be subject to both such fine and imprisonment.

[C77, 79, 81, §100.39]

90 Acts, ch 1029, §1; 98 Acts, ch 1008, §1; 2004 Acts, ch 1086, §30; 2008 Acts, ch 1032, §201

100.40 Marshal may prohibit open burning on request.

1. The state fire marshal, during periods of extremely dry conditions or under other conditions when the state fire marshal finds open burning constitutes a danger to life or property, may prohibit open burning in an area of the state at the request of the chief of a local fire department, a city council or a board of supervisors and when an investigation supports the need for the prohibition. The state fire marshal shall implement the prohibition by issuing a proclamation to persons in the affected area. The chief of a local fire department, the city council or the board of supervisors that requested the prohibition may rescind the proclamation after notifying the state fire marshal of the intent to do so, when the chief, city council or board of supervisors finds that the conditions responsible for the issuance of the proclamation no longer exist.

2. Violation of a prohibition issued under this section is a simple misdemeanor.

3. A proclamation issued by the state fire marshal pursuant to this section shall not prohibit a supervised, controlled burn for which a permit has been issued by the fire chief of the fire district where the burn will take place, the use of outdoor fireplaces, barbecue grills, properly supervised landfills, or the burning of trash in incinerators or trash burners made

of metal, concrete, masonry, or heavy one-inch wire mesh, with no openings greater than one square inch.

[S81, §100.40; 81 Acts, ch 48, §1]

97 Acts, ch 19, §1

100.41 Authority to cite violations.

Fire officials acting under the authority of this chapter may issue citations in accordance with chapter 805, for violations of this chapter or a violation of a local fire safety code.

84 Acts, ch 1095, §8

100.42 through 100.50 Reserved.

SUBCHAPTER II

ARSON INSPECTION WARRANTS

100.51 Application for warrant.

If consent to inspect property damaged or destroyed by fire to determine the cause, origin and circumstances of the fire or to inspect property subject to rules adopted under section 100.35 has been refused to the official authorized to make the inspection, the state fire marshal, a state arson investigator or official authorized to make such an inspection may apply to the district court for a special inspection warrant for authority to conduct the inspection.

[81 Acts, ch 47, §3]

100.52 Grounds for issuance.

1. The judicial officer shall review the application and may take sworn testimony or receive affidavits to supplement the application.

2. If the judicial officer is satisfied that there are legal grounds under the circumstances specified in the application and any supplementary testimony taken sufficient to justify the issuance of an inspection warrant, an inspection warrant shall be issued.

[81 Acts, ch 47, §4]

2019 Acts, ch 59, §41

100.53 Warrant requirements.

Each inspection warrant issued under this chapter shall:

1. State the grounds for its issuance.

2. Be directed to the applicant or some other designated person authorized to conduct the inspection.

3. Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of property specified.

4. Identify the item or type of property, if any, to be seized.

5. Direct that it be served, if appropriate, during normal business hours and designate the magistrate to whom it shall be returned.

[81 Acts, ch 47, §5]

100.54 Execution of warrant.

1. A warrant issued under this chapter must be executed and returned within ten days from the date of issuance unless, upon the showing of a need for additional time, the court so instructs otherwise in the warrant. A copy of the warrant shall be delivered to a person in charge of the premises being inspected or, if no one is present, a copy of the warrant shall be posted upon the premises. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a receipt for the property seized or shall

leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and accompanied by a written inventory of property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant.

2. A copy of the return, the inventory and any receipts issued shall be promptly filed with the clerk of the district court for the county in which the inspection is made.

[81 Acts, ch 47, §6]

2019 Acts, ch 24, §104

CHAPTER 100A

ARSON INVESTIGATION

Fire reports and public records law; see §100.5

100A.1	Definitions.	100A.4	Penalty.
100A.2	Disclosure of information.	100A.5	Concurrent powers.
100A.3	Confidentiality — subpoena.	100A.6	Chapter not severable.

100A.1 Definitions.

1. *"Authorized agencies"* means:

a. The state fire marshal.

b. The commissioner of public safety.

c. The county attorney responsible for prosecutions in the county where a fire occurs.

d. The attorney general.

e. The federal bureau of investigation or other federal agency requesting information on a fire loss.

f. The United States attorney's office when authorized or charged with investigation of a fire or prosecution for arson.

g. The fire chief of the city in which the fire occurs.

h. The police chief of the city in which the fire occurs.

i. The sheriff of the county in which the fire occurs.

j. The fraud bureau within the insurance division of the department of commerce.

2. *"Insurance company"* includes, but is not limited to, the Iowa FAIR plan and its member insurance companies.

3. *"Relevant information"* means information having any tendency to make the existence of a fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the information.

[C81, §100A.1]

86 Acts, ch 1051, §1; 93 Acts, ch 100, §1; 2000 Acts, ch 1023, §3

100A.2 Disclosure of information.

1. An authorized agency may, in writing, require an insurance company to release to the agency relevant information or evidence requested by the agency which the company has in its possession relating to a fire loss. Relevant information includes but is not limited to:

a. Insurance policy information relating to a fire loss under investigation including information on the policy application.

b. Policy premium payment records.

c. History of previous claims made by the insured.

d. Material relating to the investigation of the loss, including statements of any person, proof of loss, and other evidence relevant to the investigation.

2. When an insurance company has reason to believe that a fire loss insured by the company was caused by something other than an accident, the company shall, in writing,

notify any authorized agency and provide it with all material possessed by the company relevant to an investigation of the fire loss or a prosecution for arson.

3. An authorized agency provided with information pursuant to this section may provide the information to any other authorized agency for purposes of an investigation of a fire loss or a prosecution for arson.

4. An insurance company providing information to an authorized agency pursuant to subsections 1 and 2 may request information relevant to the fire loss investigation from an authorized agency and shall be given the information within a reasonable time not exceeding thirty days.

5. No civil action nor criminal prosecution may arise from any action taken pursuant to this section by an insurance company, a person acting in an insurance company's behalf, or an authorized agency, provided no malice is shown against the insured.

[C81, §100A.2]

Referred to in §100A.3

100A.3 Confidentiality — subpoena.

1. An authorized agency or insurance company which receives information furnished pursuant to section 100A.2, shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

2. An authorized agency or its personnel, may be subpoenaed to testify in litigation concerning a fire loss in which an insurance company is named as a party.

[C81, §100A.3]

Referred to in §100A.4

100A.4 Penalty.

1. A person or agency who intentionally or knowingly refuses to release information requested pursuant to this chapter is guilty of a simple misdemeanor.

2. A person who fails to hold in confidence information required to be held in confidence by section 100A.3 is guilty of a simple misdemeanor.

[C81, §100A.4]

100A.5 Concurrent powers.

The provisions of this chapter do not affect or repeal an ordinance of a municipality relating to fire prevention or the control of arson, but the jurisdiction of the state fire marshal and the commissioner of public safety in the municipality is concurrent with that of the municipal and county authorities.

[C81, §100A.5]

100A.6 Chapter not severable.

If any provision of this chapter is declared invalid the whole chapter is void, and to this end the provisions of this chapter are not severable.

[C81, §100A.6]

CHAPTER 100B

FIRE AND EMERGENCY RESPONSE SERVICES TRAINING AND VOLUNTEER DEATH BENEFITS

Referred to in §321.267A, 422.12

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SUBCHAPTER I

STATE FIRE PROTECTION SERVICES

100B.1 State fire service and emergency response council.

1. The state fire service and emergency response council is established in the division of state fire marshal of the department of public safety.

a. The council shall consist of eleven voting members and one ex officio, nonvoting member. Voting members of the state fire service and emergency response council shall be appointed by the governor.

(1) The governor shall appoint voting members of the council from a list of nominees submitted by each of the following organizations:

(a) Two members from a list submitted by the Iowa firefighters association.

(b) Two members from a list submitted by the Iowa fire chiefs' association.

(c) Two members from a list submitted by the Iowa professional fire fighters.

(d) Two members from a list submitted by the Iowa association of professional fire chiefs.

(e) One member from a list submitted by the Iowa emergency medical services association.

(2) A person nominated for inclusion in the voting membership on the council is not required to be a member of the organization that nominates the person.

(3) The tenth and eleventh voting members of the council shall be members of the general public appointed by the governor.

(4) The labor commissioner, or the labor commissioner's designee, shall be a nonvoting, ex officio member of the council.

b. Members of the council shall hold office commencing July 1, 2000, for four years and until their successors are appointed, except that three initial appointees shall be appointed for two years, four initial appointees for three years, and four initial appointees for four years.

c. The fire marshal or the fire marshal's designee shall attend each meeting of the council.

2. Each voting member of the council shall receive per diem compensation at the rate as specified in section 7E.6 for each day spent in the performance of the member's duties. All members of the council shall receive actual and necessary expenses incurred in the performance of their duties.

3. Six voting members of the council shall constitute a quorum. For the purpose of conducting business, a majority vote of the council shall be required. The council shall elect a chairperson from its members. The council shall meet at the call of the chairperson, or

the state fire marshal, or when any six members of the council file a written request with the chairperson for a meeting.

4. If a voting member of the council is absent for fifty or more percent of council meetings during any twelve-month period, the other council members by their unanimous vote may declare the member's position on the council vacant. A vacancy in the membership of the council shall be filled by appointment of the governor for the balance of the unexpired term.

2000 Acts, ch 1117, §8; 2000 Acts, ch 1232, §23; 2008 Acts, ch 1031, §93; 2009 Acts, ch 133, §25; 2011 Acts, ch 25, §14; 2011 Acts, ch 95, §2, 3; 2012 Acts, ch 1023, §21

100B.2 Duties.

The state fire service and emergency response council shall:

1. Advise and confer with the state fire marshal in matters relating to fire protection services including, but not limited to, training.

2. Cooperate with and assist agencies concerning fire emergency services matters and may, at the request of the state fire marshal or the chairperson of the council, hold public hearings for the purpose of seeking resolution of, or making recommendations on, fire services issues.

3. Develop, in consultation with the state fire marshal, the policies of the fire service training bureau of the division of state fire marshal.

4. Develop and submit to the state fire marshal for adoption rules establishing minimum training standards for fire service training that will be applicable statewide, periodically review these standards, and offer rules as deemed appropriate.

5. Provide recommendations to the state fire marshal that will facilitate the delivery of basic level fire fighter training at the local level.

6. Provide recommendations to the state fire marshal for a fee schedule for training and consultation services as necessary for the administration of this chapter.

7. Prepare annual performance reviews of training administrators for submittal to the state fire marshal.

8. Hear testimony from the labor commissioner, or the labor commissioner's designee, on inspections and investigations involving occupational safety and health standards for fire fighters and conducted by the office of the labor commissioner.

2000 Acts, ch 1117, §9

100B.3 Training agreements.

1. The state fire marshal shall enter into written agreements with other public agencies that have established regional emergency response training centers under section 100B.22 to provide training in conjunction with training provided by the fire service training bureau. Moneys appropriated shall not be distributed by the department of public safety to a regional training center until such an agreement has been entered into with the regional training center.

2. The state fire marshal may enter into written agreements with other educational institutions to assist in research conducted by the bureau.

2000 Acts, ch 1117, §10; 2006 Acts, ch 1179, §40, 67; 2019 Acts, ch 24, §104

100B.4 Fees — retention — use — fund.

1. Fees assessed pursuant to this chapter shall be retained by the division of state fire marshal and such repayments received shall be used exclusively to offset the cost of fire service training. Fees charged by regional emergency response training centers for fire service training programs as described in section 100B.6 shall not be greater than the fee schedule established by rule by the state fire marshal.

2. Notwithstanding section 8.33, repayment receipts collected by the division of state fire marshal for the fire service training bureau that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

3. A fire service training revolving fund is created in the state treasury under the control of the department of public safety. The fund shall consist of fees assessed pursuant to this

section, and deposited into the fire service training revolving fund. All moneys in the fund are appropriated to the department of public safety for purposes of fire service training and shall be under the control of the state fire marshal. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditures for the purposes designated until the close of the succeeding fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2000 Acts, ch 1117, §11; 2006 Acts, ch 1179, §41, 67; 2019 Acts, ch 24, §104; 2019 Acts, ch 163, §29 – 31

100B.5 Budget.

The state fire marshal and the state fire service and emergency response council shall prepare an annual budget for the council and the fire service training bureau. The budget shall be transmitted to the commissioner of public safety for inclusion in that department's budget.

2000 Acts, ch 1117, §12

100B.6 Fire service training bureau.

1. The state fire service and emergency response council shall assist in operation of a fire service training bureau for instructing the general public and fire protection personnel throughout the state, providing service to public and private fire departments in the state, conducting research in the methods of maintaining and improving fire education consistent with the needs of Iowa communities, and performing any other functions assigned to the bureau by the state fire marshal in consultation with the state fire service and emergency response council.

2. Enrollment and attendance in fire service training bureau programs may include persons engaged with a unit of government or a public or private fire department in the state, including volunteer, trainee, or employed fire fighters.

3. Programs conducted by the fire service training bureau shall include at a minimum instruction in the subjects necessary for the certification of persons in accordance with a nationally recognized fire fighter qualification system as approved by the state fire service and emergency response council. At the direction of the state fire marshal in consultation with the state fire service and emergency response council, the fire service training bureau may develop and conduct programs which extend beyond the programs directly related to such system.

2000 Acts, ch 1117, §13

Referred to in §100B.4, 100B.22

100B.7 Administrator — appointment — duties.

1. The administrator of the fire service training bureau shall be appointed by the commissioner of public safety, subject to the approval of the state fire service and emergency response council.

2. The state fire marshal shall direct the administrator to:

a. Provide direct oversight to the operations of the fire service training bureau.

b. Manage the budget of the fire service training bureau consistent with budgeting methods as may be required by the department of public safety or the state of Iowa.

c. Advise, confer, and consult with the state fire service and emergency response council in developing rules establishing minimum standards for fire service training.

d. Advise, confer, and consult regularly with the state fire service and emergency response council to seek input and recommendations on all facets of fire service training programs in Iowa.

e. Maintain a statewide system to provide basic level fire fighter training at the local level.

f. Distribute instructional and educational materials to support the fire training and education programs offered by the department of public safety.

g. Recruit and train qualified instructors for the training program.

h. Maintain training records as directed by the state fire marshal and necessary to accomplish the purposes of training programs.

i. Establish, with the approval of the state fire service and emergency response council, a fee schedule for training services that will ensure quality training at the most reasonable price.

j. Offer programs of education and instruction approved by the state fire service and emergency response council and conducted by qualified staff and faculty.

k. Plan and coordinate fire schools and other short courses of instruction on a statewide, regional, and local level, utilizing existing educational institutions, programs, and facilities as provided in sections 100B.22 and 100B.24.

l. Prepare for the state fire marshal and the state fire service and emergency response council an annual report of activities that include a summary of classes taught, budget, and staff activities. The annual report shall include a report of the activities of each regional emergency response training center established under section 100B.22.

m. Provide supervision and management to the fire service training bureau staff consistent with the methods of the department of public safety and as assigned by the state fire marshal.

n. Consult with the state fire service and emergency response council in preparing an annual legislative and budgetary agenda that will address items necessary to accomplish the provisions of this chapter, and submit this agenda to the state fire marshal in a format and time frame consistent with departmental policy.

o. Develop mechanisms by which fire fighters and others may earn college credits and degrees in fire-related disciplines.

p. Develop instructional and educational materials to support the fire training and education programs offered by the council.

q. Develop and offer other programs and services consistent with the general purposes of the council.

2000 Acts, ch 1117, §14; 2006 Acts, ch 1179, §42, 67

100B.8 and 100B.9 Repealed by 2021 Acts, ch 80, §383.

100B.10 Rules.

The state fire marshal shall adopt rules under chapter 17A for carrying out the responsibilities of this chapter.

2000 Acts, ch 1117, §17

100B.11 Reserved.

100B.12 Paul Ryan memorial fire fighter safety training fund.

A Paul Ryan memorial fire fighter safety training fund is created in the state treasury under the control of the department of public safety. The fund shall consist of fees transferred by the treasurer of state from the sale of special fire fighter license plates pursuant to section 321.34, subsection 10. Moneys in the fund shall be used exclusively by the fire service training bureau to offset fire fighter training costs. Notwithstanding section 8.33, moneys in the fund shall not revert to the general fund of the state at the end of the fiscal year, but shall remain available for expenditure by the fire service training bureau for fire fighter training in future fiscal years.

2003 Acts, ch 105, §1

Referred to in §321.34

100B.13 Volunteer fire fighter preparedness fund.

1. A volunteer fire fighter preparedness fund is created as a separate and distinct fund in the state treasury under the control of the division of state fire marshal of the department of public safety.

2. Revenue for the volunteer fire fighter preparedness fund shall include but is not limited to the following:

a. Moneys credited to the fund pursuant to an income tax checkoff provided in chapter 422, subchapter II, if applicable.

b. Moneys in the form of a devise, gift, bequest, donation, or federal or other grant intended to be used for the purposes of the fund.

3. Moneys in the volunteer fire fighter preparedness fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

4. Moneys in the volunteer fire fighter preparedness fund are appropriated to the division of state fire marshal of the department of public safety to be used annually to pay the costs of providing volunteer fire fighter training around the state and to pay the costs of providing volunteer fire fighting equipment.

2004 Acts, ch 1175, §434; 2005 Acts, ch 35, §25; 2006 Acts, ch 1182, §58; 2010 Acts, ch 1061, §17; 2012 Acts, ch 1097, §2, 6; 2020 Acts, ch 1062, §94

Referred to in §422.12L

100B.14 Volunteer job protection.

1. This section shall be known as the *"Volunteer Emergency Services Providers Job Protection Act"*.

2. For the purposes of this section, *"volunteer emergency services provider"* means a volunteer fire fighter as defined in section 85.61, a reserve peace officer as defined in section 80D.1A, an emergency medical care provider as defined in section 147A.1, or other personnel having voluntary emergency service duties and who are not paid full-time by the entity for which the services are performed in the local service area, in a mutual aid agreement area, or in a governor-declared state of disaster emergency area.

3. A public or private employer shall not terminate the employment of an employee for joining a volunteer emergency services unit or organization, including but not limited to any municipal, rural, or subscription fire department.

4. If an employee has provided the employee's public or private employer with written notification that the employee is a volunteer emergency services provider, the employer shall not terminate the employment of a volunteer emergency services provider who, because the employee was fulfilling the employee's duties as a volunteer emergency services provider, is absent from or late to work.

5. An employer may deduct from an employee's regular pay an amount of regular pay for the time that an employee who is a volunteer emergency services provider is absent from work while performing duties as a volunteer emergency services provider.

6. An employer may request that an employee who is a volunteer emergency services provider and who is absent from or late to work while responding to an emergency provide the employer with a written statement from the supervisor or acting supervisor of the volunteer emergency services unit or organization stating that the employee responded to an emergency and stating the date and time of the emergency.

7. An employee who is a volunteer emergency services provider and who may be absent from or late to work while performing duties as a volunteer emergency services provider shall notify the employer as soon as possible that the employee may be absent or late.

8. An employer shall determine whether an employee may leave work to respond to an emergency as part of the employee's volunteer emergency services provider duties.

9. An employee whose employment is terminated in violation of this section may bring a civil action against the employer. The employee may seek reinstatement to the employee's former position, payment of back wages, reinstatement of fringe benefits, and, where seniority rights are granted, reinstatement of seniority rights. If the employee prevails in such an action, the employee shall be entitled to an award of reasonable attorney fees and the costs of the action. An employee must commence such an action within one year after the date of termination of the employee's employment.

2009 Acts, ch 165, §2

100B.15 through 100B.20 Reserved.

SUBCHAPTER II

REGIONAL FIRE AND EMERGENCY
RESPONSE SERVICES TRAINING

100B.21 Definitions.

As used in this subchapter:

1. *"Bureau"* means the fire service training bureau.
2. *"Council"* means the state fire service and emergency response council.
3. *"Emergency responders"* means fire fighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.
4. *"Emergency response service"* means fire protection service, law enforcement, emergency medical service, hazardous materials containment and disposal, search and rescue operations, evacuation operations, and other related services.
5. *"Municipality"* means a city, county, township, benefited fire district, or agency authorized by law to provide emergency response services.
6. *"Public agency"* means a municipality, a community college, or an association representing fire fighters.
7. *"Training center"* means a regional emergency response training center established under section 100B.22.

2006 Acts, ch 1179, §43, 67; 2018 Acts, ch 1041, §127

100B.22 Regional emergency response training centers.

1. *a.* Regional emergency response training centers shall be established to provide training to fire fighters and other emergency responders. The lead public agency for the training centers shall be the following community colleges for the following merged areas:

(1) Northeast Iowa community college for merged area I in partnership with the Dubuque county firemen's association and to provide advanced training in agricultural emergency response as such advanced training is funded by the department of homeland security and emergency management.

(2) North Iowa area community college for merged area II in partnership with the Mason City fire department.

(3) Iowa lakes community college for merged area III and northwest Iowa community college for merged area IV.

(4) Iowa central community college for merged area V and to provide advanced training in homeland security as such advanced training is funded by the department of homeland security and emergency management.

(5) Hawkeye community college for merged area VII in partnership with the Waterloo regional hazardous materials training center and to provide advanced training in hazardous materials emergency response as such advanced training is funded by the department of homeland security and emergency management.

(6) Eastern Iowa community college for merged area IX in partnership with the city of Davenport fire department.

(7) Kirkwood community college for merged area X in partnership with the city of Coralville fire department and the Iowa City fire department and to provide advanced training in agricultural terrorism response and mass casualty and fatality response as such advanced training is funded by the department of homeland security and emergency management.

(8) Des Moines area community college for merged area XI and Iowa valley community college for merged area VI and to provide advanced training in operations integration in compliance with the national incident management system as such advanced training is funded by the department of homeland security and emergency management.

(9) Western Iowa technical community college for merged area XII in partnership with the Sioux City fire department and to provide advanced training in emergency responder communications as such advanced training is funded by the department of homeland security and emergency management.

(10) Iowa western community college for merged areas XIII and XIV in partnership with southwestern community college and the Council Bluffs fire department.

(11) Southeastern Iowa community college for merged areas XV and XVI in partnership with Indian hills community college and the city of Fort Madison fire department.

b. The public agencies named in paragraph *"a"*, shall, in conjunction with the bureau, coordinate fire service training programs as described in section 100B.6 at each training center.

2. *a.* A lead public agency listed in subsection 1, paragraph *"a"*, shall submit an application to the bureau in order to be eligible to receive a state appropriation for the agency's training center. The bureau shall prescribe the form of the application and, on or before August 15, 2006, shall provide such application to each lead public agency.

b. An applicant lead public agency shall indicate on the application the location of the proposed training center. An applicant shall also include on the application the location of any existing facilities required in section 100B.23 and located in the training region. The application shall be accompanied by letters from public agencies and private businesses in the merged area stating an intent to participate in, and provide for financial support for, establishment and activities of the training center.

c. By January 10 of each year, the bureau shall submit to the general assembly a list of applications received and the action taken by the bureau on each application. The bureau shall, upon request, provide the applications and supporting documentation submitted by each applicant.

3. *a.* In selecting a location for a proposed training center, an applicant lead public agency shall consider, and address in the application, all of the following:

(1) The availability and proximity of quality classroom space with adequate audio-visual support.

(2) The availability and adequate supply from area emergency response service entities of equipment which supports training.

(3) A site where limited, safe open burning would not be challenged or prohibited due to environmental issues or community concerns.

(4) Proximity to a medical facility.

(5) The availability of water mains, roadway, drainage, electrical service, and reasonably flat terrain.

(6) Accessibility to area fire departments.

b. The application shall include letters of support for the recommended site from emergency response entities in the region.

4. Applications must be submitted to the bureau by September 15, 2006, in order for a training center to be eligible to receive state funds in the fiscal year beginning July 1, 2006, if funds are appropriated to that training center for that fiscal year. The bureau shall review and approve an application and, if approved, distribute funds appropriated for that training center within thirty days of receiving the application from the applicant. State funds that have been appropriated for use by a specified training center shall be distributed to that training center as soon as possible after the bureau approves such training center's application.

5. The application shall list the training facilities to be required in order for a training center to provide training to fire fighters and other emergency responders. If a lead agency or a partner of a lead agency already owns or utilizes a required training facility, that facility shall not be duplicated when constructing the required training facilities listed on the application.

6. The state fire marshal may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph *"b"*, to administer this section.

2006 Acts, ch 1179, §44, 67; 2007 Acts, ch 219, §33; 2008 Acts, ch 1031, §31, 32, 102; 2013 Acts, ch 29, §44

Referred to in §100B.3, 100B.7, 100B.21, 100B.23

100B.23 Training center facilities — advanced training — inspections.

1. Each training center is required to have the facilities listed on the application in section 100B.22. In addition, each training center assigned an area of advanced training as specified in section 100B.22 is required to have facilities to support instruction in its area of advanced

training. These facilities shall include facilities and structures to support full-scale training exercises in such area of advanced training as recommended or required by any applicable state or national training facility standards.

2. The bureau shall inspect the facilities of each training center to ensure compliance with the requirements of this section.

2006 Acts, ch 1179, §45, 67
Referred to in §100B.22

100B.24 Training provided.

1. Training centers shall provide fire service training in accordance with curriculum approved by the bureau. The bureau, in cooperation with the public agencies operating the training centers, shall provide the necessary training materials, curriculum, training aids, and training schedule.

2. Training centers may provide emergency response service training in addition to fire service training. A training center shall offer joint training exercises to emergency responders. The bureau shall work in conjunction with those state agencies charged with developing training standards for emergency response service training to develop a curriculum and standards for emergency response service training provided by a training center.

3. A training center shall offer training to any emergency responder who applies for training at the training center regardless of the emergency responder's place of residence or employment.

2006 Acts, ch 1179, §46, 67
Referred to in §100B.7

100B.25 Agreements for training and financial assistance — authority.

A public agency operating a training center may enter into agreements under chapter 28E to provide emergency response service training to emergency responders. The agreements may provide for financial contributions from participating public agencies, private fire departments, and emergency response service entities and may provide for in-kind contributions of land, equipment, and personnel from such public agencies, private fire departments, and other entities providing emergency response services.

2006 Acts, ch 1179, §47, 67

100B.26 through 100B.30 Reserved.

SUBCHAPTER III

VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFIT

100B.31 Volunteer emergency services provider death benefit — eligibility.

1. There is appropriated annually from the general fund of the state to the department of administrative services an amount sufficient to pay death benefit claims under this section. The director of the department of administrative services shall issue warrants for payment of death benefit claims approved for payment by the department of public safety under subsection 2.

2. *a.* If the department of public safety determines, upon the receipt of evidence and proof from the fire chief or supervising officer, that the death of a volunteer emergency services provider was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer, a line of duty death benefit in an amount of one hundred thousand dollars shall be paid in a lump sum to the volunteer emergency services provider's beneficiary. A line of duty death benefit payable under this subsection shall be in addition to any other death benefit payable to the volunteer emergency services provider.

b. A line of duty death benefit shall not be payable under this subsection if any of the following applies:

(1) (a) The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness, including but not limited to a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the volunteer emergency services provider's death.

(b) However, if the death was the direct and proximate result of a heart attack or stroke, the volunteer emergency services provider shall be presumed to have died as a result of a traumatic personal injury if the provider engaged in a nonroutine stressful or strenuous physical activity within the scope of the provider's duties and the death resulted while engaging in that activity, while still on duty after engaging in that activity, or not later than twenty-four hours after engaging in that activity, and the presumption is not overcome by competent medical evidence to the contrary. For purposes of this subparagraph division, "*nonroutine stressful or strenuous physical activity*" includes but is not limited to nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, emergency response, and training exercise activities. *"Nonroutine stressful or strenuous physical activity"* does not include activities of a clerical, administrative, or nonmanual nature.

(2) The death was caused by the intentional misconduct of the volunteer emergency services provider or by such provider's intent to cause the provider's own death.

(3) The volunteer emergency services provider was voluntarily intoxicated at the time of death.

(4) The volunteer emergency services provider was performing the provider's duties in a grossly negligent manner at the time of death.

(5) A beneficiary who would otherwise be entitled to a benefit under this subsection was, through the beneficiary's actions, a substantial contributing factor to the volunteer emergency services provider's death.

3. For purposes of this section, "*volunteer emergency services provider*" means any of the following:

a. A volunteer fire fighter as defined in section 85.61.

b. A person performing the functions of an emergency medical care provider as defined in section 147A.1 who was not paid full-time by the entity for which such services were being performed at the time the incident giving rise to the death occurred.

c. A reserve peace officer as defined in section 80D.1A.

2000 Acts, ch 1232, §97

C2001, §100B.11

2002 Acts, ch 1079, §1, 3; 2003 Acts, ch 145, §286; 2004 Acts, ch 1063, §1; 2006 Acts, ch 1103, §3

C2007, §100B.31

2009 Acts, ch 41, §263; 2010 Acts, ch 1149, §5

Referred to in §80.5, 97A.6, 97B.52, 411.6

100B.32 through 100B.40 Reserved.

SUBCHAPTER IV

FIRE FIGHTING, EMERGENCY MEDICAL RESPONSE, AND LAW ENFORCEMENT EQUIPMENT DONATION

100B.41 Donation of fire fighting, emergency medical response, and law enforcement equipment.

A fire department, emergency medical services provider, or law enforcement agency may donate used vehicles or equipment to an organization that provides fire response or emergency medical services, or to a law enforcement agency. An entity making a good faith donation of equipment pursuant to this section shall be immune from civil liability from any claim arising from the performance, failure to perform, nature, age, condition, or

packaging of any vehicle or equipment used in fire fighting, emergency medical response, or law enforcement.

2020 Acts, ch 1027, §1; 2020 Acts, ch 1121, §61, 70

CHAPTER 100C

FIRE EXTINGUISHING AND ALARM SYSTEMS CONTRACTORS AND INSTALLERS

Referred to in §100.1, 100D.1, 103.14, 105.11, 272C.16

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100C.1 Definitions.

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

1. *"Alarm system"* means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a fire alarm, security alarm, or nurse call or supervisory signal-initiating devices and to initiate the appropriate response to those signals, but does not mean any such security system or portion of a combination system installed in a prison, jail, or detention facility owned by the state, a political subdivision of the state, the department of human services, or the Iowa veterans home.

2. *"Alarm system contractor"* means a person engaging in or representing that the person is engaging in the business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems in this state.

3. *"Alarm system installer"* means a person engaged in the layout, installation, repair, alteration, addition, or maintenance of alarm systems as an employee of an alarm system contractor, or as an employee of any employer other than an alarm system contractor in a building or facility owned or occupied by such employer.

4. *"Automatic dry-chemical extinguishing system"* means a system supplying a powder composed of small particles, usually of sodium bicarbonate, potassium bicarbonate, urea-potassium-based bicarbonate, potassium chloride, or monoammonium phosphate, with added particulate material supplemented by special treatment to provide resistance to packing, resistance to moisture absorption, and the proper flow capabilities.

5. *"Automatic fire extinguishing system"* means a system of devices and equipment that automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire and includes automatic sprinkler systems, carbon dioxide extinguishing systems, deluge systems, automatic dry-chemical extinguishing systems, foam extinguishing systems, and halogenated extinguishing systems, or other equivalent fire extinguishing technologies recognized by the fire extinguishing system contractors advisory board.

6. *"Automatic sprinkler system"* means an integrated fire protection sprinkler system usually activated by heat from a fire designed in accordance with fire protection engineering standards and includes a suitable water supply. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern.

7. *"Carbon dioxide extinguishing system"* means a system supplying carbon dioxide from a pressurized vessel through fixed pipes and nozzles and includes a manual or automatic actuating mechanism.

8. *"Deluge system"* means a sprinkler system employing open sprinklers attached to a piping system connected to a water supply through a valve that is opened by the operation of a detection system installed in the same area as the sprinklers.

9. *"False alarm"* means the activation of an alarm system when a situation requiring emergency response does not actually exist. For purposes of this chapter,*"false alarm"* does not include the activation of an alarm system as a result of weather conditions.

10. *"Fire extinguishing system contractor"* means a person engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state.

11. *"Foam extinguishing system"* means a special system discharging foam made from concentrates, either mechanically or chemically, over the area to be protected.

12. *"Halogenated extinguishing system"* means a fire extinguishing system using one or more atoms of an element from the halogen chemical series of fluorine, chlorine, bromine, and iodine.

13. *"Maintenance inspection"* means periodic inspection and certification completed by a fire extinguishing system contractor. For purposes of this chapter, "maintenance inspection" does not include an inspection completed by a local building official, fire inspector, or insurance inspector, when acting in an official capacity.

14. *"Responsible managing employee"* means one of the following:

a. An owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor who is certified by the national institute for certification in engineering technologies at a level three in fire protection technology, automatic sprinkler system layout, or another certification in automatic sprinkler system layout recognized by rules adopted by the fire marshal pursuant to section 100C.7 or who meets any other criteria established by rule.

b. An owner, partner, officer, or manager employed full-time by an alarm system contractor who is certified by the national institute for certification in engineering technologies in fire alarm systems or security systems at a level established by the fire marshal by rule or who meets any other criteria established by rule under this chapter. The rules may provide for separate endorsements for fire alarm systems, security alarm systems, and nurse call systems and may require separate qualifications for each.

2004 Acts, ch 1125, §2, 17; 2007 Acts, ch 197, §2, 3, 50; 2008 Acts, ch 1092, §1 – 3, 32; 2009 Acts, ch 41, §31; 2020 Acts, ch 1121, §86, 90

Referred to in §100D.1

100C.2 Certification — employees.

1. A person shall not act as a fire extinguishing system contractor without first obtaining a fire extinguishing system contractor's certificate pursuant to this chapter.

2. A person shall not act as an alarm system contractor without first obtaining an alarm system contractor's certificate pursuant to this chapter. A person shall not act as an alarm system installer without first obtaining an alarm system contractor's or alarm system installer's certificate pursuant to this chapter.

3. *a.* A responsible managing employee may act as a responsible managing employee for only one fire extinguishing system contractor at a time. The responsible managing employee shall not be designated as the responsible managing employee for more than two fire extinguishing system contractors in any twelve-month period.

b. A responsible managing employee may act as a responsible managing employee for only one alarm system contractor at a time. The responsible managing employee shall not be designated as the responsible managing employee for more than two alarm system contractors in any twelve-month period.

c. A responsible managing employee may serve as the responsible managing employee for a fire extinguishing system contractor and an alarm system contractor at the same time, provided that the fire extinguishing system contractor and the alarm system contractor are the same business, and that the person designated as the responsible managing employee meets the responsible managing employee criteria established for each certification.

4. *a.* An employee of a certified fire extinguishing system contractor working under the direction of a responsible managing employee is not required to obtain and maintain an individual fire extinguishing system contractor's certificate.

b. An employee or subcontractor of a certified alarm system contractor who is an alarm system installer, and who is not licensed pursuant to chapter 103 shall obtain and maintain certification as an alarm system installer and shall meet and maintain qualifications established by the state fire marshal by rule.

2004 Acts, ch 1125, §3, 17; 2007 Acts, ch 197, §4, 50; 2008 Acts, ch 1092, §4, 32

100C.3 Application — information to be provided.

1. A fire extinguishing system contractor, an alarm system contractor, or an alarm system installer shall apply for a certificate on a form prescribed by the state fire marshal. The application shall be accompanied by a fee in an amount prescribed by rule pursuant to section 100C.7 and shall include all of the following information, as applicable:

a. The name, address, and telephone number of the contractor or installer and, in the case of an installer, the name and certification number of the contractor by whom the installer is employed, including all legal and fictitious names.

b. Proof of insurance coverage required by section 100C.4.

c. The name and qualifications of the person designated as the contractor's responsible managing employee and of persons designated as alternate responsible managing employees.

d. Any other information deemed necessary by the state fire marshal.

2. An applicant for certification as an alarm system contractor or an alarm system installer shall be subject to a national criminal history check through the federal bureau of investigation. The applicant shall provide fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. Fees for the national criminal history check shall be paid by the applicant or the applicant's employer. The results of a criminal history check conducted pursuant to this subsection shall be considered a confidential record under chapter 22.

3. Upon receipt of a completed application and prescribed fees, if the contractor or installer meets all requirements established by this chapter, the state fire marshal shall issue a certificate to the contractor or installer within thirty days.

4. Certificates shall expire and be renewed as established by rule pursuant to section 100C.7.

5. Any change in the information provided in the application shall be promptly reported to the state fire marshal. When the employment of a responsible managing employee is terminated, the contractor shall notify the state fire marshal within thirty days after termination.

2004 Acts, ch 1125, §4, 17; 2007 Acts, ch 197, §5, 50; 2008 Acts, ch 1076, §1, 4; 2009 Acts, ch 133, §26

100C.4 Insurance.

1. A fire extinguishing system contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of automatic fire extinguishing systems in an amount determined by the state fire marshal by rule.

2. An alarm system contractor shall maintain general and complete operations liability insurance for the layout, installation, repair, alteration, addition, maintenance, and inspection of alarm systems in an amount determined by the state fire marshal by rule.

2004 Acts, ch 1125, §5, 17; 2007 Acts, ch 197, §6, 50

Referred to in §100C.3

100C.5 Suspension and revocation.

1. The state fire marshal shall suspend or revoke the certificate of any contractor or installer who fails to maintain compliance with the conditions necessary to obtain a certificate. A certificate may also be suspended or revoked if any of the following occur:

a. The employment or relationship of a responsible managing employee with a contractor

is terminated, unless the contractor has included a qualified alternate on the application or an application designating a new responsible managing employee is filed with the state fire marshal within six months after the termination.

b. The contractor or installer fails to comply with any provision of this chapter.

c. The contractor or installer fails to comply with any other applicable codes and ordinances.

2. If a certificate is suspended pursuant to this section, the certificate shall not be reinstated until the condition or conditions which led to the suspension have been corrected.

3. The state fire marshal shall adopt rules pursuant to section 100C.7 for the acceptance and processing of complaints against certificate holders, for procedures to suspend and revoke certificates, and for appeals of decisions to suspend or revoke certificates.

2004 Acts, ch 1125, §6, 17; 2007 Acts, ch 197, §7, 50

100C.6 Applicability.

This chapter shall not be construed to do any of the following:

1. Relieve any person from payment of any local permit or building fee, except as provided in section 100C.11.

2. Limit the power of the state or a political subdivision of the state to regulate the quality and character of work performed by contractors or installers through a system of fees, permits, and inspections designed to ensure compliance with, and aid in the administration of, state and local building codes or to enforce other local laws for the protection of the public health and safety.

3. Apply to a person licensed as an engineer pursuant to chapter 542B who provides consultation or develops plans or other work concerning the installation or design of fire protection systems.

4. Relieve any person engaged in fire protection system installation, maintenance, repair, service, or inspection as provided in section 100D.1 from obtaining a fire protection system installer and maintenance worker license as required pursuant to chapter 100D.

2004 Acts, ch 1125, §7, 17; 2007 Acts, ch 197, §8, 50; 2008 Acts, ch 1092, §5, 32; 2008 Acts, ch 1094, §1, 18; 2008 Acts, ch 1191, §123; 2009 Acts, ch 41, §175, 264; 2010 Acts, ch 1037, §1; 2011 Acts, ch 34, §27; 2020 Acts, ch 1121, §87, 90

100C.7 Administration — rules.

The state fire marshal shall administer this chapter and, after consultation with the fire extinguishing system contractors and alarm systems advisory board, shall adopt rules pursuant to chapter 17A necessary for the administration and enforcement of this chapter.

2004 Acts, ch 1125, §8; 2007 Acts, ch 197, §9, 50

Referred to in §100C.1, 100C.3, 100C.5, 100D.1

100C.8 Penalties.

1. A person who violates any provision of this chapter is guilty of a simple misdemeanor.

2. The state fire marshal may impose a civil penalty of up to five hundred dollars on any person who violates any provision of this chapter for each day a violation continues. The state fire marshal may adopt rules necessary to enforce and collect any penalties imposed pursuant to this chapter.

2004 Acts, ch 1125, §9, 17

100C.9 Deposit and use of moneys collected.

1. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of state fire marshal in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

2. Notwithstanding section 8.33, fees collected by the division of state fire marshal that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in succeeding fiscal years.

2004 Acts, ch 1125, §10, 17; 2005 Acts, ch 35, §26; 2010 Acts, ch 1014, §2

100C.10 Fire extinguishing system contractors and alarm systems advisory board.

1. A fire extinguishing system contractors and alarm systems advisory board is established in the division of state fire marshal of the department of public safety and shall advise the division on matters pertaining to the application and certification of contractors and installers pursuant to this chapter.

2. The board shall consist of eleven voting members appointed by the commissioner of public safety as follows:

a. Two full-time fire officials of incorporated municipalities or counties.

b. One full-time building official of an incorporated municipality or county.

c. Three fire extinguishing system contractors, certified pursuant to this chapter, of which at least one shall be a water-based fire sprinkler contractor.

d. Three alarm system contractors, certified pursuant to this chapter, at least one of whom shall have experience with fire alarm systems, at least one of whom shall have experience with security alarm systems, and at least one of whom shall have experience with nurse call systems.

e. One professional engineer or architect licensed in the state.

f. One representative of the general public.

3. The state fire marshal, or the state fire marshal's designee, and the chairperson of the electrical examining board created in section 103.2 shall be nonvoting ex officio members of the board.

4. The commissioner shall initially appoint two members for two-year terms, two members for four-year terms, and three members for six-year terms. Following the expiration of the terms of initially appointed members, each term thereafter shall be for a period of six years. No member shall serve more than two consecutive terms. If a position on the board becomes vacant prior to the expiration of a member's term, the member appointed to the vacancy shall serve the balance of the unexpired term.

5. Six voting members of the advisory board shall constitute a quorum. A majority vote of the board shall be required to conduct business.

2004 Acts, ch 1125, §11; 2005 Acts, ch 35, §27; 2007 Acts, ch 126, §20; 2007 Acts, ch 197, §10, 50; 2008 Acts, ch 1031, §33; 2008 Acts, ch 1092, §6, 32; 2017 Acts, ch 131, §1

Referred to in §100D.5

100C.11 Alarm systems — fees or fines — limitations.

A political subdivision shall not adopt or enforce an ordinance, resolution, rule, or other measure requiring an alarm system contractor to pay a fee or fine associated with any of the following:

1. False alarms.

2. Emergency response to false alarms.

3. Permits associated with placing or keeping an alarm system in service, not including any installation permits required by the political subdivision's building code.

2020 Acts, ch 1121, §88, 90

Referred to in §100C.6

100C.12 Collection of fees.

1. If, prior to June 30, 2020, an alarm system contractor charged its customers an amount equal to the costs the political subdivision of the state imposed on the alarm system contractor for permits associated with placing or keeping an alarm in service, as shown on a separate line item on the customer's invoice, the alarm system contractor may continue to collect from its customers such fees until December 31, 2020. The alarm system contractor shall pay to the political subdivision of the state or its designee the fees collected under this section in accordance with the instructions of the political subdivision or the political subdivision's designee.

2. Fees collected by an alarm system contractor under this section shall not be subject to audit by a political subdivision or the political subdivision's designee.

2020 Acts, ch 1121, §89, 90

CHAPTER 100D

FIRE PROTECTION SYSTEM INSTALLATION AND MAINTENANCE

Referred to in §100C.6, 272C.1, 272C.16

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100D.3	Fire protection system installer and maintenance worker license.	100D.8	Provisional licensure.
		100D.9	Transition provisions.
100D.4	Insurance and surety bond requirements.	100D.10	Reciprocal licenses.
		100D.11	Applicability.
100D.5	Administration — rules — suspension and revocation.	100D.12	Local licensing provisions.
		100D.13	Temporary licenses.

100D.1 Definitions.

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

1. *"Apprentice fire protection system installer and maintenance worker"* means a person who is registered in an apprenticeship program approved by the United States department of labor who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee of a certified fire extinguishing system contractor or licensed fire protection system installer and maintenance worker other than a trainee.

2. *"Department"* means the department of public safety.

3. *"Division"* means division of the state fire marshal in the department.

4. *"Fire extinguishing system contractor"* means a person or persons who are engaging in or representing themselves to the public as engaging in the activity or business of layout, installation, repair, service, alteration, addition, testing, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state, as defined in section 100C.1, and who is certified pursuant to chapter 100C.

5. *"Fire protection system"* means a sprinkler system, standpipe system, hose system, special hazard system, dry system, foam system, or any water-based fire protection system, whether engineered or preengineered and whether manual or automatically activated, used for fire protection purposes which may include an integrated system of underground and overhead piping and which may be connected to a water source.

6. *"Fire protection system installation"* means to set up or establish for use in an indicated space a fire protection system.

7. *"Fire protection system maintenance"* means to provide repairs, including all inspections and tests, required to keep a fire protection system and its component parts in an operative condition at all times, and the replacement of the system or its component parts when they become undependable or inoperable.

8. *"Fire protection system installer and maintenance worker"* means a person who, having the necessary qualifications, training, experience, and technical knowledge, conducts fire protection system installation and maintenance, and who is licensed by the department to install or maintain the types of fire protection systems endorsed on the license.

9. *"Preengineered fire protection system"* means a fire protection system that has a predetermined flow rate, nozzle pressure, and quantity of extinguishing agent.

10. *"Responsible managing employee"* means an owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor who is certified by the national institute for certification in engineering technologies at a level three in fire protection technology, automatic sprinkler system layout, or another certification in automatic sprinkler system layout recognized by rules adopted by the fire marshal pursuant to section 100C.7 or who meets any other criteria established by rule.

11. *"Routine maintenance"* means the repair or replacement of existing fire protection system components of the same size and type for which no changes in configuration are made, including the replacement of sprinkler heads or nozzles and the temporary disabling

and subsequent restarting of a system as necessary to perform such routine maintenance. "*Routine maintenance*" does not include any new installation or the expansion or extension of any existing fire protection system.

12. "*Trainee*" means a person who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee of a certified fire extinguishing system contractor or licensed fire protection system installer and maintenance worker and who is not registered with the United States department of labor.

2008 Acts, ch 1094, §2, 18; 2009 Acts, ch 91, §1 – 3; 2010 Acts, ch 1037, §2, 3; 2010 Acts, ch 1061, §18; 2011 Acts, ch 65, §1, 3

Referred to in §100C.6

100D.2 License required.

1. On or after January 1, 2010, a person shall not perform fire protection system installations or fire protection system maintenance without holding a current, valid fire protection system installer and maintenance worker license issued pursuant to this chapter, with appropriate endorsements for that type of system, with the following exceptions:

a. An employee of a fire extinguishing system contractor working as an apprentice fire protection system installer and maintenance worker performing fire protection system installation or maintenance under the direct supervision of an on-site responsible managing employee or licensed fire protection system installer and maintenance worker is not required to hold a current, valid fire protection system installer and maintenance worker license.

b. A person who demolishes fire protection system components is not subject to the provisions of this chapter when the work involves a complete sprinkler system. A person is not required to be licensed in order to demolish part of a system or a partial system, provided that the system is taken out of service. If a system is restored to service after having been taken out of service, the restoration work must be performed by a person licensed pursuant to this chapter or a responsible managing employee.

c. A person who is a responsible managing employee of a fire extinguishing system contractor is not required to hold a current, valid fire protection system installer and maintenance worker license in order to perform fire protection system installations or maintenance.

d. A trainee who works at all times under the direct supervision of a licensed fire protection system installer and maintenance worker, other than an unclassified person, may be licensed to work on special hazard fire protection systems but shall not be licensed to perform installation or maintenance on a preengineered fire protection system or on an engineered water-based fire protection system. A trainee license may be renewed once and a person may work as a trainee for a maximum of four years.

2. A licensed fire protection system installer and maintenance worker must be present at all locations and at all times when fire protection system installation work is being performed. At least one licensed fire protection system installer and maintenance worker must be present for every three apprentice fire protection system installers and maintenance workers or trainees performing work related to fire protection system installation.

3. Licenses are not transferable. The lending, selling, giving, or assigning of any license or the obtaining of a license for any other person shall be grounds for revocation.

4. Licenses shall be issued for a two-year period, and may be renewed as established by the state fire marshal by rule.

5. On and after January 1, 2010, a governmental subdivision shall not issue a license to a person installing a fire protection system and shall not prohibit a person installing fire protection systems and licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

2008 Acts, ch 1094, §3, 18; 2009 Acts, ch 91, §4 – 7; 2010 Acts, ch 1037, §4, 5

100D.3 Fire protection system installer and maintenance worker license.

1. The state fire marshal shall issue a fire protection system installer and maintenance worker license to an applicant who meets all of the following requirements:

a. Has completed a fire protection apprenticeship program approved by the United States department of labor, or has completed two years of full-time employment or the equivalent thereof as a trainee.

b. Is employed by a fire extinguishing system contractor. However, an applicant whose work on extinguishing systems will be restricted to systems on property owned or controlled by the applicant's employer may obtain a license if the employer is not a certified contractor.

c. Has received a passing score on the national inspection, testing, and certification star fire sprinkler mastery exam or on an equivalent exam from a nationally recognized third-party testing agency that is approved by the state fire marshal, or is certified at level one by the national institute for certification in engineering technologies and as specified by rule by the state fire marshal, or is certified by another entity approved by the fire marshal.

2. The state fire marshal shall issue a fire protection system installer and maintenance worker license with endorsements restricted to preengineered fire protection systems to an applicant who does not meet the requirements of subsection 1 but does meet the following requirements:

a. To be endorsed as a preengineered kitchen fire extinguishing system installer, has successfully completed training and an examination verified by a preengineered system manufacturer, an agent of a preengineered system manufacturer, or an organization that is approved by the state fire marshal.

b. To be endorsed as a preengineered kitchen fire extinguishing system maintenance worker, has successfully completed training by the worker's employer or the system's manufacturer and has passed a written or online examination for preengineered kitchen fire extinguishing system maintenance that is approved by the state fire marshal.

c. To be endorsed as a preengineered industrial fire extinguishing system installer, possesses a training and examination certification from a preengineered system manufacturer, an agent of a preengineered system manufacturer, or an organization that is approved by the state fire marshal.

d. To be endorsed as a preengineered industrial fire extinguishing system maintenance worker, has been trained by the worker's employer and has passed a written or online examination for preengineered industrial fire extinguishing system maintenance that is approved by the state fire marshal.

3. The holder of a fire protection system installer and maintenance worker license shall be responsible for license fees, renewal fees, and continuing education hours.

4. The license of a fire protection system installer and maintenance worker licensee who ceases to be employed by a fire extinguishing system contractor shall continue to be valid until it would otherwise expire, but the licensee shall not perform work requiring licensure under this chapter until the licensee is again employed by a fire extinguishing system contractor. If the licensee becomes employed by a fire extinguishing system contractor other than the contractor which employed the licensee at the time the license was issued, the licensee shall notify the fire marshal and shall apply for an amendment to the license. The fire marshal may establish by rule a fee for amending a license. This subsection shall not extend the time period during which a license is valid. This subsection does not apply to a licensee whose work on extinguishing systems is restricted to systems on property owned or controlled by the licensee's employer.

5. The fire marshal, by rule, may restrict the scope of work authorized by a license with appropriate endorsements.

2008 Acts, ch 1094, §4, 18; 2009 Acts, ch 91, §8; 2010 Acts, ch 1037, §6

Referred to in §100D.8, 100D.9

100D.4 Insurance and surety bond requirements.

1. An applicant for a fire protection system installer and maintenance worker license or renewal of an active license shall provide evidence of a public liability insurance policy and surety bond in an amount determined sufficient by the fire marshal by rule.

2. If the applicant is engaged in fire protection system installer and maintenance worker work individually through a business conducted as a sole proprietorship, the applicant shall personally obtain the insurance and surety bond required by this section. If the applicant is engaged in the fire protection system installer and maintenance worker business as an employee or owner of a legal entity, then the insurance and surety bond required by this section shall be obtained by the entity and shall cover all fire protection system installer and maintenance worker work performed by the entity.

3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensee shall maintain on file with the department a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving fifteen days written notice to the fire marshal.

2008 Acts, ch 1094, §5, 18; 2009 Acts, ch 91, §9; 2010 Acts, ch 1037, §7

100D.5 Administration — rules — suspension and revocation.

The state fire marshal shall do all of the following:

1. After consultation with the fire extinguishing system contractors and alarm systems advisory board established pursuant to section 100C.10, adopt rules pursuant to chapter 17A necessary for the administration and enforcement of this chapter.

2. Revoke, suspend, or refuse any license granted pursuant to this chapter when the licensee fails or refuses to pay an examination, license, or renewal fee required by law or when the licensee is guilty of any of the following acts or omissions:

a. Fraud in procuring a license.

b. Professional incompetence.

c. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs.

e. Conviction of a felony related to the profession or occupation of the licensee. A copy or the record of conviction or plea of guilty shall be conclusive evidence.

f. Fraud in representation as to skill or ability.

g. Use of untruthful or improbable statements in advertisements.

h. Willful or repeated violations of the provisions of this chapter.

3. Adopt rules for continuing education requirements, which shall include, at a minimum, completion of sixteen credit hours of instruction per licensure period relating to updates in fire protection system installation and maintenance.

4. Adopt rules regarding license application forms, examination procedures, and license application and renewal fees.

5. Adopt rules specifying a violation reporting procedure.

2008 Acts, ch 1094, §6, 18; 2009 Acts, ch 91, §10; 2010 Acts, ch 1037, §8

Referred to in §272C.3, 272C.4, 272C.5

100D.6 Penalties.

The state fire marshal may impose a civil penalty of up to five hundred dollars on any person who violates any provision of this chapter for each day a violation continues. The state fire marshal may adopt rules necessary to enforce and collect any penalties imposed pursuant to this chapter.

2008 Acts, ch 1094, §7, 18

100D.7 Deposit and use of moneys collected.

1. The state fire marshal shall set the license fees and renewal fees for all licenses issued pursuant to this chapter, by rule, based upon the actual costs of licensing.

2. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of state fire marshal in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

3. Notwithstanding section 8.33, fees collected by the division of state fire marshal that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall

remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

2008 Acts, ch 1094, §8, 18

100D.8 Provisional licensure.

1. An applicant for licensure under this chapter as a fire protection system installer and maintenance worker who possesses a minimum of four years of experience as an apprentice fire protection system installer and maintenance worker and who has not successfully passed the licensure examination or achieved certification as required pursuant to section 100D.3 by January 1, 2010, shall be issued a license as a fire protection system installer and maintenance worker for a period ending no later than December 31, 2010. A provisional license shall be granted upon presentation of satisfactory evidence to the fire marshal demonstrating experience and competency in conducting fire protection system installations and fire protection system maintenance according to criteria to be determined by the fire marshal in rule.

2. An applicant issued a provisional license pursuant to this section shall pass the licensure examination or achieve certification on or before December 31, 2010, in order to remain licensed as a fire protection system installer and maintenance worker. A provisional license fee shall be established by the fire marshal by rule. No provisional licenses shall be issued after July 1, 2010.

2008 Acts, ch 1094, §9, 18; 2009 Acts, ch 91, §11; 2010 Acts, ch 1037, §9

100D.9 Transition provisions.

1. An applicant for licensure under this chapter, who is employed as a fire protection system installer and maintenance worker as of July 1, 2008, shall be issued a license upon presentation of satisfactory evidence to the department of at least eight thousand five hundred hours of experience as a fire protection system installer and maintenance worker and one of the following:

a. Presentation of a certificate of completion of a four-year or five-year protection system apprenticeship program, approved by the United States department of labor.

b. A passing score on the national inspection, testing and certification star fire sprinkler mastery exam or an equivalent exam from a nationally recognized third-party testing agency that is approved by the state fire marshal.

c. Certification by the national institute for certification in engineering technologies, or another entity as specified by rule by the state fire marshal.

2. After July 31, 2012, a person licensed pursuant to this section shall renew or obtain a license pursuant to section 100D.3.

2008 Acts, ch 1094, §10, 18; 2009 Acts, ch 91, §12, 13; 2010 Acts, ch 1037, §10

100D.10 Reciprocal licenses.

To the extent that another state provides for the licensing of fire protection system installers and maintenance workers or similar action, the state fire marshal may issue a fire protection system installer and maintenance worker license, without examination, to a nonresident fire protection system installer and maintenance worker who has been licensed by such other state for at least three years provided such other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained a fire protection system installer and maintenance worker license upon payment by the applicant of the required fee and upon furnishing proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in this state.

2008 Acts, ch 1094, §11, 18; 2010 Acts, ch 1037, §11

100D.11 Applicability.

1. The provisions of this chapter shall not be construed to apply to a person licensed as an engineer pursuant to chapter 542B who provides consultation or develops plans or other work concerning the installation or design of fire protection systems.

2. The provisions of this chapter shall not be construed to apply to a person only performing routine maintenance.

3. The provisions of this chapter shall not be construed to apply to a person licensed as a plumber pursuant to chapter 105 who is working within the scope of the person's license.

2008 Acts, ch 1094, §12, 18; 2009 Acts, ch 91, §14; 2010 Acts, ch 1037, §12

100D.12 Local licensing provisions.

On and after August 1, 2009, a governmental subdivision shall not prohibit a person licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any additional licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

2008 Acts, ch 1094, §13, 18

100D.13 Temporary licenses.

1. The state fire marshal may issue a temporary fire protection system installer and maintenance worker license to a person, providing that all of the following conditions are met:

a. The person is currently licensed or certified to perform work as a fire protection system installer and maintenance worker in another state.

b. The person meets any additional criteria for a temporary license established by the state fire marshal by rule.

c. The person provides all information required by the state fire marshal.

d. The person has paid the fee for a temporary license, which fee shall be established by the state fire marshal by rule.

e. The person intends to perform work as a fire protection system installer and maintenance worker only in areas of this state which are covered by a disaster emergency declaration issued by the governor pursuant to section 29C.6.

2. A temporary license issued pursuant to this section shall be valid for ninety days. The state fire marshal may establish criteria and procedures for the extension of such licenses for additional periods, which in no event shall exceed ninety days.

3. A temporary license shall be valid only in areas of the state which are subject to a disaster emergency declaration issued by the governor pursuant to section 29C.6 at the time at which the license is issued, which become subject to such a declaration during the time the license is valid, or which were subject to such a declaration issued within the six months preceding the issuance of the license.

2008 Acts, ch 1094, §18; 2009 Acts, ch 91, §15; 2010 Acts, ch 1037, §13, 14

CHAPTER 101

COMBUSTIBLE AND FLAMMABLE LIQUIDS AND LIQUEFIED GASES

Referred to in §455B.474, 455G.31

See also chapter 455G

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SUBCHAPTER I

GENERAL PROVISIONS

101.1 Rules by fire marshal — definitions.

1. The state fire marshal is hereby empowered and directed to formulate and adopt and from time to time amend or revise and to promulgate, in conformity with and subject to the conditions set forth in this chapter, reasonable rules for the safe transportation, storage, handling, and use of combustible liquids, flammable liquids, liquefied petroleum gases, and liquefied natural gases.

2. For purposes of this chapter:

a. "Combustible liquid" means any liquid that has a closed-cup flash point greater than or equal to 100 degrees Fahrenheit.

b. "Flammable liquid" means a liquid with a closed-cup flash point below 100 degrees Fahrenheit and a Reid vapor pressure not exceeding forty p.s.i. absolute, 2026.6 mm Hg, at 100 degrees Fahrenheit.

c. "Liquefied petroleum gas" means material composed predominantly of any of the following hydrocarbons, or mixtures of the same: Propane, propylene, butanes (normal butane or isobutane) and butylenes.

d. "Liquefied natural gas" means a fuel in the liquid state composed predominantly of methane and which may contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

e. "Petroleum" means petroleum as defined in section 455B.471.

[C35, §1655-g1, -g2, -g4; C39, §**1655.1, 1655.2, 1655.4;** C46, 50, 54, §101.1, 101.2; C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.1]

2010 Acts, ch 1014, §3; 2011 Acts, ch 34, §28

101.2 Scope of rules.

Except as otherwise provided in this chapter, the rules shall be in substantial compliance with the standards of the national fire protection association relating to flammable and combustible liquids, liquefied petroleum gases, and liquefied natural gases.

[C35, §1655-g2; C39, §**1655.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §101.2]

98 Acts, ch 1008, §2; 2011 Acts, ch 34, §29

101.3 Separate rules for liquids and gas.

The rules covering combustible and flammable liquids shall be formulated and promulgated separately from those covering liquefied petroleum gas and from those covering liquefied natural gases.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.3]

2010 Acts, ch 1014, §4; 2011 Acts, ch 34, §30

101.4 Nonconforming use.

The rules shall make reasonable provision under which facilities in service prior to the effective date of the regulations and not in strict conformity therewith may be continued in service unless the nonconformity is such as to constitute a distinct hazard to life or adjoining property; and for guidance in enforcement may delineate these types of nonconformity that should be considered distinctly hazardous, those that should not be considered distinctly hazardous and those the need for elimination of which should be evaluated in the light of local factors. As to any rule the need for compliance with which is conditioned on local factors, the rules shall provide, as a condition precedent to evaluation or issuance of a compliance order, for reasonable notice to the proprietor of the facility affected of intention to evaluate the need and of the time and place at which the proprietor may appear and offer evidence thereon.

[C35, §1655-g3; C39, §**1655.3;** C46, 50, 54, §101.3; C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.4]

101.5 Rules.

The rules shall be promulgated pursuant to chapter 17A.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.5]

2004 Acts, ch 1125, §12; 2010 Acts, ch 1014, §5

101.5A Shared public petroleum storage facilities.

The state fire marshal shall permit by rule the shared ownership, operation, or cooperative use of a publicly owned petroleum storage or dispensing facility by more than one public agency or political subdivision in order to maximize the opportunity for cooperation, to avoid unnecessary duplication of facilities posing both an environmental and fire hazard, and to minimize the cost of providing public services. Shared or cooperative use is not a violation of chapter 23A, even if one public agency or political subdivision compensates another public agency or political subdivision for the use or for petroleum dispensed. A publicly owned petroleum storage facility subject to this section may use aboveground or underground storage tanks, or a combination of both.

90 Acts, ch 1113, §1

101.6 Ordinances by municipalities.

Rules promulgated pursuant to this chapter shall have uniform force and effect throughout the state and no municipality or political subdivision shall enact or enforce any ordinance or regulation inconsistent or not in keeping with the statewide rules. Provided that nothing in this chapter shall in any way impair the power of any municipality when authorized by other law to regulate the use of land by comprehensive zoning or to control the construction of buildings and structures under building codes or restricted fire district regulations. Provided, further, that the size, weight and cargo carried by vehicles used in the transportation or delivery of flammable liquids or liquefied petroleum gas shall be governed by the uniform provisions of the motor vehicle and highway traffic laws of this state and local ordinances therein authorized.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.6]

101.7 Penalty.

Any person, firm or corporation violating any of the rules promulgated under this chapter shall be deemed guilty of a simple misdemeanor. Each day of the continuing violation of such rules after conviction shall be considered a separate offense. Appeals may be taken from such convictions as in other criminal cases.

[C35, §1655-g3, -g4; C39, §**1655.3, 1655.4;** C46, 50, 54, §101.2, 101.4; C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.7]

101.8 Assistance by local officials.

The chief fire prevention officer of every city or village having an established fire prevention department, the chief of the fire department of every other city or village in which a fire department is established, the mayor of every city in which no fire department exists, the township clerk of every township outside the limits of any city or village and all other local officials upon whom fire prevention duties are imposed by law shall assist the state fire marshal in the enforcement of the rules.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §101.8]

101.9 Repairs ordered by fire marshal.

If the state fire marshal has reasonable grounds for believing after conducting tests that a leak exists in a flammable or combustible liquid storage tank or in the distribution system of a flammable or combustible liquid storage tank the state fire marshal shall issue a written order to the owner or lessee of the storage tank or distribution system requiring the storage tank and distribution system be emptied and removed or repaired immediately upon receipt of the written order.

[C79, 81, §101.9]

101.10 Assistance of department of natural resources.

If the state fire marshal has reasonable grounds for believing that a leak constitutes a hazardous condition which threatens the public health and safety, the fire marshal may request the assistance of the department of natural resources, and upon such request the department of natural resources is empowered to eliminate the hazardous condition as provided in chapter 455B, subchapter IV, part 4, the provisions of section 455B.390, subsection 3, to the contrary notwithstanding.

[C79, 81, §101.10; 82 Acts, ch 1199, §92, 96]

2021 Acts, ch 76, §150
Code editor directive applied

101.11 Use in vehicle — marking — dispensing prohibition — penalty.

1. A vehicle which carries liquefied petroleum gas fuel or natural gas, as a fuel source for the vehicle, in a concealed area, including but not limited to trunks or compartments located in or under the vehicle, shall display on the left rear and right front bumpers of the vehicle a standard abbreviation or symbol, approved by the department of public safety, which indicates liquefied petroleum gas fuel or natural gas is a fuel source for the vehicle.

2. The owner of the vehicle which is fueled by natural gas or liquefied petroleum gas shall be responsible for the placement of the approved abbreviation or symbol on the vehicle.

3. A person shall not dispense liquefied petroleum gas fuel or natural gas into a tank in a concealed area of a vehicle unless the vehicle complies with subsection 1.

4. A person who violates this section is guilty of a simple misdemeanor.

84 Acts, ch 1095, §9

101.12 Aboveground tanks authorized.

1. An aboveground flammable or combustible liquid storage tank may be installed at a retail motor vehicle fuel outlet, subject to rules adopted by the state fire marshal.

2. Rules adopted by the state fire marshal pursuant to this section shall be in substantial compliance with the applicable standards of the national fire protection association.

3. The installation of an aboveground flammable or combustible liquid storage tank at a

retail motor vehicle fuel outlet shall also be subject to approval by the governing body of the local governmental subdivision which has jurisdiction over the fuel outlet.

89 Acts, ch 131, §3; 90 Acts, ch 1235, §1; 98 Acts, ch 1008, §3; 2010 Acts, ch 1014, §6

101.13 Liquefied petroleum gas containers.

1. If a liquefied petroleum gas container designed to hold more than twenty pounds of liquefied petroleum gas has the name, mark, initials, or other identifying device of the owner in plainly legible characters on the surface of the container, a person other than the owner or a person authorized by the owner shall not do any of the following:

a. Fill or refill the container with liquefied petroleum gas or any other gas or compound except when the owner is unable to supply liquefied petroleum gas to a person to whom the owner is leasing or furnishing the container and to whom the owner ordinarily supplies the liquefied petroleum gas, in which case the owner shall authorize the refilling of the container by another person designated by the owner.

b. Buy, sell, offer for sale, give, take, loan, deliver or permit to be delivered, or otherwise use the container.

c. Deface, remove, conceal, or change the name, mark, initials, or other identifying device of the owner.

d. Place the name, mark, initials, or other identifying device indicating ownership by any person other than the owner on the container.

2. A person who violates this section is guilty of a simple misdemeanor. Each violation of this section shall constitute a separate offense.

93 Acts, ch 138, §1

101.14 Action for damages — evidence — user conduct.

1. In any action or claim seeking damages for personal injuries or damage to property arising out of injuries or loss due to defects in a liquefied petroleum gas system, or arising out of the condition of any portion of that system, the negligence or other fault of the customer, owner, or other person in possession of or making use of that system relating to the installation, modification, maintenance, or repair of the system or damage incurred to the system shall be admissible in evidence and considered by the finder of fact if such conduct was a cause in fact of the accident or condition leading to the injuries or damages.

2. For purposes of this section, *"liquefied petroleum gas system"* means any container designed to hold liquefied petroleum gas and attached valves, regulators, piping, appliances, controls on appliances, and venting of appliances.

2004 Acts, ch 1126, §1

101.15 through 101.20 Reserved.

SUBCHAPTER II

ABOVEGROUND FLAMMABLE OR COMBUSTIBLE LIQUID STORAGE TANKS

101.21 Definitions.

As used in this subchapter unless the context otherwise requires:

1. *"Aboveground flammable or combustible liquid storage tank"* means one or a combination of tanks, including connecting pipes connected to the tanks which are used to contain an accumulation of flammable or combustible liquid and the volume of which, including the volume of the underground pipes, is more than ninety percent above the surface of the ground. *"Aboveground flammable or combustible liquid storage tank"* does not include any of the following:

a. An aboveground tank which meets any of the following criteria:

(1) Has one thousand one hundred gallons or less capacity.

(2) Stores flammable liquids on a farm located outside the limits of a city, if the aboveground tank has two thousand gallons or less capacity.

(3) Stores combustible liquids on a farm located outside the limits of a city, if the aboveground tank has five thousand gallons or less capacity.

b. A tank used for storing heating oil for consumptive use on the premises where stored.

c. An underground storage tank as defined by section 455B.471.

d. A flow-through process tank, or a tank containing a regulated substance, other than motor fuel used for transportation purposes, for use as part of a manufacturing process, system, or facility.

2. *a. "Farm"* means land and associated improvements used to produce agricultural commodities, if at least one thousand dollars is annually generated from the sale of the agricultural commodities.

b. As used in paragraph *"a"*, *"commodities"* means crops as defined in section 202.1 or animals as defined in section 459.102.

3. *"Operator"* means a person in control of, or having responsibility for, the daily operation of an aboveground flammable or combustible liquid storage tank.

4. *"Owner"* means:

a. In the case of an aboveground flammable or combustible liquid storage tank in use on or after July 1, 1989, a person who owns the aboveground flammable or combustible liquid storage tank used for the storage, use, or dispensing of flammable or combustible liquid.

b. In the case of an aboveground flammable or combustible liquid storage tank in use before July 1, 1989, but no longer in use on or after that date, a person who owned the tank immediately before the discontinuation of its use.

5. *"Release"* means spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an aboveground flammable or combustible liquid storage tank into groundwater, surface water, or subsurface soils.

6. *"State fire marshal"* means the state fire marshal or the state fire marshal's designee.

7. *"Tank site"* means a tank or grouping of tanks within close proximity of each other located on a facility for the purpose of storing flammable or combustible liquid.

89 Acts, ch 131, §4; 90 Acts, ch 1235, §2; 2006 Acts, ch 1142, §83; 2010 Acts, ch 1014, §7; 2011 Acts, ch 34, §31; 2013 Acts, ch 127, §8, 9; 2014 Acts, ch 1092, §24; 2016 Acts, ch 1011, §121

101.22 Report of existing and new tanks — registration fee — tag — penalty.

1. Except as provided in subsection 2, the owner or operator of an aboveground flammable or combustible liquid storage tank existing on July 1, 2010, shall notify the state fire marshal in writing by October 1, 2010, of the existence of each tank and specify the age, size, type, location, and uses of the tank.

2. The owner of an aboveground flammable or combustible liquid storage tank taken out of operation on or before July 1, 2010, shall notify the state fire marshal in writing by October 1, 2010, of the existence of the tank unless the owner knows the tank has been removed from the site. The notice shall specify, to the extent known to the owner, the date the tank was taken out of operation, the age of the tank on the date taken out of operation, the size, type, and location of the tank, and the type and quantity of substances left stored in the tank on the date that it was taken out of operation.

3. An owner or operator who brings into use an aboveground flammable or combustible liquid storage tank after July 1, 2010, shall notify the state fire marshal in writing within thirty days of the existence of the tank and specify the age, size, type, location, and uses of the tank.

4. The registration notice of the owner or operator to the state fire marshal under subsections 1 through 3 shall be accompanied by an annual fee of twenty dollars for each tank included in the notice. All moneys collected shall be retained by the department of public safety and are appropriated for the use of the state fire marshal. The annual renewal fee applies to all owners or operators who file a registration notice with the state fire marshal pursuant to subsections 1 through 3.

5. A person who sells or constructs a tank intended to be used as an aboveground storage tank shall notify the purchaser of the tank in writing of the notification requirements of this section applicable to the purchaser.

6. An owner or operator shall register an aboveground flammable or combustible liquid storage tank pursuant to subsections 1 through 4.

7. *a.* The state fire marshal shall furnish the owner or operator of an aboveground flammable or combustible liquid storage tank with a registration tag for each aboveground flammable or combustible liquid storage tank registered with the state fire marshal.

b. The owner or operator shall affix the tag to the fill pipe of each registered aboveground flammable or combustible liquid storage tank.

8. A late registration penalty of twenty-five dollars is imposed in addition to the registration fee for a tank registered after the required date.

89 Acts, ch 131, §5; 90 Acts, ch 1235, §3; 2000 Acts, ch 1224, §23; 2002 Acts, ch 1119, §127; 2008 Acts, ch 1032, §191; 2010 Acts, ch 1014, §8; 2011 Acts, ch 34, §32; 2013 Acts, ch 127, §10
Referred to in §101.22A

101.22A Exemption.

An aboveground flammable or combustible liquid storage tank which is subject to regulation or registration under either the federal department of transportation or state department of transportation, or both, is exempt from the registration requirements of section 101.22.

90 Acts, ch 1235, §4; 2010 Acts, ch 1014, §9

101.23 State fire marshal reporting rules.

The state fire marshal shall adopt rules pursuant to chapter 17A relating to reporting requirements necessary to enable the state fire marshal to maintain an accurate inventory of aboveground flammable or combustible liquid storage tanks.

89 Acts, ch 131, §6; 90 Acts, ch 1235, §5; 2010 Acts, ch 1014, §10

101.24 Duties and powers of the state fire marshal.

The state fire marshal shall:

1. Inspect and investigate the facilities and records of owners and operators of aboveground flammable or combustible liquid storage tanks with a capacity of fifteen thousand or more gallons, as necessary to determine compliance with this subchapter and the rules adopted pursuant to this subchapter. An inspection or investigation shall be conducted subject to subsection 4. For purposes of developing a rule, maintaining an accurate inventory, or enforcing this subchapter, the department may:

a. Enter at reasonable times an establishment or other place where an aboveground storage tank is located.

b. Inspect and obtain samples from any person of flammable or combustible liquid or another regulated substance and conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water, and groundwater. Each inspection shall be commenced and completed with reasonable promptness.

(1) If the state fire marshal obtains a sample, prior to leaving the premises, the fire marshal shall give the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If the sample is analyzed, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

(2) Documents or information obtained from a person under this subsection shall be available to the public except as provided in this subparagraph. Upon a showing satisfactory to the state fire marshal by a person that public disclosure of documents or information, or a particular part of the documents or information to which the state fire marshal has access under this subsection would divulge commercial or financial information entitled to protection as a trade secret, the state fire marshal shall consider the documents or information or the particular portion of the documents or information confidential. However, the documents or information may be disclosed to officers, employees, or authorized representatives of the United States charged with implementing the federal Solid Waste Disposal Act, to employees of the state of Iowa or of other states when the document or

information is relevant to the discharge of their official duties, and when relevant in a proceeding under the federal Solid Waste Disposal Act or this subchapter.

2. Maintain an accurate inventory of aboveground flammable or combustible liquid storage tanks.

3. Take any action allowed by law which, in the state fire marshal's judgment, is necessary to enforce or secure compliance with this subchapter or any rule adopted pursuant to this subchapter.

4. Conduct investigations of complaints received directly, referred by other agencies, or other investigations deemed necessary. While conducting an investigation, the state fire marshal may enter at any reasonable time in and upon any private or public property to investigate any actual or possible violation of this subchapter or the rules or standards adopted under this subchapter. However, the owner or person in charge shall be notified.

a. If the owner or operator of any property refuses admittance, or if prior to such refusal the state fire marshal demonstrates the necessity for a warrant, the state fire marshal may make application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

b. In the application the state fire marshal shall state that an inspection of the premises is mandated by the laws of this state or that a search of certain premises, areas, or things designated in the application may result in evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules, or ordinances established by the state or a political subdivision of the state. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of the desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, rule, or ordinance pursuant to which inspection is to be made. If an item of property is sought by the state fire marshal it shall be identified in the application.

c. If the court is satisfied from the examination of the applicant, and of other witnesses, if any, and of the allegations of the application of the existence of the grounds of the application, or that there is probable cause to believe in their existence, the court may issue a search warrant.

d. In making inspections and searches pursuant to the authority of this subchapter, the state fire marshal must execute the warrant as follows:

(1) Within ten days after its date.

(2) In a reasonable manner, and any property seized shall be treated in accordance with the provisions of chapters 808 and 809.

(3) Subject to any restrictions imposed by the statute, rule or ordinance pursuant to which inspection is made.

89 Acts, ch 131, §7; 90 Acts, ch 1235, §6; 2000 Acts, ch 1224, §24; 2010 Acts, ch 1014, §11; 2016 Acts, ch 1011, §121

101.25 Violations — orders.

1. If substantial evidence exists that a person has violated or is violating a provision of this subchapter or a rule adopted under this subchapter the state fire marshal may issue an order directing the person to desist in the practice which constitutes the violation, and to take corrective action as necessary to ensure that the violation will cease, and may impose appropriate administrative penalties pursuant to section 101.26. The person to whom the order is issued may appeal the order as provided in chapter 17A. On appeal, the administrative law judge may affirm, modify, or vacate the order of the state fire marshal.

2. However, if it is determined by the state fire marshal that an emergency exists respecting any matter affecting or likely to affect the public health, the fire marshal may issue any order necessary to terminate the emergency without notice and without hearing. The order is binding and effective immediately and until the order is modified or vacated at an administrative hearing or by a district court.

3. The state fire marshal may request the attorney general to institute legal proceedings pursuant to section 101.26.

89 Acts, ch 131, §8; 2016 Acts, ch 1011, §121
Referred to in §101.26

101.26 Penalties — burden of proof.

1. A person who violates this subchapter or a rule adopted or order issued pursuant to this subchapter is subject to a civil penalty not to exceed one hundred dollars for each day during which the violation continues, up to a maximum of one thousand dollars; however, if the tank is registered within thirty days after the state fire marshal issues a cease and desist order pursuant to section 101.25, subsection 1, the civil penalty under this section shall not accrue. The civil penalty is an alternative to a criminal penalty provided under this subchapter.

2. A person who knowingly fails to notify or makes a false statement, representation, or certification in a record, report, or other document filed or required to be maintained under this subchapter, or violates an order issued under this subchapter, is guilty of an aggravated misdemeanor.

3. The attorney general, at the request of the state fire marshal, shall institute any legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of this subchapter or to obtain compliance with the provisions of this subchapter or rules adopted or order pursuant to this subchapter. In any action, previous findings of fact of the state fire marshal after notice and hearing are conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

4. In all proceedings with respect to an alleged violation of this subchapter or a rule adopted or order issued by the state fire marshal pursuant to this subchapter, the burden of proof is upon the state fire marshal.

5. If the attorney general has instituted legal proceedings in accordance with this section, all related issues which could otherwise be raised by the alleged violator in a proceeding for judicial review under section 101.27 shall be raised in the legal proceedings instituted in accordance with this section.

89 Acts, ch 131, §9; 2016 Acts, ch 1011, §121; 2017 Acts, ch 29, §37
Referred to in §101.25, 101.27

101.27 Judicial review.

Except as provided in section 101.26, subsection 5, judicial review of an order or other action of the state fire marshal may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed or the final order was entered.

89 Acts, ch 131, §10
Referred to in §101.26

101.28 Fees for certification inspections of underground storage tanks. Repealed by 2005 Acts, ch 19, §125.

CHAPTER 101A

EXPLOSIVE MATERIALS

Referred to in §712.6, 724.28

101A.1	Definitions.	101A.7	Inspection of storage facility.
101A.2	Commercial license — how issued — violation.	101A.8	Report of theft or loss required.
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101A.5	Rules.	101A.11	Explosive materials exempt.
101A.6	Notice of storage required.	101A.12	Deposit and use of fees.
		101A.13	Local ordinances.
		101A.14	Criminal penalties.

101A.1 Definitions.

As used in this chapter:

1. *"Blasting agent"* means any material or mixture consisting of a fuel and oxidizer, intended for blasting but not otherwise classified as an explosive, in which none of the finished products as mixed and packaged for use or shipment can be detonated by means of a number eight test blasting cap when unconfined.

2. *"Commercial license"* or *"license"* means a license issued by the state fire marshal pursuant to this chapter.

3. *"Explosive"* means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term *"explosive"* includes all materials which are classified as a class 1, division 1.1, 1.2, 1.3, or 1.4 explosive by the United States department of transportation, under 49 C.F.R. §173.50, and all materials classified as explosive materials under 18 U.S.C. §841, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices, cartridges for industrial guns, and overpressure devices, but does not include *"consumer fireworks"*, *"display fireworks"*, or *"novelties"* as those terms are defined in section 727.2 or ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

4. *"Explosive materials"* means explosives or blasting agents.

5. *"Import"* and *"importation"* means transfer into the state of Iowa.

6. *"Licensee"* means a person holding a commercial license issued by the state fire marshal pursuant to this chapter.

7. *"Magazine"* means any building or structure, other than an explosives manufacturing building, approved by the state fire marshal or the fire marshal's designated agent for the storage of explosive materials.

8. *"Overpressure device"* means any device constructed of a container or improvised container which is filled with a mixture of chemicals or sublimating materials or gases that generate an expanding gas, which is designed or constructed to cause the container to break, fracture, or rupture in a violent manner capable of causing death, serious injury, or property damage.

9. *"Permittee"* means a person holding a user's permit issued pursuant to this chapter.

10. *"Person"* means any individual, corporation, partnership, or association.

11. *"User's permit"* or *"permit"* means a permit issued by a county sheriff or chief of police of a city of ten thousand or more population, pursuant to this chapter.

[C73, 75, 77, 79, 81, §101A.1]

2008 Acts, ch 1147, §1, 2; 2017 Acts, ch 115, §5, 12

101A.2 Commercial license — how issued — violation.

1. The state fire marshal shall issue commercial licenses for the manufacture, importation, distribution, sale, and commercial use of explosives to persons who, in the state fire marshal's discretion are of good character and sound judgment, and have sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety. Licenses shall be issued for a period of three years, but may be issued for shorter periods, and may be revoked or suspended by the state fire marshal for any of the following reasons:

a. Falsification of information submitted in the application for a license.

b. Proof that the licensee has violated any provisions of this chapter or any rules prescribed by the state fire marshal pursuant to the provisions of this chapter.

c. The results of a national criminal history check conducted pursuant to subsection 3.

2. Licenses shall be issued by the state fire marshal upon payment of a fee of sixty dollars, valid for a period of three calendar years, commencing on January 1 of the first year and terminating on December 31 of the third year. However, an initial license may be issued during a calendar year for the number of months remaining in such calendar year and the following two years, computed to the first day of the month when the application for the license is approved. The license fee shall be charged on a pro rata basis for the number of months remaining in the period of issue. Applications for renewal of licenses shall be submitted within thirty days prior to the license expiration date and shall be accompanied by payment of the prescribed fee.

3. Prior to the issuance of a license pursuant to this chapter, an applicant shall be subject to a national criminal history check through the federal bureau of investigation. The applicant shall provide fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. Upon application for renewal of a license, the national criminal history check shall be repeated to determine the occurrence of criminal violations occurring during the previous period of licensure. Fees for the national criminal history check shall be paid by the applicant or the applicant's employer. The results of a criminal history check conducted pursuant to this subsection shall be considered a confidential record under chapter 22.

4. Except as permitted in section 101A.3 and sections 101A.9 through 101A.11, it shall be unlawful for any person to willfully manufacture, import, store, detonate, sell, or otherwise transfer any explosive materials unless such person is the holder of a valid license issued pursuant to this section.

5. Commercial dealers having a federal firearms license shall be exempt from the requirement or the commercial license requirement of this chapter for importation, distribution, sale, transportation, storage, and possession of smokeless powder propellants or black sporting powder propellants provided that such dealer must conform and comply to rules, or ordinances of federal, state, or city authorities having jurisdiction of such powder.

[C73, 75, 77, 79, 81, §101A.2]

84 Acts, ch 1074, §1; 2013 Acts, ch 58, §1; 2014 Acts, ch 1092, §25

Referred to in §101A.3, 101A.14

101A.3 User's permit — how issued — violation.

1. User's permits to purchase, possess, transport, store, and detonate explosive materials shall be issued by the sheriff of the county or the chief of police of a city of ten thousand population or more where the possession and detonation will occur. If the possession and detonation are to occur in more than one county or city, then such permits must be issued by the sheriff or chief of police of each of such counties or cities, except in counties and cities in which the explosives are possessed for the sole purpose of transporting them through such counties and cities. A permit shall not be issued unless the sheriff or chief of police having jurisdiction is satisfied that possession and detonation of explosive materials is necessary to the applicant's business or to improve the applicant's property. Permits shall be issued only to persons who, in the discretion of the sheriff or chief of police, are of good character and sound judgment, and have sufficient knowledge of the use and handling of explosive materials to protect the public safety. Applicants shall be subject to the criminal history check provisions

of section 101A.2, subsection 3. The state fire marshal shall prescribe, have printed, and distribute permit application forms to all local permit issuing authorities.

2. The user's permit shall state the quantity of explosive materials which the permittee may purchase, the amount the permittee may have in possession at any one time, the amount the permittee may detonate at any one time, and the period of time during which the purchase, possession, and detonation of explosive materials is authorized. The permit shall also specify the place where detonation may occur, the location and description of the place where the explosive materials will be stored, if such be the case, and shall contain such other information as may be required under the rules and regulations of the state fire marshal. The permit shall not authorize purchase, possession, and detonation of a quantity of explosive materials in excess of that which is necessary in the pursuit of the applicant's business or the improvement of the permittee's property, nor shall such purchase, possession, and detonation be authorized for a period longer than is necessary for the specified purpose. In no event shall the permit be valid for more than thirty days from date of issuance but it may be renewed upon proper showing of necessity.

3. The user's permit may be revoked for any of the reasons specified in section 101A.2, subsection 1, for suspension or revocation of a commercial license.

4. It shall be unlawful for a person to willfully purchase, possess, transport, store, or detonate explosive materials unless such person is the holder of a valid permit issued pursuant to this section or a valid license issued pursuant to section 101A.2.

5. The sheriff or the chief of police shall charge a fee of three dollars for each permit issued. The money collected from permit fees shall be deposited in the county treasury or the general fund of the city.

[C73, 75, 77, 79, 81, §101A.3]

83 Acts, ch 123, §53, 209; 84 Acts, ch 1074, §2; 2013 Acts, ch 58, §2

Referred to in §101A.2, 101A.14, 331.427, 331.653

101A.4 Refusal to grant license or permit — appeal.

1. Judicial review of the action of the state fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

2. A person who is refused issuance of a user's permit by a local permit issuing authority may appeal the authority's decision to the county board of supervisors or the city council of the county or city where the permit is sought, and de novo to the district court.

[C73, 75, 77, 79, 81, §101A.4]

84 Acts, ch 1074, §3; 2003 Acts, ch 44, §114

101A.5 Rules.

The state fire marshal shall adopt rules pursuant to chapter 17A pertaining to the manufacture, transportation, storage, possession, and use of explosive materials. Rules adopted by the state fire marshal shall be compatible with, but not limited to, the national fire protection association's pamphlet number 495 and federal rules pertaining to commerce, possession, storage, and use of explosive materials. Such rules shall:

1. Prescribe reasonable standards for the safe transportation and handling of explosive materials so as to prevent accidental fires and explosions and prevent theft and unlawful or unauthorized possession of explosive materials.

2. Prescribe procedures and methods of inventory so as to assure accurate records of all explosive materials manufactured or imported into the state and records of the disposition of such explosive materials, including records of the identity of persons to whom sales and transfers are made, and the time and place of any loss or destruction of explosive materials which might occur.

3. Prescribe reasonable standards for the safe storage of explosive materials as may be necessary to prevent accidental fires and explosions and prevent thefts and unlawful or unauthorized possession of explosive materials.

4. Require such reports from licensees, permittees, sheriffs, and chiefs of police as may be necessary for the state fire marshal to discharge the fire marshal's duties pursuant to this chapter.

5. Prescribe the form and content of license and permit applications.

6. Conduct such inspections of licensees and permittees as may be necessary to enforce the provisions of this chapter.

[C73, 75, 77, 79, 81, §101A.5]

84 Acts, ch 1074, §4; 2010 Acts, ch 1014, §12

Referred to in §331.653

101A.6 Notice of storage required.

A licensee shall notify the sheriff of the county and the local police authority of any city in which explosive materials will be stored, and shall also notify such authorities when the storage is terminated.

[C73, 75, 77, 79, 81, §101A.6]

Referred to in §101A.14

101A.7 Inspection of storage facility.

1. The licensee's or permittee's explosives storage facility shall be inspected at least once a year by a representative of the state fire marshal's office, except that the state fire marshal may, at those mining operations licensed and regulated by the United States department of labor, accept an approved inspection report issued by the United States department of labor, mine safety and health administration, for the twelve-month period following the issuance of the report. The state fire marshal shall notify the appropriate city or county governing board of licenses to be issued in their respective jurisdictions pursuant to this chapter. The notification shall contain the name of the applicant to be licensed, the location of the facilities to be used in storing explosives, the types and quantities of explosive materials to be stored, and other information deemed necessary by either the governing boards or the state fire marshal. The facility may be examined at other times by the sheriff of the county where the facility is located or by the local police authority if the facility is located within a city of over ten thousand population and if the sheriff or city council considers it necessary.

2. If the state fire marshal finds the facility to be improperly secured, the licensee or permittee shall immediately correct the improper security and, if not so corrected, the state fire marshal shall immediately confiscate the stored explosives. Explosives may be confiscated by the county sheriff or local police authority only if a situation that is discovered during an examination by those authorities is deemed to present an immediate danger. If the explosives are confiscated by the county sheriff or local police authority, they shall be delivered to the state fire marshal. The state fire marshal shall hold confiscated explosives for a period of thirty days under proper security unless the period of holding is shortened pursuant to this section.

3. If the licensee or permittee corrects the improper security within the thirty-day period, the explosives shall be returned to the licensee or permittee after correction and after the licensee or permittee has paid to the state an amount equal to the expense incurred by the state in storing the explosives during the period of confiscation. The amount of expense shall be determined by the state fire marshal.

4. If the improper security is not corrected during the thirty-day period, the state fire marshal shall dispose of the explosives and the license or permit shall be canceled. A canceled license or permit shall not be reissued for a period of two years from the date of cancellation.

[C73, 75, 77, 79, 81, §101A.7]

83 Acts, ch 123, §54, 55, 209; 84 Acts, ch 1074, §5; 86 Acts, ch 1029, §1; 2014 Acts, ch 1026, §25; 2015 Acts, ch 29, §20

Referred to in §331.427, 331.653

101A.8 Report of theft or loss required.

Any theft or loss of explosive materials, whether from a storage magazine, a vehicle in which they are being transported, or from a site on which they are being used, or from any other location, shall immediately be reported by the person authorized to possess such explosives to the local police or county sheriff. The local police or county sheriff shall

immediately transmit a report of such theft or loss of explosive materials to the state fire marshal.

[C73, 75, 77, 79, 81, §101A.8]
84 Acts, ch 1074, §6
Referred to in §101A.14, 331.653

101A.9 Disposal regulated.

No person shall abandon or otherwise dispose of any explosives in any manner which might, as the result of such abandonment or disposal, create any danger or threat of danger to life or property. Any person in possession or control of explosives shall, when the need for such explosives no longer exists, dispose of them in accordance with rules prescribed by the state fire marshal.

[C73, 75, 77, 79, 81, §101A.9]
84 Acts, ch 1074, §7
Referred to in §101A.2, 101A.14

101A.10 Persons and agencies exempt.

This chapter shall not apply to the transportation and use of explosive materials by the regular military or naval forces of the United States, the duly organized militia of this state, representatives of the state fire marshal, the state patrol, division of criminal investigation, local police departments, sheriffs departments, and fire departments acting in their official capacity; nor shall this chapter apply to the transportation and use of explosive materials by any peace officer to enforce provisions of this chapter when the peace officer is acting pursuant to such authority, however, other agencies of the state or any of its political subdivisions desiring to purchase, possess, transport, or use explosive materials for construction or other purposes shall be required to obtain user's permits.

[C73, 75, 77, 79, 81, §101A.10]
98 Acts, ch 1074, §17; 2005 Acts, ch 35, §31
Referred to in §101A.2

101A.11 Explosive materials exempt.

This chapter shall not apply to the possession or use of twenty-five pounds or less of smokeless powder, or five pounds or less of black sporting powder, provided that:

1. Smokeless powder is intended for handloading or reloading of ammunition for small arms with bores equivalent to ten gauge or less.
2. Black sporting powder is intended for handloading or reloading ammunition for small arms with bores equivalent to ten gauge or less, loading blank ammunition, loading cap and ball revolvers, loading muzzle loading arms, or loading muzzle loading cannon.
3. All such powder is for private use and not for commercial resale, and in the case of black sporting powder or smokeless powder the sharing with or disposition to another person is permitted if otherwise lawful.
4. The storage, use, and handling of smokeless and black powder conforms to rules or ordinances of authorities having jurisdiction for fire prevention and suppression purposes in the area of such storage, use, and handling.

[C73, 75, 77, 79, 81, §101A.11]
2021 Acts, ch 80, §57
Referred to in §101A.2
Subsection 2 amended

101A.12 Deposit and use of fees.

The fees collected by the state fire marshal in issuing licenses shall be deposited in the state general fund.

[C73, 75, 77, 79, 81, §101A.12]

101A.13 Local ordinances.

Nothing in this chapter shall limit the authority of cities to impose additional regulations governing the storage, handling, use, and transportation of explosive materials within their respective corporate limits, however, such regulations shall be at least as stringent as and not

inconsistent with the provisions of this chapter and the rules promulgated pursuant to this chapter.

[C73, 75, 77, 79, 81, §101A.13]

101A.14 Criminal penalties.

1. Any person who violates the provisions of section 101A.2, subsection 4, or section 101A.3, subsection 4, commits a public offense and, upon conviction, shall be guilty of a class "C" felony.

2. Any person who violates the provisions of section 101A.6, 101A.8 or 101A.9 or any of the rules adopted by the state fire marshal pursuant to the provisions of this chapter, commits a simple misdemeanor.

[C73, 75, 77, 79, 81, §101A.14]

84 Acts, ch 1074, §8; 2013 Acts, ch 58, §3

CHAPTER 101B

CIGARETTE FIRE SAFETY STANDARDS

Referred to in §453A.6

This chapter ceases to apply if federal fire safety standards preempting this chapter are enacted subsequent to January 1, 2009; see §101B.10

101B.1	Short title.	101B.6	Notification of certification.
101B.2	Definitions.	101B.7	Marking of cigarette packaging.
101B.3	General requirements — administration.	101B.8	Penalties — enforcement.
101B.4	Test method — performance standard — test reports.	101B.9	Cigarette fire safety standard fund. Repealed by 2013 Acts, ch 139, §44.
101B.5	Certification.	101B.10	Applicability — preemption.

101B.1 Short title.

This chapter shall be known and may be cited as the "*Cigarette Fire Safety Standards Act*".

2007 Acts, ch 166, §1

101B.2 Definitions.

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

1. "*Agent*" means a distributor as defined in section 453A.1 authorized by the department of revenue to purchase and affix stamps pursuant to section 453A.10.

2. "*Cigarette*" means cigarette as defined in section 453A.1.

3. "*Department*" means the department of public safety.

4. "*Manufacturer*" means any of the following:

a. An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced, anywhere, which cigarettes the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer.

b. The first purchaser of cigarettes anywhere, that intends to resell in the United States, cigarettes manufactured or produced anywhere, that the original manufacturer did not intend to be sold in the United States.

c. An entity that becomes a successor of an entity described in paragraph "*a*" or "*b*".

5. "*Quality control and quality assurance program*" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the repeatability testing, and which program ensures that the testing repeatability remains within the required repeatability values specified in section 101B.4.

6. "*Repeatability*" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time.

7. *"Retailer"* means retailer as defined in section 453A.1.

8. *"Sale"* means any transfer of title or possession, exchange or barter, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as a sample, prize, or gift or the exchanging of cigarettes for any consideration other than money is considered a sale.

9. *"Sell"* means to sell, or to offer or agree to sell.

10. *"Wholesaler"* means wholesaler as defined in section 453A.1.

2007 Acts, ch 166, §2

101B.3 General requirements — administration.

1. Beginning January 1, 2009, cigarettes shall not be sold or offered for sale to any person in this state unless:

a. The cigarettes have been tested in accordance with the test method prescribed in section 101B.4.

b. The cigarettes meet the performance standard specified in section 101B.4.

c. A written certification has been filed by the manufacturer with the department and in accordance with section 101B.5.

d. The cigarettes have been marked in accordance with section 101B.7.

2. This chapter shall not be construed to prohibit a wholesaler or retailer from selling the wholesaler's or retailer's inventory of cigarettes existing prior to January 1, 2009, provided that the wholesaler or retailer is able to establish both of the following:

a. Tax stamps were affixed to the cigarettes on inventory pursuant to section 453A.10 before January 1, 2009.

b. The inventory of cigarettes was purchased before January 1, 2009, in comparable quantity to the amount of inventory of cigarettes purchased during the same period of the prior year.

3. This chapter shall not be construed to prohibit any person from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with section 101B.5 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

4. The department of public safety shall administer this chapter and may adopt rules pursuant to chapter 17A to administer this chapter. This chapter shall be implemented in accordance with the implementation and substance of the New York fire safety standards for cigarettes.

2007 Acts, ch 166, §3

Referred to in §101B.8

101B.4 Test method — performance standard — test reports.

1. *a.* Testing of cigarettes shall be conducted in accordance with ASTM (American society for testing and materials) international standard E2187-04, standard test method for measuring the ignition strength of cigarettes.

b. The department may adopt a subsequent ASTM international standard test method for measuring the ignition strength of cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM international standard E2187-04 and the performance standard in this section.

2. Testing shall be conducted on ten layers of filter paper.

3. The performance standard shall require that no more than twenty-five percent of the cigarettes tested in a test trial shall exhibit full-length burns.

4. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

5. The performance standard required by this section shall only be applied to a complete test trial.

6. *a.* Testing shall be conducted by a laboratory that has been accredited pursuant to international organization for standardization/international electrotechnical commission standard 17025 or other comparable accreditation standard required by the department.

b. Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The testing repeatability shall be no greater than nineteen one-hundredths.

7. This section shall not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.

8. Each cigarette listed in a certification submitted in accordance with section 101B.5 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard pursuant to this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen millimeters from the lighting end and either ten millimeters from the filter end of the tobacco column, or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

9. *a.* The manufacturer of a cigarette that the department determines cannot be tested in accordance with the test method prescribed in this section shall propose a test method and performance standard for the cigarette to the department. Upon approval of the proposed test method and a determination by the department that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in this section, the manufacturer may employ the test method and performance standard to certify the cigarette in accordance with section 101B.5.

b. If the department determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter and the department finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this subsection, the department shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this state, unless the department demonstrates a reasonable basis why the alternative test should not be accepted under this chapter. All other applicable requirements of this chapter shall apply to the manufacturer.

10. A manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and shall make copies of the reports available to the department and the office of the attorney general upon written request.

11. Testing performed or sponsored by the department to determine a cigarette's compliance with the performance standard required by this section shall be conducted in accordance with this section.

2007 Acts, ch 166, §4; 2008 Acts, ch 1032, §18
Referred to in §101B.2, 101B.3, 101B.5, 101B.8

101B.5 Certification.

1. Each manufacturer shall submit a written certification to the department attesting to all of the following:

a. Each cigarette listed in the certification has been tested in accordance with section 101B.4.

b. Each cigarette listed in the certification meets the performance standard pursuant to section 101B.4.

2. Each cigarette listed in the certification shall be described with the following information:

a. The brand or trade name on the package.

b. The style of cigarette, such as light or ultra light.

c. The length of the cigarette in millimeters.

d. The circumference of the cigarette in millimeters.

e. The flavor of the cigarette, such as menthol or chocolate, if applicable.

f. Whether the cigarette is filtered or nonfiltered.

g. The type of cigarette package, such as soft pack or box.

h. The marking approved in accordance with section 101B.7.

i. The name, address, and telephone number of the laboratory, if different than the manufacturer, that conducted the test.

j. The date the testing was performed.

3. Each cigarette certified under this section shall be recertified every three years.

4. The manufacturer shall, upon request, make a copy of the written certification available to the office of the attorney general and the department of revenue for purposes of ensuring compliance with this chapter.

5. For each cigarette listed in a certification, a manufacturer shall pay a fee of one hundred dollars to the department. The department shall deposit all fees received pursuant to this subsection with the treasurer of state for credit to the general fund of the state.

6. If a manufacturer has certified a cigarette pursuant to this section, and makes any change to the cigarette thereafter that is likely to alter the cigarette's compliance with the reduced cigarette ignition propensity standards mandated by this chapter, prior to the cigarette being sold or offered for sale in this state, the manufacturer shall retest the cigarette in accordance with the testing standards specified in section 101B.4 and shall maintain records of the retesting as required pursuant to section 101B.4. Any altered cigarette that does not meet the performance standard specified in section 101B.4 shall not be sold in this state.

2007 Acts, ch 166, §5; 2013 Acts, ch 139, §41

Referred to in §101B.3, 101B.4, 101B.6, 101B.7, 101B.8

101B.6 Notification of certification.

1. A manufacturer certifying cigarettes in accordance with section 101B.5 shall provide a copy of the certification to all wholesalers and agents to whom the manufacturer sells cigarettes, and shall also provide sufficient copies of an illustration of the cigarette packaging marking used by the manufacturer in accordance with section 101B.7 for each retailer to whom the wholesalers or agents sell cigarettes.

2. A wholesaler or agent shall provide a copy of the cigarette packaging markings received from a manufacturer to all retailers to whom the wholesaler or agent sells cigarettes. A wholesaler, agent, or retailer shall permit the state fire marshal, department of revenue, or the office of the attorney general to inspect markings of cigarette packaging marked in accordance with section 101B.7.

2007 Acts, ch 166, §6

101B.7 Marking of cigarette packaging.

1. Cigarettes that have been certified by a manufacturer in accordance with section 101B.5 shall be marked to indicate compliance with the requirements of this chapter. The marking shall be in eight point type or larger and consist of one of the following:

a. Modification of the product's universal product code to include a visible mark printed at or around the area of the universal product code. The mark may consist of an alphanumeric or symbolic character or characters permanently stamped, engraved, embossed, or printed in conjunction with the universal product code.

b. Any visible alphanumeric or symbolic character or combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.

c. Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this chapter.

2. A manufacturer shall use only one marking, and shall apply the marking uniformly for all packages including but not limited to packs, cartons, and cases and to brands marketed by that manufacturer.

3. The manufacturer shall notify the department of the marking selected.

4. Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the department for approval. Upon receipt of the request, the department shall

approve or disapprove the marking offered. A marking in use and approved for the sale of cigarettes in the state of New York shall be deemed approved. A proposed marking shall be deemed approved if the department fails to act within ten business days of receiving a request for approval.

5. A manufacturer shall not modify its approved marking until the modification has been approved by the department in accordance with this section.

2007 Acts, ch 166, §7
Referred to in §101B.3, 101B.5, 101B.6, 101B.8

101B.8 Penalties — enforcement.

1. A manufacturer, wholesaler, agent, or other person who knowingly sells cigarettes at wholesale in violation of section 101B.3 is subject to the following:

a. For a first offense, a civil penalty not to exceed five thousand dollars for each sale of the cigarettes.

b. For each subsequent offense, a civil penalty not to exceed ten thousand dollars for each sale of the cigarettes, provided that the total penalty assessed against any such person shall not exceed fifty thousand dollars in any thirty-day period.

2. A retailer who knowingly sells cigarettes in violation of section 101B.3, is subject to the following:

a. For a first offense, a civil penalty not to exceed five hundred dollars for each sale or offer for sale of the cigarettes, and for each subsequent offense a civil penalty not to exceed two thousand dollars for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale does not exceed one thousand cigarettes.

b. For a first offense, a civil penalty not to exceed one thousand dollars for each sale or offer for sale of the cigarettes, and for each subsequent offense a civil penalty not to exceed five thousand dollars for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale exceeds one thousand cigarettes, and provided that the penalty against the retailer does not exceed twenty-five thousand dollars in any thirty-day period.

3. A manufacturer who fails to maintain test reports or who fails to make copies of the reports available to the department or the office of the attorney general within sixty days of receiving a written request pursuant to section 101B.4, is subject to a civil penalty not to exceed ten thousand dollars for each day beyond the sixtieth day that the manufacturer fails to provide the test reports.

4. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to section 101B.5 is subject to the following:

a. For a first offense, a civil penalty of at least twenty-five thousand dollars.

b. For a second or subsequent offense, a civil penalty not to exceed one hundred thousand dollars for each false certification.

5. Any person violating any other provision of this chapter is subject to the following:

a. For a first offense, a civil penalty not to exceed one thousand dollars.

b. For a second or subsequent offense, a civil penalty not to exceed five thousand dollars for each violation.

6. Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required pursuant to section 101B.4 shall be subject to forfeiture. However, prior to the destruction of any cigarettes forfeited, the holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarettes.

7. In addition to any other remedy provided by law, the department of public safety or the office of the attorney general may file an action in district court for a violation of this chapter, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney fees. Each violation of the chapter or of rules adopted under this chapter constitutes a separate civil violation for which the department of public safety or the office of the attorney general may seek relief.

8. The department of revenue in the regular course of conducting inspections of a wholesaler, agent, or retailer may inspect cigarettes in the possession or control of the wholesaler, agent, or retailer or on the premises of any wholesaler, agent, or retailer to determine if the cigarettes are marked as required pursuant to section 101B.7. If the cigarettes are not marked as required, the department of revenue shall notify the department of public safety.

9. To enforce the provisions of this chapter, the department of public safety and the office of the attorney general may examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, including the stock of cigarettes on the premises.

10. The department shall deposit any moneys received from civil penalties assessed pursuant to this section with the treasurer of state for credit to the general fund of the state.

2007 Acts, ch 166, §8; 2013 Acts, ch 139, §42

101B.9 Cigarette fire safety standard fund. Repealed by 2013 Acts, ch 139, §44.

101B.10 Applicability — preemption.

1. This chapter shall cease to be applicable if federal fire safety standards for cigarettes that preempt this chapter are enacted and take effect subsequent to January 1, 2009, and the state fire marshal shall notify the secretary of state and the Code editor if such federal fire safety standards for cigarettes are enacted.

2. Notwithstanding any law to the contrary, political subdivisions shall not adopt or enforce any ordinance, rule, or regulation that conflicts with any provision of this chapter, or with any policy of the state expressed by this chapter, whether the policy is expressed by inclusion of or exclusion from this chapter.

2007 Acts, ch 166, §10

CHAPTER 101C

IOWA PROPANE EDUCATION AND RESEARCH COUNCIL

101C.1 Short title.
101C.2 Definitions.
101C.3 Iowa propane education and research council established.
101C.4 Funding — assessments.
101C.5 Referendum for termination of council.
101C.6 Compliance.
101C.7 Lobbying restrictions.
101C.8 Pricing.
101C.9 Relation to other programs.
101C.10 Bond.
101C.11 Report.
101C.12 Not a state agency.
101C.13 Penalty.
101C.14 Future repeal. Repealed by 2013 Acts, ch 101, §3.

101C.1 Short title.

This chapter shall be known as and may be cited as the *"Iowa Propane Education and Research Act"*.

2007 Acts, ch 182, §1, 15

101C.2 Definitions.

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

1. *"Council"* means the Iowa propane education and research council established pursuant to section 101C.3.

2. *"Education"* means any activity designed to provide information regarding propane, propane equipment, mechanical and technical practices, and uses of propane to consumers and members of the propane industry.

3. *"Energy star certification"* means meeting energy efficiency standards and guidelines pursuant to the energy star program developed and jointly administered by the United States environmental protection agency and United States department of energy.

4. *"Fire marshal"* means the state fire marshal as provided in section 100.1.

5. *"Odorized propane"* means propane to which an odorant has been added.

6. *"Propane"* means a hydrocarbon with a chemical composition that is predominately C3H8, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures.

7. *"Propane industry"* means those persons involved in the production, transportation, and sale of propane, and in the manufacture and distribution of propane utilization equipment.

8. *"Propane industry trade association"* means an organization exempt from tax under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, that represents the propane industry.

9. *"Qualified propane industry organization"* means the Iowa propane gas association or any other similarly constituted industry trade association that represents at least thirty-five percent of the total volume of odorized propane sold at retail in this state.

10. *"Research"* means any type of study, investigation, program, or other activity designed to advance the image, desirability, usage, marketability, efficiency, or safety of propane or to further the development of information related to such activities.

11. *"Retail propane dispenser"* means a person who sells odorized propane to the ultimate consumer but is not engaged primarily in the business of such sales.

12. *"Retail propane marketer"* means a person engaged primarily in the sale of odorized propane to the ultimate consumer or to a retail propane dispenser.

13. *"Weatherization"* means activities designed to promote or enhance energy efficiency in a residence or other building including but not limited to the installation of attic, wall, foundation, crawlspace, water heater, and pipe insulation; air sealing including caulking and weather-stripping of windows and doors; the installation of windows and doors that qualify for energy star certification; the performance of home energy audits; programmable thermostat installation; and carbon monoxide and radon inspection and detection system installation.

2007 Acts, ch 182, §2, 15; 2009 Acts, ch 141, §1, 2
Referred to in §331.301, 364.3

101C.3 Iowa propane education and research council established.

1. The Iowa propane education and research council is established. The council shall consist of ten voting members, nine of whom represent retail propane marketers and one of whom shall be the administrator of the division of community action agencies of the department of human rights. Members of the council other than the administrator shall be appointed by the fire marshal from a list of nominees submitted by qualified propane industry organizations by December 15 of each year. A vacancy in the unfinished term of a council member shall be filled for the remainder of the term in the same manner as the original appointment was made. Other than the administrator, council members shall be full-time employees or owners of a propane industry business or representatives of an agricultural cooperative actively engaged in the propane industry. An employee of a qualified propane industry organization shall not serve as a member of the council. An officer of the board of directors of a qualified propane industry organization or propane industry trade association shall not serve concurrently as a member of the council. The fire marshal or a designee may serve as an ex officio, nonvoting member of the council.

2. In nominating members of the council, qualified propane industry organizations shall give due consideration to nominating council members who are representative of the propane industry, including representation of all of the following:

a. Interstate and intrastate retail propane marketers.

b. Large and small retail propane marketers, including agricultural cooperatives.

c. Diverse geographic regions of the state.

3. The following persons shall be ex officio, nonvoting members of the council designated for three-year terms as follows:

a. A professional fire fighter designated by the Iowa professional fire fighters association.

b. A volunteer fire fighter designated by the Iowa firefighters association.

c. An experienced plumber involved in plumbing training programs designated by the Iowa state building and construction trades council.

d. A heating, ventilation, and air conditioning professional involved in heating, ventilation, and air conditioning training programs designated by the Iowa state building and construction trades council.

e. A community college instructor with experience in conducting fire safety programs designated by the Iowa association of community college presidents.

f. A representative of a property and casualty insurance company with experience in insuring sellers of propane gas designated by the Iowa insurance institute.

4. A council member shall not receive compensation for the council member's service and shall not be reimbursed for expenses relating to the council member's service. A member of the council shall not be a salaried employee of the council or of any organization or agency which receives funds from the council.

5. A council member shall serve a term of three years.

6. Initial appointments to the council shall be for terms of one, two, and three years that are staggered to provide for the future appointment of at least two members each year.

7. The voting members of the council shall select a chairperson and other officers as necessary from the voting members and shall adopt rules and bylaws for the conduct of business and the implementation of this chapter. The council may establish committees and subcommittees comprised of members of the council and may establish advisory committees comprised of persons other than council members. The council shall establish procedures for the solicitation of propane industry comments and recommendations regarding any significant plans, programs, or projects to be funded by the council.

8. *a.* The council shall develop programs and projects and enter into agreements for administering such programs and projects as provided in this chapter, including programs to enhance consumer and employee safety and training, provide for research and development of clean and efficient propane utilization equipment, inform and educate the public about safety and other issues associated with the use of propane, and develop programs and projects that provide assistance to persons who are eligible for the low-income home energy assistance program. The programs and projects shall be developed to attain equitable geographic distribution of their benefits to the fullest extent practicable. The costs of the programs and projects shall be paid with funds collected pursuant to section 101C.4. The council shall coordinate its programs and projects with propane industry trade associations and others as the council deems appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities. Issues concerning propane that are related to research and development, safety, education, and training shall be given priority by the council in the development of programs and projects.

b. The council may develop energy efficiency programs dedicated to weatherization, acquisition and installation of energy-efficient customer appliances that qualify for energy star certification, installation of low-flow faucets and showerheads, and energy efficiency education. The council may by rule establish quality standards in relation to weatherization and appliance installation.

9. At the beginning of each fiscal year, the council shall prepare a budget plan for the next fiscal year, including the probable cost of all programs, projects, and contracts to be undertaken. The council shall submit the proposed budget to the fire marshal for review and comment. The fire marshal may recommend appropriate programs, projects, and activities to be undertaken by the council.

10. The council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the council which are public records open to public inspection. The books and records shall indicate the geographic areas where benefits were conferred by each individual program or project in detail sufficient to reflect the degree to which each program or project attained equitable geographic distribution of its benefits. The books of the council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. The cost of the audit shall be paid by the council. Copies of the audit shall be provided to all council members, all qualified propane industry organizations, and to other members of the propane industry upon request. In addition, a

copy of the audit and a report detailing the programs and projects conducted by the council and containing information reflecting the degree to which equitable geographic distribution of the benefits of each program or project was attained shall be submitted each fiscal year to the chief clerk of the house of representatives and the secretary of the senate.

11. The council is subject to the open meetings requirements of chapter 21.

12. The council shall promulgate administrative rules pursuant to chapter 17A which shall have the same force and effect as if adopted by a state agency. Initial rules shall be promulgated on an emergency basis.

13. The council shall also perform the functions required of a state organization under the federal Propane Education and Research Act of 1996, be the repository of funds received under that Act, and separately account for those funds. The council shall coordinate the operation of the program with the federal council as contemplated by 15 U.S.C. §6405.

2007 Acts, ch 182, §3, 15; 2008 Acts, ch 1032, §93, 202; 2009 Acts, ch 141, §3; 2011 Acts, ch 25, §15; 2013 Acts, ch 101, §1, 2

Referred to in §101C.2, 101C.11

101C.4 Funding — assessments.

1. The council and its activities shall be funded by an annual assessment. Upon establishment of the council and each year thereafter the annual assessment shall be made at a rate of one-tenth of one cent on each gallon of odorized propane sold.

2. The owner of odorized propane at the time of odorization or at the time of import shall calculate the amount of the assessment based on the volume of odorized propane sold for use in this state. The assessment, when made, shall be listed as a separate line item on the bill of sale for the odorized propane and titled "Iowa propane education and research assessment". Assessments shall be collected by the owner from purchasers of the odorized propane and shall be paid by the owner to the council on a monthly basis by the twenty-fifth day of the month following the month the assessment was collected. If payment is not made to the council by the due date as required by this subsection, an interest penalty of one percent of any amount unpaid shall be imposed against the owner for each month or fraction of a month after the due date, until final payment is made.

3. Notwithstanding subsection 2, the council may establish an alternative means of collecting such assessments if the council determines that another method would be more efficient or effective and may establish an alternative late payment charge or interest penalty to be imposed on a person who fails to timely pay any amount due under this chapter to the council.

4. Pending the disbursement of assessments collected, the council shall invest moneys collected through assessments and any other moneys received by the council in any of the following:

a. Obligations of the United States or any agency of the United States.

b. General obligations of any state or political subdivision of any state.

c. Any interest-bearing account or certificate of deposit of a bank that is a member of the federal reserve system.

d. Obligations that are fully guaranteed as to principal and interest by the United States.

2007 Acts, ch 182, §4, 15

Referred to in §101C.3, 101C.8

101C.5 Referendum for termination of council.

On the council's own initiative or on petition to the council by retail propane marketers representing thirty-five percent of the volume of odorized propane sold in this state, the council shall, at its own expense, arrange for a referendum to be conducted by an independent auditing firm agreed upon by the retail propane marketers, to determine whether the council should be terminated or suspended. Voting rights in the referendum shall be based on the volume of odorized propane sold in this state by each retail propane marketer during the previous calendar year. Each retail propane marketer voting in the referendum shall certify to the independent auditing firm the volume of odorized propane sold by that person as represented by that person's vote. Upon the approval of those retail

propane marketers representing more than one-half of the total volume of odorized propane sold in this state, the council shall be terminated or suspended and the general assembly shall consider the repeal of this chapter during its next regular session.

2007 Acts, ch 182, §5, 15

101C.6 Compliance.

The district court is vested with the jurisdiction specifically to enforce this chapter and to prevent or restrain any person from violating this chapter. A successful action for compliance brought under this section may also require payment by the defendant of the costs incurred by the council in bringing the action.

2007 Acts, ch 182, §6, 15

101C.7 Lobbying restrictions.

Moneys collected by the council shall not be used in any manner for influencing legislation or elections, except that the council may recommend changes in this chapter or other statutes that would further the purposes of this chapter to the general assembly.

2007 Acts, ch 182, §7, 15

101C.8 Pricing.

In all cases, the price of propane shall be determined by market forces. Consistent with antitrust laws, the council shall not take any action regarding, and this chapter shall not be interpreted as establishing, an agreement to pass along to consumers the cost of the assessment provided for in section 101C.4.

2007 Acts, ch 182, §8, 15

101C.9 Relation to other programs.

This chapter shall not be construed to preempt or supersede any other program relating to propane education and research organized and operated under the laws of this state. This chapter shall be administered and construed as complementary to the federal Propane Education and Research Act of 1996, 15 U.S.C. §6401 et seq.

2007 Acts, ch 182, §9, 15

101C.10 Bond.

Any person occupying a position of trust under any provision of this chapter shall provide a bond in an amount required by the council. The costs of obtaining the bond shall be paid out of council funds.

2007 Acts, ch 182, §10, 15

101C.11 Report.

The council shall prepare and submit an annual report to the fire marshal and the auditor of state summarizing the activities of the council conducted pursuant to this chapter. The report shall show all income, expenses, and other relevant information concerning assessments collected and expended under this chapter. The report shall also include a summary of energy efficiency programs as specified in section 101C.3, subsection 8, if developed by the council.

2007 Acts, ch 182, §11, 15; 2009 Acts, ch 141, §4

101C.12 Not a state agency.

The Iowa propane education and research council is not a state agency.

2007 Acts, ch 182, §12, 15

101C.13 Penalty.

A person who willfully violates the provisions of this chapter or willfully renders or furnishes a false or fraudulent report, statement, or record required by the fire marshal pursuant to this chapter is guilty of a simple misdemeanor.

2007 Acts, ch 182, §13, 15

101C.14 Future repeal. Repealed by 2013 Acts, ch 101, §3.

CHAPTER 102

FIRE SCENES — AUTHORITY

Referred to in §28E.31

102.1 Definition.
102.2 Authority at fires.
102.3 Authority to barricade.
102.4 Traffic control.
102.5 Penalty.

102.1 Definition.

As used in this chapter, "*fire department*" means the fire department of a city, township, or benefited fire district.

89 Acts, ch 132, §1

102.2 Authority at fires.

A fire chief or other authorized officer of a fire department, in charge of a fire scene which involves the protection of life or property, may direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action as deemed necessary in the reasonable performance of the department's duties. In exercising this power, a fire chief may prohibit an individual, vehicle, or vessel from approaching a fire scene and may remove from the scene any object, vehicle, vessel, or individual that may impede or interfere with the operations of the fire department.

89 Acts, ch 132, §2

Referred to in §102.5

102.3 Authority to barricade.

The fire chief or other authorized officer of the fire department in charge of a fire scene may place or erect ropes, guards, barricades, or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the fire fighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

89 Acts, ch 132, §3

Referred to in §102.5

102.4 Traffic control.

Notwithstanding a contrary provision of this chapter, if a peace officer is on the scene, the peace officer is in charge of traffic control and a peace officer shall not be prohibited from performing the duties of a peace officer at the fire scene.

89 Acts, ch 132, §4

102.5 Penalty.

A person who disobeys an order of a fire chief, other officer of a fire department, or peace officer assisting the fire department which is issued pursuant to section 102.2 or 102.3, is guilty of a simple misdemeanor.

89 Acts, ch 132, §5

SUBTITLE 6

BUILDING CODES

CHAPTER 103

ELECTRICIANS AND ELECTRICAL CONTRACTORS

Referred to in §100C.2, 105.18, 272C.16, 476.58

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103.1 Definitions.

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

1. *"Apprentice electrician"* means any person who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board and is progressing toward completion of an apprenticeship training program registered by the office of apprenticeship of the United States department of labor. For purposes of this chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered apprentice electricians.

2. *"Board"* means the electrical examining board created under section 103.2.

3. *"Class A journeyman electrician"* means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians and who is licensed by the board.

4. *"Class A master electrician"* means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes and who is licensed by the board.

5. *"Class B journeyman electrician"* means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment who meets and is subject to the restrictions of section 103.12.

6. *"Class B master electrician"* means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment who meets and is subject to the restrictions of section 103.10.

7. *"Electrical contractor"* means a person affiliated with an electrical contracting firm or business who is, or who employs a person who is, licensed by the board as either a class A or class B master electrician and who is also registered with the state of Iowa as a contractor pursuant to chapter 91C.

8. *"Farm"* means land, buildings and structures used for agricultural purposes including but not limited to the storage, handling, and drying of grain and the care, feeding, and housing of livestock.

9. *"Industrial installation"* means an installation intended for use in the manufacture or processing of products involving systematic labor or habitual employment and includes installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis.

10. *"Inspector"* means a person certified as an electrical inspector upon such reasonable conditions as may be adopted by the board. The board may permit more than one class of electrical inspector.

11. *"New electrical installation"* means the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes.

12. *"Public use building or facility"* means any building or facility designated for public use, including all property owned and occupied or designated for use by the state of Iowa.

13. *"Residential electrician"* means a person having the necessary qualifications, training, experience, and technical knowledge to perform a residential installation.

14. *"Residential installation"* means the wiring for or installation of electrical wiring, apparatus, and equipment in a residence consisting of no more than four living units within the same building.

15. *"Residential master electrician"* means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the performance of a residential installation.

16. *"Routine maintenance"* means the repair or replacement of existing electrical apparatus or equipment, including but not limited to wires, cables, switches, receptacles, outlets, fuses, circuit breakers, and fixtures, of the same size and type for which no changes in wiring are made, but does not include any new electrical installation or the expansion or extension of any circuit.

17. *"Special electrician"* means a person having the necessary qualifications, training, and experience in wiring or installing special classes of electrical wiring, apparatus, equipment, or installations which shall include irrigation system wiring, disconnecting and reconnecting of existing air conditioning and refrigeration, and sign installation and who is licensed by the board.

18. *"Unclassified person"* means any person, other than an apprentice electrician or other person licensed under this chapter, who, as such person's principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board as an unclassified person. For purposes of this chapter, persons who

are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered unclassified persons.

2007 Acts, ch 197, §11, 50; 2008 Acts, ch 1032, §19; 2008 Acts, ch 1092, §7 – 10, 32; 2009 Acts, ch 39, §1; 2009 Acts, ch 179, §114; 2010 Acts, ch 1061, §19

103.1A Term "commercial" applied.

As used in this chapter:

1. *"Commercial"* refers to a use, installation, structure, or premises associated with a place of business where goods, wares, services, or merchandise is stored or offered for sale on a wholesale or retail basis.

2. *"Commercial"* refers to a residence only if the residence is regularly open to the public as a place of business as provided in subsection 1.

3. *"Commercial"* does not refer to a use, installation, structure, or premises associated with any of the following:

a. A farm.

b. An industrial installation.

2017 Acts, ch 10, §1

103.2 Electrical examining board created.

1. An electrical examining board is created within the division of state fire marshal of the department of public safety. The board shall consist of eleven voting members appointed by the governor and subject to senate confirmation, all of whom shall be residents of this state.

2. The members shall be as follows:

a. Two members shall be journeyman electricians, one a member of an electrical workers union covered under a collective bargaining agreement and one not a member of a union.

b. Two members shall be master electricians or electrical contractors, one of whom is a contractor signed to a collective bargaining agreement or a master electrician covered under a collective bargaining agreement and one of whom is a contractor not signed to a collective bargaining agreement or a master electrician who is not a member of a union.

c. One member shall be an electrical inspector.

d. Two members, one a union member covered under a collective bargaining agreement and one who is not a member of a union, each of whom shall not be a member of any of the groups described in paragraphs "*a*" through "*c*", and shall represent the general public.

e. One member shall be the state fire marshal or a representative of the state fire marshal's office.

f. One member shall be a local building official employed by a political subdivision to perform electrical inspections for that political subdivision.

g. One member shall represent a public utility.

h. One member shall be an engineer licensed pursuant to chapter 542B with a background in electrical engineering.

3. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving a licensure examination, but shall not determine the content of the examination or determine the correctness of the answers. Professional associations or societies composed of licensed electricians may recommend to the governor the names of potential board members whose profession is representative of that association or society. However, the governor is not bound by the recommendations. A board member shall not be required to be a member of any professional electrician association or society.

2007 Acts, ch 197, §12, 50; 2008 Acts, ch 1092, §11, 32

Referred to in §100C.10, 103.1

Confirmation, see §2.32

103.3 Terms of office — expenses — counsel.

1. Appointments to the board, other than the state fire marshal or a representative of the state fire marshal's office, shall be for three-year staggered terms and shall commence and end as provided by section 69.19. The most recently appointed state fire marshal, or a representative of the state fire marshal's office, shall be appointed to the board on an ongoing

basis. Vacancies shall be filled for the unexpired term by appointment of the governor and shall be subject to senate confirmation. Members shall serve no more than three terms or nine years, whichever is least.

2. Members of the board are entitled to receive all actual expenses incurred in the discharge of their duties within the limits of funds appropriated to the board. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

3. The board shall be entitled to the counsel and services of the attorney general. The board may compel the attendance of witnesses, pay witness fees and mileage, take testimony and proofs, and administer oaths concerning any matter within its jurisdiction.

2007 Acts, ch 197, §13, 50
Confirmation, see §2.32

103.4 Organization of the board.

The board shall elect annually from its members a chairperson and a vice chairperson, and shall hire and provide staff to assist the board in administering this chapter. An executive secretary designated by the board shall report to the state fire marshal for purposes of routine board administrative functions, and shall report directly to the board for purposes of execution of board policy such as application of licensing criteria and processing of applications. The board shall hold at least one meeting quarterly at the location of the board's principal office, and meetings shall be called at other times by the chairperson or four members of the board. At any meeting of the board, a majority of members constitutes a quorum.

2007 Acts, ch 197, §14, 50

103.5 Official seal — bylaws.

The board shall adopt and have an official seal which shall be affixed to all certificates of licensure granted.

2007 Acts, ch 197, §15, 50

103.6 Powers and duties.

1. The board shall:

a. Adopt rules pursuant to chapter 17A and in doing so shall be governed by the minimum standards set forth in the most current publication of the national electrical code issued and adopted by the national fire protection association, and amendments to the code, which code and amendments shall be filed in the offices of the state law library and the board and shall be a public record. The board shall adopt rules reflecting updates to the code and amendments to the code. The board shall promulgate and adopt rules establishing wiring standards that protect public safety and health and property and that apply to all electrical wiring which is installed subject to this chapter.

b. Revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee does any of the following:

(1) Fails or refuses to pay any examination, license, or renewal fee required by law.

(2) Is an electrical contractor and fails or refuses to provide and keep in force a public liability insurance policy and surety bond as required by the board.

(3) Violates any political subdivision's inspection ordinances.

c. Adopt rules for continuing education requirements for each classification of licensure established pursuant to this chapter, and adopt all rules, not inconsistent with the law, necessary for the proper performance of the duties of the board.

d. Provide for the amount and collection of fees for inspection and other services.

2. The board may, in its discretion, revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee violates any provision of the national electrical code as adopted pursuant to subsection 1, this chapter, or any rule adopted pursuant to this chapter.

2007 Acts, ch 197, §16, 50; 2008 Acts, ch 1031, §34; 2008 Acts, ch 1032, §20; 2008 Acts, ch 1092, §12, 32; 2019 Acts, ch 99, §1; 2020 Acts, ch 1103, §1, 31
Referred to in §103.10, 103.12, 103.18, 103.26, 103.29, 103.31
For requirements and limitations on adoption of rules relating to the national electrical code, see 2021 Acts, ch 171, §25

103.7 Electrician and installer licensing and inspection fund.

An electrician and installer licensing and inspection fund is created in the state treasury as a separate fund under the control of the board. All licensing, examination, renewal, and inspection fees shall be deposited into the fund and retained by and for the use of the board. Expenditures from the fund shall be approved by the sole authority of the board in consultation with the state fire marshal. Amounts deposited into the fund shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall remain available for the purposes of this chapter in subsequent fiscal years. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2007 Acts, ch 197, §17, 50

103.8 Activities where license required — exceptions.

1. No person, except a person licensed as an electrical contractor, shall engage in the business of providing new electrical installations or any other electrical services regulated under this chapter.

2. Except as provided in sections 103.13 and 103.14, no person shall, for another, plan, lay out, or supervise the installation of wiring, apparatus, or equipment for electrical light, heat, power, and other purposes unless the person is licensed by the board as an electrical contractor, a class A master electrician, or a class B master electrician.

2007 Acts, ch 197, §18, 50; 2008 Acts, ch 1092, §13, 32

Referred to in §103.13

103.9 Electrical contractor license.

1. An applicant for an electrical contractor license shall either be or employ a licensed class A or class B master electrician, and be registered with the state of Iowa as a contractor pursuant to chapter 91C.

2. A contractor who holds a class B master electrician license shall be licensed subject to the restrictions of section 103.10.

2007 Acts, ch 197, §19, 50; 2008 Acts, ch 1032, §21; 2019 Acts, ch 99, §2; 2020 Acts, ch 1103, §2, 31

103.10 Class A master electrician license — qualifications — class B master electrician license.

1. An applicant for a class A master electrician license shall have at least one year's experience, acceptable to the board, as a licensed class A or class B journeyman electrician.

2. In addition, an applicant shall meet examination criteria based upon the most recent national electrical code adopted pursuant to section 103.6 and upon electrical theory, as determined by the board.

3. *a.* An applicant who can provide proof acceptable to the board that the applicant has been working in the electrical business and involved in planning for, laying out, supervising, and installing electrical wiring, apparatus, or equipment for light, heat, and power since January 1, 1998, and for a total of at least sixteen thousand hours, of which at least eight thousand hours shall have been accumulated since January 1, 1998, may be granted a class B master electrician license without taking an examination. An applicant who is issued a class B master electrician license pursuant to this section shall not be authorized to plan, lay out, or supervise the installation of electrical wiring, apparatus, and equipment in a political subdivision which, prior to or after January 1, 2008, establishes licensing standards which preclude such work by class B master electricians in the political subdivision. The board shall adopt rules establishing procedures relating to the restriction of a class B master electrician license pursuant to this subsection.

b. A class B master electrician may become licensed as a class A master electrician upon successful passage of the examination prescribed in subsection 2.

4. A person licensed to plan, lay out, or supervise the installation of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and supervise apprentice

electricians by a political subdivision preceding January 1, 2008, pursuant to a supervised written examination, and who is currently engaged in the electrical contracting industry, shall be issued an applicable statewide license corresponding to that licensure as a class A master electrician or electrical contractor. The board shall adopt by rule certain criteria for city examination standards satisfactory to fulfill this requirement.

5. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

2007 Acts, ch 197, §20, 50; 2008 Acts, ch 1077, §1, 3; 2008 Acts, ch 1092, §14, 32; 2019 Acts, ch 99, §3; 2020 Acts, ch 1103, §3, 31

Referred to in §103.1, 103.9

103.10A Inactive master electrician license.

The board may by rule create an inactive master electrician license and establish a fee for such a license. An applicant for an inactive master electrician license shall, at a minimum, meet the requirements of this chapter and requirements established by the board by rule for licensure as a class A master electrician or a class B master electrician. A person licensed as an inactive master electrician shall not be authorized to act as a master electrician, but shall be authorized to apply for a class A master electrician license or a class B master electrician license at a future date subject to conditions and under procedures established by the board by rule. The conditions and procedures shall include but not be limited to completion of the required number of contact hours of continuing education courses specified in section 103.18, and paying the applicable license fee specified in section 103.19 for a class A master electrician license or class B master electrician license.

2009 Acts, ch 39, §2

103.11 Wiring or installing — supervising apprentices — license required — qualifications.

Except as provided in section 103.13, no person shall, for another, wire for or install electrical wiring, apparatus, or equipment, or supervise an apprentice electrician or unclassified person, unless the person is licensed by the board as an electrical contractor, a class A master electrician, or a class B master electrician, or is licensed as a class A journeyman electrician or a class B journeyman electrician and is employed by an electrical contractor or is working under the supervision of a class A master electrician or a class B master electrician.

2007 Acts, ch 197, §21, 50; 2008 Acts, ch 1092, §15, 32

Referred to in §103.15

103.12 Class A journeyman electrician license qualifications — class B journeyman electrician license.

1. An applicant for a class A journeyman electrician license shall have successfully completed an apprenticeship training program registered by the office of apprenticeship of the United States department of labor in accordance with the standards established by that department or shall have received training or experience for a period of time and under conditions as established by the board by rule.

2. In addition, an applicant shall meet examination criteria based upon the most recent national electrical code adopted pursuant to section 103.6 and upon electrical theory, as determined by the board.

3. *a.* An applicant who can provide proof acceptable to the board that the applicant has been employed as a journeyman electrician since January 1, 1998, and for a total of at least sixteen thousand hours, of which at least eight thousand hours shall have been accumulated since January 1, 1998, may be granted a class B journeyman electrician license without taking an examination. An applicant who is issued a class B journeyman electrician license pursuant to this section shall not be authorized to wire for or install electrical wiring, apparatus, and equipment in a political subdivision which, prior to or after January 1, 2008, establishes licensing standards which preclude such work by class B journeyman electricians in the political subdivision. The board shall adopt rules establishing procedures relating to the restriction of a class B journeyman electrician license pursuant to this subsection.

b. A class B journeyman electrician may become licensed as a class A journeyman electrician upon successful passage of the examination prescribed in subsection 2.

4. A person licensed to wire for or install electrical wiring, apparatus, or equipment or supervise an apprentice electrician by a political subdivision preceding January 1, 2008, pursuant to a supervised written examination, and who is currently engaged in the electrical contracting industry with at least four years' experience, shall be issued an applicable statewide license corresponding to that licensure as a class A journeyman electrician or a class B journeyman electrician. The board shall adopt by rule certain criteria for city examination standards satisfactory to fulfill this requirement.

5. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

2007 Acts, ch 197, §22, 50; 2008 Acts, ch 1077, §2, 3; 2008 Acts, ch 1092, §16 – 18, 32; 2010 Acts, ch 1061, §20; 2019 Acts, ch 99, §4; 2020 Acts, ch 1103, §4, 31

Referred to in §103.1

103.12A Residential electrician and residential master electrician license — qualifications.

1. The board may by rule provide for the issuance of a residential electrician license, and may by rule provide for the issuance of a residential master electrician license.

a. A residential electrician license or residential master electrician license, if established by the board, shall be issued to applicants who meet qualifications determined by the board, and shall be valid for the performance of residential installations, subject to limitations or restrictions established by the board.

b. A person who, on or after July 1, 2009, holds a special electrician license authorizing residential electrical installation, granted pursuant to section 103.13, shall be eligible for conversion of that special license to either a residential electrician license or a residential master electrician license, if established by the board, in accordance with requirements and procedures established by the board.

2. A person licensed by the board as a class A journeyman electrician or a class B journeyman electrician, or as a class A master electrician or a class B master electrician, shall not be required to hold a residential electrician or residential master electrician license to perform any type of residential installation authorized for a person licensed pursuant to this section.

3. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

2009 Acts, ch 39, §3; 2019 Acts, ch 99, §5; 2020 Acts, ch 1103, §5, 31

103.13 Special electrician license — qualifications.

1. The board shall by rule provide for the issuance of special electrician licenses authorizing the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license. Each licensee shall have experience, acceptable to the board, in each such limited class of work for which the person is licensed.

2. Notwithstanding section 103.8, a person who holds a special electrician license is not required to obtain an electrical contractor license to engage in the business of providing new electrical installations or any other electrical services if such installations or services fall within the limited class of special electrical work for which the person holds the special electrician license.

3. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

2007 Acts, ch 197, §23, 50; 2008 Acts, ch 1092, §19, 32; 2009 Acts, ch 39, §4; 2019 Acts, ch 99, §6; 2020 Acts, ch 1103, §6, 31

Referred to in §103.8, 103.11, 103.12A

103.14 Alarm installations.

A person who is not licensed pursuant to this chapter may plan, lay out, or install electrical wiring, apparatus, and equipment for components of alarm systems that operate at seventy volt/amps (VA) or less, only if the person is certified to conduct such work pursuant to chapter

100C. Installations of alarm systems that operate at seventy volt/amps (VA) or less are subject to inspection by state inspectors as provided in section 103.31, except that reports of such inspections, if the installation being inspected was performed by a person certified pursuant to chapter 100C, shall be submitted to the state fire marshal and any action taken on a report of an inspection of an installation performed by a person certified pursuant to chapter 100C shall be taken by or at the direction of the state fire marshal, unless the installation has been found to exceed the authority granted to the certificate holder pursuant to chapter 100C and therefore to be in violation of this chapter.

2007 Acts, ch 197, §24, 50
Referred to in §103.8, 103.22

103.15 Apprentice electrician — unclassified person.

1. A person shall be licensed by the board and pay a licensing fee to work as an apprentice electrician while participating in an apprenticeship training program registered by the office of apprenticeship of the United States department of labor in accordance with the standards established by that department. An apprenticeship shall be limited to six years from the date of licensure, unless extended by the board upon a finding that a hardship existed which prevented completion of the apprenticeship program. Such licensure shall entitle the licensee to act as an apprentice to an electrical contractor, a class A master electrician, a class B master electrician, a class A journeyman electrician, or a class B journeyman electrician as provided in subsection 3.

2. *a.* A person shall be licensed as an unclassified person by the board to perform electrical work if the work is performed under the personal supervision of a person actually licensed to perform such work and the licensed and unclassified persons are employed by the same employer. A person shall not be employed continuously for more than one hundred days as an unclassified person without having obtained a current license from the board. For the purposes of determining whether a person has been *"employed continuously"* for more than one hundred days under this subsection, employment shall include any days not worked due to illness, holidays, weekend days, and other absences that do not constitute separation from or termination of employment. Any period of employment as a nonlicensed unclassified person shall not be credited to any applicable experiential requirement of an apprenticeship training program registered by the office of apprenticeship of the United States department of labor.

b. Licensed persons shall not permit unclassified persons to perform electrical work except under the personal supervision of a person actually licensed to perform such work. Unclassified persons shall not supervise the performance of electrical work or make assignments of electrical work to unclassified persons. Any person employing unclassified persons performing electrical work shall maintain records establishing compliance with this section, which shall designate all unclassified persons performing electrical work.

3. Apprentice electricians and unclassified persons shall do no electrical wiring except under the direct personal on-the-job supervision and control and in the immediate presence of a licensee as specified in section 103.11. Such supervision shall include both on-the-job training and related classroom training as approved by the board. The licensee may employ or supervise apprentice electricians and unclassified persons at a ratio not to exceed three apprentice electricians and unclassified persons to one licensee, except that such ratio and the other requirements of this section shall not apply to apprenticeship classroom training.

4. For purposes of this section, *"the direct personal on-the-job supervision and control and in the immediate presence of a licensee"* shall mean the licensee and the apprentice electrician or unclassified person shall be working at the same project location but shall not require that the licensee and apprentice electrician or unclassified person be within sight of one another at all times.

5. An apprentice electrician shall not install, alter, or repair electrical equipment except as provided in this section, and the licensee employing or supervising an apprentice electrician shall not authorize or permit such actions by the apprentice electrician.

6. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

2007 Acts, ch 197, §25, 50; 2008 Acts, ch 1092, §20, 32; 2009 Acts, ch 133, §27; 2010 Acts, ch 1061, §21, 22; 2019 Acts, ch 99, §7; 2020 Acts, ch 1103, §7, 31

Referred to in §103.22, 103.29

103.16 License examinations.

1. Examinations for licensure shall be offered as often as deemed necessary by the board, but no less than one time per quarter. The scope of the examinations and the methods of procedure shall be prescribed by the board. The examinations given by the board shall be the Experior assessment examination, or a successor examination approved by the board, or an examination prepared by a third-party testing service which is substantially equivalent to the Experior assessment examination, or a successor examination approved by the board.

2. An examination may be given by representatives of the board. As soon as practicable after the close of each examination, a report shall be filed in the office of the secretary of the board by the board. The report shall show the action of the board upon each application and the secretary of the board shall notify each applicant of the result of the applicant's examination. Applicants who fail the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request, in writing, information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

2007 Acts, ch 197, §26, 50; 2008 Acts, ch 1092, §21, 32

103.17 Disclosure of confidential information — criminal penalty.

1. A member of the board shall not disclose information relating to the following:

a. Criminal history or prior misconduct of an applicant.

b. Information relating to the contents of an examination.

c. Information relating to examination results other than a final score except for information about the results of an examination given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

2007 Acts, ch 197, §27, 50

103.18 License renewal — continuing education.

In order to renew a class A master electrician, class B master electrician, class A journeyman electrician, or class B journeyman electrician license issued pursuant to this chapter, the licensee shall be required to complete eighteen contact hours of continuing education courses approved by the board during the three-year period for which a license is granted. The contact hours shall include a minimum of six contact hours studying the national electrical code described in section 103.6, and the remaining contact hours may include study of electrical circuit theory, blueprint reading, transformer and motor theory, electrical circuits and devices, control systems, programmable controllers, and microcomputers or any other study of electrical-related material that is approved by the board. Any additional hours studying the national electrical code shall be acceptable. For purposes of this section, *"contact hour"* means fifty minutes of classroom attendance at an approved course under a qualified instructor approved by the board.

2007 Acts, ch 197, §28, 50

Referred to in §103.10A

103.19 Licenses — expiration — application — fees.

1. Licenses issued pursuant to this chapter shall expire every three years, with the

exception of licenses for apprentice electricians and unclassified persons, which shall expire on an annual basis. All license applications shall include the applicant's social security number, which shall be maintained as a confidential record and shall be redacted prior to public release of an application or other record containing such social security number. The board shall establish the fees to be payable for license issuance and renewal in amounts not to exceed the following:

a. For each year of the three-year license period for issuance and renewal:

(1) Electrical contractor, one hundred twenty-five dollars.

(2) Class A master electrician, class B master electrician, residential master electrician, one hundred twenty-five dollars.

(3) Class A journeyman electrician, class B journeyman electrician, residential electrician, or special electrician, twenty-five dollars.

b. For apprentice electricians or unclassified persons, twenty dollars.

2. The holder of an expired license may renew the license for a period of three months from the date of expiration upon payment of the license fee plus ten percent of the renewal fee for each month or portion thereof past the expiration date. All holders of licenses expired for more than three months shall apply for a new license.

3. If the board determines that all licenses shall expire on the same date every three years for licenses specified in subsection 1, paragraph *"a"*, the license fees shall be prorated by month. The board shall determine an individual's license fee based on the number of months that the individual's license will be in effect after being issued and prior to expiration.

2007 Acts, ch 197, §29, 50; 2008 Acts, ch 1092, §22, 32; 2009 Acts, ch 39, §5, 6

Referred to in §103.10A

103.20 Licensee status — employment — death.

1. Individuals performing electrical work in a capacity for which licensure is required pursuant to this chapter shall be employed by the authority or company obtaining a permit for the performance of such work, and shall possess a valid license issued by the board.

2. Upon the death of an electrical contractor, a class A master electrician, or a class B master electrician, the board may permit a representative to carry on the business of the decedent for a period not to exceed six months for the purpose of completing work under contract to comply with this chapter. Such representative shall furnish all public liability and property damage insurance required by the board.

2007 Acts, ch 197, §30, 50

103.21 Licenses without examination — reciprocity with other states.

To the extent that any other state which provides for the licensing of electricians provides for similar action, the board may grant licenses, without examination, of the same grade and class to an electrician who has been licensed by such other state for at least one year, upon payment by the applicant of the required fee, and upon the board being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in this state.

2007 Acts, ch 197, §31, 50

103.22 Chapter inapplicability.

The provisions of this chapter shall not:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, licensed as an architect pursuant to chapter 544A, licensed as a landscape architect pursuant to chapter 544B, licensed as a manufactured or mobile home retailer or certified as a manufactured or mobile home installer pursuant to chapter 103A, or designated as lighting certified by the national council on qualifications for the lighting professions who is providing consultations and developing plans concerning electrical installations and who is exclusively engaged in the practice of the person's profession.

2. Require employees of municipal utilities, electric membership or cooperative associations, investor-owned utilities, rural water associations or districts, railroads, telecommunications companies, franchised cable television operators, farms, or commercial

or industrial companies performing manufacturing, installation, and repair work for such employer to hold licenses while acting within the scope of their employment. An employee of a farm does not include a person who is employed for the primary purpose of installing a new electrical installation.

3. Require firms or individuals working under contract to municipal utilities, electric membership or cooperative associations, or investor-owned utilities to hold licenses while performing work for utilities which is within the scope of the public service obligations of a utility.

4. Require any person doing work for which a license would otherwise be required under this chapter to hold a license issued under this chapter if the person is the holder of a valid license issued by any political subdivision, so long as the person makes electrical installations only within the jurisdictional limits of such political subdivision and such license issued by the political subdivision is based upon requirements that are substantially equivalent to the licensing requirements of this chapter.

5. Apply to the installation, maintenance, repair, or alteration of vertical transportation or passenger conveyors, elevators, moving walks, dumbwaiters, stagelifts, manlifts, or appurtenances thereto beyond the terminals of the controllers. The licensing of elevator contractors or constructors shall not be considered a part of the licensing requirements of this chapter.

6. Require a license of any person who engages any electrical appliance where approved electrical supply is already installed.

7. Prohibit an owner of property from performing work on the owner's principal residence, if such residence is an existing dwelling rather than new construction and is not an apartment that is attached to any other apartment or building, as those terms are defined in section 499B.2, and is not larger than a single-family dwelling, or require such owner to be licensed under this chapter. In order to qualify for inapplicability pursuant to this subsection, a residence shall qualify for the homestead tax exemption.

8. Require that any person be a member of a labor union in order to be licensed.

9. Apply to a person who is qualified pursuant to administrative rules relating to the storage and handling of liquefied petroleum gases while engaged in installing, servicing, testing, replacing, or maintaining propane gas utilization equipment, or gas piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the equipment.

10. Apply to a person who meets the requirements for a well contractor pursuant to administrative rules while engaged in installing, servicing, testing, replacing, or maintaining a well or well equipment, or piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the equipment.

11. Apply to a person performing alarm system installations pursuant to section 103.14 or to a person who is engaged in the design, installation, erection, repair, maintenance, or alteration of class two or class three remote control, signaling, or power-limited circuits, optical fiber cables or other cabling, or communications circuits, including raceways, as defined in the national electrical code for voice, video, audio, and data signals in commercial or residential premises.

12. Require any person, including an employee of the state or any political subdivision of the state, performing routine maintenance to be licensed under this chapter.

13. Apply to a person otherwise licensed pursuant to this chapter who is engaged in the wiring or installation of electrical wiring, apparatus, or equipment while presenting a course of instruction relating to home construction technology, or a similar course of instruction, offered to students by a community college established under chapter 260C, an institution under the control of the state board of regents, or a school corporation. A student enrolled in such a course of instruction shall not be considered an apprentice electrician or unclassified person, and supervision ratios as provided in section 103.15, subsection 3, shall not be applicable. The board shall by rule establish inspection procedures in the event that the home constructed pursuant to the course is intended for eventual occupation as a residence.

14. Prohibit a person from performing work on an emergency basis as determined by the board.

15. Apply to a person performing any installation on a farm, if the person is associated with the farm as a holder of a legal or equitable interest, a relative or employee of the holder, or an operator or manager of the farm. The provisions of this chapter do not require such person to be licensed. In addition, a permit is not required for an installation on a farm, and an installation on a farm is not required to be inspected. In order for a farm building to qualify under this subsection, the farm building must not be regularly open to the public as a place of business for the retail sale of goods, wares, services, or merchandise.

2007 Acts, ch 197, §32, 50; 2008 Acts, ch 1031, §35; 2008 Acts, ch 1032, §22; 2008 Acts, ch 1076, §2, 4; 2008 Acts, ch 1092, §23, 24, 32; 2008 Acts, ch 1191, §46; 2009 Acts, ch 39, §7; 2009 Acts, ch 179, §115; 2017 Acts, ch 10, §2, 3; 2017 Acts, ch 131, §7

103.23 Electrical installations — subject to inspection.

The inspection and enforcement provisions of this chapter shall apply to the following:

1. All new electrical installations for commercial or industrial applications, including installations both inside and outside of buildings, and for public use buildings and facilities and any installation at the request of the property owner.

2. All new electrical installations for residential applications in excess of single-family residential applications, including an apartment that is attached to any other apartment or building, as those terms are defined in section 499B.2.

3. All new electrical installations for single-family residential applications requiring new electrical service equipment.

4. Existing electrical installations observed during inspection which constitute an electrical hazard. Existing installations shall not be deemed to constitute an electrical hazard if the wiring when originally installed was installed in accordance with the electrical code in force at the time of installation and has been maintained in that condition.

2007 Acts, ch 197, §33, 50; 2008 Acts, ch 1032, §94, 202; 2008 Acts, ch 1092, §25, 32
Referred to in §103.30

103.24 State inspection — inapplicability in certain political subdivisions — electrical inspectors — certificate of qualification.

1. The board shall establish by rule standards for the certification and decertification of electrical inspectors appointed by the state or a political subdivision to enforce this chapter or any applicable resolution or ordinance within the inspector's jurisdiction, and for certified electrical inspector continuing education requirements.

a. On and after January 1, 2009, a person appointed to act as an electrical inspector for the state shall obtain an inspector's certificate of qualification within one year of such appointment and shall maintain the certificate thereafter for the duration of the inspector's service as an electrical inspector.

b. On and after January 1, 2014, a person appointed to act as an electrical inspector for a political subdivision shall obtain an inspector's certificate of qualification within one year of such appointment and shall maintain the certificate thereafter for the duration of the inspector's service as an electrical inspector.

2. State inspection shall not apply within the jurisdiction of any political subdivision which, pursuant to section 103.29, provides by resolution or ordinance standards of electrical wiring and its installation that are not less stringent than those prescribed by the board or by this chapter and which further provides by resolution or ordinance for the inspection of electrical installations within the limits of such subdivision by a certified electrical inspector. A copy of the certificate of each electrical inspector shall be provided to the board by the political subdivision issuing the certificate.

3. State inspection shall not apply to routine maintenance.

2007 Acts, ch 197, §34, 50; 2008 Acts, ch 1032, §95, 202; 2008 Acts, ch 1092, §26, 32
Referred to in §103.30

103.25 Request for inspection — fees.

1. At or before commencement of any installation required to be inspected by the board, the licensee or property owner making such installation shall submit to the state fire marshal's office a request for inspection. The board shall prescribe the methods by which the request

may be submitted, which may include electronic submission or through a form prescribed by the board that can be submitted either through the mail or by a fax transmission. The board shall also prescribe methods by which inspection fees can be paid, which may include electronic methods of payment. If the board or the state fire marshal's office becomes aware that a person has failed to file a necessary request for inspection, the board shall send a written notification by certified mail that the request must be filed within fourteen days. Any person filing a late request for inspection shall pay a delinquency fee in an amount to be determined by the board. A person who fails to file a late request within fourteen days from receipt of the notification shall be subject to a civil penalty to be determined by the board by rule.

2. Notwithstanding subsection 1, the board may by rule provide for the issuance of a single permit to a licensee to request multiple inspections. The permit authorizes the licensee to perform new electrical installations specified in the permit. The board shall prescribe the methods by which the request for multiple inspections may be submitted, which may include electronic submission or through a form prescribed by the board that can be submitted either through the mail or by a fax transmission. The board shall also prescribe methods by which inspection fees can be paid, which may include electronic methods of payment. The board may perform inspections of each new electrical installation or any portion of the total number of new electrical installations made under each permit. The board shall establish fees for such permits, which shall not exceed the total inspection fees that would be required if each new electrical installation performed under the request for multiple inspections had been performed under individual requests for inspections as provided in subsection 1.

2007 Acts, ch 197, §35, 50; 2008 Acts, ch 1032, §96, 202; 2008 Acts, ch 1092, §27, 32; 2009 Acts, ch 39, §8; 2011 Acts, ch 34, §33

Referred to in §103.31

103.26 Condemnation — disconnection — opportunity to correct noncompliance.

If the inspector finds that any installation or portion of an installation is not in compliance with accepted standards of construction for health safety and property safety, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, the inspector shall by written order condemn the installation or noncomplying portion or order service to such installation disconnected and shall send a copy of such order to the board, the state fire marshal, and the electrical utility supplying power involved. If the installation or the noncomplying portion is such as to seriously and proximately endanger human health or property, the order of the inspector when approved by the inspector's supervisor shall require immediate condemnation and disconnection by the applicant. In all other cases, the order of the inspector shall establish a reasonable period of time for the installation to be brought into compliance with accepted standards of construction for health safety and property safety prior to the effective date established in such order for condemnation or disconnection.

2007 Acts, ch 197, §36, 50; 2008 Acts, ch 1032, §97, 202; 2008 Acts, ch 1092, §28, 32

Referred to in §103.31

103.27 Condemnation or disconnection order — service.

1. A copy of each condemnation or disconnection order shall be served personally or by regular mail upon the property owner at the property owner's last known address, the licensee making the installation, and such other persons as the board by rule may direct.

2. The electrical utility supplying power shall be served with a copy of any order which requires immediate disconnection or prohibits energizing an installation.

2007 Acts, ch 197, §37, 50

103.28 Certificate of safe operation — dismissal of condemnation or disconnection order.

1. No electrical installation subject to inspection under this chapter shall be newly connected or reconnected for use until the electrical inspector has filed with the electrical utility supplying power a certificate stating that the electrical inspector has approved such energization.

2. If the electrical inspector determines that an electrical installation subject to inspection by the board is not in compliance with accepted standards of construction for health safety

and property safety, based upon minimum standards adopted by the board pursuant to this chapter, the inspector shall issue a correction order. A correction order made pursuant to this section shall be served personally or by United States mail only upon the licensee making the installation. The correction order shall order the licensee to make the installation comply with the standards, noting specifically what changes are required. The order shall specify a date, not more than seventeen calendar days from the date of the order, when a new inspection shall be made. When the installation is brought into compliance to the satisfaction of the inspector, the inspector shall file with the electrical utility supplying power a certificate stating that the electrical inspector has approved energization.

3. An electrical utility supplier may refuse service without liability for such refusal until the provisions of this section have been met.

2007 Acts, ch 197, §38, 50; 2008 Acts, ch 1032, §98, 202

103.29 Political subdivisions — inspections — authority of political subdivisions.

1. A political subdivision performing electrical inspections prior to December 31, 2007, shall continue to perform such inspections. After December 31, 2013, a political subdivision may choose to discontinue performing its own inspections and permit the board to have jurisdiction over inspections in the political subdivision. If a political subdivision seeks to discontinue its own inspections prior to December 31, 2013, the political subdivision shall petition the board. On or after January 1, 2014, if a unanimous vote of the board finds that a political subdivision's inspections are inadequate by reason of misfeasance, malfeasance, or nonfeasance, the board may suspend or revoke the political subdivision's authority to perform its own inspections, subject to appeal according to the procedure set forth in section 103.34 and judicial review pursuant to section 17A.19. A political subdivision not performing electrical inspections prior to December 31, 2007, may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances or resolutions and electrical codes.

2. A political subdivision performing electrical inspections pursuant to subsection 1 prior to December 31, 2007, may maintain a different supervision ratio than the ratio of three apprentice electricians and unclassified persons to one licensee specified in section 103.15, subsection 3, but may not exceed that ratio. A political subdivision which begins performing electrical inspections after December 31, 2007, shall maintain the specified three-to-one ratio unless the board approves a petition by the political subdivision for a lower ratio. A political subdivision which discontinues performing electrical inspections and permits the board to have jurisdiction over inspections shall maintain the specified three-to-one supervision ratio, and may not petition for a lower ratio unless the political subdivision subsequently resumes performing electrical inspections.

3. A political subdivision that performs electrical inspections may set appropriate permit fees to pay for such inspections. A political subdivision shall not require any person holding a license from the board to pay any license fee or take any examination if the person holds a current license issued by the board which is of a classification equal to or greater than the classification needed to do the work proposed. Any such political subdivision may provide a requirement that each person doing electrical work within the jurisdiction of such political subdivision have on file with the political subdivision a copy of the current license issued by the board or such other evidence of such license as may be provided by the board.

4. A political subdivision is authorized to determine what work may be performed by a class B licensee within the jurisdictional limits of the political subdivision, provided, however, that a political subdivision shall not prohibit a class B licensee from performing any type of work that the licensee was authorized to perform within the political subdivision under the authority of a license validly issued or recognized by the political subdivision on December 31, 2007.

5. A political subdivision that performs electrical inspections shall act as the authority having jurisdiction for electrical inspections and for amending the national electrical code adopted by the board pursuant to section 103.6 for work performed within the jurisdictional limits of the political subdivision, provided those inspections and amendments conform to the requirements of this chapter. Any action by a political subdivision with respect to

amendments to the national electrical code shall be filed with the board prior to enforcement by the political subdivision, and shall not be less stringent than the minimum standards established by the board by rule.

6. A political subdivision may grant a variance or interpret the national electrical code in a manner which deviates from a standard interpretation on an exception basis for a one-time installation or planned installation so long as such a variance or interpretation does not present an electrical hazard or danger to life or property.

7. A county shall not perform electrical inspections on a farm or farm residence.

2007 Acts, ch 197, §39, 50; 2008 Acts, ch 1092, §29, 32; 2009 Acts, ch 39, §9; 2009 Acts, ch 179, §116

Referred to in §103.24

103.30 Inspections not required.

1. Nothing in this chapter shall be construed to require the work of employees of municipal utilities, railroads, electric membership or cooperative associations, investor-owned utilities, rural water associations or districts, or telecommunications systems to be inspected while the employees are acting within the scope of their employment.

2. The board may by rule exempt specified types of new electrical installations from the state electrical inspection requirements under section 103.23, provided that a political subdivision conducting inspections pursuant to section 103.24 shall not be prohibited from requiring inspection of any new electrical installation exempt by rule from state inspection pursuant to this subsection.

2007 Acts, ch 197, §40, 50; 2008 Acts, ch 1076, §3; 2009 Acts, ch 39, §10; 2009 Acts, ch 133, §28

103.31 State inspection procedures.

1. An inspection shall be made within three business days of the submission of a request for an inspection as provided in section 103.25. When necessary, circuits may be energized by the authorized installer prior to inspection but the installation shall remain subject to condemnation and disconnection and subject to any appropriate restrictions or limitations as determined by the board.

2. Where wiring is to be concealed, the inspector must be notified within a reasonable time to complete rough-in inspections prior to concealment, exclusive of Saturdays, Sundays, and holidays. If wiring is concealed before rough-in inspections without adequate notice having been given to the inspector, the person responsible for having enclosed the wiring shall be responsible for all costs resulting from uncovering and replacing the cover material.

3. State inspection procedures and policies shall be established by the board. The state fire marshal, or the state fire marshal's designee, shall enforce the procedures and policies, and enforce the provisions of the national electrical code adopted by the board.

4. Except when an inspection reveals that an installation or portion of an installation is not in compliance with accepted standards of construction for health safety and property safety, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, such that an order of condemnation or disconnection is warranted pursuant to section 103.26, an inspector shall not add to, modify, or amend a construction plan as originally approved by the state fire marshal or the state building code commissioner in the course of conducting an inspection.

5. Management and supervision of inspectors, including hiring decisions, disciplinary action, promotions, and work schedules are the responsibility of the state fire marshal acting in accordance with applicable law and pursuant to any applicable collective bargaining agreement. The state fire marshal and the board shall jointly determine work territories, regions, or districts for inspectors and continuing education and ongoing training requirements applicable to inspectors. An inspector subject to disciplinary action pursuant to this subsection shall be entitled to an appeal according to the procedure set forth in section 103.34 and judicial review pursuant to section 17A.19.

6. The board shall establish an internet-based licensure verification database for access by a state or local inspector for verification of licensee status. The database shall include

the name of every person licensed under this chapter and a corresponding licensure number. Inspectors shall be authorized to request the name and license number of any person working at a job site subject to inspection for verification of licensee status. Licensees under this chapter shall be required to carry a copy of their current license and photo identification at all times when employed on a job site for compliance with this subsection.

2007 Acts, ch 197, §41, 50; 2008 Acts, ch 1032, §99, 202; 2008 Acts, ch 1092, §30, 32; 2013 Acts, ch 90, §257

Referred to in §103.14

103.32 State inspection fees.

1. All state electrical inspection fees shall be due and payable to the board at or before commencement of the installation and shall be forwarded with the request for inspection. Inspection fees provided in this section shall not apply within the jurisdiction of any political subdivision if the political subdivision has adopted an ordinance or resolution pursuant to this chapter.

2. The board shall establish the fees for inspections in amounts not to exceed:

a. For each separate inspection of an installation, replacement, alteration, or repair, twenty-five dollars.

b. For services, change of services, temporary services, additions, alterations, or repairs on either primary or secondary services as follows:

(1) Zero to one hundred ampere capacity, twenty-five dollars plus five dollars per branch circuit or feeder.

(2) One hundred one to two hundred ampere capacity, thirty-five dollars plus five dollars per branch circuit or feeder.

(3) For each additional one hundred ampere capacity or fraction thereof, twenty dollars plus five dollars per branch circuit or feeder.

c. For field irrigation system inspections, sixty dollars for each unit inspected.

d. For the first reinspection required as a result of a correction order, fifty dollars; a second reinspection required as a result of noncompliance with the same correction order, seventy-five dollars; and subsequent reinspections associated with the same correction order, one hundred dollars for each reinspection.

3. When an inspection is requested by a property owner, the minimum fee shall be thirty dollars plus five dollars per branch circuit or feeder. The fee for fire and accident inspections shall be computed at the rate of forty-seven dollars per hour, and mileage and other expenses shall be reimbursed as provided by the office of the state fire marshal.

4. For installations requiring more than six months in the process of construction and in excess of three hundred dollars total inspection fees, the persons responsible for the installation may, after a minimum filing fee of one hundred dollars, pay a prorated fee for each month and submit it with an order for payment initiated by the electrical inspector.

5. A state electrical inspection fee shall not be assessed for an event benefiting a nonprofit association representing volunteer service providers. An electrical inspection fee shall not be assessed by a political subdivision for an annual event benefiting a nonprofit association representing volunteer service providers.

2007 Acts, ch 197, §42, 50; 2008 Acts, ch 1032, §100, 202; 2009 Acts, ch 179, §117

103.33 Condemnation or disconnection orders — appeals — disposition of orders pending appeal.

1. Any person aggrieved by a condemnation or disconnection order issued by the state fire marshal's office may appeal from the order by filing a written notice of appeal with the board within ten days after the date the order was served upon the property owner or within ten days after the order was filed with the board, whichever is later.

2. Upon receipt of the notice of appeal from a condemnation or disconnection order because the electrical installation is proximately dangerous to health or property, the order appealed from shall not be stayed unless countermanded by the board.

3. Upon receipt of notice of appeal from a condemnation or disconnection order because the electrical installation is not in compliance with accepted standards of construction for

health safety and property safety, except as provided in subsection 2, the order appealed from shall be stayed until final decision of the board and the board shall notify the property owner and the electrical contractor, class A master electrician, class B master electrician, fire alarm installer, special electrician, or if established by the board the residential master electrician, making the installation. The power supplier shall also be notified in those instances in which the order has been served on such supplier.

2007 Acts, ch 197, §43, 50; 2008 Acts, ch 1032, §101, 202; 2009 Acts, ch 39, §11; 2011 Acts, ch 34, §34

Referred to in §103.34

103.34 Appeal procedures.

1. Upon receipt of a notice of appeal filed pursuant to section 103.33, the chairperson or executive secretary of the board may designate a hearing officer from among the board members to hear the appeal or may set the matter for hearing before the full board at its next regular meeting. A majority of the board shall make the decision.

2. Upon receiving the notice of appeal filed pursuant to section 103.33, the board shall notify all persons served with the order appealed from. Such persons may join in the hearing and give testimony in their own behalf. The board shall set the hearing date on a date not more than fourteen days after receipt of the notice of appeal unless otherwise agreed by the interested parties and the board.

2007 Acts, ch 197, §44, 50; 2008 Acts, ch 1092, §31, 32

Referred to in §103.29, 103.31

103.35 Suspension, revocation, or reprimand.

The board, by a simple majority vote of the entire board, may suspend for a period not exceeding two years, or revoke the certificate of licensure of, or reprimand any licensee who is found guilty of any of the following acts or offenses:

1. Fraud in procuring a certificate of licensure.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Revocation or suspension of licensure, or other disciplinary action by the licensing authority of another state, territory, or possession of the United States, the District of Columbia, or any foreign country. A certified copy of the record or order of suspension, revocation, or other disciplinary action is prima facie evidence of such fact.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of this chapter.

2007 Acts, ch 197, §45, 50; 2019 Acts, ch 99, §8

Referred to in §103.10, 103.12, 103.12A, 103.13, 103.15, 103.36

103.36 Procedure.

Proceedings for any action under section 103.35 shall be commenced by filing with the board written charges against the accused. Upon the filing of charges, the board shall conduct an investigation into the charges. The board shall designate a time and place for a hearing, and shall notify the accused of this action and furnish the accused a copy of all charges at least thirty days prior to the date of the hearing. The accused has the right to appear personally or by counsel, to cross-examine witnesses, or to produce witnesses in defense.

2007 Acts, ch 197, §46, 50

Referred to in §103.39

103.37 Injunction.

Any person who is not legally authorized to practice in this state according to this chapter, who practices, or in connection with the person's name, uses any designation tending to imply

or designate the person as authorized to practice in this state according to this chapter, may be restrained by permanent injunction.

2007 Acts, ch 197, §47, 50
Referred to in §103.38

103.38 Criminal violations.

A person who violates a permanent injunction issued pursuant to section 103.37 or presents or attempts to file as the person's own the certificate of licensure of another, or who gives false or forged evidence of any kind to the board in obtaining a certificate of licensure, or who falsely impersonates another practitioner of like or different name, or who uses or attempts to use a revoked certificate of licensure, is guilty of a fraudulent practice under chapter 714.

2007 Acts, ch 197, §48, 50

103.39 Civil penalty.

1. In addition to any other penalties provided for in this chapter, the board may by order impose a civil penalty upon a person who is not licensed under this chapter and who does any of the following:

a. Is employed in a capacity in which the person engages in or offers to engage in the activities authorized pursuant to this chapter.

b. Uses or employs the words "electrical contractor", "class A master electrician", "class B master electrician", "class A journeyman electrician", or "class B journeyman electrician", or implies authorization to provide or offer those services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an "electrical contractor", "class A master electrician", "class B master electrician", "class A journeyman electrician", or "class B journeyman electrician".

c. Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of licensure.

d. Falsely impersonates any individual licensed pursuant to this chapter.

e. Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure.

f. Knowingly aids or abets an unlicensed person who engages in any activity identified in this subsection.

2. A civil penalty imposed shall not exceed one thousand dollars for each offense. Each day of a continued violation constitutes a separate offense, except that offenses resulting from the same or common facts or circumstances shall be considered a single offense.

3. In determining the amount of a civil penalty to be imposed, the board may consider any of the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The interest of the public.

4. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted in the same manner as provided in section 103.36.

5. The board, in connection with a proceeding under this section, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

6. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19.

7. If a person fails to pay a civil penalty within thirty days after entry of an order under subsection 1, or if the order is stayed pending an appeal within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction.

2007 Acts, ch 197, §49, 50

CHAPTER 103A

STATE BUILDING CODE

Referred to in §103.22, 104A.8, 105.11, 331.304, 423.26A

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SUBCHAPTER I

STATE BUILDING CODE ACT

103A.1 Establishment.

This subchapter shall be known as the *"State Building Code Act"*.

[C73, 75, 77, 79, 81, §103A.1]

2009 Acts, ch 41, §32; 2016 Acts, ch 1011, §121

103A.2 Statement of policy.

1. It is found and declared that some governmental subdivisions do not have building codes and that the building codes which do exist in the governmental subdivisions of this state, as enacted and applied, are not uniform and impede the utilization of new and improved technology, techniques, methods, and materials in the manufacture and construction of buildings and structures.

2. Therefore, it is the policy of the state of Iowa to insure the health, safety, and welfare of its citizens through the promulgation and enforcement of a state building code.

[C73, 75, 77, 79, 81, §103A.2]

2021 Acts, ch 76, §150

Code editor directive applied

103A.3 Definitions.

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

1. *"Board of review"* or *"board"* means the state building code board of review created by this chapter.

2. *"Building"* means a combination of any materials, whether portable or fixed, to form a structure affording facilities or shelter for persons, animals or property. The word *"building"* includes any part of a building unless the context clearly requires a different meaning.

3. *"Building regulations"* means any law, bylaw, rule, resolution, regulation, ordinance, or code or compilation enacted or adopted, by the state or any governmental subdivision, including departments, boards, bureaus, commissions or other agencies, relating to the construction, reconstruction, alteration, conversion, repair or use of buildings and installation of equipment therein. The term shall not include zoning ordinances or subdivision regulations.

4. *"Commissioner"* means the state building code commissioner created by this chapter.

5. *"Construction"* means the construction, erection, reconstruction, alteration, conversion, repair, equipping of buildings, structures or facilities, and requirements or standards relating to or affecting materials used in connection therewith, including provisions for safety and sanitary conditions.

6. *"Council"* means the state building code advisory council created by this chapter.

7. *"Equipment"* means plumbing, heating, electrical, ventilating, conditioning, refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical facilities or installations.

8. *"Factory-built structure"* means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. *"Factory-built structure"* includes the terms *"mobile home"*, *"manufactured home"*, and *"modular home"*.

9. *"Governmental subdivision"* means any city, county, or combination thereof.

10. *"Installation"* means the assembly of factory-built structures on site and the process of affixing factory-built structures to land, a foundation, footings, or an existing building.

11. *"Local building department"* means an agency of any governmental subdivision charged with the administration, supervision, or enforcement of building regulations, approval of plans, inspection of buildings, or the issuance of permits, licenses, certificates and similar documents, prescribed or required by state or local building regulations.

12. *"Local building regulations"* means building regulations adopted by a governmental subdivision.

13. *"Manufacture"* is the process of making, fabricating, constructing, forming, or assembling a product from raw, unfinished, or semi-finished materials.

14. *"Manufactured home"*, *"mobile home"*, and *"modular home"* mean the same as defined in section 103A.51.

15. *"New construction"* means construction of buildings and factory-built structures which is commenced on or after January 1, 1978. Notwithstanding the definition in subsection 5 of this section, when the term *"new construction"* appears in this chapter, "construction" is limited to the erection, reconstruction or conversion of a building or factory-built structure and additions to buildings or factory-built structures and does not include renovations or repairs.

16. *"Out-of-state contractor"* means a person whose principal place of business is in another state, and which contracts to perform construction, installation, or any other work covered by this chapter, in this state.

17. *"Owner"* means the owner of the premises, a mortgagee or vendee in possession, an assignee of rents, or a receiver, executor, trustee, lessee or other person in control of a building or structure.

18. *"Performance objective"* establishes design and engineering criteria without reference to specific methods of construction.

19. *"State agency"* means a state department, board, bureau, commission, or agency of the state of Iowa.

20. *"State building code"* or *"code"* means the state building code provided for in section 103A.7.

21. *"State historic building code"* means the alternative building regulations and building standards for certain historic buildings provided for in section 103A.41.

22. *"Structure"* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner except transmission and distribution structures of public utilities. The word *"structure"* includes any part of a structure unless the context clearly requires a different meaning.

23. *"Sustainable design"* means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants including but not limited to measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments.

[C73, 75, 77, 79, 81, §103A.3]

84 Acts, ch 1113, §1; 87 Acts, ch 60, §3; 2001 Acts, ch 100, §1, 2; 2001 Acts, ch 176, §60, 82; 2006 Acts, ch 1090, §14, 15, 26; 2008 Acts, ch 1126, §3, 33; 2008 Acts, ch 1173, §5

Referred to in §135C.9

103A.4 Building code commissioner.

The commissioner of public safety, in addition to other duties, shall serve as the state building code commissioner or may designate a building code commissioner.

[C73, 75, 77, 79, 81, §103A.4; 82 Acts, ch 1210, §6]

103A.5 Commissioner — duties.

The commissioner shall:

1. Employ the necessary staff and assistants, within the limit of available funds, to assist in carrying out the provisions of this chapter.

2. Appoint necessary consultants and advisors to assist the commissioner in carrying out the provisions of this chapter.

3. Study the operation of the state building code, local building regulations, and other laws relating to the construction of buildings or structures to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health, safety, and welfare.

4. Do all things necessary or desirable to further and effectuate the general purposes and specific objectives of this chapter.

5. Administer and enforce chapters 104A and 104B.

[C73, 75, 77, 79, 81, §103A.5]

91 Acts, ch 97, §7

103A.6 Merit system.

Employees of the commissioner, if required by federal statutes, are covered by the merit system provisions of chapter 8A, subchapter IV.

[C73, 75, 77, 79, 81, §103A.6]

88 Acts, ch 1158, §17; 2003 Acts, ch 145, §184

103A.7 State building code.

1. The state building code commissioner with the approval of the advisory council is hereby empowered and directed to formulate and adopt and from time to time amend or revise and to promulgate, in conformity with and subject to the conditions set forth in this chapter, reasonable rules designed to establish minimum safeguards in the erection and construction of buildings and structures, to protect the human beings who live and work in them from fire and other hazards, and to establish regulations to further protect the health, safety, and welfare of the public.

2. The rules shall include reasonable provisions for the following:

a. The installation of equipment.

b. The standards or requirements for materials to be used in construction.

c. The manufacture and installation of factory-built structures.

d. Protection of the health, safety, and welfare of occupants and users.

e. The accessibility and use by persons with disabilities and elderly persons, of buildings, structures, and facilities which are constructed and intended for use by the general public. The rules shall be consistent with federal standards for building accessibility and shall only apply to those buildings, structures, and facilities subject to chapter 104A.

f. The conservation of energy through thermal efficiency standards for buildings intended for human occupancy and which are heated or cooled and lighting efficiency standards for buildings intended for human occupancy which are lighted.

g. Standards for sustainable design, also known and referred to as green building standards.

h. Standards for safe rooms and storm shelters.

3. These rules shall comprise and be known as the state building code.

[C73, 75, 77, 79, 81, §103A.7]

93 Acts, ch 95, §1; 99 Acts, ch 49, §1, 3; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1126, §4, 5, 33; 2008 Acts, ch 1173, §6; 2009 Acts, ch 142, §1

Referred to in §100.35, 100.38, 100.39, 103A.3, 103A.8B, 103A.8C, 103A.14, 103A.25, 103A.51, 104A.6, 135.18, 135B.17, 135C.2, 135C.28, 137C.31, 137D.6, 137F.16, 167.11, 231B.4, 423E.6, 435.1, 455B.172, 499B.3, 499B.20, 504C.1, 544A.28

103A.8 Standards.

The state building code shall as far as practical:

1. Provide uniform standards and requirements for construction, construction materials, and equipment through the adoption by reference of applicable national codes where appropriate and providing exceptions when necessary. The rules adopted shall include provisions imposing requirements reasonably consistent with or identical to recognized and accepted standards contained in performance criteria.

2. Establish such standards and requirements in terms of performance objectives.

3. Establish as the test of acceptability, adequate performance for the intended use.

4. Permit the use of modern technical methods, devices, and improvements which tend to reduce the cost of construction without substantially affecting reasonable requirements for the health, safety, and welfare of the occupants or users of buildings and structures.

5. Encourage the standardization of construction practices, methods, equipment, material, and techniques.

6. Eliminate restrictive, obsolete, conflicting, and unnecessary regulations and requirements which tend to unnecessarily increase construction costs or retard unnecessarily the use of new materials, or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction.

7. Limit the application of thermal efficiency standards for energy conservation to construction of buildings which are heated or cooled. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any construction from any thermal efficiency standard for energy conservation if the commissioner determines that the standard is unreasonable as it would apply to a particular building or class of buildings. No standard adopted by the commissioner for energy conservation in construction shall be interpreted to require the replacement or modification of any existing equipment or feature solely to ensure compliance with requirements for energy conservation in construction. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with the economic development authority regarding standards for energy conservation prior to the adoption of the standards. However, the standards shall be consistent with section 103A.8A.

8. Facilitate the development and use of renewable energy.

[C73, 75, 77, 79, 81, §103A.8; 81 Acts, ch 184, §12]

85 Acts, ch 147, §1; 88 Acts, ch 1134, §22; 90 Acts, ch 1267, §26; 2002 Acts, ch 1162, §33; 2008 Acts, ch 1126, §6, 33; 2009 Acts, ch 108, §6, 41; 2011 Acts, ch 118, §50, 89

103A.8A Energy conservation requirements.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall comply with energy conservation requirements. The requirements adopted by the commissioner shall be based upon a nationally recognized standard or code for energy conservation. The requirements shall only apply to single-family or two-family residential construction commenced after the adoption of the requirements. Notwithstanding any other provision of this chapter to the contrary, the energy conservation requirements adopted by the commissioner and approved by the council shall apply to new single-family or two-family residential construction commenced on or after July 1, 2008, and shall supersede and replace any minimum requirements for energy conservation adopted or enacted by a governmental subdivision prior to that date applicable to such construction. The state building code commissioner may provide training to builders, contractors, and other interested persons on the adopted energy conservation requirements.

85 Acts, ch 147, §2; 88 Acts, ch 1134, §23; 2002 Acts, ch 1082, §1; 2002 Acts, ch 1162, §34; 2006 Acts, ch 1095, §1; 2008 Acts, ch 1126, §7, 33; 2009 Acts, ch 41, §33

Referred to in §103A.8, 103A.22

103A.8B Sustainable design or green building standards.

The commissioner, after consulting with and receiving recommendations from the department of natural resources, shall adopt rules pursuant to chapter 17A specifying standards and requirements for sustainable design and construction based upon or incorporating nationally recognized ratings, certifications, or classification systems, and procedures relating to documentation of compliance. The standards and requirements shall be incorporated into the state building code established in section 103A.7, but in lieu of general applicability shall apply to construction projects only if such applicability is expressly authorized by statute, or as established by another state agency by rule.

2008 Acts, ch 1126, §8, 33; 2008 Acts, ch 1173, §7; 2011 Acts, ch 118, §40, 89

Referred to in §15.291, 423.3, 423.4

103A.8C Standards for safe rooms and storm shelters.

1. The commissioner, after consulting with and receiving recommendations from the department of public defense and the department of natural resources, shall adopt rules pursuant to chapter 17A specifying standards and requirements for design and construction of safe rooms and storm shelters. In developing these standards, the commissioner shall consider nationally recognized standards. The standards and requirements shall be incorporated into the state building code established in section 103A.7, but shall not be interpreted to require the inclusion of a safe room or storm shelter in a building construction project unless such inclusion is expressly required by another statute or by a federal statute or regulation. However, if a safe room or storm shelter is included in any building construction project which reaches the design development phase on or after January 1, 2011, compliance with the standards developed pursuant to this section shall be required.

2. The commissioner may provide education and training to promote the use of best practices in the design, construction, and maintenance of buildings, safe rooms, and shelters to reduce the risk of personal injury from tornadoes or other severe weather.

2009 Acts, ch 142, §2; 2011 Acts, ch 122, §31

103A.9 Factory-built structures.

1. The state building code shall contain provisions relating to the manufacture and installation of factory-built structures.

a. Factory-built structures manufactured in Iowa, after the effective date of the code, shall be manufactured in accordance with the code, unless the commissioner determines the structure is manufactured for installation outside the state.

b. Factory-built structures manufactured outside the state of Iowa, after the effective date of the code, and brought into Iowa for installation must, prior to installation, comply with the code.

c. Factory-built structures manufactured prior to the effective date of the code, which prior to that date have never been installed, must comply with the code prior to installation.

d. (1) All factory-built structures, without regard to manufacture date, shall be installed in accordance with the code in the governmental subdivisions which have adopted the state building code or any other building code. However, a governmental subdivision shall not require that a factory-built structure, that was manufactured in accordance with federally mandated standards, be renovated in accordance with the state building code or any other building code which the governmental subdivision has adopted when the factory-built structure is being moved from one lawful location to another unless such required renovation is in conformity with those specifications for the factory-built structure which existed when it was manufactured or the factory-built structure is being rented for occupancy.

(2) Existing factory-built structures not constructed to be in compliance with federally mandated standards may be moved from one established manufactured home community or mobile home park to another and shall not be required to be renovated to comply with the state building code or any other building code which the governmental subdivision has adopted unless the factory-built structure is being rented for occupancy or has been declared a public nuisance according to standards generally applied to housing.

e. Factory-built structures required to comply with the code provisions on manufacture shall not be modified in any way prior to or during installation, unless prior approval is obtained from the commissioner.

2. The commissioner shall establish an insignia of approval and provide that factory-built structures required to comply with code provisions on manufacture bear an insignia of approval prior to installation. The insignia may be issued for other factory-built structures which meet code standards and which were manufactured prior to the effective date of the state building code.

3. The commissioner may contract with local government agencies for enforcement of the code relating to manufacture of factory-built structures. Code provisions relating to installation of factory-built structures shall be enforced by the local building departments

only in those governmental subdivisions which have adopted the state building code or any other building code.

[C73, 75, 77, 79, 81, §103A.9]

93 Acts, ch 154, §1; 2001 Acts, ch 100, §3; 2001 Acts, ch 153, §16; 2008 Acts, ch 1032, §201; 2009 Acts, ch 41, §176

103A.10 Effect and application.

1. The state building code shall, for the buildings and structures to which it is applicable, constitute a lawful local building code.

2. The state building code shall be applicable:

a. To all buildings and structures owned by the state or an agency of the state.

b. In each governmental subdivision where the governing body has enacted an ordinance accepting the application of the code.

c. To all newly constructed buildings and structures the construction of which is paid for in whole or in part with moneys appropriated by the state but which are not wholly owned by the state.

d. In each city with a population of more than fifteen thousand that has not adopted a local building code that is substantially in accord with standards developed by a nationally recognized building code organization. The city shall enforce the state building code, including the provisions in section 103A.19, subsection 2.

3. Provisions of the state building code relating to the manufacture and installation of factory-built structures shall apply throughout the state. A factory-built structure approved by the commissioner shall be deemed to comply with all building regulations applicable to its manufacture and installation and shall be exempt from any other state or local building regulations. Except with respect to manufactured homes, as defined in section 103A.51, subsection 4, a provision of this chapter relating to the manufacture or installation of factory-built structures shall not alter or supersede any provision of chapter 542B concerning the practice of professional engineering or chapter 544A concerning the practice of architecture.

4. Notwithstanding the provisions of section 103A.22, subsection 1:

a. Provisions of the state building code establishing thermal efficiency energy conservation standards shall be applicable to all construction in the state which will contain enclosed space that is heated or cooled. The commissioner shall provide appropriate exceptions for construction where the application of an energy conservation requirement adopted pursuant to this chapter would be impractical.

b. Provisions of the state building code establishing lighting efficiency standards shall be applicable to all construction in the state and to new and replacement lighting in existing buildings.

5. Notwithstanding any other provision of this chapter to the contrary, the energy conservation requirements adopted by the commissioner and approved by the council shall apply to all new construction commenced on or after July 1, 2008, and shall supersede and replace any minimum requirements for energy conservation adopted or enacted by the governmental subdivision prior to that date and applicable to such construction.

[C73, 75, 77, 79, 81, §103A.10]

89 Acts, ch 39, §1; 2002 Acts, ch 1082, §2; 2006 Acts, ch 1090, §16, 26; 2006 Acts, ch 1185, §71; 2007 Acts, ch 22, §32, 33; 2007 Acts, ch 97, §1, 3; 2008 Acts, ch 1059, §1; 2008 Acts, ch 1126, §9, 10, 33

Referred to in §103A.19, 103A.22, 331.361

103A.10A Plan reviews and inspections.

1. All newly constructed buildings or structures subject to the state building code, including any addition, but excluding any renovation or repair of such a building or structure, owned by the state or an agency of the state, except as provided in subsection 2, shall be subject to a plan review and inspection by the commissioner or an independent building inspector appointed by the commissioner. Any renovation or repair of such a building or structure shall be subject to a plan review, except as provided in subsection 2. A

fee shall be assessed for the cost of plan review, and, if applicable, the cost of inspection. The commissioner may inspect an existing building that is undergoing renovation or remodeling to enforce the energy conservation requirements established under this chapter.

2. All newly constructed buildings, including any addition, but excluding any renovation or repair of a building, owned by the state board of regents shall be subject to a plan review and inspection by the commissioner or the commissioner's staff or assistant. A renovation of a building owned by the state board of regents shall be subject to a plan review. The commissioner may inspect an existing building that is undergoing renovation or remodeling to enforce the energy conservation requirements established under this chapter. The commissioner and the state board of regents shall develop a plan to implement this provision.

3. All newly constructed buildings and structures the construction of which is paid for in whole or in part with moneys appropriated by the state but which are not wholly owned by the state are subject to the plan review and inspection requirements as provided in this subsection. If a governmental subdivision has adopted a building code, electrical code, mechanical code, and plumbing code and performs inspections pursuant to such codes, such buildings or structures shall be built to comply with such codes. However, if a governmental subdivision has not adopted a building code, electrical code, mechanical code, and plumbing code, or does not perform inspections pursuant to such codes, such buildings or structures shall be built to comply with the state building code and shall be subject to a plan review and inspection by the commissioner or an independent building inspector appointed by the commissioner. A fee shall be assessed for the cost of plan review and the cost of inspection.

4. The commissioner shall administer this section notwithstanding section 103A.19. The commissioner shall establish by rule proper qualifications for an independent building inspector and for the commissioner's staff or assistant who performs inspections, and fees for plan reviews and inspections.

2006 Acts, ch 1185, §72; 2007 Acts, ch 22, §34; 2008 Acts, ch 1126, §11, 33; 2009 Acts, ch 24, §1

103A.11 Rules.

1. The commissioner shall adopt rules pursuant to chapter 17A which are necessary for the implementation of this chapter.

2. The text of any proposed rule shall be made available for inspection at the office of the commissioner and shall be distributed to the governmental subdivisions which have adopted the state building code, and to any other person who requests a copy.

3. Copies of every rule shall be sent by the commissioner to all governmental subdivisions which have adopted the state building code.

4. The provisions of this section shall not apply to any rule relating solely to the internal operations of the office of the commissioner and council.

[C73, 75, 77, 79, 81, §103A.11]

84 Acts, ch 1067, §19; 94 Acts, ch 1078, §7

103A.12 Adoption and withdrawal — procedure.

1. The state building code is applicable in each governmental subdivision of the state in which the governing body has enacted an ordinance accepting the applicability of the code and has filed a certified copy of the ordinance in the office of the commissioner. The state building code becomes effective in the governmental subdivision upon the date fixed by the governmental subdivision ordinance, which must not be more than six months after the date of adoption of the ordinance.

2. A governmental subdivision in which the state building code is applicable may by ordinance, at any time after one year has elapsed since the code became applicable, withdraw from the application of the code. The local governing body shall hold a public hearing, after giving not less than four but not more than twenty days' public notice, together with written notice to the commissioner of the time, place, and purpose of the hearing, before the ordinance to withdraw is voted upon. A certified copy of the vote of the local governing body shall be transmitted within ten days after the vote is taken to the commissioner. The ordinance becomes effective at a time to be specified in the ordinance, which must be not

less than one hundred eighty days after the date of adoption. Upon the effective date of the ordinance, the state building code ceases to apply to the governmental subdivision except that construction of a building or structure pursuant to a permit previously issued is not affected by the withdrawal.

3. A governmental subdivision which has withdrawn from the application of the state building code may, at any time thereafter, restore the application of the code in the same manner as specified in this section.

[C73, 75, 77, 79, 81, §103A.12]

87 Acts, ch 43, §2; 89 Acts, ch 39, §2; 2001 Acts, ch 20, §1; 2017 Acts, ch 54, §76

Resolutions accepting building code, see §103A.25

103A.13 Alternate materials and methods of construction.

1. The provisions of the state building code shall not prevent the use of any material or method of construction not specifically prescribed therein, provided any such alternate has been approved by the building code commissioner.

2. The commissioner may approve any alternate if the commissioner finds that the proper design is satisfactory and that the material, method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in the state building code in quality, strength, effectiveness, fire resistance, durability, and safety.

3. The commissioner shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding alternate use.

[C73, 75, 77, 79, 81, §103A.13]

2017 Acts, ch 54, §76

Referred to in §103A.14

103A.14 Advisory council.

There is hereby established a seven member council to be known as the state building code advisory council. The council shall elect from its membership a chairperson. The members of the council shall be appointed by the governor and shall hold office commencing July 1, 1972, for four years and until their successors are appointed, except that three initial appointees shall be appointed for two-year terms and four initial appointees shall be appointed for four-year terms. The members of the council shall be persons who are qualified by experience or training to provide a broad or specialized expertise on matters pertaining to building construction. At least one of the members shall be a journeyman member of the building trades. Vacancies shall be filled in the same manner as the original appointments.

1. The council shall advise and confer with the commissioner in matters relating to the state building code.

2. The council members shall, at the request of the commissioner, hold public hearings and perform such other functions as the commissioner requests.

3. The council shall approve or disapprove the rules and regulations referred to in section 103A.7 and shall approve or disapprove any alternate materials or methods of construction approved by the commissioner as provided in section 103A.13. A majority vote of the council membership shall be required for these functions.

4. Any member of the council may be removed by the governor for inefficiency, neglect of duty, misconduct or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon.

5. Each member of the council shall receive per diem compensation at the rate as specified in section 7E.6 for each day spent in the performance of the member's duties, but not to exceed twenty-five hundred dollars per year. All members of the council shall receive necessary expenses incurred in the performance of their duties.

6. Four members of the council shall constitute a quorum. For the purpose of conducting business a majority vote of the council shall be required.

7. Meetings of the council may be called by the commissioner.

[C73, 75, 77, 79, 81, §103A.14]

90 Acts, ch 1256, §29

103A.15 Board of review.

The commissioner shall establish a state building code board of review.

1. The board shall be composed of three members of the council.
2. Members of the board of review shall serve at the pleasure of the commissioner.
3. No member of the board shall pass upon any question in which the member or any corporation in which the member is a stockholder is interested.
4. The commissioner may appoint alternate board members from the membership of the advisory council.

[C73, 75, 77, 79, 81, §103A.15]

103A.16 Board of review — appeal.

Any aggrieved person may appeal to the board for:

1. A reversal, modification, or annulment of any ruling, direction, determination, or order of any state agency or local building department affecting or relating to the construction of any building or structure, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code.
2. Review of the disapproval or failure to approve within sixty days after submission of:

a. An application for permission to construct pursuant to the code, or

b. Plans or specifications for construction pursuant to the code.

[C73, 75, 77, 79, 81, §103A.16]

Referred to in §103A.19

103A.17 Board of review — procedure.

The board shall establish procedures pursuant to which an aggrieved person may appeal to the board.

1. The board shall fix a reasonable time and place for a hearing and shall give due notice of a hearing to:

a. The applicant.

b. The state agency or local building department involved.

c. Any other person at the board's discretion.

2. Notice shall be by registered mail and shall:

a. Name the applicant.

b. State the time and place of the hearing.

c. State the general nature of the appeal.

3. The following may appear and be heard at an appeal hearing:

a. The applicant, or the applicant's agent.

b. The state agency or local building department involved.

c. Any other person at the board's discretion.

4. The board, in hearings conducted under this section, shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure.
5. Applications shall be decided promptly. In every case the board shall state generally the reason for its decision.
6. The decision of the board shall state the date on which it takes effect, which shall be no earlier than five days subsequent to issuance of such decision, and a copy of the decision, duly certified by the chairperson of the board, shall be filed in the office of the commissioner, and a copy shall be sent to the parties and any state agency or local building department affected.
7. The decision of the board of review may be appealed to the advisory council by any party by filing a petition with the advisory council at any time prior to the effective date of such decision. The advisory council shall consider all questions of fact and law involved and issue its decision pertaining to the same not later than ten days after receipt of the appeal.
8. A record of all decisions of the board and advisory council shall be properly indexed and filed in the office of the commissioner, and shall be public records as defined in chapter 22.
9. The board may subpoena all of the papers and documents constituting the record upon which the application for the use of alternate materials or methods of construction, modification, reversal, annulment, or review is based, and the state, county, or municipal

officer in charge thereof shall, upon receipt of the subpoena, transmit the papers and documents to the board.

10. All decisions of the board shall require the concurrence of at least two of its members.

[C73, 75, 77, 79, 81, §103A.17]

103A.18 Court proceedings.

Judicial review of action of the commissioner, board of review, or council may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of said Act:

1. Filing of a petition for judicial review shall stay all proceedings on the matter with respect to which review is sought unless there is a showing by the state agency or a local building department that a stay would involve imminent peril to life or property.

2. No court shall entertain an action based on the state building code unless all administrative remedies have been exhausted, except:

a. When the action is instituted by the state or a governmental subdivision; or

b. When there is good cause for the failure to exhaust administrative remedies.

3. Subject to subsection 1 of this section, where the construction of a building or structure or use of a building is in violation of any code provision or lawful order of a local building department, the district court may on petition order removal of the building, abatement as a public nuisance, or enjoin further construction.

4. Petitions for judicial review may be filed in the county where the cause of action or some part thereof arose.

[C73, 75, 77, 79, 81, §103A.18]

2003 Acts, ch 44, §114

103A.19 Administration and enforcement.

1. The examination and approval or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings or structures, and the administration and enforcement of building regulations shall be the responsibility of the governmental subdivisions of the state and shall be administered and enforced in the manner prescribed by local law or ordinance. All provisions of law relating to the administration and enforcement of local building regulations in any governmental subdivision shall be applicable to the administration and enforcement of the state building code in the governmental subdivision. An application made to a local building department or to a state agency for permission to construct a building or structure pursuant to the provisions of the state building code shall, in addition to any other requirement, be signed by the owner or the owner's authorized agent, and shall contain the address of the owner, and a statement that the application is made for permission to construct in accordance with the provisions of the code. The application shall also specifically include a statement that the construction will be in accordance with all applicable energy conservation requirements.

2. In aid of administration and enforcement of the state building code, and in addition to and not in limitation of powers vested in them by law, each governmental subdivision of the state may, and each city designated in section 103A.10, subsection 2, paragraph *"d"*, shall:

a. Examine and approve or disapprove plans and specifications for the construction of any building or structure, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code, and to direct the inspection of buildings or structures during the course of construction.

b. Require that the construction of any building or structure shall be in accordance with the applicable provisions of the state building code, subject, however, to the powers granted to the board of review in section 103A.16.

c. Order in writing any person to remedy any condition found to exist in, or about any building or structure in violation of the state building code. Orders may be served upon the owner or the owner's authorized agent personally or by certified mail at the address set forth in the application for permission to construct a building or structure. Any local building

department may grant in writing such time as may be reasonably necessary for achieving compliance with an order.

d. Issue certificates of occupancy or use, permits, licenses, and other documents in connection with the construction of buildings or structures as may be required by ordinance.

(1) A certificate of occupancy or use for a building or structure constructed in accordance with the provisions of the state building code shall certify that the building or structure conforms to the requirements of the code. The certificate shall be in the form the governing body of the governmental subdivision prescribes.

(2) Every certificate of occupancy or use shall, until set aside or vacated by the board of review, director, or a court of competent jurisdiction, be binding and conclusive upon all state and local agencies, as to all matters set forth and no order, direction, or requirement at variance therewith shall be made or issued by any other state or local agency.

e. Make, amend, and repeal rules for the administration and enforcement of the provisions of this section, and for the collection of reasonable fees in connection therewith.

f. Prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state building code.

3. The specifications for all buildings to be constructed after July 1, 1977, and which exceed a total volume of one hundred thousand cubic feet of enclosed space that is heated or cooled shall be reviewed by a licensed architect or licensed engineer for compliance with applicable energy efficiency standards. A statement that a review has been accomplished and that the design is in compliance with the energy efficiency standards shall be signed and sealed by the responsible licensed architect or licensed engineer. This statement shall be filed with the commissioner prior to construction. If the specifications relating to energy efficiency for a specific structure have been approved, additional buildings may be constructed from those same plans and specifications without need of further approval if construction begins within five years of the date of approval. Alterations of a structure which has been previously approved shall not require a review because of these changes, provided the basic structure remains unchanged.

[C73, 75, 77, 79, 81, §103A.19]

2007 Acts, ch 97, §2, 3; 2007 Acts, ch 126, §21; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1126, §12, 33; 2017 Acts, ch 131, §7

Referred to in §103A.10, 103A.10A, 103A.21
Architect's seal required, §544A.28

103A.20 Permits — duty to issue.

1. *a.* If the plans and specifications accompanying an application for permission to construct a building or structure fail to comply with the provisions of building regulations applicable to the governmental subdivision where the construction is planned, the state or governmental subdivision official charged with the duty shall nevertheless issue a permit, certificate, authorization, or other required document, as the case may be, for the construction, if the plans and specifications comply with the applicable provisions set forth in the state building code, whenever such code is operative in such governmental subdivision.

b. However, a permit, certificate, authorization, or other required document for the construction of a building shall not be issued to a contractor who is required and fails to obtain a contractor registration number pursuant to chapter 91C.

2. Any building or structure constructed in conformance with the provisions of the state building code, shall be deemed to comply with all state, county, and municipal building regulations, and the owner, builder, architect, lessee, tenant, or their agents, or other interested person shall be entitled, upon a showing of compliance with the code, to demand and obtain, upon proper payment being made in appropriate cases, any permit, certificate, authorization, or other required document, the issuance of which is authorized pursuant to any state or local buildings or structure regulation, and it shall be the duty of the appropriate state or local officer having jurisdiction over the issuance to issue the permit, certificate,

authorization, or other required document, as provided herein, whenever the code is operative in the governmental subdivision.

[C73, 75, 77, 79, 81, §103A.20]

90 Acts, ch 1136, §15; 2008 Acts, ch 1032, §201

103A.21 Penalty.

1. Any person served with an order pursuant to the provisions of section 103A.19, subsection 2, paragraph *"c"*, who fails to comply with the order within thirty days after service or within the time fixed by the local building department for compliance, whichever is longer, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building or structure who shall knowingly violate any of the applicable provisions of the state building code or any lawful order of a local building department made thereunder, shall be guilty of a simple misdemeanor.

2. Violation of this chapter shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person.

3. As an alternative to filing criminal charges as provided in this section, the commissioner may file a petition in the district court and obtain injunctive relief for any violation of this chapter or chapter 104A.

[C73, 75, 77, 79, 81, §103A.21; 81 Acts, ch 49, §1]

2007 Acts, ch 126, §22; 2008 Acts, ch 1031, §36

103A.22 Construction of statute.

1. Nothing in this chapter shall be construed as prohibiting any governmental subdivision from adopting or enacting any building regulations relating to any building or structure within its limits, but a governmental subdivision in which the state building code has been accepted and is applicable shall not have the power to supersede, void, or repeal or make more restrictive any of the provisions of this chapter or of the rules adopted by the commissioner. This subsection shall not apply to energy conservation requirements adopted by the commissioner and approved by the council pursuant to section 103A.8A or 103A.10.

2. Nothing in this chapter shall be construed as abrogating or impairing the power of any governmental subdivision or local building department to enforce the provisions of any building regulations, or the applicable provisions of the state building code, or to prevent violations or punish violators except as otherwise expressly provided in this chapter.

3. The powers enumerated in this chapter shall be interpreted liberally to effectuate the purposes thereof and shall not be construed as a limitation of powers.

[C73, 75, 77, 79, 81, §103A.22]

2008 Acts, ch 1126, §13, 33

Referred to in §103A.10

103A.23 Fees.

1. For the purpose of obtaining revenue to defray the costs of administering the provisions of this chapter, the commissioner shall establish by rule a schedule of fees based upon the costs of administration which fees shall be collected from persons whose manufacture, installation, or construction is subject to the provisions of the state building code. For the performance of building plan reviews by the department of public safety, the commissioner shall establish by rule a fee, chargeable to the owner of the building, which shall be equal to a percentage of the estimated total valuation of the building and which shall be in an amount reasonably related to the cost of conducting the review.

2. All fees collected by the commissioner shall be deposited in the state treasury to the credit of the general fund of the state.

3. All federal grants to and federal receipts of the office of state building code commissioner are appropriated for the purpose set forth in the federal grants or receipts.

[C73, 75, 77, 79, 81, §103A.23]

2000 Acts, ch 1229, §21; 2017 Acts, ch 54, §76

Referred to in §103A.54

103A.24 Reserved.

103A.25 Prior resolutions.
A resolution accepting the state building code as provided in section 103A.7, which was adopted before July 1, 1989, is an ordinance for the purpose of this chapter.
89 Acts, ch 39, §3; 2003 Acts, ch 108, §33

103A.26 Manufactured or mobile home installers certification — violation — civil penalty. Repealed by 2006 Acts, ch 1090, §23, 26. See §103A.59.

103A.27 Commission on energy efficiency standards and practices. Repealed by 2011 Acts, ch 34, §163.

103A.28 and 103A.29 Reserved.

SUBCHAPTER II

MANUFACTURED OR MOBILE HOME TIEDOWN SYSTEMS

103A.30 Approved tiedown system — provided at sale — installation. Repealed by 2006 Acts, ch 1090, §23, 26. See §103A.60.

103A.31 Installer compliance and certification. Repealed by 2006 Acts, ch 1090, §23, 26. See §103A.61.

103A.32 Compliance. Repealed by 2006 Acts, ch 1090, §23, 26. See §103A.63.

103A.33 Listing and form of certification of approved systems provided. Repealed by 2006 Acts, ch 1090, §23, 26. See §103A.62.

103A.34 through 103A.40 Reserved.

SUBCHAPTER III

STATE HISTORIC BUILDING CODE

103A.41 State historic building code.
The commissioner, with the approval of the state historical society board established by section 303.4, shall adopt, in accordance with chapter 17A, alternative building standards and building regulations for the rehabilitation; preservation; restoration, including related reconstruction; and relocation of buildings or structures designated by state agencies or governmental subdivisions as qualified historic buildings which are included in, or appear to meet criteria for inclusion in, the national register of historic places. The alternative building standards and building regulations comprise and shall be known as the state historic building code. The purpose of the state historic building code is to facilitate the restoration or change of occupancy of qualified historic buildings or structures so as to preserve their original or restored architectural elements and features and, concurrently, to provide reasonable safety from fire and other hazards for the occupants and users, through a cost-effective approach to preservation.
84 Acts, ch 1113, §2; 2017 Acts, ch 54, §27
Referred to in §103A.3, 103A.42

103A.42 Designation of qualified historic buildings and structures.
1. A state agency or governmental subdivision may designate as appropriate for the application of the state historic building code those buildings, structures and collections

of structures subject to its jurisdiction for which the state historic preservation officer, in response to an adequately documented request, has issued an opinion affirming that the property is either included in or appears to meet criteria for inclusion in the national register of historic places. A building, structure or collection of structures so designated is a qualified historic building or structure for purposes of sections 103A.41 through 103A.45.

2. As used in this section, *"buildings, structures and collections of structures"* includes their associated sites.

84 Acts, ch 1113, §3

103A.43 Application of state historic building code as alternative.

1. The state historic building code constitutes a lawful alternative building code for application by state agencies and governmental subdivisions as provided in subsections 2 and 3.

2. A state agency may apply the provisions of the state building code or of the state historic building code, or any combination of the two, in providing reasonable safety from fire and other hazards for the occupants and other users while permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, relocation or continued use of qualified historic buildings or structures.

3. A governmental subdivision may apply the provisions of its regular local building standards and building regulations or of the state historic building code, or any combination of the two, in providing reasonable safety from fire and other hazards for the occupants and other users while permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, relocation or continued use of qualified historic buildings or structures.

4. The alternative building standards and building regulations of the state historic building code shall be enforced in the same manner and by the same governmental entities as the regular building standards and building regulations of those governmental entities respectively.

5. When the requirements of the state historic building code are applied to repairs, alterations or additions to qualified historic buildings or structures, the requirements of this chapter and chapter 104A which are in conflict with the state historic building code do not apply to those repairs, alterations or additions.

84 Acts, ch 1113, §4
Referred to in §103A.42

103A.44 Reserved.

103A.45 State historical society board — duties.

The state historical society board shall:

1. Recommend to the commissioner alternative building standards and building regulations for inclusion in the state historic building code.

2. Approve or disapprove alternative building standards and building regulations which the commissioner proposes to include in the state historic building code. A majority vote of the membership of the board is required for this function.

3. Advise and confer with the commissioner in matters relating to the state historic building code.

4. Consult with state agencies, including the state fire marshal and the department of cultural affairs, governmental subdivisions, architects, engineers, and others who have knowledge of or interest in the rehabilitation, preservation, restoration, and relocation of historic buildings, with respect to matters relating to the state historic building code.

5. At the request of a state agency, governmental subdivision or other interested party, provide review and advice as to specific applications of the state historic building code.

6. At the request of the commissioner, hold public hearings and perform other functions as the commissioner requests.

84 Acts, ch 1113, §6; 86 Acts, ch 1245, §1339
Referred to in §103A.42

103A.46 through 103A.50 Reserved.

SUBCHAPTER IV

MANUFACTURED AND MOBILE HOME REGULATION

Referred to in §523H.1, 537A.10

103A.51 Definitions.

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

1. *"Ground anchoring system"* means any device or combination of devices used to securely anchor a manufactured or mobile home to the ground.
2. *"Ground support system"* means any device or combination of devices placed beneath a manufactured or mobile home and used to provide support.
3. *"Home"* means a manufactured home, mobile home, or modular home.
4. *"Manufactured home"* means a factory-built structure built under the authority of 42 U.S.C. §5403, that is required by federal law to display a seal required by the United States department of housing and urban development, and was constructed on or after June 15, 1976.
5. *"Manufactured or mobile home distributor"* means a person who sells or distributes manufactured or mobile homes to manufactured or mobile home retailers.
6. *"Manufactured or mobile home manufacturer"* means a person engaged in the business of fabricating or assembling manufactured or mobile homes.
7. *"Manufactured or mobile home retailer"* means a person who, for a commission or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale or exchange of an interest in a home or who is engaged wholly or in part in the business of selling homes, whether or not the homes are owned by the retailer. *"Manufactured or mobile home retailer"* does not include any of the following:

a. A receiver, trustee, administrator, executor, guardian, attorney, or other person appointed by or acting under the judgment or order of a court to transfer an interest in a home.

b. A person transferring a home registered in the person's name and used for personal, family, or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

c. A person who transfers an interest in a home only as an incident to engaging in the business of financing new or used homes.

d. A person who exclusively sells modular homes.

8. *"Mobile home"* means a structure, transportable in one or more sections, which exceeds eight feet in width and thirty-two feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. A *"mobile home"* is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.
9. *"Modular home"* means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, as adopted pursuant to section 103A.7, and displays a seal issued by the commissioner.
10. *"New home"* means a home that has not been sold at retail.
11. *"Permanent site"* means any lot or parcel of land on which a manufactured or mobile home used as a dwelling or place of business is located for ninety consecutive days, except a construction site when the manufactured or mobile home is used by a commercial contractor as a construction office or storage room.
12. *"Preowned home"* means a home that has been previously sold at retail.
13. *"Retailer's inventory"* means homes offered for sale at the retailer's licensed address or at any mobile home park or land-leased community so long as the title of the home is in the retailer's name and the home is not being occupied.
14. *"Sell at retail"* means to sell a home to a person who will devote it to a consumer use.

15. *"Tiedown system"* means a ground support system and a ground anchoring system used in concert to provide anchoring and support for a manufactured or mobile home.

2006 Acts, ch 1090, §1, 26; 2016 Acts, ch 1011, §121
Referred to in §103A.3, 103A.10, 321.45

103A.52 Manufactured or mobile home retailer license — procedure.

1. *License application.* A manufactured or mobile home retailer shall file with the commissioner an application for license as a manufactured or mobile home retailer as the commissioner may prescribe.

2. *License fee.* The license fee for a manufactured or mobile home retailer is an annual fee of one hundred dollars. If the application is denied, the commissioner shall refund the fee.

3. *Surety bond.* Before the issuance of a manufactured or mobile home retailer's license, an applicant for a license shall file with the commissioner a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state, be in the amount of fifty thousand dollars, and be conditioned upon the faithful compliance by the applicant as a retailer with all of the statutes of this state regulating the business of the retailer and indemnifying any person dealing or transacting business with the retailer in connection with a manufactured or mobile home from a loss or damage occasioned by the failure of the retailer to comply with this subchapter, including but not limited to the furnishing of a proper and valid document of title to the manufactured or mobile home involved in the transaction.

4. *Manufactured or mobile home hookups.* A licensed manufactured or mobile home retailer or an employee of a licensed manufactured or mobile home retailer may perform water, gas, electrical, and other utility service connections in a manufactured or mobile home space, or within ten feet of such space, located in a manufactured home community or mobile home park. The licensed retailer or an employee of the retailer is not required to obtain any additional state or local authorization, permit, or license to perform utility service connections. However, the utility service connections are subject to inspection and approval by the local building department and the manufactured or mobile home retailer shall pay the inspection fee, if any.

2006 Acts, ch 1090, §2, 26; 2016 Acts, ch 1011, §121

103A.53 License application and fees.

Upon application and payment of a one hundred dollar fee, a person may be licensed as a manufacturer or distributor of manufactured or mobile homes. The application shall be in the form and shall contain information as the commissioner prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner revoked or suspended by the commissioner, on December 31 of the calendar year for which the license was granted. A licensee shall have the month of December of the calendar year for which the license was granted and the following month of January to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

2006 Acts, ch 1090, §3, 26

103A.54 Fees.

Notwithstanding section 103A.23, the department of public safety shall retain all fees collected pursuant to this subchapter and the fees retained are appropriated to the commissioner to administer the licensing program and the certification program for manufactured or mobile home installers, including the employment of personnel for the enforcement and administration of such programs.

2006 Acts, ch 1090, §4, 26; 2016 Acts, ch 1011, §121

103A.55 Revocation, suspension, and denial of license.

1. The commissioner may revoke, suspend, or refuse the license of a manufactured or mobile home retailer, manufactured or mobile home manufacturer, or manufactured or

mobile home distributor, as applicable, if the commissioner finds that the manufactured or mobile home retailer, manufacturer, or distributor is guilty of any of the following acts or offenses:

a. Fraud in procuring a license.

b. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the business of a manufactured or mobile home retailer, manufacturer, or distributor or engaging in unethical conduct or practice harmful or detrimental to the public.

c. Conviction of a felony related to the business of a manufactured or mobile home retailer, manufacturer, or distributor. A copy of the record of conviction or plea of guilty shall be sufficient evidence for the purposes of this section.

d. Failing, upon the sale or transfer of a manufactured or mobile home, to deliver to the purchaser or transferee of the manufactured or mobile home sold or transferred, a manufacturer's or importer's certificate, or a certificate of title duly assigned, as provided in chapter 321.

e. Failing, upon the purchasing or otherwise acquiring of a manufactured or mobile home, to obtain a manufacturer's or importer's certificate, a new certificate of title, or a certificate of title duly assigned as provided in chapter 321.

f. Failing to apply for and obtain from a county treasurer a certificate of title for a used manufactured or mobile home, titled in Iowa, acquired by the retailer within thirty days from the date of acquisition, as required under section 321.45, subsection 4.

g. Failing to comply with the requirements of section 423.26A relating to the collection of use tax.

2. A person whose license is revoked or suspended or whose application for a license is denied may appeal the revocation, suspension, or denial in accordance with chapter 17A, including the opportunity for an evidentiary hearing.

2006 Acts, ch 1090, §5, 26; 2010 Acts, ch 1108, §1, 15

103A.56 Rules.

The commissioner shall prescribe rules under chapter 17A for the administration and enforcement of this subchapter. The commissioner shall prescribe forms to be used in connection with the licensing of persons under this subchapter.

2006 Acts, ch 1090, §6, 26; 2016 Acts, ch 1011, §121

103A.57 Unlawful practice — criminal penalty.

It is unlawful for a person to engage in business as a manufactured or mobile home retailer, manufactured or mobile home manufacturer, or manufactured or mobile home distributor in this state without first acquiring and maintaining a license in accordance with this subchapter. A person convicted of violating this section is guilty of a serious misdemeanor.

2006 Acts, ch 1090, §7, 26; 2016 Acts, ch 1011, §121

103A.58 Manufactured home, mobile home, or modular home retail installment contract — finance charge.

1. A retail installment contract or agreement for the sale of a manufactured home, mobile home, or modular home may include a finance charge not in excess of an amount equivalent to one and three-fourths percent per month simple interest on the declining balance of the amount financed.

2. For purposes of this section, *"amount financed"* means the same as defined in section 537.1301.

3. The limitations contained in this section do not apply in a transaction referred to in section 535.2, subsection 2. With respect to a consumer credit sale, as defined in section 537.1301, the limitations contained in this section supersede conflicting provisions of chapter 537, article 2, part 2.

2006 Acts, ch 1090, §8, 26

Court action required for termination of installment contract or repossession of property during military service; application for relief respecting obligation or liability incurred prior to military service; §29A.102, 29A.103, 29A.105

103A.59 Manufactured or mobile home installers certification — violation — civil penalty.

1. A person who installs a manufactured or mobile home for another person shall be certified in accordance with rules adopted by the commissioner pursuant to chapter 17A. The commissioner may assess a fee sufficient to recover the costs of administering the certification of manufactured or mobile home installers. The commissioner may suspend or revoke the certification of a manufactured or mobile home installer for failure to perform installation of a manufactured or mobile home pursuant to certification standards as provided by rules of the commissioner.

2. If a provision of this chapter or a rule adopted pursuant to this chapter relating to the manufacture or installation of a manufactured or mobile home is violated, the commissioner may assess a civil penalty not to exceed one thousand dollars for each offense. Each violation involving a separate manufactured or mobile home, or a separate failure or refusal to allow an act to be performed or to perform an act as required by this chapter or a rule adopted pursuant to this chapter, constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed one million dollars.

2006 Acts, ch 1090, §9, 26

103A.60 Approved tiedown system — provided at sale — installation.

A manufactured or mobile home retailer shall provide an approved tiedown system. The purchaser shall install or have installed such system within one hundred fifty days of locating the manufactured or mobile home on a permanent site.

2006 Acts, ch 1090, §10, 26
Referred to in §103A.63

103A.61 Installer compliance and certification.

A person who installs a tiedown system shall comply with the minimum standards for such systems, and shall provide the owner of the manufactured or mobile home on which installation is made and the commissioner with a certification of approved system installation. Such certification shall be in proper form as established by the commissioner.

2006 Acts, ch 1090, §11, 26
Referred to in §103A.63

103A.62 Listing and form of certification of approved systems provided.

The commissioner shall provide, upon request, a list of approved tiedown systems and instructions for the completion of proper certification of approved system installation.

2006 Acts, ch 1090, §12, 26
Referred to in §103A.63

103A.63 Compliance.

When it appears that a retailer, purchaser, or other person is in noncompliance with the provisions of sections 103A.60 through 103A.62, the commissioner shall prescribe a period of time not to exceed one hundred fifty days within which compliance must be achieved and the commissioner shall so notify the retailer, purchaser, or other person.

2006 Acts, ch 1090, §13, 26

103A.64 through 103A.70 Reserved.

SUBCHAPTER V

RESIDENTIAL CONTRACTORS — REPAIRS AND INSURANCE — PROHIBITED PRACTICES

103A.71 Residential contractors.

1. As used in this section:

a. *"Catastrophe"* means a natural occurrence including but not limited to fire, earthquake, tornado, windstorm, flood, or hail storm, which damages or destroys residential real estate.

b. *"Residential contractor"* means a person in the business of contracting to repair or replace residential roof systems or perform any other exterior repair, exterior replacement, or exterior reconstruction work resulting from a catastrophe on residential real estate or a person offering to contract with an owner or possessor of residential real estate to carry out such work.

c. *"Residential real estate"* means a new or existing building, including a detached garage, constructed for habitation by one to four families.

d. *"Roof system"* includes roof coverings, roof sheathing, roof weatherproofing, and roof insulation.

2. A residential contractor shall not advertise or promise to rebate any insurance deductible or any portion thereof as an inducement to the sale of goods or services. A promise to rebate any insurance deductible includes granting any allowance or offering any discount against the fees to be charged or paying a person directly or indirectly associated with the residential real estate any form of compensation, except for items of nominal value. A residential contractor may display a sign or any other type of advertisement on a person's premises provided the person consents to the display and the person receives no compensation from the residential contractor for the placement of the sign or advertising.

3. A residential contractor shall not represent or negotiate on behalf of, or offer or advertise to represent or negotiate on behalf of, an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems, or the performance of any other exterior repair, exterior replacement, or exterior reconstruction work on the residential real estate.

4. *a.* A residential contractor contracting to provide goods or services to repair damage resulting from a catastrophe shall provide the person with whom it is contracting a fully completed duplicate notice in at least ten-point bold type which shall contain the following statement:

NOTICE OF CONTRACT OBLIGATIONS AND RIGHTS

You may be responsible for payment to (insert name of residential contractor) for the cost of all goods and services provided whether or not you receive payment from any property and casualty insurance policy with respect to the damage. Pursuant to Iowa law your contract with (insert name of residential contractor) to provide goods and services to repair damage resulting from a naturally occurring catastrophe including but not limited to a fire, earthquake, tornado, windstorm, flood, or hail storm is void and you have no responsibility for payment under the contract if (insert name of residential contractor) either advertises or promises to rebate all or any portion of your insurance deductible, or represents or negotiates, or offers to represent or negotiate, on your behalf with your property and casualty insurance company on any insurance claim relating to the damage you have contracted to have repaired. Your signature below acknowledges your understanding of these legal obligations and rights.

.....

Date

.....

Signature

b. The notice shall be executed by the person with whom the residential contractor is contracting prior to or contemporaneously with entering into the contract.

5. A contract entered into with a residential contractor is void if the residential contractor violates subsection 2, 3, or 4.

6. *a.* A residential contractor violating this section is subject to the penalties and remedies prescribed by this chapter.

b. A violation of subsection 2 or 3 by a residential contractor is an unlawful practice pursuant to section 714.16.

2012 Acts, ch 1116, §1, 2
Referred to in §515.137A

CHAPTER 104

RESERVED

CHAPTER 104A

ACCESSIBILITY FOR PERSONS WITH DISABILITIES

Referred to in §103A.5, 103A.7, 103A.21, 103A.43

104A.1 Intent of chapter.
104A.2 Applicability — requirements.
104A.3 and 104A.4 Repealed by 93 Acts, ch 95, §8.
104A.5 Buildings in process of construction.
104A.6 Conformance with rules of state building code commissioner.
104A.7 Repealed by 93 Acts, ch 95, §8.
104A.8 Enforcement.

104A.1 Intent of chapter.

It is the intent of this chapter that standards and specifications are followed in the construction of public and private buildings and facilities which are intended for use by the general public to ensure that these buildings and facilities are accessible to and functional for persons with disabilities.

[C66, 71, 73, 75, 77, 79, 81, §104A.1]
93 Acts, ch 95, §2

104A.2 Applicability — requirements.

The standards and specifications adopted by the state building code commissioner and as set forth in this chapter shall apply to all public and private buildings and facilities, temporary and permanent, used by the general public. The specific occupancies and minimum extent of accessibility shall be in accordance with the conforming standards set forth in section 104A.6. In every covered multiple-dwelling-unit building containing four or more individual dwelling units the requirements of this chapter and those adopted by the state building code commissioner shall be met. However, this chapter shall not apply to a building, or to structures or facilities within the building, if the primary use of the building is to serve as a place of worship.

[C66, 71, 73, 75, 77, 79, 81, §104A.2]
93 Acts, ch 95, §3; 99 Acts, ch 49, §2, 3
Referred to in §104A.6

104A.3 and 104A.4 Repealed by 93 Acts, ch 95, §8. See §104A.6.

104A.5 Buildings in process of construction.

The standards and specifications set forth in this chapter shall be adhered to in those buildings and facilities under construction on July 4, 1965, unless the authority responsible for the construction shall determine the construction has reached a state where compliance will result in a substantial increase in cost or delay in construction.

[C66, 71, 73, 75, 77, 79, 81, §104A.5]

104A.6 Conformance with rules of state building code commissioner.
The authority responsible for the construction of any building or facility covered by section 104A.2 shall conform with rules adopted by the state building code commissioner as provided in section 103A.7.
[C66, 71, 73, 75, 77, 79, 81, §104A.6]
93 Acts, ch 95, §4
Referred to in §104A.2

104A.7 Repealed by 93 Acts, ch 95, §8. See §104A.6.

104A.8 Enforcement.
This chapter is subject to enforcement as provided in chapter 103A.
93 Acts, ch 95, §5

CHAPTER 104B
MINIMUM PLUMBING FACILITIES

Referred to in §103A.5

104B.1 Minimum plumbing facilities.

104B.1 Minimum plumbing facilities.
1. Places of assembly for public use including but not limited to theaters, auditoriums, and convention halls, constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the uniform plumbing code.
2. Restaurants, pubs, and lounges constructed on or after January 1, 1991, shall conform to the standards for minimum plumbing facilities as provided in the uniform plumbing code.
3. All toilets installed pursuant to this section shall be water efficient toilets which use three gallons or less of water per flush.
90 Acts, ch 1214, §1; 2011 Acts, ch 95, §4

CHAPTER 105

PLUMBERS, MECHANICAL PROFESSIONALS, AND CONTRACTORS

Referred to in §91C.1, 100D.11, 272C.1, 272C.16

105.1 Title.
105.2 Definitions.
105.3 Plumbing and mechanical systems board.
105.4 Plumbing installation code — rules.
105.5 Examinations.
105.6 through 105.8 Repealed by 2009 Acts, ch 151, §32.
105.9 Fees.
105.10 License or certification required — exceptions.
105.11 Chapter inapplicability.
105.12 Form of license.
105.13 License presumptive evidence.
105.14 Display of contractor license.
105.15 Registry of licenses.
105.16 Change of residence.
105.17 Preemption of local licensing requirements.
105.18 Qualifications and types of licenses issued.
105.19 Insurance and surety bond requirements.
105.20 Renewal and reinstatement of licenses — fees and penalties — continuing education.
105.21 Reciprocal licenses.
105.22 Grounds for denial, revocation, or suspension of license.
105.23 Jurisdiction of revocation and suspension proceedings.
105.24 Notice and default.
105.25 Advertising — violations — penalties.
105.26 Injunction.
105.27 Civil penalty.
105.28 Enforcement.
105.29 Report of violators.
105.30 Attorney general.
105.31 License renewal and reissuance — transition provisions. Repealed by 2018 Acts, ch 1026, §180.
105.32 Voluntary early renewal of license. Repealed by 2018 Acts, ch 1026, §180.

105.1 Title.

This chapter may be known and cited as the *"Iowa Plumber, Mechanical Professional, and Contractor Licensing Act"*.

2007 Acts, ch 198, §1, 35; 2008 Acts, ch 1089, §10, 11; 2009 Acts, ch 151, §1

105.2 Definitions.

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

1. *"Apprentice"* means any person, other than a helper, journeyperson, or master, who, as a principal occupation, is engaged in working as an employee of a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems contractor under the supervision of either a master or a journeyperson and is progressing toward completion of an apprenticeship training program registered by the office of apprenticeship of the United States department of labor while learning and assisting in the design, installation, and repair of plumbing, HVAC, refrigeration, sheet metal, or hydronic systems, as applicable.

2. *"Board"* means the plumbing and mechanical systems board as established pursuant to section 105.3.

3. *"Contractor"* means a person or entity that provides plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems services on a contractual basis and who is paid a predetermined amount under that contract for rendering those services.

4. *"Department"* means the Iowa department of public health.

5. *"Governmental subdivision"* means any city, county, or combination thereof.

6. *"Helper"* means a person engaged in general manual labor activities who provides assistance to an apprentice, journeyperson, or master while under the supervision of a journeyperson or master.

7. *"HVAC"* means heating, ventilation, air conditioning, ducted systems, or any type of refrigeration used for food processing or preservation. *"HVAC"* includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.

8. *"Hydronic"* means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigeration equipment in connection with chilled water systems, all steam piping, hot or chilled water

piping together with all control devices and accessories, installed as part of, or in connection with, any heating or cooling system or appliance whose primary purpose is to provide comfort using a liquid, water, or steam as the heating or cooling media. *"Hydronic"* includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system. For purposes of this definition, *"primary purpose is to provide comfort"* means a system or appliance in which at least fifty-one percent of the capacity generated by its operation, on an annual average, is dedicated to comfort heating or cooling.

9. *"Journeyperson"* means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems, as applicable.

10. *"Master"* means any person who works in the planning or superintending of the design, installation, or repair of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems, and who is familiar with the laws and rules governing the same.

11. *"Mechanical professional"* means a person engaged in the HVAC, refrigeration, sheet metal, or hydronic industry.

12. *"Mechanical systems"* means HVAC, refrigeration, sheet metal, and hydronic systems.

13. *"Medical gas piping"* means a permanent fixed piping system in a health care facility which is used to convey oxygen, nitrous oxide, nitrogen, carbon dioxide, helium, medical air, and mixtures of these gases from its source to the point of use and includes the fixed piping associated with a medical, surgical, or gas scavenging vacuum system, as well as a bedside suction system.

14. *"Medical gas system installer"* means any person who installs or repairs medical gas piping, components, and vacuum systems, including brazers, who has been issued a valid certification from the national inspection testing certification (NITC) corporation, or an equivalent authority approved by the board.

15. *"Plumbing"* means all potable water building supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipes, and all building drains and building sewers, storm sewers, and storm drains, including their respective joints and connections, devices, receptors, and appurtenances within the property lines of the premises, and including the connection to sanitary sewer, storm sewer, and domestic water mains. "*Plumbing*" includes potable water piping, potable water treating or using equipment, medical gas piping systems, fuel gas piping, water heaters and vents, including all natural, propane, liquid propane, or other gas lines associated with any component of a plumbing system.

16. "*Refrigeration*" means any system of refrigeration regardless of the level of power, if such refrigeration is intended to be used for the purpose of food processing and product preservation and is also intended to be used for comfort systems. *"Refrigeration*" includes all natural, propane, liquid propane, or other gas lines associated with any component of refrigeration.

17. *"Routine maintenance"* means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers, or water, gas, or steam piping permanent repairs except for traps or strainers. *"Routine maintenance"* shall include emergency repairs, and the board shall define the term *"emergency repairs"* to include the repair of water pipes to prevent imminent damage to property. *"Routine maintenance"* does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than one hundred gallons in size.

18. *"Sheet metal"* means heating, ventilation, air conditioning, pollution control, fume hood systems and related ducted systems or installation of equipment associated with any component of a sheet metal system. *"Sheet metal"* excludes refrigeration and electrical lines

and all natural gas, propane, liquid propane, or other gas lines associated with any component of a sheet metal system.

2007 Acts, ch 198, §2; 2008 Acts, ch 1032, §102, 202; 2008 Acts, ch 1089, §10, 11; 2009 Acts, ch 151, §2, 3; 2011 Acts, ch 100, §1, 2, 15; 2012 Acts, ch 1023, §22; 2012 Acts, ch 1026, §1, 2; 2012 Acts, ch 1138, §47, 78, 79; 2013 Acts, ch 77, §2, 3, 36

105.3 Plumbing and mechanical systems board.

1. A plumbing and mechanical systems board is created within the Iowa department of public health.

2. *a.* The board shall be comprised of eleven members, appointed by the governor, as follows:

(1) The director of public health or the director's designee.

(2) The commissioner of public safety or the commissioner's designee.

(3) One plumbing inspector.

(4) One mechanical inspector.

(5) A contractor who primarily works in rural areas.

(6) An individual licensed as a journeyperson plumber pursuant to the provisions of this chapter or, for the initial membership of the board, an individual eligible for such licensure.

(7) An individual working as a plumbing contractor and licensed as a master plumber pursuant to the provisions of this chapter or, for the initial membership of the board, an individual eligible for such licensure.

(8) Two individuals licensed as journeyperson mechanical professionals pursuant to the provisions of this chapter or, for the initial membership of the board, two individuals eligible for such licensure.

(9) Two individuals licensed as master mechanical professionals pursuant to the provisions of this chapter or, for the initial membership of the board, two individuals eligible for such licensure. One of these individuals shall be a mechanical systems contractor.

b. The board members enumerated in paragraph a, subparagraphs (3) through (9), are subject to confirmation by the senate.

c. The terms of the two plumber representatives on the board shall not expire on the same date, and one of the two plumber representatives on the board shall at all times while serving on the board be affiliated with a labor union while the other shall at all times while serving on the board not be affiliated with a labor union.

d. The terms of the mechanical professional representatives on the board shall not expire on the same date, and at least one of the mechanical professional representatives on the board shall at all times while serving on the board be affiliated with a labor union while at least one of the other mechanical professional representatives shall at all times while serving on the board not be affiliated with a labor union.

3. Members shall serve three-year terms except for the terms of the initial members, which shall be staggered so that three members' terms expire each calendar year. A member of the board shall serve no more than three full terms. A vacancy in the membership of the board shall be filled by appointment by the governor subject to senate confirmation.

4. If a person who has been appointed to serve on the board has ever been disciplined by the board, all board complaints and statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.

5. The board shall organize annually and shall select a chairperson and a secretary from its membership. A quorum shall consist of a majority of the members of the board.

6. The board may maintain a membership in any national organization of state boards for the professions of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic professionals, with all membership fees to be paid from funds appropriated to the board.

2007 Acts, ch 198, §3; 2008 Acts, ch 1089, §10, 11; 2009 Acts, ch 151, §4, 5; 2013 Acts, ch 77, §4, 36; 2019 Acts, ch 85, §81

Referred to in §105.2

Confirmation, see §2.32

105.4 Plumbing installation code — rules.

1. *a.* The board shall establish by rule a plumbing installation code governing the installation of plumbing in this state. Consistent with fire safety rules and standards promulgated by the state fire marshal, the board shall adopt the most current version of the uniform plumbing code and the international mechanical code, as the state plumbing code and the state mechanical code, to govern the installation of plumbing and mechanical systems in this state. The board shall adopt the current version of each code within six months of its being released. The board may adopt amendments to each code by rule. The board shall work in consultation with the state fire marshal to ensure that proposed amendments do not conflict with the fire safety rules and standards promulgated by the state fire marshal. The state plumbing code and the state mechanical code shall be applicable to all buildings and structures owned by the state or an agency of the state and in each local jurisdiction.

b. Except as provided in paragraph "*c*", a local jurisdiction is not required to adopt by ordinance the state plumbing code or the state mechanical code. However, a local jurisdiction that adopts by ordinance the state plumbing code or the state mechanical code may adopt standards that are more restrictive. A local jurisdiction that adopts standards that are more restrictive than the state plumbing code or the state mechanical code shall promptly provide copies of those standards to the board. The board shall maintain on its internet site the text of all local jurisdiction standards that differ from the applicable statewide code. Local jurisdictions shall not be required to conduct inspections or take any other enforcement action under the state plumbing code and state mechanical code regardless of whether the local jurisdiction has adopted by ordinance the state plumbing code or the state mechanical code.

c. A local jurisdiction with a population of more than fifteen thousand that has not adopted by ordinance the state plumbing code and state mechanical code shall have until December 31, 2016, to do so. Cities that have adopted a plumbing code or mechanical code as of April 26, 2013, shall have until December 31, 2016, to adopt the state plumbing code or the state mechanical code in lieu thereof.

2. The board shall adopt all rules necessary to carry out the licensing and other provisions of this chapter.

2007 Acts, ch 198, §4; 2008 Acts, ch 1089, §10, 11; 2009 Acts, ch 151, §6; 2013 Acts, ch 77, §5, 36

105.5 Examinations.

1. Any person desiring to take an examination for a license issued pursuant to this chapter shall make application to the board in accordance with the rules of the board. The application form shall be no longer than two pages in length, plus one security page. The board may require that a recent photograph of the applicant be attached to the application.

2. Applicants who fail to pass an examination shall be allowed to retake the examination at a future scheduled time.

3. The board shall adopt rules relating to all of the following:

a. The qualifications required for applicants seeking to take examinations, which qualifications shall include a requirement that an applicant who is a contractor shall be required to provide the contractor's state contractor registration number.

b. The denial of applicants seeking to take examinations.

4. The board shall adopt an industry standardized examination for each license type. If a standardized examination is not available for a specified license type, the board shall work with the appropriate testing vendor to create an examination for the specified license type.

2007 Acts, ch 198, §5; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §7; 2011 Acts, ch 100, §3, 15; 2013 Acts, ch 77, §6, 36

Contractor registration, see chapter 91C

105.6 through 105.8 Repealed by 2009 Acts, ch 151, §32.

105.9 Fees.

1. The board shall set the fees for the examination of all applicants, by rule, which fees shall be based upon the cost of administering the examinations.

2. The board shall set the license fees and renewal fees for all licenses issued pursuant to this chapter, by rule.

3. All fees collected under this chapter shall be retained by the board. The moneys retained by the board shall be used for any of the board's duties under this chapter, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the board pursuant to this section shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by the board pursuant to this section are not subject to reversion to the general fund of the state.

4. Nothing in this chapter shall be interpreted to prohibit the state or any of its governmental subdivisions from charging construction permit fees or inspection fees related to work performed by plumbers and mechanical professionals.

5. *a.* The board shall submit a report to the general assembly within sixty days following the end of each fiscal year. The reports shall include a balance sheet projection extending no less than three years. If the revenue projection exceeds expense projections by more than ten percent, the board shall adjust their fee schedules accordingly, so that projected revenues are no more than ten percent higher than projected expenses. The revised fees shall be implemented no later than January 1, 2013, and January 1 of each subsequent year.

b. A license fee for a combined license shall be the sum total of each of the separate license fees reduced by thirty percent.

6. The board may charge a fee for an application required by this chapter and submitted on paper if an internet application process is available.

7. *a.* Licenses issued under this chapter on or after July 1, 2014, shall expire on the same renewal date every three years, beginning with June 30, 2017.

b. New licenses issued after the July 1 beginning of each three-year renewal cycle shall be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

2007 Acts, ch 198, §9; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §8; 2011 Acts, ch 100, §4 – 6, 15; 2013 Acts, ch 77, §7, 8, 36

105.10 License or certification required — exceptions.

1. Except as provided in section 105.11, a person shall not operate as a contractor or install or repair plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems without obtaining a license issued by the board, or install or repair medical gas piping systems without obtaining a valid certification approved by the board.

2. Except as provided in section 105.11, a person shall not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems unless at all times a licensed master, who shall be responsible for the proper designing, installing, and repairing of the plumbing, HVAC, refrigeration, sheet metal, or hydronic system, is employed by the person and is actively in charge of the plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic work of the person. An individual who performs such work pursuant to a business operated as a sole proprietorship shall be a licensed master in the applicable discipline.

3. An individual holding a master mechanical license shall not be required to get an HVAC-refrigeration, sheet metal, or hydronic license in order to design, install, or repair the work defined in this chapter as mechanical, HVAC-refrigeration, sheet metal, or hydronic work. An individual holding a journeyperson mechanical license shall not be required to get an HVAC-refrigeration, sheet metal, or hydronic license in order to install and repair the work defined in this chapter as mechanical, HVAC-refrigeration, sheet metal, or hydronic work. An individual holding a master or journeyperson mechanical license shall also not be required to obtain a special, restricted license that is designated as a sublicense of the mechanical, HVAC-refrigeration, sheet metal, or hydronic licenses.

4. The board shall adopt rules to allow a grace period for a contractor to operate a business described in subsection 2 without employing a licensed master.

2007 Acts, ch 198, §10; 2008 Acts, ch 1032, §103, 202; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §9, 10; 2013 Acts, ch 77, §9 – 11, 36; 2013 Acts, ch 140, §56; 2014 Acts, ch 1092, §26; 2019 Acts, ch 99, §9; 2020 Acts, ch 1103, §8, 31

105.11 Chapter inapplicability.

The provisions of this chapter shall not be construed to do any of the following:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, licensed as a manufactured home retailer or certified as a manufactured home installer pursuant to chapter 103A, licensed as an architect pursuant to chapter 544A, or licensed as a landscape architect pursuant to chapter 544B who provides consultations or develops plans or other work concerning plumbing, HVAC, refrigeration, sheet metal, or hydronic work and who is exclusively engaged in the practice of the person's profession.

2. Require employees of municipal utilities, electric membership or cooperative associations, public utility corporations, rural water associations or districts, railroads, or commercial retail or industrial companies performing manufacturing, installation, service, or repair work for such employer to hold licenses while acting within the scope of their employment. This licensing exemption does not apply to employees of a rate-regulated gas or electric public utility which provides plumbing or mechanical services as part of a systematic marketing effort, as defined pursuant to section 476.80.

3. Prohibit an owner of property from performing work on the owner's principal residence, if such residence is an existing dwelling rather than new construction and is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public use buildings or facilities, or require such owner to be licensed under this chapter. In order to qualify for inapplicability pursuant to this subsection, a residence shall qualify for the homestead tax exemption.

4. Require that any person be a member of a labor union in order to be licensed.

5. Apply to a person who is qualified pursuant to administrative rules relating to the storage and handling of liquefied petroleum gases while engaged in installing, servicing, testing, replacing, or maintaining propane gas utilization equipment, or gas piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the equipment.

6. Apply to a person who meets the requirements for a certified well contractor pursuant to section 455B.190A while engaged in installing, servicing, testing, replacing, or maintaining a water system, water well, well pump, or well equipment, or piping systems of which the equipment is a part, and related or connected accessory systems or equipment necessary to the operation of the water well.

7. Require a helper engaged in general manual labor activities while providing assistance to an apprentice, journeyperson, or master to obtain a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license. Experience as a helper shall not be considered as practical experience for a journeyperson license.

8. Apply to a person who is performing work subject to chapter 100C.

9. Apply to an employee of any unit of state or local government, including but not limited to cities, counties, or school corporations, performing work on a mechanical system or plumbing system, which serves a government-owned or government-leased facility while acting within the scope of the government employee's employment.

10. Apply to the employees of manufacturers, manufacturer representatives, or wholesale suppliers who provide consultation or develop plans concerning plumbing, HVAC, refrigeration, sheet metal, or hydronic work, or who assist a person licensed under this chapter in the installation of mechanical or plumbing systems.

11. Prohibit an owner or operator of a health care facility licensed pursuant to chapter 135C, assisted living center licensed pursuant to chapter 231C, hospital licensed pursuant to chapter 135B, adult day care center licensed pursuant to chapter 231D, or a retirement facility certified pursuant to chapter 523D from performing work on the facility or requiring

such owner or operator to be licensed under this chapter; except for projects that exceed the dollar amount specified as the competitive bid threshold in section 26.3.

12. Apply to a person who performs the laying of pipe that originates or connects to pipe in the public right-of-way or property that is intended to become public right-of-way, even if such pipe extends under the property and up to the building. However, the person shall not make any interior pipe connections within a building under this exemption. This exemption does not restrict local jurisdictions from requiring licensure under this chapter if required by local ordinance, resolution, or by bidding specification.

13. Prohibit a rental property owner or employee of such an owner from performing routine maintenance on the rental property.

14. Apply to a person who is performing work on a volunteer, non-paid basis or assisting a property owner performing non-paid work on the owner's principal residence.

2007 Acts, ch 198, §11; 2008 Acts, ch 1032, §104, 202; 2008 Acts, ch 1089, §4, 5, 10, 12; 2009 Acts, ch 151, §11 – 13; 2011 Acts, ch 100, §7, 15; 2013 Acts, ch 77, §12, 36; 2017 Acts, ch 131, §7

Referred to in §105.10

105.12 Form of license.

1. A contracting, plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license shall be in the form of a certificate under the seal of the department, signed by the director of public health, and shall be issued in the name of the board. The license number shall be noted on the face of the license.

2. In addition to the certificate, the board shall provide each licensee with a wallet-sized licensing identification card.

2007 Acts, ch 198, §12; 2008 Acts, ch 1089, §6, 10, 12; 2009 Acts, ch 151, §14; 2013 Acts, ch 77, §13, 36

105.13 License presumptive evidence.

A license issued under this chapter shall be presumptive evidence of the right of the holder to practice in this state the profession specified.

2007 Acts, ch 198, §13; 2008 Acts, ch 1089, §10, 12

105.14 Display of contractor license.

A person holding a contractor license under this chapter shall keep the current license certificate publicly displayed in the primary place in which the person practices.

2007 Acts, ch 198, §14; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §15

105.15 Registry of licenses.

The name, location, license number, and date of issuance of the license of each person to whom a license has been issued shall be entered in a registry kept in the office of the department to be known as the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic registry. The registry may be electronic and shall be open to public inspection. However, the licensee's home address, home telephone number, and other personal information as determined by rule shall be confidential.

2007 Acts, ch 198, §15; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §16; 2013 Acts, ch 77, §14, 36

105.16 Change of residence.

If a person licensed to practice as a contractor or a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional under this chapter changes the person's residence or place of practice, the person shall so notify the board.

2007 Acts, ch 198, §16; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §17; 2013 Acts, ch 77, §15, 36

105.17 Preemption of local licensing requirements.

1. The provisions of this chapter regarding the licensing of plumbing, mechanical,

HVAC-refrigeration, sheet metal, and hydronic professionals and contractors shall supersede and preempt all plumbing, mechanical, HVAC-refrigeration, sheet metal, hydronic, and contracting licensing provisions of all governmental subdivisions.

a. On July 1, 2009, all plumbing and mechanical licensing provisions promulgated by any governmental subdivision shall be null and void, except reciprocal licenses as provided in section 105.21, and of no further force and effect.

b. On and after July 1, 2008, a governmental subdivision shall not prohibit a contractor or a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any plumbing and mechanical licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

2. Nothing in this chapter shall prohibit a governmental subdivision from assessing and collecting permit fees or inspection fees related to work performed by plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professionals.

2007 Acts, ch 198, §17; 2008 Acts, ch 1089, §7, 10, 12; 2009 Acts, ch 151, §18; 2013 Acts, ch 77, §16, 36

105.18 Qualifications and types of licenses issued.

1. *General qualifications.* The board shall adopt, by rule, general qualifications for licensure. References may be required as part of the licensing process.

2. *Plumbing, mechanical, HVAC-refrigeration, sheet metal, and hydronic licenses and contractor licenses.* The board shall issue master licenses for plumbing, mechanical, HVAC-refrigeration, and hydronic professionals. The board shall issue journeyperson licenses for plumbing, mechanical, HVAC-refrigeration, sheet metal, and hydronic professionals. A plumbing license shall allow an individual to perform work defined as plumbing. A mechanical license shall allow an individual to perform work defined as HVAC, refrigeration, sheet metal, and hydronic. An HVAC-refrigeration license shall allow an individual to perform work defined as HVAC and refrigeration. A hydronic license shall allow an individual to perform work defined as hydronic. A sheet metal license shall allow an individual to perform work defined as sheet metal. The board shall issue the separate licenses as follows:

a. Apprentice license. In order to be licensed by the board as an apprentice, a person shall do all of the following:

(1) File an application, which application shall establish that the person meets the minimum requirements adopted by the board.

(2) Certify that the person will work under the supervision of a licensed journeyperson or master in the applicable discipline.

(3) Be enrolled in an applicable apprentice program which is registered with the United States department of labor office of apprenticeship.

b. Journeyperson license.

(1) In order to be licensed by the board as a journeyperson in the applicable discipline, a person shall do all of the following:

(a) File an application and pay application fees as established by the board, which application shall establish that the person meets the minimum educational and experience requirements adopted by the board.

(b) Pass the state journeyperson licensing examination in the applicable discipline.

(c) Provide the board with evidence of having completed at least four years of practical experience as an apprentice. Commencing January 1, 2010, the four years of practical experience required by this subparagraph division must be an apprenticeship training program registered by the United States department of labor office of apprenticeship.

(2) A person may simultaneously hold an active journeyperson license and an inactive master license.

(3) An individual who has passed both the journeyperson HVAC-refrigeration examination and the journeyperson hydronic examination separately shall be qualified to be issued a journeyperson mechanical license without having to pass the journeyperson mechanical examination.

c. Master license.

(1) In order to be licensed by the board as a master, a person shall do all of the following:

(a) File an application and pay application fees as established by the board, which application shall establish that the person meets the minimum educational and experience requirements adopted by the board.

(b) Pass the state master licensing examination for the applicable discipline.

(c) Provide evidence to the board that the person has previously been a licensed journeyperson or master in the applicable discipline.

(2) An individual who has passed both the master HVAC-refrigeration examination and the master hydronic examination separately shall be qualified to be issued a master mechanical license without having to pass the master mechanical examination.

d. Contractor license. In order to be licensed by the board as a contractor, a person shall do all of the following:

(1) File an application and pay application fees as established by the board and establish that the person meets the minimum requirements adopted by the board. Through June 30, 2017, the application shall include the person's state contractor registration number. After July 1, 2017, the application shall include proof of workers compensation insurance coverage, proof of unemployment insurance compliance, and, for out-of-state contractors, a bond as described in chapter 91C.

(2) Maintain a permanent place of business.

(3) Hold a master license or employ at least one person holding a master license under this chapter.

3. *Combined licenses, restricted licenses.*

a. The board may issue single or combined licenses to persons who qualify as a contractor, master, journeyperson, or apprentice under any of the disciplines.

b. Special, restricted license. The board may by rule provide for the issuance of special plumbing and mechanical professional licenses authorizing the licensee to engage in a limited class or classes of plumbing or mechanical professional work, which class or classes shall be specified on the license. Each licensee shall have experience, acceptable to the board, in each such limited class for which the person is licensed. The board shall designate each special, restricted license to be a sublicense of either a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license. A special, restricted license may be a sublicense of multiple types of licenses. An individual holding a master or journeyperson, plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic license shall not be required to obtain any special, restricted license which is a sublicense of the license that the individual holds. Special plumbing and mechanical professional licenses shall be issued to employees of a rate-regulated gas or electric public utility who conduct the repair of appliances. *"Repair of appliances"* means the repair or replacement of mechanical connections between the appliance shutoff valve and the appliance and repair of or replacement of parts to the appliance. Such special, restricted license shall require certification pursuant to industry-accredited certification standards.

c. The board shall establish a special, restricted license fee at a reduced rate, consistent with any other special, restricted license fees.

d. An individual that holds either a master or journeyperson mechanical license or a master or journeyperson HVAC-refrigeration license shall be exempt from having to obtain a special electrician's license pursuant to chapter 103 in order to disconnect and reconnect existing air conditioning and refrigeration systems.

4. *Waiver for military service.* Notwithstanding section 17A.9A, the board shall waive the written examination requirements and prior experience requirements in subsection 2, paragraph *"b"*, subparagraph (1), and subsection 2, paragraph *"c"*, for a journeyperson or master license if the applicant meets all of the following requirements:

a. Is an active or retired member of the United States military.

b. Provides documentation that the applicant was deployed on active duty during any portion of the time period of July 1, 2008, through December 31, 2009.

c. Provides documentation that shows the applicant has previously passed an examination which the board deems substantially similar to the examination for a journeyperson license

or a master license, as applicable, issued by the board, or provides documentation that shows the applicant has previously been licensed by a state or local governmental jurisdiction in the same trade and trade level.

2007 Acts, ch 198, §18; 2008 Acts, ch 1032, §105, 202; 2008 Acts, ch 1089, §8, 10, 12; 2009 Acts, ch 151, §19; 2011 Acts, ch 100, §8 – 10, 15; 2013 Acts, ch 77, §17 – 23, 36; 2014 Acts, ch 1106, §20; 2015 Acts, ch 30, §38; 2019 Acts, ch 99, §10

105.19 Insurance and surety bond requirements.

1. An applicant for a contractor license or renewal of an active contractor license shall provide evidence of a public liability insurance policy and surety bond in an amount determined sufficient by the board by rule.

2. If the applicant is engaged in plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic work individually through a business conducted as a sole proprietorship, the applicant shall personally obtain the insurance and surety bond required by this section. If the applicant is engaged in the plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic business as an employee or owner of a legal entity, then the insurance and surety bond required by this section shall be obtained by the entity and shall cover all plumbing or mechanical work performed by the entity.

3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensed contractor shall maintain on file with the board a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving ten days' written notice to the board.

2007 Acts, ch 198, §19; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §20; 2013 Acts, ch 77, §24, 36

105.20 Renewal and reinstatement of licenses — fees and penalties — continuing education.

1. All licenses issued under this chapter shall be issued for a three-year period.

2. A license issued under this chapter may be renewed as provided by rule adopted by the board upon application by the licensee, without examination. Applications for renewal shall be made to the board, accompanied by the required renewal licensing fee, at least thirty days prior to the expiration date of the license.

3. Failure to renew a license within a reasonable time after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as adopted by rule, in addition to the license renewal fee, to allow reinstatement of the license.

4. The board shall, by rule, establish a reinstatement process for a licensee who allows a license to lapse, including reasonable penalties.

5. *a.* The board shall establish continuing education requirements pursuant to section 272C.2. The basic continuing education requirement for renewal of a license shall be the completion, during the immediately preceding license term, of the number of classroom hours of instruction required by the board in courses or seminars which have been approved by the board. The board shall require at least eight classroom hours of instruction during each three-year licensing term.

b. A licensee shall have a thirty-day grace period after expiration of the licensing term to complete all requirements necessary for license renewal without penalty.

2007 Acts, ch 198, §20; 2008 Acts, ch 1089, §9, 10, 12; 2009 Acts, ch 151, §21; 2011 Acts, ch 100, §11, 12, 15; 2013 Acts, ch 77, §25, 36

105.21 Reciprocal licenses.

The board may license without examination a nonresident applicant who is licensed under plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional licensing statutes of another state having similar licensing requirements as those set forth in this chapter and the rules adopted under this chapter if the other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained Iowa plumbing or mechanical professional licenses under this chapter. The board shall adopt the necessary rules, not

inconsistent with the law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

2007 Acts, ch 198, §21; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §22; 2013 Acts, ch 77, §26, 36

Referred to in §105.17

105.22 Grounds for denial, revocation, or suspension of license.

A license to practice as a contractor or as a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional may be revoked or suspended, or an application for licensure may be denied pursuant to procedures established pursuant to chapter 272C by the board, or the licensee may be otherwise disciplined in accordance with that chapter, when the licensee commits any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetence.
3. Knowingly making misleading, deceptive, untrue, or fraudulent misrepresentations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Fraud in representations as to skill or ability.
5. Use of untruthful or improbable statements in advertisements.
6. Willful or repeated violations of this chapter.
7. Aiding and abetting a person who is not licensed pursuant to this chapter in that person's pursuit of an unauthorized and unlicensed plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic professional practice.
8. Failure to meet the commonly accepted standards of professional competence.
9. Any other such grounds as established by rule by the board.

2007 Acts, ch 198, §22; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §23, 34; 2013 Acts, ch 77, §27, 28, 36; 2018 Acts, ch 1026, §37; 2019 Acts, ch 99, §11; 2020 Acts, ch 1103, §9, 31

Referred to in §272C.3, 272C.4

105.23 Jurisdiction of revocation and suspension proceedings.

The board shall have exclusive jurisdiction of all proceedings to revoke or suspend a license issued pursuant to this chapter. The board may initiate proceedings under this chapter or chapter 272C, following procedures set out in section 272C.6, either on its own motion or on the complaint of any person. The board, in connection with a proceeding under this chapter, may issue subpoenas to compel attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

2007 Acts, ch 198, §23; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §24, 34

Referred to in §272C.5

105.24 Notice and default.

1. A written notice stating the nature of the charge or charges against a licensee and the time and place of the hearing before the board on the charges shall be served on the licensee not less than thirty days prior to the date of hearing either personally or by mailing a copy by certified mail to the last known address of the licensee.
2. If, after having been served with the notice of hearing, the licensee fails to appear at the hearing, the board may proceed to hear evidence against the licensee and may enter such order as is justified by the evidence.

2007 Acts, ch 198, §24; 2008 Acts, ch 1089, §10, 12

Referred to in §272C.5

105.25 Advertising — violations — penalties.

1. Only a person who is duly licensed pursuant to this chapter may advertise the fact that the person is licensed as a contractor or as a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional by the state of Iowa.
2. All written advertisements distributed in this state by a person who is engaged in the business of designing, installing, or repairing plumbing, HVAC, refrigeration, sheet metal, or hydronic systems shall include the listing of the contractor license number, as applicable.

3. A person who fraudulently claims to be a licensed contractor or a licensed plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional pursuant to this chapter, either in writing, cards, signs, circulars, advertisements, or other communications, is guilty of a simple misdemeanor.

4. A person who fraudulently lists a license number in connection with that person's advertising or falsely displays a license number is guilty of a simple misdemeanor.

2007 Acts, ch 198, §25; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §25, 34; 2013 Acts, ch 77, §29, 36

105.26 Injunction.

A person engaging in any business or in the practice of any profession for which a license is required by this chapter without such license may be restrained by injunction.

2007 Acts, ch 198, §26; 2008 Acts, ch 1089, §10, 12

105.27 Civil penalty.

1. In addition to any other penalties provided for in this chapter, the board may, by order, impose a civil penalty, not to exceed five thousand dollars per offense, upon a person violating any provision of this chapter. Each day of a continued violation constitutes a separate offense, except that offenses resulting from the same or common facts or circumstances shall be considered a single offense. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice.

2. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19.

3. If a person fails to pay a civil penalty within thirty days after entry of an order under subsection 1 or, if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

4. An action to enforce an order under this section may be joined with an action for an injunction.

2007 Acts, ch 198, §27; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §26, 34

105.28 Enforcement.

The board shall enforce the provisions of this chapter. Every licensee and member of the board shall furnish the board such evidence as the licensee or member may have relative to any alleged violation which is being investigated.

2007 Acts, ch 198, §28; 2008 Acts, ch 1089, §10, 13; 2009 Acts, ch 151, §27, 34

105.29 Report of violators.

Every licensee and every member of the board shall report to the board the name of every person who is practicing as a contractor or as a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional without a license issued pursuant to this chapter pursuant to the knowledge or reasonable belief of the person making the report. The opening of an office or place of business for the purpose of providing any services for which a license is required by this chapter, the announcing to the public in any way the intention to provide any such service, the use of any professional designation, or the use of any sign, card, circular, device, vehicle, or advertisement, as a provider of any such services shall be prima facie evidence of engaging in the practice of a contractor or a plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional.

2007 Acts, ch 198, §29; 2008 Acts, ch 1089, §10, 13; 2009 Acts, ch 151, §28, 34; 2013 Acts, ch 77, §30, 36

105.30 Attorney general.

Upon request of the board, the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this chapter.

2007 Acts, ch 198, §30; 2008 Acts, ch 1089, §10, 12; 2009 Acts, ch 151, §29, 34

105.31 License renewal and reissuance — transition provisions. Repealed by 2018 Acts, ch 1026, §180.

105.32 Voluntary early renewal of license. Repealed by 2018 Acts, ch 1026, §180.

CHAPTERS 106 to 122C

RESERVED

TITLE IV

PUBLIC HEALTH

Referred to in §153.34

SUBTITLE 1

ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES

CHAPTER 123

ALCOHOLIC BEVERAGE CONTROL

Referred to in §99B.3, 99B.12, 99B.43, 99B.53, 99B.55, 125.2, 137F.1, 232C.4, 523H.1, 537A.10, 546.9, 714.16

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SUBCHAPTER I

GENERAL PROVISIONS RELATING TO ALCOHOLIC BEVERAGES

Referred to in §123.122, 123.171

123.1 Public policy declared.

This chapter shall be cited as the *"Iowa Alcoholic Beverage Control Act"*, and shall be deemed an exercise of the police power of the state, for the protection of the welfare, health, peace, morals, and safety of the people of the state, and all its provisions shall be liberally construed for the accomplishment of that purpose. It is declared to be public policy that the

traffic in alcoholic liquors is so affected with a public interest that it should be regulated to the extent of prohibiting all traffic in them, except as provided in this chapter.

[C35, §1921-f1; C39, §**1921.001;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.1]

85 Acts, ch 32, §3; 86 Acts, ch 1122, §1

123.2 General prohibition.

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in this chapter.

[C35, §1921-f3; C39, §**1921.003;** C46, 50, 54, 58, 62, 66, 71, §123.3; C73, 75, 77, 79, 81, §123.2]

85 Acts, ch 32, §4

123.3 Definitions.

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

1. *"Administrator"* means the administrator of the division, appointed pursuant to the provisions of this chapter, or the administrator's designee.
2. *"Air common carrier"* means a person engaged in transporting passengers for hire in interstate or foreign commerce by aircraft and operating regularly scheduled flights under a certificate of public convenience issued by the civil aeronautics board.
3. *"Alcohol"* means the product of distillation of any fermented liquor rectified one or more times, whatever may be the origin thereof, and includes synthetic ethyl alcohol.
4. *"Alcoholic beverage"* means any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.
5. *"Alcoholic liquor"* means the varieties of liquor defined in subsections 3 and 50 which contain more than six and twenty-five hundredths percent of alcohol by volume, beverages made as described in subsection 7 which beverages contain more than six and twenty-five hundredths percent of alcohol by volume but which are not wine as defined in subsection 54, high alcoholic content beer as defined in subsection 22, or canned cocktails as defined in subsection 11, and every other liquid or solid, patented or not, containing spirits and every beverage obtained by the process described in subsection 54 containing more than twenty-one and twenty-five hundredths percent of alcohol by volume, and susceptible of being consumed by a human being, for beverage purposes. Alcohol manufactured in this state for use as fuel pursuant to an experimental distilled spirits plant permit or its equivalent issued by the federal bureau of alcohol, tobacco and firearms is not an *"alcoholic liquor"*.
6. *"Application"* means a written request for the issuance of a permit, license, or certificate that is supported by a verified statement of facts and submitted electronically, or in a manner prescribed by the administrator.
7. *"Beer"* means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains or made by the fermentation of or by distillation of the fermented products of fruit, fruit extracts, or other agricultural products, containing more than one-half of one percent of alcohol by volume but not more than six and twenty-five hundredths percent of alcohol by volume.
8. *"Brewer"* means any person who manufactures beer for the purpose of sale, barter, exchange, or transportation.
9. *"Brewpub"* means a commercial establishment authorized to sell beer at retail for consumption on or off the premises that is operated by a person who holds a class "C" liquor control license or a class "B" beer permit and who also holds a special class "A" beer permit that authorizes the holder to manufacture and sell beer pursuant to this chapter.
10. *"Broker"* means a person who represents or promotes alcoholic liquor within the state on behalf of the holder of a distiller's certificate of compliance, a manufacturer's license, or a class "A" native distilled spirits license. An employee of the holder of a distiller's certificate of compliance, a manufacturer's license, or a class "A" native distilled spirits license is not a broker.
11. *"Canned cocktail"* means a mixed drink or cocktail that is premixed and packaged

in a metal can and contains more than six and twenty-five hundredths percent of alcohol by volume but not more than fifteen percent of alcohol by volume. A mixed drink or cocktail mixed and packaged in a metal can pursuant to section 123.49, subsection 2, paragraph *"d"*, subparagraph (3), shall not be considered a canned cocktail.

12. *"City"* means a municipal corporation but not including a county, township, school district, or any special purpose district or authority.

13. *"Club"* means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

14. *"Commercial establishment"* means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the division.

15. *"Commission"* means the alcoholic beverages commission established by this chapter.

16. *"Completed application"* means an application where all necessary fees have been paid in full, any required bonds have been submitted, the applicant has provided all information requested by the division, and the application meets the requirements of section 123.92, subsection 2, if applicable.

17. *"Designated security employee"* means an agent, contract employee, independent contractor, servant, or employee of a licensee or permittee who works in a security position in any capacity at a commercial establishment licensed or permitted under this chapter.

18. *"Distillery"*, *"winery"*, and *"brewery"* mean not only the premises where alcohol or spirits are distilled, wine is fermented, or beer is brewed, but in addition mean a person owning, representing, or in charge of such premises and the operations conducted there, including the blending and bottling or other handling and preparation of alcoholic liquor, wine, or beer in any form.

19. *"Division"* means the alcoholic beverages division of the department of commerce established by this chapter.

20. *"Grape brandy"* means brandy produced by the distillation of fermented grapes or grape juice.

21. *"Grocery store"* means any retail establishment, the business of which consists of the sale of food, food products, or beverages for consumption off the premises.

22. *"High alcoholic content beer"* means beer which contains more than six and twenty-five hundredths percent of alcohol by volume, but not more than fifteen percent of alcohol by volume, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a *"high alcoholic content beer"* may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol. The added flavors and other nonbeverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

23. *"Hotel"* or *"motel"* means premises licensed by the department of inspections and appeals and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

24. *"Import"* means the transporting or ordering or arranging the transportation of alcoholic liquor, wine, or beer into this state whether by a resident of this state or not.

25. *"Importer"* means the person who transports or orders, authorizes, or arranges the transportation of alcoholic liquor, wine, or beer into this state whether the person is a resident of this state or not.

26. The terms *"in accordance with the provisions of this chapter"*, *"pursuant to the provisions of this title"*, or similar terms shall include all rules and regulations of the division adopted to aid in the administration or enforcement of those provisions.

27. *"Institutional investor"* means a person who maintains a diversified portfolio of investments through a state or federally chartered bank, a mutual fund, a retirement plan or account created by an employer, the person, or another individual to provide retirement benefits or deferred compensation to the person, a private investment firm, or a holding

company publicly traded on the New York stock exchange, the American stock exchange, or NASDAQ stock market and who has a majority of investments in businesses other than businesses that manufacture, bottle, wholesale, or sell at retail alcoholic beverages.

28. *"Legal age"* means twenty-one years of age or more.

29. *"Licensed premises"* or *"premises"* means all rooms, enclosures, contiguous areas, or places susceptible of precise description satisfactory to the administrator where alcoholic beverages, wine, or beer is sold or consumed under authority of a liquor control license, wine permit, or beer permit. A single licensed premises may consist of multiple rooms, enclosures, areas, or places if they are wholly within the confines of a single building or contiguous grounds.

30. *"Local authority"* means the city council of any incorporated city in this state, or the county board of supervisors of any county in this state, which is empowered by this chapter to approve or deny applications for retail beer or wine permits and liquor control licenses; empowered to recommend that such permits or licenses be granted and issued by the division; and empowered to take other actions reserved to them by this chapter.

31. *"Manufacture"* means to distill, rectify, ferment, brew, make, mix, concoct, or process any substance capable of producing a beverage containing more than one-half of one percent of alcohol by volume and includes blending, bottling, or the preparation for sale.

32. *"Mixed drink or cocktail"* means an alcoholic beverage, composed in whole or in part of alcoholic liquor, that is combined with other alcoholic beverages or nonalcoholic beverages or ingredients including but not limited to ice, water, soft drinks, or flavorings.

33. *"Native brewery"* means a business which manufactures beer or high alcoholic content beer and is operated by a person who holds a class "A" beer permit that authorizes the holder to manufacture and sell beer pursuant to this chapter.

34. *"Native distilled spirits"* means spirits fermented, distilled, or, for a period of two years, barrel matured on the licensed premises of the native distillery where fermented, distilled, or matured. *"Native distilled spirits"* also includes blended or mixed spirits comprised solely of spirits fermented, distilled, or, for a period of two years, barrel matured at a native distillery.

35. *"Native distillery"* means a business with an operating still which produces and manufactures native distilled spirits.

36. *"Native wine"* means wine manufactured pursuant to section 123.176 by a manufacturer of native wine.

37. *"Package"* means any container or receptacle used for holding alcoholic liquor.

38. *"Permit"* or *"license"* means an express written authorization issued by the division for the manufacture or sale, or both, of alcoholic liquor, wine, or beer.

39. *"Person"* means any individual, association, or partnership, any corporation, limited liability company, or other similar legal entity, any club, hotel or motel, or any municipal corporation owning or operating a bona fide airport, marina, park, coliseum, auditorium, or recreational facility in or at which the sale of alcoholic liquor, wine, or beer is only an incidental part of the ownership or operation.

40. *"Person of good moral character"* means any person who meets all of the following requirements:

a. The person has such financial standing and good reputation as will satisfy the administrator that the person will comply with this chapter and all laws, ordinances, and regulations applicable to the person's operations under this chapter. However, the administrator shall not require the person to post a bond to meet the requirements of this paragraph.

b. The person is not prohibited by section 123.40 from obtaining a liquor control license or a wine or beer permit.

c. Notwithstanding paragraph *"e"*, the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph *"e"*, in the case of a partnership, only one general partner need be a resident of this state.

d. The person has not been convicted of a felony. However, if the person's conviction of a felony occurred more than five years before the date of the application for a license or permit,

and if the person's rights of citizenship have been restored by the governor, the administrator may determine that the person is of good moral character notwithstanding such conviction.

e. The requirements of this subsection apply to the following:

(1) Each of the officers, directors, and partners of such person.

(2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person.

(3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person.

41. *"Pharmacy"* means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists, prescribing psychologists, or veterinarians are compounded and sold by a registered pharmacist.

42. *"Private place"* means a location which, at the time alcoholic beverages are kept, dispensed, or consumed, meets all of the following criteria:

a. The general public does not have access to the location and attendees are limited to bona fide social hosts and invited guests.

b. The location is not of a commercial nature.

c. Goods or services are neither sold nor purchased at the location.

d. The location is not a licensed premises.

e. Admission fees or other kinds of entrance fees, fare, ticket, donation or charges are not made or are required of the invited guests to enter the location.

43. *"Public place"* means any place, building, or conveyance to which the public has or is permitted access.

44. *"Residence"* means the place where a person resides, permanently or temporarily.

45. *"Retail beer permit"* means a class "B" or class "C" beer permit issued under the provisions of this chapter.

46. *"Retail wine permit"* means a class "B" wine permit, class "B" native wine permit, or class "C" native wine permit issued under this chapter.

47. *"Retailer"* means any person who shall sell, barter, exchange, offer for sale, or have in possession with intent to sell any alcoholic liquor, wine, or beer for consumption either on or off the premises where sold.

48. The prohibited *"sale"* of alcoholic liquor, wine, or beer under this chapter includes soliciting for sales, taking orders for sales, keeping or exposing for sale, delivery or other trafficking for a valuable consideration promised or obtained, and procuring or allowing procurement for any other person.

49. *"School"* means a public or private school or that portion of a public or private school which provides facilities for teaching any grade from kindergarten through grade twelve.

50. *"Spirits"* means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, but not limited to, brandy, rum, whisky, and gin.

51. *"Unincorporated town"* means a compactly populated area recognized as a distinct place with a distinct place-name which is not itself incorporated or within the corporate limits of a city.

52. *"Warehouse"* means any premises or place primarily constructed or used or provided with facilities for the storage in transit or other temporary storage of perishable goods or for the conduct of normal warehousing business.

53. *"Wholesaler"* means any person, other than a vintner, brewer or bottler of beer or wine, who shall sell, barter, exchange, offer for sale, have in possession with intent to sell, deal or traffic in alcoholic liquor, wine, or beer. A wholesaler shall not sell for consumption upon the premises.

54. *"Wine"* means any beverage containing more than six and twenty-five hundredths percent of alcohol by volume but not more than twenty-one and twenty-five hundredths percent of alcohol by volume obtained by the fermentation of the natural sugar contents of

fruits or other agricultural products but excluding any product containing alcohol derived from malt or by the distillation process from grain, cereal, molasses, or cactus.

[C35, §1921-f5, 1921-f97; C39, §**1921.005, 1921.096;** C46, 50, 54, 58, 62, 66, 71, §123.5, 124.2; C73, 75, 77, 79, 81, §123.3; 81 Acts, ch 55, §1]

85 Acts, ch 32, §5 – 8; 86 Acts, ch 1122, §2 – 4; 86 Acts, ch 1246, §724, 725; 88 Acts, ch 1088, §1; 88 Acts, ch 1241, §1; 89 Acts, ch 161, §1; 93 Acts, ch 91, §1; 94 Acts, ch 1017, §1; 97 Acts, ch 126, §1; 2000 Acts, ch 1201, §1; 2003 Acts, ch 143, §1, 2, 17; 2005 Acts, ch 13, §1; 2006 Acts, ch 1032, §1; 2006 Acts, ch 1185, §118; 2010 Acts, ch 1031, §87, 88, 96; 2011 Acts, ch 17, §1 – 3, 17; 2011 Acts, ch 30, §2; 2013 Acts, ch 35, §1, 24; 2014 Acts, ch 1092, §27; 2016 Acts, ch 1112, §1; 2017 Acts, ch 119, §1, 39; 2018 Acts, ch 1060, §1 – 3; 2019 Acts, ch 8, §1; 2019 Acts, ch 107, §1, 2, 6; 2019 Acts, ch 113, §1, 2; 2021 Acts, ch 155, §1

Referred to in §7D.16, 99F.4, 123.32, 123.43, 123.127, 123.130, 123.140, 123.175, 123A.2, 142D.2, 455B.301, 455C.1, 455C.5, 455C.16

Subsection 11 amended

123.4 Alcoholic beverages division created.

An alcoholic beverages division is created within the department of commerce to administer and enforce the laws of this state concerning alcoholic beverage control.

[C35, §1921-f15; C39, §**1921.015;** C46, 50, 54, 58, 62, 66, 71, §123.15; C73, 75, 77, 79, 81, §123.4]

85 Acts, ch 32, §9; 86 Acts, ch 1245, §731; 2018 Acts, ch 1060, §4

Referred to in §123.38A

123.5 Alcoholic beverages commission created — appointment — removal — vacancies.

1. An alcoholic beverages commission is created within the division. The commission is composed of five members, not more than three of whom shall belong to the same political party.

2. Members shall be appointed by the governor, subject to confirmation by the senate. Appointments shall be for five-year staggered terms beginning and ending as provided by section 69.19. A member may be reappointed for one additional term.

3. Members of the commission shall be chosen on the basis of managerial ability and experience as business executives. Not more than two members of the commission may be the holder of or have an interest in a permit or license to manufacture alcoholic liquor, wine, or beer or to sell alcoholic liquor, wine, or beer at wholesale or retail.

4. Any commission member shall be subject to removal for any of the causes and in the manner provided by chapter 66 relating to removal from office. Removal shall not be in lieu of any other punishment that may be prescribed by the laws of this state.

5. Any vacancy on the commission shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

[C35, §1921-f6; C39, §**1921.006;** C46, 50, 54, 58, 62, 66, 71, §123.6; C73, 75, 77, 79, 81, §123.5]

86 Acts, ch 1245, §732; 2015 Acts, ch 30, §39

Referred to in §123.13

123.6 Commission meetings.

The commission shall meet on or before July 1 of each year for the purpose of selecting one of its members as chairperson for the succeeding year. The commission shall otherwise meet quarterly or at the call of the chairperson or administrator or when three members file a written request for a meeting. Written notice of the time and place of each meeting shall be given to each member of the commission. A majority of the commission members shall constitute a quorum.

[C35, §1921-f10; C39, §**1921.010;** C46, 50, 54, 58, 62, 66, 71, §123.10; C73, 75, 77, 79, 81, §123.9]

2011 Acts, ch 17, §5; 2015 Acts, ch 30, §204

C2016, §123.6

Former §123.6 repealed by 2015 Acts, ch 30, §198

123.7 Administrator appointed — duties.

1. The governor shall appoint the administrator of the alcoholic beverages division,

subject to confirmation by the senate, to a four-year term. A vacancy in an unexpired term shall be filled in the same manner as a full-term appointment is made. The administrator shall not be a member of the commission. The administrator's salary shall be fixed by the general assembly. The administrator shall be qualified to perform the administrator's duties by managerial ability and experience as a business executive.

2. The administrator shall devote full time to the discharge of the administrator's duties. The administrator shall not hold any other elective or appointive office under the laws of this state, the United States, or any other state or territory. The administrator shall not accept or solicit, directly or indirectly, contributions or anything of value in behalf of the administrator, any political party, or any person seeking an elective or appointive office nor use the administrator's official position to advance the candidacy of anyone seeking an elective or appointive office. The administrator, the administrator's spouse, and immediate family shall not have any interest in any distillery, winery, brewery, importer, permittee or licensee or any business which is subject to license or regulation pursuant to this chapter.

[C73, 75, 77, 79, 81, §123.10]

86 Acts, ch 1245, §735; 2013 Acts, ch 35, §20; 2015 Acts, ch 30, §204

C2016, §123.7

Referred to in §546.9

Confirmation, see §2.32

Former §123.7 repealed by 2015 Acts, ch 30, §198

123.8 Duties of commission and administrator.

1. The commission, in addition to the duties specifically enumerated in this chapter, shall act as a division policy-making body and serve in an advisory capacity to the administrator. The administrator shall supervise the daily operations of the division and shall execute the policies of the division as determined by the commission.

2. The commission may review and affirm, reverse, or amend all actions of the administrator, including but not limited to the following instances:

a. Purchases of alcoholic liquor for resale by the division.

b. The establishment of wholesale prices of alcoholic liquor.

[C73, 75, 77, 79, 81, §123.16]

85 Acts, ch 32, §13; 86 Acts, ch 1122, §5; 86 Acts, ch 1245, §737; 86 Acts, ch 1246, §726, 727; 93 Acts, ch 91, §2; 2015 Acts, ch 30, §204

C2016, §123.8

Former §123.8 repealed by 2013 Acts, ch 35, §23

123.9 Powers of administrator.

The administrator, in executing divisional functions, shall have the following duties and powers:

1. To receive alcoholic liquors on a bailment system for resale by the division in the manner set forth in this chapter.

2. To rent, lease, or equip any building or any land necessary to carry out the provisions of this chapter.

3. To lease all plants and lease or buy equipment necessary to carry out the provisions of this chapter.

4. To appoint clerks, agents, or other employees required for carrying out the provisions of this chapter; to dismiss employees for cause; to assign employees to bureaus as created by the administrator within the division; and to designate their title, duties, and powers. All employees of the division are subject to chapter 8A, subchapter IV, unless exempt under section 8A.412.

5. To grant and issue beer permits, wine permits, liquor control licenses, and other licenses; and to suspend or revoke all such permits and licenses for cause under this chapter.

6. To license, inspect, and control the manufacture of alcoholic beverages and regulate the entire alcoholic beverage industry in the state.

7. To accept alcoholic liquors ordered delivered to the alcoholic beverages division pursuant to chapter 809A, and offer for sale and deliver the alcoholic liquors to class "E" liquor control licensees, unless the administrator determines that the alcoholic liquors may

be adulterated or contaminated. If the administrator determines that the alcoholic liquors may be adulterated or contaminated, the administrator shall order their destruction.

[C35, §1921-f16; C39, §**1921.016;** C46, 50, 54, 58, 62, 66, 71, §123.16; C73, 75, 77, 79, 81, §123.20]

83 Acts, ch 157, §1; 85 Acts, ch 90, §2; 86 Acts, ch 1122, §6; 86 Acts, ch 1245, §738; 86 Acts, ch 1246, §728 – 730; 87 Acts, ch 115, §20; 88 Acts, ch 1241, §3; 96 Acts, ch 1133, §40; 2003 Acts, ch 145, §185; 2015 Acts, ch 30, §204

C2016, §123.9

2016 Acts, ch 1008, §1; 2016 Acts, ch 1073, §31; 2018 Acts, ch 1060, §5

Referred to in §123.38A

Former §123.9 transferred to §123.6; 2015 Acts, ch 30, §204

123.10 Rules.

The administrator, with the approval of the commission and subject to chapter 17A, may adopt rules as necessary to carry out this chapter. The administrator's authority extends to, but is not limited to, the following:

1. Prescribing the duties of officers, clerks, agents, or other employees of the division and regulating their conduct while in the discharge of their duties.

2. Regulating the management, equipment, and merchandise of state warehouses in and from which alcoholic liquors are transported, kept, or sold and prescribing the books and records to be kept therein.

3. Regulating the purchase of alcoholic liquor generally and the furnishing of the liquor to class "E" liquor control licensees under this chapter, and determining the classes, varieties, and brands of alcoholic liquors to be kept in state warehouses.

4. Prescribing forms or information blanks to be used for the purposes of this chapter.

5. Prescribing the nature and character of evidence which shall be required to establish legal age.

6. Providing for the issuance and electronic distribution of price lists which show the price to be paid by class "E" liquor control licensees for each brand, class, or variety of liquor kept for sale by the division, providing for the filing or posting of prices charged in sales between class "A" beer and class "A" wine permit holders and retailers, as provided in this chapter, and establishing or controlling the prices based on minimum standards of fill, quantity, or alcoholic content for each individual sale of alcoholic beverages as deemed necessary for retail or consumer protection. However, the division shall not regulate markups, prices, discounts, allowances, or other terms of sale at which alcoholic liquor may be purchased by the retail public or liquor control licensees from class "E" liquor control licensees or at which wine may be purchased and sold by class "A" and retail wine permittees, or change, nullify, or vary the terms of an agreement between a holder of a vintner certificate of compliance and a class "A" wine permittee.

7. Prescribing the official seals, labels, or other markings which shall be attached to or stamped on packages of alcoholic liquor sold under this chapter.

8. Prescribing, subject to this chapter, the days and hours during which state warehouses shall be kept open for the purpose of the sale and delivery of alcoholic liquors.

9. Prescribing the place and the manner in which alcoholic liquor may be lawfully kept or stored by the licensed manufacturer under this chapter.

10. Prescribing the time, manner, means, and method by which distillers, vendors, or others authorized under this chapter may deliver or transport alcoholic liquors and prescribing the time, manner, means, and methods by which alcoholic liquor may be lawfully conveyed, carried, or transported.

11. Prescribing, subject to the provisions of this chapter, the conditions and qualifications necessary for the obtaining of licenses and permits and the books and records to be kept and the remittances to be made by those holding licenses and permits and providing for the inspection of the records of all such licensees and permittees.

12. Providing for the issuance of combination licenses and permits with fees consistent with individual license and permit fees as may be necessary for the efficient administration of this chapter.

13. Providing for the issuance of a waiver for an individual of legal age desiring to import alcoholic liquor, wine, or beer in excess of the amount provided in section 123.22, 123.122, or 123.171, as applicable. The waiver shall be limited to those individuals who were domiciled outside the state within one year of the request for a waiver and shall provide that any alcoholic liquor, wine, or beer imported pursuant to the waiver shall be for personal consumption only in a private home or other private accommodation.

14. Prescribing the uniform fee to be assessed against a class "B" beer permittee, class "C" native wine permittee, or liquor control licensee, except a class "E" liquor control licensee, to cover the administrative costs incurred by the division resulting from the failure of the licensee or permittee to maintain dramshop liability insurance coverage pursuant to section 123.92, subsection 2, paragraph *"a"*.

15. Prescribing the uniform fee, not to exceed one hundred dollars, to be assessed against a licensee or permittee for a contested case hearing conducted by the division or by an administrative law judge from the department of inspections and appeals which results in administrative action taken against the licensee or permittee by the division.

[C35, §1921-f17; C39, §**1921.017;** C46, 50, 54, 58, 62, 66, 71, §123.17; C73, 75, 77, 79, 81, §123.21]

85 Acts, ch 32, §16, 17; 86 Acts, ch 1122, §7; 86 Acts, ch 1245, §739; 86 Acts, ch 1246, §731, 732; 2015 Acts, ch 30, §204

C2016, §123.10

2016 Acts, ch 1008, §2; 2018 Acts, ch 1060, §6; 2018 Acts, ch 1096, §1, 6, 7; 2019 Acts, ch 113, §3, 4

Former §123.10 transferred to §123.7; 2015 Acts, ch 30, §204

123.11 Compensation and expenses.

Members of the commission, the administrator, and other employees of the division shall be allowed their actual and necessary expenses while traveling on business of the division outside of their place of residence, however, an itemized account of such expenses shall be verified by the claimant and approved by the administrator. If such account is paid, the same shall be filed with the division and be and remain a part of its permanent records. Each member appointed to the commission is entitled to receive reimbursement of actual expenses incurred while attending meetings. Each member of the commission may also be eligible to receive compensation as provided in section 7E.6. All expenses and salaries of commission members, the administrator, and other employees shall be paid from appropriations for such purposes and the division shall be subject to the budget requirements of chapter 8.

[C35, §1921-f11; C39, §**1921.011;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.11]

2015 Acts, ch 30, §40

123.12 Exemption from suit.

No commission member or officer or employee of the division shall be personally liable for damages sustained by any person due to the act of such member, officer, or employee performed in the reasonable discharge of the member's, officer's, or employee's duties as enumerated in this chapter.

[C35, §1921-f13; C39, §**1921.013;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.13]

2015 Acts, ch 30, §204

C2016, §123.12

Former §123.12 repealed by 2015 Acts, ch 30, §198

123.13 Prohibitions on commission members and employees.

1. Commission members, officers, and employees of the division shall not, while holding such office or position, do any of the following:

a. Hold any other office or position under the laws of this state, or any other state or territory or of the United States.

b. Engage in any occupation, business, endeavor, or activity which would or does conflict with their duties under this chapter.

c. Directly or indirectly, use their office or employment to influence, persuade, or induce

any other officer, employee, or person to adopt their political views or to favor any particular candidate for an elective or appointive public office.

d. Directly or indirectly, solicit or accept, in any manner or way, any money or other thing of value for any person seeking an elective or appointive public office, or to any political party or any group of persons seeking to become a political party.

2. Except as provided in section 123.5, subsection 3, a commission member or division employee shall not, directly or indirectly, individually, or as a member of a partnership or shareholder in a corporation, have any interest in dealing in or in the manufacture of alcoholic liquor, wine, or beer, and shall not receive any kind of profit nor have any interest in the purchase or sale of alcoholic liquor, wine, or beer by persons so authorized under this chapter. However, this subsection does not prohibit any member or employee from lawfully purchasing and keeping alcoholic liquor, wine, or beer in the member's or employee's possession for personal use.

3. Any officer or employee violating this section or any other provisions of this chapter shall, in addition to any other penalties provided by law, be subject to suspension or discharge from employment. Any commission member shall, in addition to any other penalties provided by law, be subject to removal from office as provided by chapter 66.

[C35, §1921-f14; C39, §**1921.014;** C46, 50, 54, 58, 62, 66, 71, §123.14; C73, 75, 77, 79, 81, §123.17]

2015 Acts, ch 30, §41, 204

C2016, §123.13

Former §123.13 transferred to §123.12 pursuant to directive in 2015 Acts, ch 30, §204

123.14 Alcoholic beverage control law enforcement.

1. The department of public safety is the primary alcoholic beverage control law enforcement authority for this state.

2. The county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, and the alcoholic beverages division of the department of commerce, shall be supplementary aids to the department of public safety. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. This section shall not be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

3. The department of public safety shall have full access to all records, reports, audits, tax reports and all other documents and papers in the alcoholic beverages division pertaining to liquor licensees and wine and beer permittees and their business.

[C35, §1921-f94; C39, §**1921.093;** C46, 50, 54, 58, 62, 66, 71, §123.93; C73, 75, 77, 79, 81, §123.14]

85 Acts, ch 32, §11; 88 Acts, ch 1241, §2; 2002 Acts, ch 1119, §11; 2005 Acts, ch 35, §28; 2018 Acts, ch 1060, §7

Referred to in §331.653, 331.756(24)

123.15 Favors from licensee or permittee.

A person responsible for the administration or enforcement of this chapter shall not accept or solicit donations, gratuities, political advertising, gifts, or other favors, directly or indirectly, from any liquor control licensee, wine permittee, or beer permittee.

[C35, §1921-f27; C39, §**1921.027;** C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.18]

85 Acts, ch 32, §14; 2015 Acts, ch 30, §204

C2016, §123.15

123.16 Annual report.

The commission shall cause to be prepared an annual report to the governor of the state, ending with June 30 of each fiscal year, on the operation and financial position of the division for the preceding fiscal year. The report shall include but is not limited to the following information:

1. Amount of profit or loss from division operations.

2. The current balance of the beer and liquor control fund, and the amount transferred from the fund to the treasurer of state during the period covered by the report.

3. All other funds on hand and the source from which derived.

4. The total quantity and particular kind of alcoholic liquor sold.

5. The increase or decrease of liquor sales from the previous reporting period.

6. The number of liquor control licenses, wine permits, and beer permits issued, by class, the number in effect on the last day included in the report, and the number which have been suspended or revoked during the period covered by the report.

7. Amount of fees paid to the division from liquor control licenses, wine permits, and beer permits, in gross, and the amount of liquor control license fees returned to local subdivisions of government as provided under this chapter.

[C35, §1921-f53; C39, §**1921.053;** C46, 50, 54, 58, 62, 66, 71, §123.53; C73, 75, 77, 79, 81, §123.55]

85 Acts, ch 32, §48; 86 Acts, ch 1246, §748; 2013 Acts, ch 35, §22; 2015 Acts, ch 30, §204

C2016, §123.16

Former §123.16 transferred to §123.8; 2015 Acts, ch 30, §204

123.17 Beer and liquor control fund — allocations to substance abuse programs — use of civil penalties.

1. There shall be established within the office of the treasurer of state a fund to be known as the beer and liquor control fund. The fund shall consist of any moneys appropriated by the general assembly for deposit in the fund and moneys received from the sale of alcoholic liquors by the division, from the issuance of permits and licenses, and of moneys and receipts received by the division from any other source.

2. *a.* The director of the department of administrative services shall periodically transfer from the beer and liquor control fund to the general fund of the state those revenues of the division which are not necessary for the purchase of liquor for resale by the division, or for remittances to local authorities or other sources as required by this chapter, or for other obligations and expenses of the division which are paid from such fund.

b. All moneys received by the division from the issuance of vintner's certificates of compliance and wine permits shall be transferred by the director of the department of administrative services to the general fund of the state.

3. Notwithstanding subsection 2, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during the fiscal year pursuant to section 8.57, subsection 5, paragraph "*e*", the difference shall be paid from moneys deposited in the beer and liquor control fund prior to transfer of such moneys to the general fund pursuant to subsection 2 and prior to the transfer of such moneys pursuant to subsections 5 and 6. If moneys deposited in the beer and liquor control fund are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from moneys deposited in the beer and liquor control fund in subsequent fiscal years as such moneys become available.

4. The treasurer of state shall, each quarter, prepare an estimate of the gaming revenues and of the moneys to be deposited in the beer and liquor control fund that will become available during the remainder of the appropriate fiscal year for the purposes described in subsection 3. The department of management, the department of inspections and appeals, and the department of commerce shall take appropriate actions to provide that the sum of the amount of gaming revenues available to be deposited into the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during a fiscal year and the amount of moneys to be deposited in the beer and liquor control fund available to be deposited into the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during such fiscal year will be sufficient to cover any anticipated deficiencies.

5. After any transfer provided for in subsection 3 is made, the department of commerce shall transfer into a special revenue account in the general fund of the state, a sum of money at least equal to seven percent of the gross amount of sales made by the division from the beer and liquor control fund on a monthly basis but not less than nine million dollars annually.

Of the amounts transferred, two million dollars, plus an additional amount determined by the general assembly, shall be appropriated to the Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 for substance abuse treatment and prevention programs. Any amounts received in excess of the amounts appropriated to the Iowa department of public health for use by the staff who administer the comprehensive substance abuse program under chapter 125 shall be considered part of the general fund balance.

6. After any transfers provided for in subsections 3 and 5, the department of commerce shall transfer to the division from the beer and liquor control fund and before any other transfer to the general fund, an amount sufficient to pay the costs incurred by the division for collecting and properly disposing of the liquor containers.

7. *a.* After any transfers provided for in subsections 3, 5, and 6, and before any other transfer to the general fund, the department of commerce shall transfer to the economic development authority from the beer and liquor control fund one million dollars annually for a statewide tourism marketing campaign.

b. As part of the statewide tourism marketing campaign pursuant to paragraph *"a"*, the economic development authority shall issue a single request for proposals to select an entity located in this state for a statewide effort to leverage public and private partnerships to market and promote the state as a travel destination.

8. Civil penalties imposed and collected by the division shall be credited to the general fund of the state. The moneys from the civil penalties shall be used by the division, subject to appropriation by the general assembly, for the purposes of providing educational programs, information and publications for alcoholic beverage licensees and permittees, local authorities, and law enforcement agencies regarding the laws and rules which govern the alcoholic beverages industry, and for promoting compliance with alcoholic beverage laws and rules.

[C35, §1921-f50; C39, §**1921.050;** C46, 50, 54, 58, 62, 66, 71, §123.50; C73, 75, 77, 79, 81, §123.53]

85 Acts, ch 32, §45 – 47; 86 Acts, ch 1246, §603, 747; 88 Acts, ch 1151, §1; 88 Acts, ch 1250, §10; 92 Acts, ch 1242, §25; 93 Acts, ch 91, §19; 99 Acts, ch 199, §32; 2003 Acts, ch 145, §286; 2005 Acts, ch 179, §144, 146; 2006 Acts, ch 1010, §51; 2007 Acts, ch 126, §23; 2009 Acts, ch 41, §263; 2009 Acts, ch 173, §31, 32, 36; 2010 Acts, ch 1184, §92; 2011 Acts, ch 34, §35; 2012 Acts, ch 1021, §136; 2015 Acts, ch 30, §204

C2016, §123.17

2021 Acts, ch 171, §30

Referred to in §8.57, 24.14, 123.24, 123.39, 123.183

Former §123.17 transferred to §123.13; 2015 Acts, ch 30, §204

NEW subsection 7 and former subsection 7 renumbered as 8

123.18 Appropriations.

Division appropriations shall be paid by the treasurer of state upon the orders of the administrator, in such amounts and at such times as the administrator deems necessary to carry on operations in accordance with the terms of this chapter.

[C35, §1921-f52; C39, §**1921.052;** C46, 50, 54, 58, 62, 66, 71, §123.52; C73, 75, 77, 79, 81, §123.54]

2015 Acts, ch 30, §204

C2016, §123.18

Former §123.18 transferred to §123.15; 2015 Acts, ch 30, §204

123.19 Distiller's certificate of compliance — injunction — penalty. Transferred to §123.23; 2015 Acts, ch 30, §204.

123.20 Powers. Transferred to §123.9; 2015 Acts, ch 30, §204.

123.21 Rules. Transferred to §123.10; 2015 Acts, ch 30, §204.

123.22 State monopoly.

1. The division has the exclusive right of importation into the state of all forms of alcoholic liquor, except as otherwise provided in this chapter, and a person shall not import alcoholic liquor, except that an individual of legal age may import and have in the individual's possession an amount of alcoholic liquor not exceeding nine liters per calendar month that the individual personally obtained outside the state. Alcoholic liquor imported by an individual pursuant to this subsection shall be for personal consumption only in a private home or other private accommodation. A distillery shall not sell alcoholic liquor within the state to any person but only to the division, except as otherwise provided in this chapter. This section vests in the division exclusive control within the state as purchaser of all alcoholic liquor sold by distilleries within the state or imported, except beer and wine, and except as otherwise provided in this chapter. The division shall receive alcoholic liquor on a bailment system for resale by the division in the manner set forth in this chapter. The division shall act as the sole wholesaler of alcoholic liquor to class "E" liquor control licensees.

2. *a.* A person, acting individually or through another acting for the person, shall not directly or indirectly, or upon any pretense or by any device, do any of the following:

(1) Manufacture, sell, exchange, barter, dispense, give in consideration of the purchase of any property or of any services or in evasion of this chapter, or keep for sale, or have possession of any alcoholic liquor, except as provided in this chapter.

(2) Own, keep, or be in any way concerned, engaged, or employed in owning or keeping, any alcoholic liquor with intent to violate any provision of this chapter, or authorize or permit the same to be done.

(3) Manufacture, own, sell, or have possession of any manufactured or compounded article, mixture or substance, not in a liquid form, and containing alcohol which may be converted into a beverage by a process of pressing or straining the alcohol therefrom, or any instrument intended for use and capable of being used in the manufacture of alcoholic liquor.

(4) Own or have possession of any material used exclusively in the manufacture of alcoholic liquor.

(5) Use or have possession of any material with intent to use it in the manufacture of alcoholic liquors.

b. However, alcohol may be manufactured for industrial and nonbeverage purposes by persons who have qualified for that purpose as provided by the laws of the United States and the laws of this state. Such alcohol, so manufactured, may be denatured, transported, used, possessed, sold, and bartered and dispensed, subject to the limitations, prohibitions and restrictions imposed by the laws of the United States and this state.

c. Any person may manufacture, sell, or transport ingredients and devices other than alcohol for the making of homemade wine or beer.

[C51, §924 – 928; R60, §1559, 1563, 1583, 1587; C73, §1523, 1540 – 1542, 1555; C97, §2382; SS15, §2382; C24, 27, 31, §1924; C35, §1921-f54, 1924; C39, §**1921.054, 1924;** C46, 50, 54, 58, 62, 66, 71, §123.54, 125.3; C73, 75, 77, 79, 81, §123.22]

85 Acts, ch 32, §18; 86 Acts, ch 1246, §733; 88 Acts, ch 1241, §4; 89 Acts, ch 161, §2; 2017 Acts, ch 119, §2; 2018 Acts, ch 1026, §38; 2018 Acts, ch 1060, §8; 2018 Acts, ch 1096, §2, 6

Referred to in §123.10, 123.26, 123.28

123.23 Distiller's certificate of compliance — injunction — penalty.

1. Any manufacturer, distiller, or importer of alcoholic liquors shipping, selling, or having alcoholic liquors brought into this state for resale by the state shall, as a condition precedent to the privilege of so trafficking in alcoholic liquors in this state, annually make application for and hold a distiller's certificate of compliance which shall be issued by the administrator for that purpose. No brand of alcoholic liquor shall be sold by the division in this state unless the manufacturer, distiller, importer, and all other persons participating in the distribution of that brand in this state have obtained a certificate. The certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise suspended or revoked for cause. Each completed application for a certificate of compliance or renewal shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied

by a fee of fifty dollars payable to the division. However, this subsection need not apply to a manufacturer, distiller, or importer who ships or sells in this state no more than eleven gallons or its case equivalent during any fiscal year as a result of "special orders" which might be placed, as defined and allowed by divisional rules adopted under this chapter.

2. At the time of applying for a certificate of compliance, each applicant shall submit to the division electronically, or in a manner prescribed by the administrator, the name and address of its authorized agent for service of process which shall remain effective until changed for another, and a list of names and addresses of all representatives, employees, or attorneys whom the applicant has appointed in the state of Iowa to represent it for any purpose. The listing shall be amended by the certificate holder as necessary to keep the listing current with the division.

3. The administrator and the attorney general are authorized to require any certificate holder or person listed as the certificate holder's representative, employee, or attorney to disclose such financial and other records and transactions as may be considered relevant in discovering violations of this chapter or of rules and regulations of the division or of any other provision of law by any person.

4. Any violation of the requirements of this chapter or rules adopted pursuant to this chapter shall subject the holder of a distiller's certificate of compliance to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the certificate, or revocation of the certificate, after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A. However, willful failure to comply with requirements which may be imposed under subsection 3 is grounds for suspension or revocation of the certificate of compliance only.

5. This section shall not require the listing of those persons who are employed on premises where alcoholic liquors are manufactured, processed, bottled, or packaged in Iowa or persons who are thereafter engaged in the transporting of such alcoholic liquors to the division.

6. The attorney general may also proceed pursuant to the provisions of section 714.16 in order to gain compliance with subsection 3 of this section and may obtain an injunction prohibiting any further violations of this chapter or other provisions of law. Any violation of that injunction shall be punished as contempt of court pursuant to chapter 665 except that the maximum fine that may be imposed shall not exceed fifty thousand dollars.

[C73, 75, 77, 79, 81, §123.19]

85 Acts, ch 32, §15; 86 Acts, ch 1237, §6; 93 Acts, ch 91, §3; 2013 Acts, ch 35, §2; 2015 Acts, ch 30, §204

C2016, §123.23

2017 Acts, ch 119, §3; 2018 Acts, ch 1060, §9; 2019 Acts, ch 113, §5

Referred to in §123.32

123.24 Alcoholic liquor sales by the division — dishonored payments — liquor prices.

1. The division shall sell alcoholic liquor at wholesale only. The division shall sell alcoholic liquor to class "E" liquor control licensees only. The division shall offer the same price on alcoholic liquor to all class "E" liquor control licensees without regard for the quantity of purchase or the distance for delivery.

2. The price of alcoholic liquor sold by the division shall consist of the following:

a. The manufacturer's price.

b. A markup of up to fifty percent of the wholesale price paid by the division for the alcoholic liquor. The division may increase the markup on selected kinds of alcoholic liquor sold by the division if the average return to the division on all sales of alcoholic liquor does not exceed the wholesale price paid by the division and the fifty percent markup.

c. A split case charge in an amount determined by the division when alcoholic liquor is sold in quantities which require a case to be split.

d. A bottle surcharge in an amount sufficient, when added to the amount not refunded to class "E" liquor control licensees pursuant to section 455C.2, to pay the costs incurred by the division for collecting and properly disposing of the liquor containers. The amount collected pursuant to this paragraph, in addition to any amounts not refunded to class "E" liquor control

licensees pursuant to section 455C.2, shall be deposited in the beer and liquor control fund established under section 123.17.

3. *a.* The division may accept from a class "E" liquor control licensee electronic funds transferred by automated clearing house, wire transfer, or another method deemed acceptable by the administrator, in payment of alcoholic liquor. If a payment is subsequently dishonored, the division shall cause a notice of nonpayment and penalty to be served upon the class "E" liquor control licensee or upon any person in charge of the licensed premises. The notice shall state that if payment or satisfaction for the dishonored payment is not made within ten days of the service of notice, the licensee's liquor control license may be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be sent by certified mail.

b. If upon notice and hearing under section 123.39 and pursuant to the provisions of chapter 17A concerning a contested case hearing, the administrator determines that the class "E" liquor control licensee failed to satisfy the obligation for which the payment was issued within ten days after the notice of nonpayment and penalty was served on the licensee as provided in paragraph "*a*" of this subsection, the administrator may suspend the licensee's class "E" liquor control license for a period not to exceed ten days.

4. The administrator may refuse to sell alcoholic liquor to a class "E" liquor control licensee who tenders a payment which is subsequently dishonored until the outstanding obligation is satisfied.

[C35, §1921-f20, 1921-f41; C39, §**1921.020, 1921.041;** C46, 50, 54, 58, 62, 66, 71, §123.20, 123.41; C73, 75, 77, 79, 81, §123.24; 81 Acts, ch 56, §1]

86 Acts, ch 1246, §734; 87 Acts, ch 22, §1, 2; 88 Acts, ch 1158, §29; 88 Acts, ch 1241, §5; 92 Acts, ch 1242, §24; 93 Acts, ch 91, §4, 5; 2013 Acts, ch 35, §21; 2019 Acts, ch 113, §6 – 8

Referred to in §123.176

123.25 Consumption on premises.

An officer, clerk, agent, or employee of the division employed in a state-owned warehouse shall not allow any alcoholic beverage to be consumed on the premises, nor shall a person consume any alcoholic liquor on the premises except for testing or sampling purposes only.

[C35, §1921-f23; C39, §**1921.023;** C46, 50, 54, 58, 62, 66, 71, §123.23; C73, 75, 77, 79, 81, §123.25]

86 Acts, ch 1122, §8; 86 Acts, ch 1246, §735; 2018 Acts, ch 1060, §10

123.26 Restrictions on sales — seals — labeling.

Alcoholic liquor shall not be sold by a class "E" liquor control licensee except in a sealed container with identifying markers as prescribed by the administrator and affixed in the manner prescribed by the administrator, and no such container shall be opened upon the premises of a state warehouse. The division shall cooperate with the department of natural resources so that only one identifying marker or mark is needed to satisfy the requirements of this section and section 455C.5, subsection 1. Possession of alcoholic liquors which do not carry the prescribed identifying markers is a violation of this chapter except as provided in section 123.22.

[C35, §1921-f24; C39, §**1921.024;** C46, 50, 54, 58, 62, 66, 71, §123.24; C73, 75, 77, 79, 81, §123.26]

86 Acts, ch 1246, §736; 87 Acts, ch 22, §3

Referred to in §123.28

123.27 Sales and deliveries prohibited.

It is unlawful to transact the sale or delivery of alcoholic liquor in, on, or from the premises of a state warehouse:

1. After the closing hour as established by the administrator.
2. On any legal holiday except those designated by the administrator.

3. During other periods or days as designated by the administrator.

[C35, §1921-f25; C39, §**1921.025;** C46, 50, 54, 58, 62, 66, 71, §123.25; C73, 75, 77, 79, 81, §123.27; 81 Acts, ch 6, §11]

85 Acts, ch 32, §20; 86 Acts, ch 1122, §9; 86 Acts, ch 1246, §737; 89 Acts, ch 161, §3; 2019 Acts, ch 113, §9

123.28 Restrictions on transportation.

1. It is lawful to transport, carry, or convey alcoholic liquors from the place of purchase by the division to a state warehouse or depot established by the division or from one such place to another and, when so permitted by this chapter, it is lawful for the division, a common carrier, or other person to transport, carry, or convey alcoholic liquor sold from a state warehouse, depot, or point of purchase by the state to any place to which the liquor may be lawfully delivered under this chapter.

2. The division shall deliver alcoholic liquor purchased by class "E" liquor control licensees. Class "E" liquor control licensees may deliver alcoholic liquor purchased by class "A", class "B", class "C", class "C" native distilled spirits, or class "D" liquor control licensees, and class "A", class "B", class "C", class "C" native distilled spirits, or class "D" liquor control licensees may transport alcoholic liquor purchased from class "E" liquor control licensees.

3. A common carrier or other person shall not break or open or allow to be broken or opened a container or package containing alcoholic liquor or use or drink or allow to be used or drunk any alcoholic liquor while it is being transported or conveyed.

4. This section does not prohibit a private person from transporting individual bottles or containers of alcoholic liquor exempted pursuant to section 123.22 and individual bottles or containers bearing the identifying mark prescribed in section 123.26 which have been opened previous to the commencement of the transportation.

5. This section does not affect the right of a liquor control license holder to purchase, possess, or transport alcoholic liquors subject to this chapter.

[C35, §1921-f26; C39, §**1921.026;** C46, 50, 54, 58, 62, 66, 71, §123.26; C73, 75, 77, 79, 81, §123.28; 81 Acts, ch 6, §12]

84 Acts, ch 1275, §1; 85 Acts, ch 196, §1; 86 Acts, ch 1020, §1; 86 Acts, ch 1246, §738; 87 Acts, ch 170, §1; 95 Acts, ch 48, §1; 2017 Acts, ch 119, §4; 2018 Acts, ch 1060, §11; 2019 Acts, ch 113, §10

See also §321.284

123.29 Patent and proprietary products and sacramental wine.

1. This chapter does not prohibit the sale of patent and proprietary medicines, tinctures, food products, extracts, toiletries, perfumes, and similar products, which are not susceptible of use as a beverage, but which contain alcoholic liquor, wine, or beer as one of their ingredients. These products may be sold through ordinary wholesale and retail businesses without a license or permit issued by the division.

2. This chapter does not prohibit a member of the clergy of any religious denomination which uses vinous liquor in its sacramental ceremonies from purchasing, receiving, possessing, and using vinous liquor for sacramental purposes.

[C24, 27, 31, §2171; C35, §1921-f27, 2171; C39, §**1921.027, 2171;** C46, 50, 54, 58, 62, 66, 71, §123.27, 134.1; C73, 75, 77, 79, 81, §123.29]

85 Acts, ch 32, §21; 86 Acts, ch 1246, §739, 740; 89 Acts, ch 161, §4 – 6; 93 Acts, ch 91, §6

123.30 Liquor control licenses — classes.

1. *a.* A liquor control license may be issued to any person who is of good moral character as defined by this chapter.

b. As a condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police, and health departments and the building inspector of cities; the county sheriff or deputy sheriff; members of the department of public safety; representatives of the division and of the department of inspections and appeals; certified police officers; and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant

during business hours of the licensee or permittee to inspect for violations of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed premises to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

c. As a further condition for the issuance of a class "E" liquor control license, the applicant shall post a bond in a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by means that ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

d. A class "E" liquor control license may be issued to a city council for premises located within the limits of the city if there are no class "E" liquor control licensees operating within the limits of the city and no other applications for a class "E" license for premises located within the limits of the city at the time the city council's application is filed. If a class "E" liquor control license is subsequently issued to a private person for premises located within the limits of the city, the city council shall surrender its license to the division within one year of the date that the class "E" liquor control licensee begins operating, liquidate any remaining assets connected with the liquor store, and cease operating the liquor store.

2. A liquor control license shall not be issued for premises which do not constitute a safe and proper place or building and which do not conform to all applicable laws, ordinances, resolutions, and health and fire regulations. A licensee shall not have or maintain any interior access to residential or sleeping quarters unless permission is granted by the administrator in the form of a living quarters permit.

3. Liquor control licenses issued under this chapter shall be of the following classes:

a. Class "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors in original unopened containers from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only as provided in sections 123.173 and 123.177, and to sell alcoholic beverages to bona fide members and their guests by the individual drink for consumption on the premises only.

b. Class "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors in original unopened containers from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only as provided in sections 123.173 and 123.177, and to sell alcoholic beverages to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises described in the application.

c. Class "C".

(1) A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors in original unopened containers from class "E" liquor control licensees only, wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only as provided in sections 123.173 and 123.177, and to sell alcoholic beverages to patrons by the individual drink for consumption on the premises only. However, alcoholic liquor, wine, and beer in original unopened containers may also be sold for consumption off the premises. In addition, mixed drinks or cocktails may also be sold for consumption off the premises subject to the requirements of section 123.49, subsection 2, paragraph *"d"*. The holder of a class "C" liquor control license may also hold a special class "A" beer permit for the premises licensed under

a class "C" liquor control license for the purpose of operating a brewpub pursuant to this chapter.

(2) A special class "C" liquor control license may be issued to a commercial establishment and shall authorize the holder to purchase wine from class "A" wine permittees or class "B" wine permittees who also hold class "E" liquor control licenses only as provided in sections 123.173 and 123.177, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" liquor control license shall clearly state on its face that the license is limited.

(3) A class "C" native distilled spirits liquor control license may be issued to a native distillery but shall be issued in the name of the individuals who actually own the business and shall only be issued to a native distillery which, combining all production facilities of the business, produces and manufactures not more than one hundred thousand proof gallons of distilled spirits on an annual basis. The license shall authorize the holder to sell native distilled spirits manufactured on the premises of the native distillery to patrons by the individual drink for consumption on the premises and mixed drinks or cocktails for consumption off the premises subject to the requirements of section 123.49, subsection 2, paragraph *"d"*. All native distilled spirits sold by a native distillery for on-premises consumption and mixed drinks or cocktails sold for consumption off the premises shall be purchased from a class "E" liquor control licensee in original unopened containers.

d. Class "D".

(1) A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell or furnish alcoholic beverages to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under chapter 99F, the owner shall obtain a separate class "D" liquor control license for each excursion gambling boat operating in the waters of this state.

(2) A class "D" liquor control licensee who operates a train or a watercraft intrastate only, or an excursion gambling boat licensed under chapter 99F, shall purchase alcoholic liquor in original unopened containers from a class "E" liquor control licensee only, wine from a class "A" wine permittee or a class "B" wine permittee who also holds a class "E" liquor control license only as provided in sections 123.173 and 123.177, and beer from a class "A" beer permittee only.

e. Class "E".

(1) A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor in original unopened containers from the division only and high alcoholic content beer from a class "A" beer permittee only and to sell the alcoholic liquor in original unopened containers and high alcoholic content beer at retail to patrons for consumption off the licensed premises and at wholesale to other liquor control licensees, provided the holder has filed with the division a basic permit issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury. A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

(2) The division may issue a class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premises consumption under any of the following circumstances:

(a) If the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other

application for a class "E" liquor control license has been made within the previous twelve consecutive months.

(b) If, notwithstanding any provision of this chapter to the contrary, the premises covered by a liquor control license is a grocery store that is at least five thousand square feet.

4. Notwithstanding any provision of this chapter to the contrary, a person holding a liquor control license to sell alcoholic beverages for consumption on the licensed premises may permit a customer to remove one unsealed bottle of wine for consumption off the premises if the customer has purchased and consumed a portion of the bottle of wine on the licensed premises. The licensee or the licensee's agent shall securely reseal such bottle in a bag designed so that it is visibly apparent that the resealed bottle of wine has not been tampered with and provide a dated receipt for the resealed bottle of wine to the customer. A wine bottle resealed pursuant to the requirements of this subsection is subject to the requirements of sections 321.284 and 321.284A. A person holding a liquor control license to sell alcoholic beverages for consumption on the licensed premises may permit a customer to carry an open container of wine from the person's licensed premises into another immediately adjacent licensed premises that is covered by a license or permit that authorizes the consumption of wine, a temporarily closed public right-of-way, or a private place.

[C35, §1921-f27; C39, §**1921.027;** C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.30]

85 Acts, ch 32, §22; 86 Acts, ch 1246, §741, 742; 87 Acts, ch 22, §4 – 6; 88 Acts, ch 1088, §2, 3; 88 Acts, ch 1241, §6, 7; 90 Acts, ch 1175, §6; 91 Acts, ch 203, §1; 93 Acts, ch 91, §7, 8; 2009 Acts, ch 41, §263; 2009 Acts, ch 74, §1; 2010 Acts, ch 1193, §111, 140; 2011 Acts, ch 17, §6; 2013 Acts, ch 30, §22; 2014 Acts, ch 1092, §28; 2016 Acts, ch 1008, §3; 2017 Acts, ch 29, §38, 39; 2017 Acts, ch 119, §5, 19, 40; 2018 Acts, ch 1060, §12; 2018 Acts, ch 1172, §54 – 60; 2019 Acts, ch 113, §11 – 13; 2020 Acts, ch 1114, §10, 11, 16; 2021 Acts, ch 155, §2

Referred to in §12.43, 123.33, 123.36, 123.43, 123.43A, 123.95, 123.127, 123.128, 123.129, 123.138, 123.175, 123.185

Subsection 3, paragraph c, subparagraph (1) amended

123.31 Liquor control licenses — application contents.

Verified applications for the original issuance or the renewal of liquor control licenses shall be submitted electronically, or in a manner prescribed by the administrator, and shall set forth under oath the following information:

1. The name and address of the applicant.

2. The precise location of the premises for which a license is sought.

3. The names and addresses of all persons or, in the case of a corporation, limited liability company, or any other similar legal entity, the officers, directors, and persons owning or controlling ten percent or more of the capital stock thereof, having a financial interest, by way of loan, ownership, or otherwise, in the business.

4. When required by the administrator, a sketch or drawing of the premises proposed to be licensed, in such form and containing such information as the administrator may require.

5. A statement whether any person specified in subsection 3 has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any such state or territory.

6. Such other information as the administrator shall require.

[C35, §1921-f27; C39, §**1921.027;** C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.31]

93 Acts, ch 91, §9; 2000 Acts, ch 1201, §2; 2011 Acts, ch 17, §7; 2013 Acts, ch 35, §3; 2017 Acts, ch 119, §6; 2019 Acts, ch 113, §14

Referred to in §123.32

123.32 Action by local authorities and division on applications for liquor control licenses, native distilled spirits licenses, and wine and beer permits.

1. *Filing of application.*

a. A completed application for a class "A", class "B", class "C", special class "C", class "C" native distilled spirits, or class "E" liquor control license as provided in section 123.31, for a retail beer permit as provided in sections 123.128 and 123.129, or for a class "B", class "B" native, or class "C" native retail wine permit as provided in section 123.175, shall be filed

with the appropriate city council if the premises for which the license or permit is sought are located within the corporate limits of a city, or with the board of supervisors if the premises for which the license or permit is sought are located outside the corporate limits of a city.

b. A completed application for a class "D" liquor control license and for any of the following certificates, licenses, or permits shall be submitted to the division electronically, or in a manner prescribed by the administrator, which shall proceed in the same manner as in the case of an application approved by local authorities:

(1) A certificate of compliance as provided in sections 123.23, 123.135, and 123.180.
(2) A class "D" liquor control license as provided in section 123.31.
(3) A manufacturer's license as provided in section 123.41.
(4) A broker's permit as provided in section 123.42.
(5) A class "A" native distilled spirits license as provided in section 123.43.
(6) A class "A" or special class "A" beer permit as provided in section 123.127.
(7) A charity beer, spirits, and wine auction permit as provided in section 123.173A.
(8) A charity beer, spirits, and wine event permit as provided in section 123.173B.
(9) A class "A" wine permit as provided in section 123.175.
(10) A wine direct shipper's permit as provided in section 123.187.
(11) A wine carrier permit as provided in section 123.188.

2. *Action by local authorities.* The local authority shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the division. There is no limit upon the number of liquor control licenses, retail wine permits, or retail beer permits which may be approved for issuance by local authorities.

3. *Licensed premises for local events.* A local authority may define, by motion of the local authority, licensed premises which shall be used by holders of liquor control licenses, beer permits, and wine permits at festivals, fairs, or celebrations which are sponsored or authorized by the local authority. The licensed premises defined by motion of the local authority shall be used by the holders of five-day or fourteen-day class "A", class "B", class "C", special class "C", or class "D" liquor control licenses, or five-day or fourteen-day class "B" or class "C" native wine permits, or class "B" beer permits only.

4. *Security employee training.* A local authority, as a condition of obtaining and holding a license or permit for on-premises consumption, may require a designated security employee as defined in section 123.3 to be trained and certified in security methods. The training shall include but is not limited to de-escalation techniques, anger management techniques, civil rights or unfair practices awareness as provided in section 216.7, recognition of fake or altered identification, information on laws applicable to the serving of alcohol at a licensed premises, use of force and techniques for safely removing patrons, and instruction on the proper physical restraint methods used against a person who has become combative.

5. *Occupancy rates.* A local authority located in a county with a population that exceeds three hundred thousand persons, as a condition of obtaining and holding a license or permit for on-premises consumption, shall require the applicant, licensee, or permittee to provide, and update if necessary, the occupancy rate of the licensed premises.

6. *Action by administrator.*

a. Upon receipt of an application having been disapproved by the local authority, the administrator shall notify the applicant that the applicant may appeal the disapproval of the application to the administrator. The applicant shall be notified by certified mail or personal service, and the application, the fee, and any bond shall be returned to the applicant.

b. Upon receipt of an application having been approved by the local authority, the division shall make an investigation as the administrator deems necessary to determine that the applicant complies with all requirements for holding a license or permit, and may require the applicant to appear to be examined under oath to demonstrate that the applicant complies with all of the requirements to hold a license or permit. If the administrator requires the applicant to appear and to testify under oath, a record shall be made of all testimony or evidence and the record shall become a part of the application. The administrator may appoint a member of the division or may request an administrative law judge of the

department of inspections and appeals to receive the testimony under oath and evidence, and to issue a proposed decision to approve or disapprove the application for a license or permit. The administrator may affirm, reverse, or modify the proposed decision to approve or disapprove the application for the license or permit. If the application is approved by the administrator, the license or permit shall be issued. If the application is disapproved by the administrator, the applicant shall be so notified by certified mail or personal service and the appropriate local authority shall be notified electronically, or in a manner prescribed by the administrator.

7. *Appeal to administrator.* An applicant for a liquor control license, wine permit, or beer permit may appeal from the local authority's disapproval of an application for a license or permit to the administrator. In the appeal the applicant shall be allowed the opportunity to demonstrate in an evidentiary hearing conducted pursuant to chapter 17A that the applicant complies with all of the requirements for holding the license or permit. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the evidentiary hearing and to render a proposed decision to approve or disapprove the issuance of the license or permit. The administrator may affirm, reverse, or modify the proposed decision. If the administrator determines that the applicant complies with all of the requirements for holding a license or permit, the administrator shall order the issuance of the license or permit. If the administrator determines that the applicant does not comply with the requirements for holding a license or permit, the administrator shall disapprove the issuance of the license or permit.

8. *Judicial review.* The applicant or the local authority may seek judicial review of the action of the administrator in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county where the premises covered by the application are situated.

9. *Suspension by local authority.* A liquor control licensee or a wine or beer permittee whose license or permit has been suspended or revoked or a civil penalty imposed by a local authority for a violation of this chapter or suspended by a local authority for violation of a local ordinance may appeal the suspension, revocation, or civil penalty to the administrator. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to hear the appeal which shall be conducted in accordance with chapter 17A and to issue a proposed decision. The administrator may review the proposed decision upon the motion of a party to the appeal or upon the administrator's own motion in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A liquor control licensee, wine or beer permittee, or a local authority aggrieved by a decision of the administrator may seek judicial review of the decision pursuant to chapter 17A.

[C35, §1921-f27; C39, §**1921.027;** C46, 50, 54, 58, 62, 66, 71, §123.27; C73, 75, 77, 79, 81, §123.32]

85 Acts, ch 32, §23; 86 Acts, ch 1246, §743; 88 Acts, ch 1088, §4; 89 Acts, ch 161, §7; 90 Acts, ch 1177, §1; 91 Acts, ch 97, §22; 93 Acts, ch 91, §10 – 12; 2000 Acts, ch 1201, §3; 2003 Acts, ch 44, §114; 2003 Acts, ch 143, §3, 17; 2005 Acts, ch 13, §2; 2008 Acts, ch 1166, §1; 2009 Acts, ch 137, §1; 2010 Acts, ch 1031, §83; 2013 Acts, ch 35, §4; 2016 Acts, ch 1008, §4; 2017 Acts, ch 119, §7, 41; 2018 Acts, ch 1060, §13; 2019 Acts, ch 113, §15; 2020 Acts, ch 1114, §1

Referred to in §123.39, 331.303

123.33 Records.

Every holder of a license or permit under this chapter shall maintain records, in printed or electronic format, which include income statements, balance sheets, purchase and sales invoices, purchase and sales ledgers, and any other records as the administrator may require. The records required and the premises of the licensee or permittee shall be accessible and

open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee or permittee.

[C35, §1921-f22; C39, §**1921.022;** C46, 50, 54, 58, 62, 66, 71, §123.22; C73, 75, 77, 79, 81, §123.33]

85 Acts, ch 196, §2; 88 Acts, ch 1241, §8; 2013 Acts, ch 35, §5; 2017 Acts, ch 119, §8; 2018 Acts, ch 1060, §14

123.34 Expiration of licenses, permits, and certificates of compliance — seasonal, fourteen-day, and five-day licenses and permits — fees.

1. All licenses, permits, and certificates of compliance, unless sooner suspended or revoked, expire one year from date of issuance. The administrator shall notify a license, permit, or certificate holder electronically, or in a manner prescribed by the administrator, sixty days prior to the expiration of each license, permit, or certificate.

2. *a.* The administrator may issue six-month or eight-month seasonal class "A", class "B", class "C", special class "C", and class "D" liquor control licenses, class "B" wine permits, class "B" or class "C" native wine permits, or class "B" beer permits.

b. The fee for a six-month or eight-month seasonal license or permit issued pursuant to this subsection shall be for a proportionate part of the license or permit fee for that class of license or permit. However, the fee for a seasonal class "B" native wine permit shall be the permit fee provided in section 123.179, subsection 4, and the fee for a seasonal class "C" native wine permit shall be the permit fee provided in section 123.179, subsection 5.

3. *a.* The administrator may issue fourteen-day class "A", class "B", class "C", special class "C", and class "D" liquor control licenses, and fourteen-day class "B" beer permits, class "B" native wine permits, and class "C" native wine permits.

b. A fourteen-day license or permit, if granted, is valid for fourteen consecutive days, but the holder shall not sell on the two Sundays in the fourteen-day period unless the holder qualifies for and obtains the privilege to sell on Sundays contained in section 123.36, subsection 6, and section 123.134, subsection 4.

c. (1) The fee for a fourteen-day liquor control license or beer permit is one quarter of the annual fee for that class of liquor control license or beer permit. The fee for the privilege to sell on the two Sundays in the fourteen-day period is twenty percent of the price of the fourteen-day liquor control license or beer permit.

(2) The fee for a fourteen-day class "B" native wine permit shall be the permit fee provided in section 123.179, subsection 4, and the fee for a fourteen-day class "C" native wine permit is the permit fee provided in section 123.179, subsection 5.

4. *a.* The administrator may issue five-day class "A", class "B", class "C", special class "C", and class "D" liquor control licenses, and five-day class "B" beer permits, class "B" native wine permits, and class "C" native wine permits.

b. A five-day license or permit is valid for five consecutive days, but the holder shall not sell alcoholic beverages on Sunday in the five-day period unless the holder qualifies for and obtains the privilege to sell on Sunday pursuant to section 123.36, subsection 6, and section 123.134, subsection 4.

c. (1) The fee for the five-day liquor control license or beer permit is one-eighth of the annual fee for that class of license or permit. The fee for the privilege to sell on a Sunday in the five-day period is ten percent of the price of the five-day liquor control license or beer permit.

(2) The fee for a five-day class "B" native wine permit shall be the permit fee provided in section 123.179, subsection 4, and the fee for a five-day class "C" native wine permit is the permit fee provided in section 123.179, subsection 5.

5. A refund of fees paid shall not be made for seasonal licenses or permits, or for fourteen-day or five-day liquor control licenses, native wine permits, or beer permits. In addition, a seasonal, fourteen-day, or five-day license or permit shall not be renewed.

[C35, §1921-f27, 1921-f100; C39, §**1921.027, 1921.100;** C46, 50, 54, 58, 62, 66, 71, §123.27, 124.6; C73, 75, 77, 79, 81, §123.34; 81 Acts, ch 55, §2]

85 Acts, ch 32, §24; 86 Acts, ch 1237, §7; 90 Acts, ch 1177, §2, 3; 91 Acts, ch 97, §23; 2016 Acts, ch 1008, §5; 2017 Acts, ch 119, §9; 2018 Acts, ch 1060, §15; 2019 Acts, ch 113, §16

123.35 Simplified renewal procedure — class "E" procedure. Repealed by 2011 Acts, ch 17, §16.

123.36 Liquor control license fees — Sunday sales.

The following fees shall be paid to the division annually for liquor control licenses issued under section 123.30:

1. Class "A" liquor control licenses, the sum of six hundred dollars, except that for class "A" licenses in cities of less than two thousand population, and for clubs of less than two hundred fifty members, the license fee shall be four hundred dollars; however, the fee shall be two hundred dollars for any club which is a post, branch, or chapter of a veterans organization chartered by the Congress of the United States, if the club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week or more than a total of fifty-two days in a year, and if the application for a license states that the club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week or more than a total of fifty-two days in a year.

2. Class "B" liquor control licenses, the sum as follows:

a. Hotels or motels located within the corporate limits of cities of ten thousand population and over, one thousand three hundred dollars.

b. Hotels and motels located within the corporate limits of cities of over three thousand and less than ten thousand population, one thousand fifty dollars.

c. Hotels and motels located within the corporate limits of cities of three thousand population and less, eight hundred dollars.

d. Hotels and motels located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a hotel or motel is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

3. Class "C" liquor control licenses, the sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand population and over, one thousand three hundred dollars.

b. Commercial establishments located within the corporate limits of cities of over fifteen hundred and less than ten thousand population, nine hundred fifty dollars.

c. Commercial establishments located within the corporate limits of cities of fifteen hundred population or less, six hundred dollars.

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

4. Class "C" native distilled spirits liquor control license, the sum of two hundred fifty dollars.

5. Class "D" liquor control licenses, the following sums:

a. For watercraft, one hundred fifty dollars.

b. For trains, five hundred dollars.

c. For air common carriers, each company shall pay an annual fee of five hundred dollars.

6. Any club, hotel, motel, native distillery, passenger-carrying boat or ship, railway corporation, air common carrier, or commercial establishment holding a liquor control license, subject to section 123.49, subsection 2, paragraph "*b*", may apply for and receive permission to sell and dispense alcoholic beverages as authorized by section 123.30 to patrons between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday. For the privilege of selling beer, wine, and alcoholic liquor on the premises on Sunday the liquor control license fee of the applicant shall be increased by twenty percent of the regular fee prescribed for the license pursuant to this section, and the privilege shall be noted on the liquor control license.

7. Special class "C" liquor control licenses, a sum as follows:

a. Commercial establishments located within the corporate limits of cities of ten thousand population and over, four hundred fifty dollars.

b. Commercial establishments located within the corporate limits of cities of over fifteen hundred and less than ten thousand population, three hundred dollars.

c. Commercial establishments located within the corporate limits of cities of fifteen hundred population or less, one hundred fifty dollars.

d. Commercial establishments located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if a commercial establishment is located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

8. The division shall credit all fees to the beer and liquor control fund. The division shall remit to the appropriate local authority, a sum equal to sixty-five percent of the fees collected for each class "A", class "B", or class "C" license except special class "C" licenses or class "E" licenses, covering premises located within the local authority's jurisdiction. The division shall remit to the appropriate local authority a sum equal to seventy-five percent of the fees collected for each special class "C" license covering premises located within the local authority's jurisdiction. Those fees collected for the privilege authorized under subsection 6 and those fees collected for each class "E" liquor control license shall be credited to the beer and liquor control fund.

9. *a.* Class "E" liquor control license, a sum determined as follows:

(1) For licensed premises at which gasoline is not sold, a sum of not less than seven hundred fifty dollars, and not more than seven thousand five hundred dollars as determined on a sliding scale as established by the division taking into account the factors of square footage of the licensed premises, the location of the licensed premises, and the population of the area of the location of the licensed premises.

(2) For licensed premises at which gasoline is sold, a sum equal to the following:

(a) For premises located within the corporate limits of a city with a population of less than one thousand five hundred, three thousand five hundred dollars.

(b) For premises located within the corporate limits of a city with a population of at least one thousand five hundred but less than ten thousand, five thousand dollars.

(c) For premises located within the corporate limits of a city with a population of ten thousand population or more, the greater of five thousand dollars or the amount that would be established pursuant to subparagraph (1) if gasoline were not sold at the premises.

(d) For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed. If there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if the premises is located in an unincorporated town, for purposes of this subparagraph, the unincorporated town shall be treated as if it is a city.

b. Notwithstanding subsection 6, the holder of a class "E" liquor control license may sell alcoholic liquor for consumption off the licensed premises on Sunday subject to section 123.49, subsection 2, paragraph *"b"*.

10. There is imposed a surcharge on the fee for each class "A", class "B", class "C", class "C" native distilled spirits, or special class "C" liquor control license equal to thirty percent of the scheduled license fee. The surcharges collected under this subsection shall be deposited in the beer and liquor control fund, and notwithstanding subsection 8, no portion of the surcharges collected under this subsection shall be remitted to the local authority.

[C35, §1921-f28; C39, §**1921.028;** C46, 50, 54, 58, 62, 66, 71, §123.38; C73, 75, 77, 79, 81, §123.36]

83 Acts, ch 123, §59, 209; 84 Acts, ch 1275, §2; 84 Acts, ch 1312, §6; 85 Acts, ch 32, §26 – 29; 86 Acts, ch 1246, §744; 87 Acts, ch 22, §7, 8; 88 Acts, ch 1241, §9 – 11; 90 Acts, ch 1089, §1; 90 Acts, ch 1175, §7; 91 Acts, ch 245, §1; 93 Acts, ch 91, §14; 94 Acts, ch 1023, §85; 2011

Acts, ch 17, §8; 2017 Acts, ch 119, §42, 43; 2018 Acts, ch 1060, §16; 2019 Acts, ch 113, §17 – 19; 2020 Acts, ch 1063, §53; 2021 Acts, ch 155, §3
Referred to in §123.34, 123.49, 123.150, 125.59, 331.427
Subsection 6 amended

123.37 Exclusive power to license and levy taxes — disputed taxes.

1. The power to establish licenses and permits and levy taxes as imposed in this chapter is vested exclusively with the state. Unless specifically provided, a local authority shall not require the obtaining of a special license or permit for the sale of alcoholic beverages at any establishment, or require the obtaining of a license by any person as a condition precedent to the person's employment in the sale, serving, or handling of alcoholic beverages within an establishment operating under a license or permit.

2. The administrator may compromise and settle doubtful and disputed claims for taxes imposed under this chapter or for taxes of doubtful collectibility, notwithstanding section 7D.9. The administrator may enter into informal settlements pursuant to section 17A.10 to compromise and settle doubtful and disputed claims for taxes imposed under this chapter. The administrator may make a claim under a licensee's or permittee's penal bond for taxes of doubtful collectibility. Whenever a compromise or settlement is made, the administrator shall make a complete record of the case showing the tax assessed, reports and audits, if any, the licensee's or permittee's grounds for dispute or contest, together with all evidence of the dispute or contest, and the amounts, conditions, and settlement or compromise of the dispute or contest.

3. A licensee or permittee who disputes the amount of tax imposed must pay all tax and penalty pertaining to the disputed tax liability prior to appealing the disputed tax liability to the administrator.

4. The administrator shall adopt rules establishing procedures for payment of disputed taxes imposed under this chapter. If it is determined that the tax is not due in whole or in part, the division shall promptly refund the part of the tax payment which is determined not to be due.

[C73, 75, 77, 79, 81, §123.37]

85 Acts, ch 32, §30; 88 Acts, ch 1153, §2; 89 Acts, ch 252, §1; 93 Acts, ch 91, §15; 94 Acts, ch 1023, §9; 2007 Acts, ch 22, §35; 2018 Acts, ch 1060, §17

123.38 Nature of permit or license — surrender — transfer.

1. A liquor control license, wine permit, or beer permit is a personal privilege and is revocable for cause. It is not property nor is it subject to attachment and execution nor alienable nor assignable, and it shall cease upon the death of the permittee or licensee. However, the administrator of the division may in the administrator's discretion allow the executor or administrator of the estate of a permittee or licensee to operate the business of the decedent for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use it.

2. *a.* Any licensee or permittee, or the executor or administrator of the estate of a licensee or permittee, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of the licensee's or permittee's creditors, may voluntarily surrender a license or permit to the division. When a license or permit is surrendered the division shall notify the local authority, and the division or the local authority shall refund to the person surrendering the license or permit, a proportionate amount of the fee received by the division or the local authority for the license or permit as follows:

(1) If a license or permit is surrendered during the first three months of the period for which it was issued, the refund shall be three-fourths of the amount of the fee.

(2) If surrendered more than three months but not more than six months after issuance, the refund shall be one-half of the amount of the fee.

(3) If surrendered more than six months but not more than nine months after issuance, the refund shall be one-fourth of the amount of the fee.

(4) No refund shall be made for any liquor control license, wine permit, or beer permit surrendered more than nine months after issuance.

b. For purposes of this subsection, any portion of license or permit fees used for the purposes authorized in section 331.424, subsection 1, paragraph "*a*", subparagraphs (1) and (2), shall not be deemed received either by the division or by a local authority.

c. No refund shall be made to any licensee or permittee upon the surrender of the license or permit if there is at the time of surrender a complaint filed with the division or local authority charging the licensee or permittee with a violation of this chapter.

d. If upon a hearing on a complaint the license or permit is not revoked or suspended, then the licensee or permittee is eligible, upon surrender of the license or permit, to receive a refund as provided in this section. However, if the license or permit is revoked or suspended upon hearing, the licensee or permittee is not eligible for the refund of any portion of the license or permit fee.

3. The local authority may in its discretion authorize a licensee or permittee to transfer the license or permit from one location to another within the same incorporated city, or within a county outside the corporate limits of a city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law. All transfers authorized, and the particulars of same, shall be reported to the administrator by the local authority. The administrator may by rule establish a uniform transfer fee to be assessed by all local authorities upon licensees or permittees to cover the administrative costs of such transfers, such fee to be retained by the local authority involved.

[C35, §1921-f29, -f100; C39, §**1921.029, 1921.100;** C46, 50, 54, 58, 62, 66, 71, §123.29, 124.6; C73, 75, 77, 79, 81, §123.38]

85 Acts, ch 32, §31; 95 Acts, ch 206, §5, 12; 2010 Acts, ch 1061, §162; 2016 Acts, ch 1008, §6; 2018 Acts, ch 1041, §39; 2018 Acts, ch 1060, §18; 2019 Acts, ch 59, §42, 43; 2021 Acts, ch 177, §79, 108

Subsection 2, paragraph b amended

123.38A Confidential investigative records.

In order to assure a free flow of information for accomplishing the purposes of section 123.4 and section 123.9, subsection 6, all complaint information, investigation files, audit files, and inspection files, other investigation reports, and other investigative information in the possession of the division or employees acting under the authority of the administrator are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release before administrative or criminal charges are filed. However, investigative information in the possession of division employees may be disclosed to the licensing authorities of a city or county within this state, in another state, the District of Columbia, or territory or county in which the licensee or permittee is licensed or permitted or has applied for a license or permit. In addition, the investigative information can be shared with any law enforcement agency or other state agency that also has investigative, regulatory, or enforcement jurisdiction authorized by law. Records received by the division from other agencies which would be confidential if created by the division are considered confidential.

2019 Acts, ch 113, §20

123.39 Suspension or revocation of license or permit — civil penalty.

1. *a.* (1) The administrator or the local authority may suspend a class "A", class "B", class "C", special class "C", class "C" native distilled spirits, or class "E" liquor control license or retail wine or beer permit for a period not to exceed one year, revoke the license or permit, or impose a civil penalty not to exceed one thousand dollars per violation.

(2) The administrator may suspend a certificate of compliance, a class "D" liquor control license, a manufacturer's license, a broker's permit, a class "A" native distilled spirits license, a class "A" or special class "A" beer permit, a charity beer, spirits, and wine auction permit, a class "A" wine permit, a wine direct shipper's permit, or a wine carrier permit for a period not

to exceed one year, revoke the license, permit, or certificate, or impose a civil penalty not to exceed one thousand dollars per violation.

b. A license, permit, or certificate of compliance issued under this chapter may be suspended or revoked, or a civil penalty may be imposed for any of the following causes:

(1) Misrepresentation of any material fact in the application for the license, permit, or certificate.

(2) Violation of any of the provisions of this chapter.

(3) Any change in the ownership or interest in the business operated under a liquor control license, or any wine or beer permit, which change was not previously reported in a manner prescribed by the administrator within thirty days of the change and subsequently approved by the local authority, when applicable, and the division.

(4) An event which would have resulted in disqualification from receiving the license, permit, or certificate when originally issued.

(5) Any sale, hypothecation, or transfer of the license, permit, or certificate.

(6) The failure or refusal on the part of any license, permit, or certificate holder to render any report or remit any taxes to the division under this chapter when due.

c. A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section.

d. A local authority which acts pursuant to this section, section 123.32, or section 123.50 shall notify the division in writing of the action taken, and shall notify the license or permit holder of the right to appeal a suspension, revocation, or imposition of a civil penalty to the division.

e. Before suspension, revocation, or imposition of a civil penalty by the administrator, the license, permit, or certificate holder shall be given written notice and an opportunity for a hearing. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the hearing and issue a proposed decision. Upon the motion of a party to the hearing or upon the administrator's own motion, the administrator may review the proposed decision in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A license, permit, or certificate holder aggrieved by a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

f. Civil penalties imposed and collected by the local authority under this section shall be retained by the local authority. Civil penalties imposed and collected by the division under this section shall be credited to the general fund of the state pursuant to section 123.17, subsection 8.

2. Local authorities may suspend any liquor control license or retail wine or beer permit for a violation of any ordinance or regulation adopted by the local authority. Local authorities may adopt ordinances or regulations for the location of the premises of liquor control licensed and retail wine or beer permitted establishments and local authorities may adopt ordinances, not in conflict with this chapter and that do not diminish the hours during which alcoholic beverages may be sold or consumed at retail, governing any other activities or matters which may affect the retail sale and consumption of alcoholic beverages and the health, welfare and morals of the community involved.

3. When a liquor control license or retail wine or beer permit is suspended after a hearing as a result of violations of this chapter by the licensee, permittee or the licensee's or permittee's agents or employees, the premises which were licensed by the license or permit shall not be relicensed for a new applicant until the suspension has terminated or time of suspension has elapsed, or ninety days have elapsed since the commencement of the suspension, whichever occurs first. However, this section does not prohibit the premises from being relicensed to a new applicant before the suspension has terminated or before the time of suspension has elapsed or before ninety days have elapsed from the commencement of the suspension, if the premises prior to the time of the suspension had been purchased under contract, and the vendor under that contract had exercised the person's rights under chapter 656 and sold the property to a different person who is not related to the previous licensee or permittee by marriage or within the third degree of consanguinity or affinity and

if the previous licensee or permittee does not have a financial interest in the business of the new applicant.

4. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph *"h"*, the administrator or local authority shall impose a civil penalty in the amount of five hundred dollars in lieu of suspension of the license or permit.

[C35, §1921-f32, 1921-f126; C39, §**1921.032, 1921.129;** C46, 50, 54, 58, 62, §123.32, 124.34; C66, 71, §123.32, 123.102, 124.34; C73, 75, 77, 79, 81, §123.39]

85 Acts, ch 32, §32; 88 Acts, ch 1241, §12; 93 Acts, ch 91, §16, 17; 94 Acts, ch 1017, §2; 2000 Acts, ch 1154, §12; 2002 Acts, ch 1119, §128; 2018 Acts, ch 1060, §19 – 21; 2019 Acts, ch 113, §21, 22

Referred to in §123.23, 123.24, 123.41, 123.42, 123.43, 123.46A, 123.50, 123.135, 123.173A, 123.173B, 123.180, 123.186, 123.187, 123.188
Section not amended; internal reference change applied

123.40 Effect of revocation.

Any liquor control licensee, wine permittee, or beer permittee whose license or permit is revoked under this chapter shall not thereafter be permitted to hold a liquor control license, wine permit, or beer permit in the state of Iowa for a period of two years from the date of revocation. A spouse or business associate holding ten percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license, wine permit, or beer permit, and no liquor control license, wine permit, or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two years from the date of revocation. If a license or permit is revoked, the premises which had been covered by the license or permit shall not be relicensed for one year.

[C35, §1921-f32, 1921-f123; C39, §**1921.032, 1921.125;** C46, 50, 54, 58, 62, 66, 71, §123.32, 124.30; C73, 75, 77, 79, 81, §123.40]

85 Acts, ch 32, §33
Referred to in §123.3, 123.50

123.41 Manufacturer's license — alcoholic liquor.

1. Each completed application to obtain or renew a manufacturer's license shall be submitted to the division electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of three hundred fifty dollars payable to the division. The administrator may in accordance with this chapter grant and issue to a manufacturer a manufacturer's license, valid for a one-year period after date of issuance, which shall allow the manufacture, storage, and wholesale disposition and sale of alcoholic liquors to the division and to customers outside of the state.

2. As a condition precedent to the approval and granting of a manufacturer's license, an applicant shall file with the division a basic permit issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury, and a statement under oath that the applicant will faithfully observe and comply with all laws, rules, and regulations governing the manufacture and sale of alcoholic liquor.

3. A person who holds an experimental distilled spirits plant permit or its equivalent issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury may produce alcohol for use as fuel without obtaining a manufacturer's license from the division.

4. A person who holds a manufacturer's license shall file with the division, on or before the fifteenth day of each calendar month, all documents filed by the manufacturer with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, including all production, storage, and processing reports.

5. Any violation of the requirements of this chapter or rules adopted pursuant to this chapter shall subject the license holder to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the license,

or revocation of the license after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

[C35, §1921-f36; C39, §**1921.036;** C46, 50, 54, 58, 62, 66, 71, §123.36; C73, 75, 77, 79, 81, §123.41]

2011 Acts, ch 30, §3; 2013 Acts, ch 35, §6; 2014 Acts, ch 1026, §26; 2018 Acts, ch 1060, §22; 2019 Acts, ch 113, §23 – 25

Referred to in §123.32

123.42 Broker's permit.

1. Prior to representing or promoting alcoholic liquor products in the state, the broker shall submit a completed application to the division electronically, or in a manner prescribed by the administrator, for a broker's permit. The administrator may in accordance with this chapter issue a broker's permit which shall be valid for one year from the date of issuance unless it is sooner suspended or revoked for a violation of this chapter.

2. At the time of applying for a broker's permit, each applicant shall submit to the division a list of names and addresses of all manufacturers, distillers, and importers whom the applicant has been appointed to represent in the state of Iowa for any purpose. The listing shall be amended by the broker as necessary to keep the listing current with the division.

3. A broker's permit is valid throughout the state, and a broker who represents more than one certificate or license holder is required to obtain only one broker's permit.

4. The annual fee for a broker's permit is twenty-five dollars.

5. An employee of a broker is not required to apply for or hold a broker's permit.

6. The holder of a distiller's certificate of compliance, a manufacturer's license, or a class "A" native distilled spirits license is not required to appoint a broker to represent its alcoholic liquor products in the state.

7. Any violation of the requirements of this chapter or the rules adopted pursuant to this chapter shall subject the permit holder to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the permit, or revocation of the permit after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

[C35, §1921-f37; C39, §**1921.037;** C46, 50, 54, 58, 62, 66, 71, §123.37; C73, 75, 77, 79, 81, §123.42]

94 Acts, ch 1017, §3; 2013 Acts, ch 35, §7; 2018 Acts, ch 1060, §23 – 25; 2019 Acts, ch 113, §26, 27

Referred to in §123.32

123.43 Class "A" native distilled spirits license — application and issuance — fees.

1. A person applying for a class "A" native distilled spirits license shall submit an application electronically, or in a manner prescribed by the administrator, which shall set forth under oath the following:

a. The name and place of residence of the applicant.

b. The names and addresses of all persons or, in the case of a corporation, limited liability company, or any other similar legal entity, the officers, directors, and persons owning or controlling ten percent or more of the capital stock thereof, having a financial interest, by way of loan, ownership, or otherwise, in the business.

c. The location of the premises where the applicant intends to operate.

d. The name of the owner of the premises and if the owner of the premises is not the applicant, whether the applicant is the actual lessee of the premises.

e. When required by the administrator, and in such form and containing such information as the administrator may require, a description of the premises where the applicant intends to use the license, to include a sketch or drawing of the premises and, if applicable, the number of square feet of interior floor space which comprises the retail sales area of the premises.

f. Whether any person specified in paragraph *"b"* has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any such state or territory.

g. Any other information as required by the administrator.

2. Except as otherwise provided in this chapter, the administrator shall issue a class "A" native distilled spirits license to any applicant who establishes all of the following:

a. That the applicant has submitted a completed application as required by subsection 1.

b. That the applicant is a person of good moral character as provided in section 123.3, subsection 40.

c. That the applicant is a citizen of the state of Iowa or, if a corporation, that the applicant is authorized to do business in the state.

d. That the applicant has filed with the division a basic permit issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury, and that the applicant will faithfully observe and comply with all laws, rules, and regulations governing the manufacture and sale of alcoholic liquor.

e. That the premises where the applicant intends to use the license conforms to all applicable laws, health regulations, and fire regulations, and constitutes a safe and proper place or building.

f. That the applicant gives consent to a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the applicant to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

3. A class "A" native distilled spirits license for a native distillery shall be issued and renewed annually upon payment of a fee of five hundred dollars.

4. A violation of the requirements of this chapter shall subject the licensee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the license after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

2017 Acts, ch 119, §44; 2018 Acts, ch 1060, §26; 2019 Acts, ch 113, §28
Referred to in §123.32, 123.43A

123.43A Native distilleries.

1. Subject to rules of the division, a native distillery holding a class "A" native distilled spirits license issued pursuant to section 123.43 may sell or offer for sale native distilled spirits. As provided in this section, sales of native distilled spirits manufactured on the premises may be made at retail for off-premises consumption when sold on the premises of the native distillery that manufactures native distilled spirits. All sales intended for resale in this state shall be made through the state's wholesale distribution system.

2. A native distillery shall not sell more than one and one-half liters per person per day, of native distilled spirits on the premises of the native distillery. However, a native distillery which, combining all production facilities of the business, produces and manufactures not more than one hundred thousand proof gallons of native distilled spirits on an annual basis, may sell not more than nine liters per person per day, of native distilled spirits. In addition, a native distillery shall not directly ship native distilled spirits for sale at retail. The native distillery shall maintain records of individual purchases of native distilled spirits at the native distillery for three years.

3. A native distillery shall not sell native distilled spirits other than as permitted in this chapter and shall not allow native distilled spirits sold for consumption off the premises to be consumed upon the premises of the native distillery. However, native distilled spirits may be tasted pursuant to the rules of the division on the premises where fermented, distilled, or matured, when no charge is made for the tasting.

4. The sale of native distilled spirits to the division for wholesale disposition and sale by the division shall be subject to the requirements of this chapter regarding such disposition and sale.

5. A native distillery issued a class "A" native distilled spirits license shall file with the division, on or before the fifteenth day of each calendar month, all documents filed by the native distillery with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, including all production, storage, and processing reports.

6. Notwithstanding any provision of this chapter to the contrary or the fact that a person is the holder of a class "A" native distilled spirits license, a native distillery which, combining all

production facilities of the business, produces and manufactures not more than one hundred thousand proof gallons of native distilled spirits on an annual basis may sell those native distilled spirits manufactured on the premises of the native distillery for consumption on the premises by applying for a class "C" native distilled spirits liquor control license as provided in section 123.30. A native distillery may be granted not more than two class "C" native distilled spirits liquor control licenses. All native distilled spirits sold by a native distillery for on-premises consumption and mixed drinks or cocktails sold for consumption off the premises shall be purchased from a class "E" liquor control licensee. A manufacturer of native distilled spirits may be issued a class "C" native distilled spirits liquor control license regardless of whether the manufacturer is also a manufacturer of beer pursuant to a class "A" beer permit or a manufacturer of native wine pursuant to a class "A" wine permit.

7. A native distillery may sell the native distilled spirits it manufactures to customers outside the state.

2010 Acts, ch 1031, §84; 2010 Acts, ch 1193, §40; 2011 Acts, ch 17, §9; 2011 Acts, ch 30, §4; 2015 Acts, ch 53, §1; 2016 Acts, ch 1008, §7; 2017 Acts, ch 119, §45; 2019 Acts, ch 113, §29; 2019 Acts, ch 160, §1; 2020 Acts, ch 1114, §12, 16; 2021 Acts, ch 133, §1

Subsection 6 amended

123.44 Gifts prohibited.

A manufacturer or broker shall not give away alcoholic liquor at any time in connection with the manufacturer's or broker's business except for testing or sampling purposes only. A manufacturer, distiller, vintner, brewer, broker, wholesaler, or importer, organized as a corporation pursuant to the laws of this state or any other state, who deals in alcoholic beverages subject to regulation under this chapter shall not offer or give anything of value to a commission member, official or employee of the division, or directly or indirectly contribute in any manner any money or thing of value to a person seeking a public or appointive office or a recognized political party or a group of persons seeking to become a recognized political party.

[C35, §1921-f39; C39, §**1921.039;** C46, 50, 54, 58, 62, 66, 71, §123.39; C73, 75, 77, 79, 81, §123.44]

85 Acts, ch 32, §34; 94 Acts, ch 1017, §5; 2018 Acts, ch 1060, §27

123.45 Limitations on business interests.

1. Subject to such exceptions as otherwise authorized under this chapter, a person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages, excluding an institutional investor, or any broker, employee, or agent of such a person, shall not do any of the following:

a. Directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages or food within the place of business of a licensee or permittee authorized under this chapter to sell at retail.

b. Directly or indirectly extend any credit for alcoholic beverages or beer or pay for any such license or permit.

c. Directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under this chapter to sell at retail, unless the licensee or permittee authorized under this chapter to sell at retail does not purchase or sell the alcoholic beverages of the person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages. However, the licensee or permittee authorized under this chapter to sell at retail may purchase and sell the wine of the person engaged in the business of manufacturing wine that is not native wine provided the licensed premises is the principal office, as defined in section 490.140, of the person.

d. Hold a retail liquor control license or retail wine or beer permit, unless the licensee or permittee holding a retail liquor control license or retail wine or beer permit does not purchase or sell the alcoholic beverages of the person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages. However, a person engaged in the business of manufacturing wine that is not native wine may purchase and sell the

person's wine under the authority of a special class "C" liquor control license and a class "B" wine permit provided the licensed premises is the principal office, as defined in section 490.140, of the person.

2. Notwithstanding any provision of law to the contrary, a broker, employee, or agent of a person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages may be a broker, employee, or agent of another person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages or a broker, employee, or agent of a business authorized under this chapter to sell alcoholic beverages at retail as long as the broker, employee, or agent is not an officer, owner, director, or employee in a position to exercise any control or influence over the types of sales or the purchasing of alcoholic beverages in either position of employment.

3. A person engaged in the wholesaling of beer or wine may sell only disposable glassware, which is constructed of paper, paper laminated, or plastic materials and designed primarily for personal consumption on a one-time usage basis, to retailers for use within the premises of licensed establishments, for an amount which is greater than or equal to an amount which represents the greater of either the amount paid for the disposable glassware by the supplier or the amount paid for the disposable glassware by the wholesaler. Also, a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that a person is the holder of a class "A" beer permit, may be granted not more than two class "B" beer permits as defined in section 123.124 for that purpose regardless of whether that person is also a manufacturer of native distilled spirits pursuant to a class "A" native distilled spirits license or a manufacturer of native wine pursuant to a class "A" wine permit.

4. A licensee or permittee who permits or assents to or is a party in any way to a violation or infringement of this section is guilty of a violation of this section.

5. The exceptions established by subsection 1 to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly, and shall not be construed to affect exceptions to the general prohibition against tied interests as otherwise authorized under this chapter.

[C35, §1921-f40, 1921-f115; C39, §**1921.040, 1921.117;** C46, 50, 54, 58, 62, 66, 71, §123.40, 124.22; C73, 75, 77, 79, 81, §123.45; 81 Acts, ch 57, §1; 82 Acts, ch 1024, §2]

85 Acts, ch 32, §35; 88 Acts, ch 1241, §13; 91 Acts, ch 24, §1; 2015 Acts, ch 30, §42; 2019 Acts, ch 8, §2 – 4; 2019 Acts, ch 160, §2; 2020 Acts, ch 1063, §54, 55; 2021 Acts, ch 133, §2

Referred to in §123.130
Subsection 3 amended

123.46 Consumption or intoxication in public places — notifications — chemical tests — expungement.

1. As used in this section unless the context otherwise requires:

a. "Arrest" means the same as defined in section 804.5 and includes taking into custody pursuant to section 232.19.

b. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the commissioner of public safety.

c. "Peace officer" means the same as defined in section 801.4.

2. A person shall not use or consume alcoholic liquor, wine, or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine, or beer on public school property or while attending a public or private school-related function. A person shall not be intoxicated in a public place. A person violating this subsection is guilty of a simple misdemeanor.

3. A person shall not simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test

administered at the person's own expense. If a device approved by the commissioner of public safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

5. *a.* A peace officer shall make a reasonable effort to identify a person under the age of eighteen who violates this section and refer the person to juvenile court.

b. A juvenile court officer shall notify the person's custodial parent, legal guardian, or custodian of the violation. In addition, the juvenile court officer shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school, of the violation. A reasonable attempt to notify the person includes, but is not limited to, a telephone call or notice by first-class mail.

6. Upon the expiration of two years following conviction for a violation of this section or of a similar local ordinance, a person may petition the court to expunge the conviction, and if the person has had no other criminal convictions, other than local traffic violations or simple misdemeanor violations of chapter 321 during the two-year period, the conviction shall be expunged as a matter of law. The court shall enter an order that the record of the conviction be expunged by the clerk of the district court. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction has been expunged, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety if such a record was maintained in the criminal history data files.

7. A person shall not be charged or prosecuted for a violation of this section if the person is immune from charge or prosecution pursuant to section 701.12.

[C35, §1921-f42, 1921-f127; C39, §**1921.042, 1921.132;** C46, 50, 54, 58, 62, 66, 71, §123.42, 124.37; C73, 75, 77, 79, 81, §123.46]

85 Acts, ch 32, §36; 86 Acts, ch 1067, §1; 89 Acts, ch 225, §10; 92 Acts, ch 1231, §7; 2000 Acts, ch 1138, §1; 2010 Acts, ch 1044, §1, 2; 2010 Acts, ch 1071, §1; 2010 Acts, ch 1128, §1; 2011 Acts, ch 17, §10; 2016 Acts, ch 1058, §1; 2019 Acts, ch 140, §1; 2020 Acts, ch 1080, §1

Referred to in §123.91, 125.34, 232.22, 232.52, 701.12, 901C.3

123.46A Delivery of alcoholic beverages by retailers.

1. Licensees and permittees authorized to sell alcoholic liquor, wine, or beer in original unopened containers for consumption off the licensed premises may deliver alcoholic liquor, wine, or beer to a home, another licensed premises if there is identical ownership of the premises by the licensee or permittee, or other designated location in this state. Deliveries shall be limited to alcoholic beverages authorized by the licensee's or permittee's license or permit. Orders delivered to another licensed premises shall contain only those alcoholic beverages authorized for sale by the liquor control license or retail wine or beer permit covering the premises to which the alcoholic beverages will be delivered. Orders delivered to another licensed premises shall be fulfilled using the alcoholic beverages inventory owned by the licensee or permittee who will receive the order for delivery. If the recipient refuses or fails to pick up the delivery, or is ineligible to receive the delivery, the alcoholic beverages shall be returned to the licensee or permittee who fulfilled the order.

2. Licensees and permittees authorized to sell wine, beer, or mixed drinks or cocktails for consumption off the licensed premises in a container other than the original container may deliver the wine, beer, or mixed drinks or cocktails to a home or other designated location in this state only if the container other than the original container has been sold and securely sealed in compliance with this chapter or the rules of the division. Deliveries shall be limited to alcoholic beverages authorized by the licensee's or permittee's license or permit.

3. All deliveries of alcoholic liquor, wine, beer, or mixed drinks or cocktails shall be subject to the following requirements and restrictions:

a. Payment for the alcoholic liquor, wine, beer, or mixed drinks or cocktails shall be received by the licensee or permittee at the time of order.

b. Orders for deliveries may be taken by the licensee or permittee between the hours of 2:00 a.m. and 6:00 a.m. on a day other than Sunday, and orders for deliveries may be taken between the hours of 2:00 a.m. and 6:00 a.m. on a Sunday provided the licensee or permittee has been granted the privilege of selling alcoholic liquor, wine, beer, or mixed drinks or cocktails on Sunday, notwithstanding any provision of section 123.49, subsection 2, paragraph *"b"*, to the contrary.

c. Alcoholic liquor, wine, beer, or mixed drinks or cocktails delivered to a person shall be for personal use and not for resale.

d. Deliveries shall only be made to persons in this state who are twenty-one years of age or older.

e. Deliveries shall not be made to a person who is intoxicated or is simulating intoxication.

f. Deliveries shall occur between 6:00 a.m. and 10:00 p.m. Monday through Sunday.

g. Delivery of alcoholic liquor, wine, beer, or mixed drinks or cocktails shall be made by the licensee or permittee, the licensee's or permittee's employee, or a third party, provided the licensee or permittee has entered into a written agreement with the third party that authorizes the third party to act as an agent of the licensee or permittee for the purpose of delivering alcoholic liquor, wine, beer, or mixed drinks or cocktails. Each licensee or permittee shall submit to the division electronically, or in a manner prescribed by the administrator, a list of names and addresses of all third parties it has authorized to act as its agent for the purpose of delivering alcoholic liquor, wine, beer, or mixed drinks or cocktails. The licensee or permittee shall provide the division with amendments to the list as necessary to ensure the division possesses an accurate, current list.

h. Delivery personnel shall be twenty-one years of age or older.

i. Valid proof of the recipient's identity and age shall be obtained at the time of delivery, and the signature of a person twenty-one years of age or older shall be obtained as a condition of delivery.

j. Licensees and permittees shall maintain records of deliveries which include the quantity delivered, the recipient's name and address, and the signature of the recipient of the alcoholic liquor, wine, beer, or mixed drinks or cocktails. The records shall be maintained on the licensed premises for a period of three years.

4. A violation of this section or any other provision of this chapter shall subject the licensee or permittee to the penalty provisions of section 123.39. If the licensee or permittee, an employee of the licensee or permittee, or a person delivering alcoholic liquor, wine, beer, or mixed drinks or cocktails for a third party acting on behalf of the licensee or permittee pursuant to a written agreement violates this section, the licensee or permittee shall not be assessed a penalty under section 123.39 if the licensee or permittee establishes all of the following:

a. The violation was committed off of the licensee's or permittee's premises after the liquor, wine, beer, or mixed drinks or cocktails was removed from the licensee's or permittee's premises in fulfillment of a delivery order.

b. (1) If the person who committed the violation is an employee of the licensee or permittee, that no other violation of this section was committed by any employee of the licensee or permittee within the two-year period immediately preceding the date of violation.

(2) If the person who committed the violation is a person delivering for a third party acting on behalf of the licensee or permittee, that no other violation of this section was committed by any person delivering for the same third party while the third party was acting on behalf of the licensee or permittee within the two-year period immediately preceding the date of violation.

5. Nothing in this section shall impact the direct shipment of wine as regulated by section 123.187.

2011 Acts, ch 30, §5; 2019 Acts, ch 113, §64 – 66, 68; 2021 Acts, ch 99, §1 – 3; 2021 Acts, ch 155, §4, 5; 2021 Acts, ch 174, §11, 12, 36

Referred to in §123.49, 123.187

See Code editor's note on simple harmonization at the beginning of this Code volume

Section amended and editorially internally renumbered

123.47 Persons under eighteen years of age, persons eighteen, nineteen, or twenty years of age, and persons twenty-one years of age and older.

1. A person shall not sell, give, or otherwise supply any alcoholic beverage to any person knowing or having reasonable cause to believe that person to be under legal age.

2. *a.* Except for the purposes described in subsection 3, a person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises, shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic beverage.

b. A person who violates this subsection commits the following:

(1) For a first offense, a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 8.

(2) For a second or subsequent offense, a simple misdemeanor punishable by a fine of five hundred dollars.

c. This subsection shall not apply to any of the following:

(1) A landlord or manager of the property.

(2) A person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

3. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic beverages in their possession or control; except in the case of any alcoholic beverage given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

4. *a.* A person who is eighteen, nineteen, or twenty years of age, other than a licensee or permittee, who violates this section regarding the purchase of, attempt to purchase, or consumption of any alcoholic beverage, or possessing or having control of any alcoholic beverage, commits the following:

(1) A simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 7.

(2) A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

(3) A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

b. The court may, in its discretion, order the person who is under legal age to perform community service work under section 909.3A, of an equivalent value to the fine imposed under this section.

c. If the person who commits a violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in chapter 232.

5. Except as otherwise provided in subsections 7 and 8, a person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies any alcoholic beverage to a person who is under legal age in violation of this section commits a serious misdemeanor punishable by a minimum fine of five hundred dollars.

6. A person shall not be charged or prosecuted for a violation of subsection 3 or 4 if the person is immune from charge or prosecution pursuant to section 701.12.

7. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies any alcoholic beverage to a person who is under legal age in violation of this section which results in serious injury to any person commits an aggravated misdemeanor.

8. A person who is of legal age, other than a licensee or permittee, who sells, gives, or otherwise supplies any alcoholic beverage to a person who is under legal age in violation of this section which results in the death of any person commits a class "D" felony.

9. Upon the expiration of two years following conviction for a violation of subsection 3 or of a similar local ordinance, a person may petition the court to expunge the conviction, and if the person has had no other criminal convictions, other than local traffic violations or simple misdemeanor violations of chapter 321 during the two-year period, the conviction shall be expunged as a matter of law. The court shall enter an order that the record of the conviction be expunged by the clerk of the district court. Notwithstanding section 692.2, after receipt of notice from the clerk of the district court that a record of conviction has been expunged for a violation of subsection 3, the record of conviction shall be removed from the criminal history data files maintained by the department of public safety. An expunged conviction shall not be considered a prior offense for purposes of enhancement under subsection 4 or under a local ordinance unless the new violation occurred prior to entry of the order of expungement.

[C35, §1921-f43; C39, §**1921.043;** C46, 50, 54, 58, 62, §123.43; C66, 71, §123.43, 125.33; C73, 75, 77, 79, 81, §123.47]

85 Acts, ch 32, §37; 92 Acts, ch 1231, §8; 94 Acts, ch 1105, §1; 94 Acts, ch 1172, §2; 95 Acts, ch 191, §3; 97 Acts, ch 126, §2; 99 Acts, ch 153, §1; 2005 Acts, ch 105, §1; 2010 Acts, ch 1071, §2; 2010 Acts, ch 1128, §2; 2014 Acts, ch 1096, §1 – 3; 2014 Acts, ch 1141, §19; 2018 Acts, ch 1060, §28 – 33; 2020 Acts, ch 1080, §2

Referred to in §123.47B, 135B.34, 135C.33, 137C.25C, 232.2, 232.19, 232.22, 232.52, 321.216B, 321.284, 321.284A, 701.12, 805.8C(7), 805.8C(8), 901C.3

123.47A Persons age eighteen, nineteen, and twenty — penalty. Repealed by 97 Acts, ch 126, §54.

123.47B Parental and school notification — persons under eighteen years of age.

1. A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered consuming or to be in possession of alcoholic liquor, wine, or beer in violation of section 123.47 and refer the person to juvenile court.

2. If a person under the age of eighteen is discovered consuming or to be in possession of alcoholic liquor, wine, or beer, but the person is immune from prosecution under section 701.12, a peace officer shall make a reasonable effort to identify the person and notify a juvenile court officer of such person's consumption or possession.

3. The juvenile court officer shall notify the person's custodial parent, legal guardian, or custodian of the violation. In addition, the juvenile court shall also make a reasonable effort to identify the elementary or secondary school which the person attends if the person is enrolled in elementary or secondary school and to notify the superintendent or the superintendent's designee of the school which the person attends, or the authorities in charge of the nonpublic school which the person attends, of the consumption or possession. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first-class mail.

90 Acts, ch 1251, §4; 95 Acts, ch 191, §4; 97 Acts, ch 126, §3; 2010 Acts, ch 1128, §3; 2014 Acts, ch 1096, §4; 2020 Acts, ch 1080, §3

Referred to in §232.147

123.48 Seizure of false or altered driver's license or nonoperator's identification card.

1. If a liquor control licensee or wine or beer permittee or an employee of the licensee or permittee has a reasonable belief based on factual evidence that a driver's license as defined in section 321.1, subsection 20A, or nonoperator's identification card issued pursuant to section 321.190 offered by a person who wishes to purchase an alcoholic beverage at the licensed premises is altered or falsified or belongs to another person, the licensee, permittee, or employee may retain the driver's license or nonoperator's identification card. Within twenty-four hours, the license or card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the licensed premises is located. When the license or card is delivered to the appropriate law enforcement agency, the licensee shall file a written report of the circumstances under which the license or card was retained. The local law enforcement agency may investigate whether a violation of section 321.216, 321.216A, or 321.216B has occurred. If an investigation is not initiated or a probable cause is not established by the local law enforcement agency, the driver's license or nonoperator's identification card shall be delivered to the person to whom it was issued. The local law

enforcement agency may forward the license or card with the report to the department of transportation for investigation, in which case, the department may investigate whether a violation of section 321.216, 321.216A, or 321.216B has occurred. The department of transportation shall return the license or card to the person to whom it was issued if an investigation is not initiated or a probable cause is not established.

2. Upon taking possession of a driver's license or nonoperator's identification card as provided in subsection 1, a receipt for the license or card with the date and hour of seizure noted shall be provided to the person from whom the license or card was seized.

3. A liquor control licensee or wine or beer permittee or an employee of the licensee or permittee is not subject to criminal prosecution for, or to civil liability for damages alleged to have resulted from, the retention and delivery of a driver's license or a nonoperator's identification card which is taken pursuant to subsections 1 and 2. This section shall not be construed to relieve a licensee, permittee, or employee of the licensee or permittee from civil liability for damages resulting from the use of unreasonable force in obtaining the altered or falsified driver's license or nonoperator's identification card or the driver's license or nonoperator's identification card believed to belong to another person.

94 Acts, ch 1105, §3; 96 Acts, ch 1090, §1; 98 Acts, ch 1073, §9, 12; 2016 Acts, ch 1073, §32

123.49 Miscellaneous prohibitions.

1. A person shall not sell, dispense, or give to an intoxicated person, or one simulating intoxication, any alcoholic beverage.

a. A person other than a person required to hold a license or permit under this chapter who dispenses or gives an alcoholic beverage in violation of this subsection is not civilly liable to an injured person or the estate of a person for injuries inflicted on that person as a result of intoxication by the consumer of the alcoholic beverage.

b. The general assembly declares that this subsection shall be interpreted so that the holding of *Clark v. Mincks*, 364 N.W.2d 226 (Iowa 1985) is abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages rather than the serving of alcoholic beverages as the proximate cause of injury inflicted upon another by an intoxicated person.

2. A person holding a liquor control license or retail wine or beer permit under this chapter, and the person's agents or employees, shall not do any of the following:

a. Knowingly permit any gambling, except in accordance with chapter 99B, 99D, 99F, or 99G, or knowingly permit solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

b. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

c. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to retail sales by the managing entity of a convention center, civic center, or events center.

d. (1) Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the division, and except mixed drinks or cocktails mixed on the premises for immediate consumption on the licensed premises or as otherwise provided by this paragraph *"d"*. This prohibition does not apply to holders of a class "D" liquor control license or to alcoholic liquor delivered in accordance with section 123.46A.

(2) Mixed drinks or cocktails mixed on the premises that are not for immediate consumption may be consumed on the licensed premises subject to the requirements of this subparagraph pursuant to rules adopted by the division. The rules shall provide that the mixed drinks or cocktails be stored, for no longer than seventy-two hours, in a labeled

container in a quantity that does not exceed three gallons. The rules shall also provide that added flavors and other nonbeverage ingredients included in the mixed drinks or cocktails shall not include hallucinogenic substances or added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine. The rules shall also require that the licensee keep records as to when the contents in a particular container were mixed and the recipe used for that mixture. In addition, mixed drinks or cocktails mixed on the premises pursuant to this subparagraph may be sold for consumption off the licensed premises as provided in and subject to the requirements of subparagraph (3).

(3) Mixed drinks or cocktails mixed on premises covered by a class "C" liquor control license or a class "C" native distilled spirits liquor control license for consumption off the licensed premises may be sold if the mixed drink or cocktail is immediately filled in a sealed container and is promptly taken from the licensed premises prior to consumption of the mixed drink or cocktail. A mixed drink or cocktail that is sold in a sealed container in compliance with the requirements of this subparagraph and rules adopted by the division shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

(4) For purposes of this paragraph:

(a) *"Sealed container"* means a vessel, including a substantial or sturdy plastic container and a vacuum or heat-sealed pouch, containing a mixed drink or cocktail that is designed to prevent consumption without removal of a tamper-evident lid, cap, or seal. *"Sealed container"* does not include a container with a sipping hole or other opening for a straw, unless the hole or other opening includes a tamper-evident seal, but a straw may be separately provided with a sealed container to the consumer for off-premises consumption.

(b) *"Tamper-evident"* means a lid, cap, or seal that visibly demonstrates when a container has been opened.

e. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been so reused or adulterated.

f. Employ a person under eighteen years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

g. Allow any person other than the licensee, permittee, or employees of the licensee or permittee, to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as permitted in section 123.95. This paragraph does not apply to the lodging quarters of a class "B" liquor control licensee or wine or beer permittee, or to holders of a class "D" liquor control license.

h. Sell, give, or otherwise supply any alcoholic beverage to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage.

i. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

j. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit. However, the absence of security personnel on the licensed premises is insufficient, without additional evidence, to prove that criminal activity occurring on the licensed premises was knowingly permitted in violation of this paragraph *"j"*. For purposes of this paragraph *"j"*, *"premises"* includes parking lots and areas adjacent to the premises of a liquor control licensee or wine or beer permittee authorized to sell alcoholic beverages for consumption on the licensed premises and used by patrons of the liquor control licensee or wine or beer permittee.

k. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

3. A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage from any liquor control licensee

or wine or beer permittee. If any person under legal age misrepresents the person's age, and the licensee or permittee establishes that the licensee or permittee made reasonable inquiry to determine whether the prospective purchaser was over legal age, the licensee or permittee is not guilty of selling alcoholic beverages to a person under legal age.

4. No privilege of selling alcoholic beverages on Sunday as provided in section 123.36, subsection 6, and section 123.134, subsection 4, shall be granted to a club or other organization which places restrictions on admission or membership in the club or organization on the basis of sex, race, religion, or national origin. However, the privilege may be granted to a club or organization which places restrictions on membership on the basis of sex, if the club or organization has an auxiliary organization open to persons of the other sex.

[C35, §1921-f46, 1921-f114, 1921-g3; C39, §**1921.046, 1921.115, 1921.116;** C46, 50, 54, 58, 62, 66, 71, §123.46, 124.20, 124.21; C73, 75, 77, 79, 81, §123.49]

84 Acts, ch 1275, §3; 85 Acts, ch 32, §38 – 42; 86 Acts, ch 1002, §5; 86 Acts, ch 1211, §11; 89 Acts, ch 67, §26; 90 Acts, ch 1175, §8; 91 Acts, ch 245, §2, 3; 94 Acts, ch 1172, §4; 97 Acts, ch 126, §4; 2003 Acts, ch 178, §108, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1155, §1; 2006 Acts, ch 1033, §1; 2010 Acts, ch 1128, §4; 2012 Acts, ch 1138, §22; 2017 Acts, ch 119, §10, 11; 2018 Acts, ch 1060, §34 – 36; 2019 Acts, ch 113, §30, 31, 67, 68; 2020 Acts, ch 1114, §13, 16; 2021 Acts, ch 155, §6 – 8

Referred to in §123.3, 123.30, 123.36, 123.39, 123.46A, 123.50, 123.50A, 123.92, 123.134, 123.150, 602.6405, 805.8C(2)
Civil liability for dispensing or sale and service to intoxicated persons; see §123.92
For scheduled fines applicable to violations of subsection 2, paragraph h, see §805.8C(2)
Subsection 2, paragraph b amended
Subsection 2, paragraph d, subparagraphs (2) and (3) amended
Subsection 2, paragraph d, NEW subparagraph (4)

123.50 Criminal and civil penalties.

1. Any person who violates any of the provisions of section 123.49, except section 123.49, subsection 2, paragraph *"h"*, or who fails to affix upon sale, defaces, or fails to record a keg identification sticker or produce a record of keg identification stickers pursuant to section 123.138, shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph *"h"*, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 2.

2. The conviction of any liquor control licensee or wine or beer permittee for a violation of any of the provisions of section 123.49, subject to subsection 3 of this section, is grounds for the suspension or revocation of the license or permit by the division or the local authority. However, if any liquor control licensee is convicted of any violation of section 123.49, subsection 2, paragraph *"a"*, *"d"*, or *"e"*, or any wine or beer permittee is convicted of a violation of section 123.49, subsection 2, paragraph *"a"* or *"e"*, the liquor control license or wine or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division. However, the division shall retain only that portion of the bond equal to the amount the division determines the license or permit holder owes the division.

3. If any liquor control licensee, wine or beer permittee, or employee of a licensee or permittee is convicted or found in violation of section 123.49, subsection 2, paragraph *"h"*, the administrator or local authority shall, in addition to criminal penalties fixed for violations by this section, assess a civil penalty as follows:

a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars. Failure to pay the civil penalty as ordered under section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.

b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand five hundred dollars.

c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand five hundred dollars.

d. A fourth violation within three years shall result in revocation of the license or permit.

e. For purposes of this subsection:

(1) The date of any violation shall be used in determining the period between violations.

(2) Suspension shall be limited to the specific license or permit for the premises found in violation.

(3) Notwithstanding section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.

4. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division. However, the division shall retain only that portion of the bond equal to the amount the division determines the license or permit holder owes the division.

5. If an employee of a liquor control licensee or wine or beer permittee violates section 123.49, subsection 2, paragraph *"h"*, the licensee or permittee shall not be assessed a penalty under subsection 3, and the violation shall be deemed not to be a violation of section 123.49, subsection 2, paragraph *"h"*, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 3, if the employee holds a valid certificate of completion of the alcohol compliance employee training program pursuant to section 123.50A at the time of the violation, and if the violation involves selling, giving, or otherwise supplying any alcoholic beverage to a person between the ages of eighteen and twenty years of age. A violation involving a person under the age of eighteen years of age shall not qualify for the bar against assessment of a penalty pursuant to subsection 3, for a violation of section 123.49, subsection 2, paragraph *"h"*. A licensee or permittee may assert only once in a four-year period the bar under this subsection against assessment of a penalty pursuant to subsection 3, for a violation of section 123.49, subsection 2, paragraph *"h"*, that takes place at the same place of business location.

[C35, §1921-f46, 1921-f127; C39, §**1921.046, 1921.132;** C46, 50, 54, 58, 62, 66, 71, §123.46, 124.37; C73, 75, 77, 79, 81, §123.50]

84 Acts, ch 1275, §4; 84 Acts, ch 1292, §1; 85 Acts, ch 32, §43; 86 Acts, ch 1246, §745; 88 Acts, ch 1088, §6; 88 Acts, ch 1241, §14; 89 Acts, ch 252, §2; 93 Acts, ch 91, §18; 94 Acts, ch 1172, §5; 97 Acts, ch 126, §5, 6; 98 Acts, ch 1204, §1, 2; 2001 Acts, ch 137, §5; 2004 Acts, ch 1008, §1; 2007 Acts, ch 46, §1; 2011 Acts, ch 30, §6; 2013 Acts, ch 30, §23; 2014 Acts, ch 1026, §27; 2018 Acts, ch 1060, §37 – 39; 2019 Acts, ch 113, §32

Referred to in §99B.3, 99B.55, 123.39, 123.141

License or permit suspension upon revocation of gambling license or amusement device registration; §99B.3 and §99B.55

123.50A Alcohol compliance employee training program.

1. If sufficient funding is appropriated, the division shall develop an alcohol compliance employee training program, not to exceed two hours in length for employees and prospective employees of licensees and permittees, to inform the employees about state laws and regulations regarding the sale of alcoholic beverages to persons under legal age, and compliance with and the importance of laws regarding the sale of alcoholic beverages to persons under legal age. In developing the alcohol compliance employee training program, the division may consult with stakeholders who have expertise in the laws and regulations regarding the sale of alcoholic beverages to persons under legal age.

2. The alcohol compliance employee training program shall be made available to employees and prospective employees of licensees and permittees at no cost to the employee, the prospective employee, or the licensee or permittee, and in a manner which is as convenient and accessible to the extent practicable throughout the state so as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

3. Upon completion of the alcohol compliance employee training program, an employee or prospective employee shall receive a certificate of completion, which shall be valid for a period of two years, unless the employee or prospective employee is convicted of a violation of section 123.49, subsection 2, paragraph *"h"*, in which case the certificate shall be void.

4. The division shall also offer periodic continuing employee training and recertification

for employees who have completed initial training and received an initial certificate of completion as part of the alcohol compliance employee training program.

2011 Acts, ch 30, §7; 2018 Acts, ch 1060, §40

Referred to in §123.50

123.51 Advertisements for alcoholic liquor, wine, or beer.

1. No signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail. However, signs or other advertising matter may be erected or placed inside the premises, inside a fence or similar enclosure which wholly or partially surrounds the premises, or inside a window facing outward from the premises.

2. Violation of this section is a simple misdemeanor.

[C35, §1921-f47; C39, §**1921.047;** C46, 50, 54, 58, 62, 66, 71, §123.47; C73, 75, 77, 79, 81, §123.51]

85 Acts, ch 32, §44; 86 Acts, ch 1246, §746; 87 Acts, ch 22, §9; 2017 Acts, ch 119, §12

123.52 Prohibited sale.

No person not expressly authorized by this chapter to deal in alcoholic liquors shall within the state keep for sale or offer for sale anything which is capable of being mistaken for a package containing alcoholic liquor and is either labeled or branded with the name of any kind of alcoholic liquor, whether the same contains any alcoholic liquor or not.

[C35, §1921-f48; C39, §**1921.048;** C46, 50, 54, 58, 62, 66, 71, §123.48; C73, 75, 77, 79, 81, §123.52]

123.53 Beer and liquor control fund — allocations to substance abuse — use of civil penalties. Transferred to §123.17; 2015 Acts, ch 30, §204.

123.54 Appropriations. Transferred to §123.18; 2015 Acts, ch 30, §204.

123.55 Annual report. Transferred to §123.16; 2015 Acts, ch 30, §204.

123.56 Native wines. Transferred to §123.176; 2019 Acts, ch 113, §62.

123.57 Examination of accounts.

The financial condition and transactions of all offices, departments, warehouses, and depots of the division shall be examined at least once each year by the state auditor and at shorter periods if requested by the administrator, governor, commission, or the general assembly's standing committees on government oversight.

[C35, §1921-f57; C39, §**1921.057;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.57]

86 Acts, ch 1246, §749; 2011 Acts, ch 30, §9

123.58 Auditing.

All provisions of sections 11.6, 11.11, 11.14, 11.21, 11.31, and 11.41, relating to auditing of financial records of governmental subdivisions which are not inconsistent with this chapter are applicable to the division and its offices, warehouses, and depots.

[C35, §1921-f58; C39, §**1921.058;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.58]

86 Acts, ch 1246, §750; 89 Acts, ch 264, §4; 2011 Acts, ch 75, §34

123.59 Bootlegging — penalties.

1. Any person who, acting individually, or through another acting for the person, keeps or carries on the person, or in a vehicle, or leaves in a place for another to secure, any alcoholic liquor, wine, or beer, with intent to sell or dispense the liquor, wine, or beer, in violation of law, or who, within this state, in any manner, directly or indirectly, solicits, takes, or accepts an order for the purchase, sale, shipment, or delivery of alcoholic liquor, wine, or beer in violation of law, or aids in the delivery and distribution of alcoholic liquor, wine, or beer so ordered or shipped, or who in any manner procures for, sells, or gives alcoholic liquor, wine,

or beer to a person under legal age, for any purpose except as authorized and permitted in this chapter, is a bootlegger.

2. A person who violates any of the provisions of this section commits the following:

a. For a first offense, a simple misdemeanor.

b. For a second or subsequent offense, a serious misdemeanor.

[C51, §924 – 928; R60, §1559, 1562, 1563, 1583, 1587; C73, §1523, 1540 – 1542, 1555; C97, §2382; SS15, §2382, 2461-a; C24, 27, 31, §1927; C35, §1921-f59, 1927; C39, §**1921.059, 1927;** C46, 50, 54, 58, 62, 66, 71, §123.59, 125.7; C73, 75, 77, 79, 81, §123.59]

85 Acts, ch 32, §50; 85 Acts, ch 67, §16; 2018 Acts, ch 1096, §3, 6

Referred to in §123.50, 123.70

123.60 Nuisances.

The premises where the unlawful manufacture or sale, or keeping with intent to sell, use or give away, of alcoholic liquors, wine, or beer is carried on, and any vehicle or other means of conveyance used in transporting liquor, wine, or beer in violation of law, and the furniture, fixtures, vessels and contents, kept or used in connection with such activities are nuisances and shall be abated as provided in this chapter.

[C51, §935; R60, §1564; C73, §1543; C97, §2384; C24, 27, 31, §1929; C35, §1921-f60, 1929; C39, §**1921.060, 1929;** C46, 50, 54, 58, 62, 66, 71, §123.60, 125.9; C73, 75, 77, 79, 81, §123.60]

85 Acts, ch 32, §51

Referred to in §123.61, 123.88

Nuisances in general, chapter 657

123.61 Penalty.

Any person who erects, establishes, or uses any premises for any of the purposes prohibited in section 123.60, is guilty of nuisance and shall be subject to the general penalties provided by this chapter.

[C51, §935; R60, §1564; C73, §1543; C97, §2384; C24, 27, 31, §1930; C35, §1921-f61, 1930; C39, §**1921.061, 1930;** C46, 50, 54, 58, 62, 66, 71, §123.61, 125.10; C73, 75, 77, 79, 81, §123.61]

123.62 Injunction.

Actions to enjoin nuisances shall be brought in equity in the name of the state by the county attorney who shall prosecute the same to judgment.

[R60, §1564; C73, §1543; C97, §2405, 2406; S13, §2406; SS15, §2405; C24, 27, 31, §2017; C35, §1921-f62, 2017; C39, §**1921.062, 2017;** C46, 50, 54, 58, 62, 66, 71, §123.62, 128.1; C73, 75, 77, 79, 81, §123.62]

Referred to in §331.756(24)

123.63 Temporary writ.

In an action to enjoin a nuisance, the court shall, upon the presentation of a petition, allow a temporary writ of injunction without bond, if the petitioner provides evidence to the satisfaction of the court, in the form of affidavits, depositions, oral testimony, or otherwise, that the nuisance complained of exists.

[R60, §1564; C73, §1543; C97, §2405; SS15, §2405; C24, 27, 31, §2018; C35, §1921-f63, 2018; C39, §**1921.063, 2018;** C46, 50, 54, 58, 62, 66, 71, §123.63, 128.2; C73, 75, 77, 79, 81, §123.63]

2021 Acts, ch 80, §58

Section amended

123.64 Notice.

Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at the defendant's instance the writ as petitioned for shall be granted as a matter of course.

[C97, §2405; SS15, §2405; C24, 27, 31, §2019; C35, §1921-f64, 2019; C39, §**1921.064, 2019;** C46, 50, 54, 58, 62, 66, 71, §123.64, 128.3; C73, 75, 77, 79, 81, §123.64]

90 Acts, ch 1168, §26

123.65 Scope of injunction.

When an injunction has been granted, it shall be binding upon the defendant throughout the state and any violation of the provisions of this chapter anywhere within the state shall be punished as a contempt as provided in section 123.68.

[C97, §2405; SS15, §2405; C24, 27, 31, §2020; C35, §1921-f65, 2020; C39, §**1921.065, 2020;** C46, 50, 54, 58, 62, 66, 71, §123.65, 128.4; C73, 75, 77, 79, 81, §123.65]

2021 Acts, ch 80, §59
Section amended

123.66 Trial of action.

Any action brought to enjoin a nuisance or to establish a violation of the injunction shall be accorded priority over other business pending before the district court.

[C97, §2406; S13, §2406; C24, 27, 31, §2021; C35, §1921-f66, 2021; C39, §**1921.066, 2021;** C46, 50, 54, 58, 62, 66, 71, §123.66, 128.5; C73, 75, 77, 79, 81, §123.66]

2021 Acts, ch 80, §60
Section amended

123.67 General reputation.

In all actions to enjoin a nuisance or to establish a violation of the injunction, evidence of the general reputation of the premises described in the petition or information shall be admissible for the purpose of proving the existence of the nuisance or the violation of the injunction.

[C97, §2406; S13, §2406; C24, 27, 31, §2022; C35, §1921-f67, 2022; C39, §**1921.067, 2022;** C46, 50, 54, 58, 62, 66, 71, §123.67, 128.6; C73, 75, 77, 79, 81, §123.67]

123.68 Contempt.

In the case of a violation of any injunction granted under the provisions of this chapter, the court may summarily try and punish the defendant pursuant to the general penalties provided by this chapter. The proceedings shall be commenced by filing with the clerk of the court an information under oath setting out the alleged facts constituting such violation, upon which the court shall cause a warrant to issue under which the defendant shall be arrested.

[C97, §2407; SS15, §2407; C24, 27, 31, §2027; C35, §1921-f68, 2027; C39, §**1921.068, 2027;** C46, 50, 54, 58, 62, 66, 71, §123.68, 128.13; C73, 75, 77, 79, 81, §123.68]
Referred to in §123.65

123.69 Trial of contempt action.

The trial shall be as in equity and may be had upon depositions, or either party may demand the production and oral examination of the witnesses.

[C97, SS15, §2407; C24, 27, 31, §2028; C35, §1921-f69, 2028; C39, §**1921.069, 2028;** C46, 50, 54, 58, 62, 66, 71, §123.69, 128.14; C73, 75, 77, 79, 81, §123.69]

123.70 Injunction against bootlegger.

A bootlegger as defined in section 123.59 may be restrained by injunction from doing or continuing to do any of the acts prohibited herein, and all the proceedings for injunctions, temporary and permanent, and for punishments for violation of the same as prescribed herein, shall be applicable to such person, and the fact that an offender has no known or permanent place of business, or base of supplies, or quits the business after the commencement of an action, shall not prevent a temporary or permanent injunction, as the case may be, from issuing.

[S13, §2461-b; C24, 27, 31, §2031; C35, §1921-f71, 2031; C39, §**1921.071, 2031;** C46, 50, 54, 58, 62, 66, 71, §123.71, 128.17; C73, 75, 77, 79, 81, §123.70]

2015 Acts, ch 30, §43

123.71 Conditions on injunction proceeding.

A bootlegger injunction proceeding, as provided in this chapter, shall not be maintained unless it is shown to the court that efforts in good faith have been made to discover the base of supplies or place where the defendant charged as a bootlegger conducts an unlawful business

or receives or manufactures the alcoholic liquor, wine, or beer, which the defendant is charged with bootlegging.

[C27, 31, §2031-a1; C35, §1921-f72, 2031-a1; C39, §**1921.072, 2031.1;** C46, 50, 54, 58, 62, 66, 71, §123.72, 128.18; C73, 75, 77, 79, 81, §123.71]

85 Acts, ch 32, §52

123.72 Order of abatement of nuisance.

If the existence of a nuisance is established in a civil or criminal action, an order of abatement shall be entered as a part of the judgment in the case. The order shall direct the confiscation of all alcoholic liquor, wine, or beer by the state; the removal from the premises involved of all fixtures, furniture, vessels, or movable property used in any way in conducting the unlawful business; the sale of all removed property as well as any vehicle or other means of conveyance which has been abated, the sale to be conducted in the manner provided for the sale of chattels under execution; and the effective closing of the premises against use for the purpose of manufacture, sale, or consumption of alcoholic liquor, wine, or beer for a period of one year, unless sooner released by the court.

[C51, §935; R60, §1559; C73, §1523, 1543; C97, §2408; C24, 27, 31, §2032; C35, §1921-f73, 2032; C39, §**1921.073, 2032;** C46, 50, 54, 58, 62, 66, 71, §123.73, 128.19; C73, 75, 77, 79, 81, §123.72]

85 Acts, ch 32, §53

123.73 Use of abated premises.

If any person uses a premises closed pursuant to an abatement order in violation of such order the person shall be punished for contempt as provided in this chapter.

[C97, §2408; C24, 27, 31, §2033; C35, §1921-f74, 2033; C39, §**1921.074, 2033;** C46, 50, 54, 58, 62, 66, 71, §123.74, 128.20; C73, 75, 77, 79, 81, §123.73]

123.74 Fees.

For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as the officer would for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

[C97, §2408; C24, 27, 31, §2034; C35, §1921-f75, 2034; C39, §**1921.075, 2034;** C46, 50, 54, 58, 62, 66, 71, §123.75, 128.21; C73, 75, 77, 79, 81, §123.74]

123.75 Proceeds of sale.

The proceeds of the sale of personal property in abatement proceedings shall be applied first in payment of the costs of the action and abatement, and second to the satisfaction of any fine and costs adjudged against the proprietor of the premises and keeper of said nuisance, and the balance, if any, shall be paid to the defendant.

[C97, §2409; C24, 27, 31, §2035; C35, §1921-f76, 2035; C39, §**1921.076, 2035;** C46, 50, 54, 58, 62, 66, 71, §123.76, 128.22; C73, 75, 77, 79, 81, §123.75]

123.76 Abatement of nuisance.

If the owner of the abated premises appears and pays all costs of the proceeding and files a bond with sureties to be approved by the clerk in the full value of the property, to be ascertained by the court, conditioned that the owner will immediately abate the nuisance and prevent the same from being established or kept on such premises within a period of one year thereafter, the court may order such premises to be delivered to the owner and cancel the order of abatement so far as it may relate to the property.

[C97, §2410; S13, §2410; C24, 27, 31, §2036; C35, §1921-f77, 2036; C39, §**1921.077, 2036;** C46, 50, 54, 58, 62, 66, 71, §123.77, 128.23; C73, 75, 77, 79, 81, §123.76]

Referred to in §123.78, 602.8102(30)

123.77 Abatement before judgment.

If the action is in equity and the owner of the premises pays the costs of the action and files the bond prior to the entry of judgment and the abatement order, such action shall be abated as to the premises only.

[C97, §2410; S13, §2410; C24, 27, 31, §2037; C35, §1921-f78, 2037; C39, §**1921.078, 2037;** C46, 50, 54, 58, 62, 66, 71, §123.78, 128.24; C73, 75, 77, 79, 81, §123.77]

Referred to in §123.78

123.78 Existing liens.

The release of the property under the provisions of either section 123.76 or 123.77 shall not release it from any judgment lien, penalty, or liability, to which it may be subject by law.

[C97, §2410; S13, §2410; C24, 27, 31, §2038; C35, §1921-f79, 2038; C39, §**1921.079, 2038;** C46, 50, 54, 58, 62, 66, 71, §123.79, 128.25; C73, 75, 77, 79, 81, §123.78]

123.79 Abatement bond a lien.

Undertakings of bonds for abatement shall immediately after filing by the clerk of the district court be docketed and entered upon the lien index as required for judgments in civil cases, and from the time of such entries shall be liens upon real estate of the persons executing the same, with like effect as judgments in civil actions.

[C24, 27, 31, §2039; C35, §1921-f80, 2039; C39, §**1921.080, 2039;** C46, 50, 54, 58, 62, 66, 71, §123.80, 128.26; C73, 75, 77, 79, 81, §123.79]

Referred to in §123.84, 602.8102(30)

123.80 Attested copies filed.

Attested copies of such undertakings may be filed in the office of the clerk of the district court of the county in which the real estate is situated in the same manner and with like effect as attested copies of judgments, and shall be immediately docketed and indexed in the same manner.

[C24, 27, 31, §2040; C35, §1921-f81, 2040; C39, §**1921.081, 2040;** C46, 50, 54, 58, 62, 66, 71, §123.81, 128.27; C73, 75, 77, 79, 81, §123.80]

Referred to in §602.8102(30)

123.81 Forfeiture of bond.

If the owner of a property who has filed an abatement bond as provided in this chapter fails to abate the alcoholic liquor, wine, or beer nuisance on the premises covered by the bond, or fails to prevent the maintenance of any alcoholic liquor, wine, or beer nuisance on the premises at any time within a period of one year after entry of the abatement order, the court shall, after a hearing in which such fact is established, direct an entry of the violation of the terms of the owner's bond to be made on the record and the undertaking of the owner's bond shall be forfeited.

[C24, 27, 31, §2041; C35, §1921-f82, 2041; C39, §**1921.082, 2041;** C46, 50, 54, 58, 62, 66, 71, §123.82, 128.28; C73, 75, 77, 79, 81, §123.81]

85 Acts, ch 32, §54; 2018 Acts, ch 1060, §42

123.82 Procedure.

A proceeding to forfeit an abatement bond shall be commenced by filing with the clerk of the court, by the county attorney of the county where the bond is filed, an application under oath to forfeit such bond, setting out the alleged facts constituting the violation of the terms of the bond, upon which the court shall direct by order attached to such application that a notice be issued by the clerk of the district court directed to the principal and sureties on the bond to appear at a certain date fixed to show cause why such bond should not be forfeited and judgment entered for the penalty fixed therein.

[C24, 27, 31, §2042; C35, §1921-f83, 2042; C39, §**1921.083, 2042;** C46, 50, 54, 58, 62, 66, 71, §123.83, 128.29; C73, 75, 77, 79, 81, §123.82]

Referred to in §123.83, 123.84

123.83 Method of trial.

The trial of an action filed pursuant to section 123.82 shall be to the court and as in equity, and be governed by the same rules of evidence as contempt proceedings.

[C24, 27, 31, §2043; C35, §1921-f84, 2043; C39, §**1921.084, 2043;** C46, 50, 54, 58, 62, 66, 71, §123.84, 128.30; C73, 75, 77, 79, 81, §123.83]

2015 Acts, ch 30, §44

123.84 Judgment.

If the court after a hearing in an action filed pursuant to section 123.82 finds an alcoholic liquor, wine, or beer nuisance has been maintained on the premises covered by the abatement bond and that alcoholic liquor, wine, or beer has been sold or kept for sale on the premises contrary to law within one year from the date of the giving of the bond, then the court shall order the forfeiture of the bond and enter judgment for the full amount of the bond against the principal and sureties on the bond. The lien on the real estate created pursuant to section 123.79 shall be decreed foreclosed and the court shall provide for a special and general execution for the enforcement of the decree and judgment.

[C24, 27, 31, §2044; C35, §1921-f85, 2044; C39, §**1921.085, 2044;** C46, 50, 54, 58, 62, 66, 71, §123.85, 128.31; C73, 75, 77, 79, 81, §123.84]

85 Acts, ch 32, §55; 2015 Acts, ch 30, §45; 2018 Acts, ch 1060, §43

Referred to in §123.85

123.85 Appeal.

Appeal from a judgment and decree entered pursuant to section 123.84 may be taken as in equity cases and the cause be triable de novo except that if the state appeals it need not file an appeal or supersedeas bond.

[C24, 27, 31, §2045; C35, §1921-f86, 2045; C39, §**1921.086, 2045;** C46, 50, 54, 58, 62, 66, 71, §123.86, 128.32; C73, 75, 77, 79, 81, §123.85]

2015 Acts, ch 30, §46

123.86 County attorney to prosecute.

It shall be the duty of the county attorney to prosecute in the name of the state all forfeitures of abatement bonds and the foreclosures of same.

[C24, 27, 31, §2047; C35, §1921-f87, 2047; C39, §**1921.087, 2047;** C46, 50, 54, 58, 62, 66, 71, §123.87, 128.34; C73, 75, 77, 79, 81, §123.86]

Referred to in §331.756(24)

123.87 Prompt service.

It shall be a simple misdemeanor for any peace officer to delay service of original notices, writs of injunction, writs of abatement, or warrants for contempt in any equity case filed for injunction or abatement by the state.

[C24, 27, 31, §2049; C35, §1921-f88, 2049; C39, §**1921.088, 2049;** C46, 50, 54, 58, 62, 66, 71, §123.88, 128.36; C73, 75, 77, 79, 81, §123.87]

123.88 Evidence.

On the issue whether a party knew or ought to have known of a nuisance described under section 123.60, evidence of the general reputation of the place shall be admissible.

[C24, 27, 31, §2053; C35, §1921-f89, 2053; C39, §**1921.089, 2053;** C46, 50, 54, 58, 62, 66, 71, §123.89, 128.40; C73, 75, 77, 79, 81, §123.88]

2015 Acts, ch 30, §47

123.89 Counts.

Informations or indictments under this chapter may allege any number of violations of its provisions by the same party, but the several charges must be set out in separate counts, and the accused may be convicted and punished upon each one as on separate informations or

indictments, and a separate judgment shall be rendered on each count under which there is a finding of guilty.

[C51, §931; R60, §1562; C73, §1540; C97, §2425; C24, 27, 31, §1953; C35, §1921-f90, 1953; C39, §**1921.090, 1953;** C46, 50, 54, 58, 62, 66, 71, §123.90, 126.8; C73, 75, 77, 79, 81, §123.89]

123.90 Penalties generally.

Unless other penalties are provided in this chapter, any person, except a person under legal age, who violates any of the provisions of this chapter, or who makes a false statement concerning any material fact in submitting an application for a permit or license, shall be guilty of a serious misdemeanor. Any person under legal age who violates any of the provisions of this chapter shall upon conviction be guilty of a simple misdemeanor.

[C35, §1921-f91, 1921-f127; C39, §**1921.091, 1921.132;** C46, 50, 54, 58, 62, 66, 71, §123.91, 124.37; C73, 75, 77, 79, 81, §123.90]

2020 Acts, ch 1063, §56

123.91 Second and subsequent conviction.

Unless otherwise provided by law, a person who has been convicted in a criminal action in any court of record of a violation of a provision of this chapter, except for a violation of section 123.46, or a provision of the laws of the United States or of any other state relating to alcoholic liquors, wine, or beer, and who is thereafter convicted of a subsequent criminal offense against any provision of this chapter is guilty of the following offenses:

1. For the second conviction, a serious misdemeanor.
2. For the third and each subsequent conviction, an aggravated misdemeanor.

[R60, §1561, 1563, 1577; C73, §1525, 1538, 1540, 1542, 1559; SS15, §2461-m; C24, 27, 31, 35, 39, §**1964;** C46, 50, 54, 58, 62, 66, 71, §126.19; C73, 75, 77, 79, 81, §123.91]

85 Acts, ch 32, §56; 2018 Acts, ch 1060, §44; 2019 Acts, ch 59, §44; 2019 Acts, ch 140, §42

123.92 Civil liability for dispensing or sale and service of any alcoholic beverage (Dramshop Act) — liability insurance — underage persons.

1. *a.* Subject to the limitation amount specified in paragraph "*c*", if applicable, any third party who is not the intoxicated person who caused the injury at issue and who is injured in person or property or means of support by an intoxicated person or resulting from the intoxication of a person, has a right of action for damages actually sustained, severally or jointly against any licensee or permittee, whether or not the license or permit was issued by the division or by the licensing authority of any other state, who sold and served any alcoholic beverage directly to the intoxicated person, provided that the person was visibly intoxicated at the time of the sale or service.

b. If the injury was proximately caused by an intoxicated person, a permittee or licensee may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the person.

c. The total amount recoverable by each plaintiff in any civil action for noneconomic damages for personal injury, whether in tort, contract, or otherwise, against a licensee or permittee, shall be limited to two hundred fifty thousand dollars for any injury or death of a person, unless the jury determines that there is a substantial or permanent loss or impairment of a bodily function, substantial disfigurement, or death, which warrants a finding that imposition of such a limitation would deprive the plaintiff of just compensation for the injuries sustained.

2. *a.* Every liquor control licensee, class "B" beer permittee, and class "C" native wine permittee, except a class "E" liquor control licensee, shall furnish proof of financial responsibility by the existence of a liability insurance policy in an amount determined by the division. If an insurer provides dramshop liability insurance at a new location to a licensee or permittee who has a positive loss experience at other locations for which such insurance is provided by the insurer, and the insurer bases premium rates at the new location on the negative loss history of the previous licensee or permittee at that location, the insurer shall examine and consider adjusting the premium for the new location not less than thirty months

after the insurance is issued, based on the loss experience of the licensee or permittee at that location during that thirty-month period of time.

b. A dramshop liability insurance policy may be written on an aggregate limit basis.

c. The purpose of dramshop liability insurance is to provide protection for members of the public who experience damages as a result of licensees or permittees serving patrons any alcoholic beverage to a point that reaches or exceeds the standard set forth in law for liability. Minimum coverage requirements for such insurance are not for the purpose of making the insurance affordable for all licensees or permittees regardless of claims experience. A dramshop liability insurance policy obtained by a licensee or permittee shall meet the minimum insurance coverage requirements as determined by the division and is a mandatory condition for holding a license or permit.

3. *a.* Notwithstanding section 123.49, subsection 1, any person who is injured in person or property or means of support by an intoxicated person who is under legal age or resulting from the intoxication of a person who is under legal age, has a right of action for all damages actually sustained, severally or jointly, against a person who is not a licensee or permittee and who dispensed or gave any alcoholic beverage to the intoxicated underage person when the nonlicensee or nonpermittee who dispensed or gave the alcoholic beverage to the underage person knew or should have known the underage person was intoxicated, or who dispensed or gave any alcoholic beverage to the underage person to a point where the nonlicensee or nonpermittee knew or should have known that the underage person would become intoxicated.

b. If the injury was caused by an intoxicated person who is under legal age, a person who is not a licensee or permittee and who dispensed or gave the alcoholic beverage to the underage person may establish as an affirmative defense that the intoxication did not contribute to the injurious action of the underage person.

c. For purposes of this subsection, *"dispensed"* or *"gave"* means the act of physically presenting a receptacle containing any alcoholic beverage to the underage person whose actions or intoxication results in the sustaining of damages by another person. However, a person who dispenses or gives any alcoholic beverage to an underage person shall only be liable for any damages if the person knew or should have known that the underage person was under legal age.

[C73, §1557; C97, §2418; C24, 27, 31, 35, 39, §**2055;** C46, 50, 54, 58, 62, §129.2; C66, 71, §123.95, 129.2; C73, 75, 77, 79, 81, §123.92]

85 Acts, ch 32, §57; 86 Acts, ch 1211, §12; 88 Acts, ch 1158, §30; 92 Acts, ch 1136, §1; 97 Acts, ch 126, §7; 2009 Acts, ch 128, §1; 2013 Acts, ch 124, §1; 2016 Acts, ch 1008, §9; 2018 Acts, ch 1060, §45 – 47; 2018 Acts, ch 1090, §1; 2018 Acts, ch 1172, §18, 51

Referred to in §123.3, 123.10, 123.95

Minimum coverage requirements evaluation, see §505.33

123.93 Limitation of action.

Within six months of the occurrence of an injury, the injured person shall give written notice to the licensee or permittee or such licensee's or permittee's insurance carrier of the person's intention to bring an action under this section, indicating the time, place and circumstances causing the injury. Such six months' period shall be extended if the injured party is incapacitated at the expiration thereof or unable, through reasonable diligence, to discover the name of the licensee, permittee, or person causing the injury or until such time as such incapacity is removed or such person has had a reasonable time to discover the name of the licensee, permittee or person causing the injury.

[C73, 75, 77, 79, 81, §123.93]

123.94 Inurement of action prohibited.

No right of action for contribution or indemnity shall accrue to any insurer, guarantor or indemnitor of any intoxicated person for any act of such intoxicated person against any licensee or permittee as defined in this chapter.

[C73, 75, 77, 79, 81, §123.94]

123.95 Premises must be licensed — exception as to conventions and social gatherings.

1. A person shall not allow the dispensing or consumption of alcoholic liquor, except wines and beer, in any establishment unless the establishment is licensed under this chapter or except as otherwise provided in this section.

2. *a.* The holder of an annual class "B" liquor control license or an annual class "C" liquor control license may act as the agent of a private social host for the purpose of providing and serving alcoholic beverages as part of a food catering service for a private social gathering in a private place, provided the licensee has applied for and been granted a catering privilege by the division. The holder of an annual special class "C" liquor control license shall not act as the agent of a private social host for the purpose of providing and serving wine and beer as part of a food catering service for a private social gathering in a private place. An applicant for a class "B" or class "C" liquor control license shall state on the application for the license that the licensee intends to engage in catering food and alcoholic beverages for private social gatherings and the catering privilege shall be noted on the license.

b. The private social host or the licensee shall not solicit payment of any kind, including donations, for the food or alcoholic beverages from the guests, and the alcoholic beverages and food shall be served without cost to the guests.

c. Section 123.92 does not apply to a liquor control licensee who acts in accordance with this section when the liquor control licensee is providing and serving food and alcoholic beverages as an agent of a private social host at a private social gathering in a private place which is not on the licensed premises.

d. A licensee who engages in catering food and alcoholic beverages for private social gatherings shall maintain a record on the licensed premises which includes the name and address of the host of the private social gathering, and the date for which catering was provided. The record maintained pursuant to this section shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

3. However, bona fide conventions or meetings may bring their own legal liquor onto the licensed premises if the liquor is served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. The provisions of this section shall have no application to private social gatherings of friends or relatives in a private home or private place which is not of a commercial nature nor where goods or services may be purchased or sold nor any charge or rent or other thing of value is exchanged for the use of such premises for any purpose other than for sleeping quarters.

[C66, 71, §123.96; C73, 75, 77, 79, 81, §123.95]

85 Acts, ch 32, §58; 93 Acts, ch 91, §20; 2019 Acts, ch 113, §36

Referred to in §7D.16, 123.49

123.96 Reserved.

123.97 Covered into general fund.

All revenues, except the portion of license fees remitted to the local authorities, arising under the operation of the provisions of this chapter shall become part of the state general fund.

[C66, 71, §123.101; C73, 75, 77, 79, 81, §123.97]

123.98 Labeling shipments.

1. It shall be unlawful for any common carrier or for any person to transport or convey by any means, whether for compensation or not, within this state, any alcoholic liquor, wine, or beer, unless the vessel or other package containing such alcoholic liquor, wine, or beer shall be plainly and correctly identified, showing the quantity and kind of alcoholic liquor, wine, or beer contained therein, the name of the party to whom they are to be delivered, and the name of the shipper, or unless such information is shown on a bill of lading or other document accompanying the shipment. No person shall be authorized to receive or keep such alcoholic liquor, wine, or beer unless the same be marked or labeled as required by this section. The violation of any provision of this section by any common carrier, or any agent or employee of any carrier, or by any person, shall be punished under the provisions of this chapter.

2. Any alcoholic liquor, wine, or beer conveyed, carried, transported, or delivered in violation of this section, whether in the hands of the carrier or someone to whom they shall have been delivered, shall be subject to seizure and condemnation, as alcoholic liquor, wine, or beer kept for illegal sale.

[C97, §2421; C24, 27, 31, 35, 39, §**1936, 1938;** C46, 50, 54, 58, 62, 66, 71, §125.16, 125.18; C73, 75, 77, 79, 81, §123.98]

2018 Acts, ch 1060, §48

123.99 False statements.

A person commits a simple misdemeanor if the person, for the purpose of procuring the shipment, transportation, or conveyance of any alcoholic liquor, wine, or beer within this state in violation of this chapter, does any of the following:

1. Makes to any person, company, corporation, or common carrier, or to any agent thereof, any false statements as to the character or contents of any box, barrel, or other vessel or package containing such alcoholic liquor, wine, or beer.

2. Refuses to give correct and truthful information as to the contents of any such box, barrel, or other vessel or package so sought to be transported or conveyed.

3. Falsely labels, brands, or marks a box, barrel, or other vessel or package in order to conceal the fact that the same contains alcoholic liquor, wine, or beer.

4. By any device or concealment procures or attempts to procure the conveyance or transportation of alcoholic liquor, wine, or beer.

[C97, §2420; C24, 27, 31, 35, 39, §**1934;** C46, 50, 54, 58, 62, 66, 71, §125.14; C73, 75, 77, 79, 81, §123.99]

2013 Acts, ch 35, §25; 2018 Acts, ch 1060, §49; 2019 Acts, ch 59, §45

123.100 Packages in transit.

Any peace officer of the county under process or warrant to the peace officer directed shall have the right to open any box, barrel, or other vessel or package for examination, if the peace officer has reasonable ground for believing that it contains alcoholic liquor, wine, or beer, either before or while the same is being so transported or conveyed.

[C97, §2420; C24, 27, 31, 35, 39, §**1935;** C46, 50, 54, 58, 62, 66, 71, §125.15; C73, 75, 77, 79, 81, §123.100]

2013 Acts, ch 35, §26; 2018 Acts, ch 1060, §50

123.101 Record of shipments.

It shall be the duty of all common carriers, or corporations, or persons who shall for hire carry any alcoholic liquor, wine, or beer into the state, or from one point to another within the state, for the purpose of delivery, and who shall deliver such alcoholic liquor, wine, or beer to any person, company, or corporation, to maintain a proper record of the name of the consignor of each shipment of alcoholic liquor, wine, or beer from where shipped, the date of arrival, the quantity and kind of alcoholic liquor, wine, or beer, so far as disclosed by lettering on the package or by the carrier's records, and to whom and where consigned, and the date delivered.

[SS15, §2421-b; C24, 27, 31, 35, 39, §**1940;** C46, 50, 54, 58, 62, 66, 71, §125.20; C73, 75, 77, 79, 81, §123.101]

2013 Acts, ch 35, §27; 2018 Acts, ch 1060, §51

Referred to in §123.102

123.102 Inspection of shipping records.

The records required by section 123.101 shall, during business hours, be open to inspection by any peace or law enforcing officer. It is a simple misdemeanor to refuse such inspection.

[SS15, §2421-c, -d; C24, 27, 31, 35, 39, §**1941;** C46, 50, 54, 58, 62, 66, 71, §125.21; C73, 75, 77, 79, 81, §123.102]

2013 Acts, ch 35, §28

123.103 Record and certification upon delivery.

The full name and residence or place of business of the consignee of a shipment billed in whole or in part as alcoholic liquor, wine, or beer, shall be properly recorded at the time of delivery and the consignee shall certify that the alcoholic liquor, wine, or beer is for the consignee's own lawful purposes.

[SS15, §2421-b; C24, 27, 31, 35, 39, §**1942;** C46, 50, 54, 58, 62, 66, 71, §125.22; C73, 75, 77, 79, 81, §123.103]

2013 Acts, ch 35, §29; 2018 Acts, ch 1060, §52

Referred to in §123.104

123.104 Unlawful delivery.

It is a simple misdemeanor for any corporation, common carrier, person, or any agent or employee thereof:

1. To deliver any alcoholic liquor, wine, or beer to any person other than to the consignee.
2. To deliver any alcoholic liquor, wine, or beer without having the same properly recorded as provided in section 123.103.
3. To deliver any alcoholic liquor, wine, or beer where there is reasonable ground to believe that such alcoholic liquor, wine, or beer is intended for unlawful use.

[SS15, §2421-c1; C24, 27, 31, 35, 39, §**1943;** C46, 50, 54, 58, 62, 66, 71, §125.23; C73, 75, 77, 79, 81, §123.104]

2013 Acts, ch 35, §30; 2018 Acts, ch 1060, §53

123.105 Immunity from damage.

In no case shall any corporation, common carrier, person, or the agent thereof, be liable in damages for complying with any requirements of this chapter.

[SS15, §2421-c; C24, 27, 31, 35, 39, §**1944;** C46, 50, 54, 58, 62, 66, 71, §125.24; C73, 75, 77, 79, 81, §123.105]

123.106 Federal statutes.

The requirements of this chapter relative to the shipment and delivery of alcoholic liquor, wine, or beer and the records to be kept thereof shall be construed in harmony with federal statutes relating to interstate commerce in such liquor, wine, or beer.

[SS15, §2421-e; C24, 27, 31, 35, 39, §**1945;** C46, 50, 54, 58, 62, 66, 71, §125.25; C73, 75, 77, 79, 81, §123.106]

2013 Acts, ch 35, §31; 2018 Acts, ch 1060, §54

123.107 Unnecessary allegations.

1. In any indictment or information under this chapter, it shall not be necessary:

a. To set out exactly the kind or quantity of alcoholic liquor, wine, or beer manufactured, sold, given in evasion of the statute, or kept for sale.

b. To set out the exact time of manufacture, sale, gift, or keeping for sale.

c. To negative any exceptions contained in the statute creating or defining the offense, which may be proper ground of defense.

2. Proof of the violation by the accused of any provision of this chapter, the substance of which violation is briefly set forth, within the time mentioned in the indictment or information, shall be sufficient to convict such person.

[R60, §1569; C73, §1549; C97, §2424; C24, 27, 31, 35, 39, §**1952;** C46, 50, 54, 58, 62, 66, 71, §126.7; C73, 75, 77, 79, 81, §123.107]

2009 Acts, ch 41, §263; 2013 Acts, ch 35, §32; 2018 Acts, ch 1060, §55; 2019 Acts, ch 59, §46

123.108 Second conviction defined.

The second or subsequent convictions provided for in this chapter shall be convictions on separate informations or indictments, and, unless shown in the information or indictment, the charge shall be held to be for a first offense.

[R60, §1562; C73, §1540; C97, §2425; C24, 27, 31, 35, 39, §**1955;** C46, 50, 54, 58, 62, 66, 71, §126.10; C73, 75, 77, 79, 81, §123.108]

123.109 Record of conviction.

On the trial of any cause in which the accused is charged with a second or subsequent offense, a duly authenticated copy of the former judgment in any court in which such conviction was had shall be competent evidence of such former conviction.

[SS15, §2461-n; C24, 27, 31, 35, 39, §**1956;** C46, 50, 54, 58, 62, 66, 71, §126.11; C73, 75, 77, 79, 81, §123.109]

123.110 Proof of sale.

It shall not be necessary in every case to prove payment in order to prove a sale within the meaning and intent of this chapter.

[R60, §1569; C73, §1549; C97, §2424; C24, 27, 31, 35, 39, §**1957;** C46, 50, 54, 58, 62, 66, 71, §126.12; C73, 75, 77, 79, 81, §123.110]

123.111 Purchaser as witness.

The person purchasing any alcoholic liquor, wine, or beer sold in violation of this chapter shall in all cases be a competent witness to prove such sale.

[R60, §1569; C73, §1549; C97, §2424; C24, 27, 31, 35, 39, §**1958;** C46, 50, 54, 58, 62, 66, 71, §126.13; C73, 75, 77, 79, 81, §123.111]

2013 Acts, ch 35, §33; 2018 Acts, ch 1060, §56

123.112 Peace officer as witness.

Every peace officer shall give evidence, when called upon, of any facts within the peace officer's knowledge tending to prove a violation of the provisions of this chapter.

[R60, §1578; C73, §1551; C97, §2428; S13, §2428; C24, 27, 31, 35, 39, §**1959;** C46, 50, 54, 58, 62, 66, 71, §126.14; C73, 75, 77, 79, 81, §123.112]

123.113 Judgment lien.

For all fines and costs assessed or judgments rendered of any kind against any person for a violation of any provision of this chapter, or costs paid by the county on account of such violation, the personal and real property of the violator, whether exempt or not, except the homestead, as well as the premises and property, personal and real, occupied and used for the unlawful purpose, with the knowledge of the owner or the owner's agent, by the violator, shall be liable, and the same shall be a lien on such real estate until paid.

[R60, §1579; C73, §1552, 1558; C97, §2422; C24, 27, 31, 35, 39, §**1960;** C46, 50, 54, 58, 62, 66, 71, §126.15; C73, 75, 77, 79, 81, §123.113]

123.114 Enforcement of lien.

Costs paid by the county for the prosecution of actions or proceedings, civil or criminal, under this chapter, as well as the fines inflicted or judgments rendered, may be enforced against the property upon which the lien attaches by execution, or by action against the owner of the property to subject it to the payment thereof.

[C73, §1558; C97, §2422; C24, 27, 31, 35, 39, §**1961;** C46, 50, 54, 58, 62, 66, 71, §126.16; C73, 75, 77, 79, 81, §123.114]

123.115 Defense.

In any prosecution under this chapter for the unlawful transportation of alcoholic liquor, wine, or beer it shall be a defense that the character and contents of the shipment or thing transported were not known to the accused or to the accused's agent or employee.

[C97, §2419; C24, §2059; C27, 31, 35, §1945-a2; C39, §**1945.3;** C46, 50, 54, 58, 62, 66, 71, §125.28; C73, 75, 77, 79, 81, §123.115]

2013 Acts, ch 35, §34; 2018 Acts, ch 1060, §57

123.116 Right to receive alcoholic liquor, wine, or beer.

The consignee of alcoholic liquor, wine, or beer shall, on demand of the carrier transporting such alcoholic liquor, wine, or beer, furnish the carrier, at the place of delivery, with legal proof of the consignee's legal right to receive such alcoholic liquor, wine, or beer at the time

of delivery, and until such proof is furnished the carrier shall be under no legal obligation to make delivery nor be liable for failure to deliver.

[C24, §2061; C27, 31, 35, §1945-a4; C39, §**1945.5;** C46, 50, 54, 58, 62, 66, 71, §125.30; C73, 75, 77, 79, 81, §123.116]

2013 Acts, ch 35, §35; 2018 Acts, ch 1060, §58

123.117 Delivery to sheriff.

If such proof is not furnished the carrier within ten days after demand, the carrier may deliver such liquor, wine, or beer to the sheriff of the county embracing the place of delivery, and such delivery shall absolve the carrier from all liability pertaining to such liquor, wine, or beer.

[C24, §2062; C27, 31, 35, §1945-a5; C39, §**1945.6;** C46, 50, 54, 58, 62, 66, 71, §125.31; C73, 75, 77, 79, 81, §123.117]

2013 Acts, ch 35, §36

Referred to in §331.653

123.118 Destruction.

The sheriff shall, on receipt of such liquor, wine, or beer from the carrier, report the receipt to the district court of the sheriff's county, and the court shall proceed to summarily enter an order for the destruction or forfeiture to the state of such liquor, wine, or beer.

[C24, §2063; C27, 31, 35, §1945-a6; C39, §**1945.7;** C46, 50, 54, 58, 62, 66, 71, §125.32; C73, 75, 77, 79, 81, §123.118]

2013 Acts, ch 35, §37

Referred to in §331.653

123.119 Evidence.

In all actions, civil or criminal, under the provisions of this chapter, the finding of alcoholic liquors or of instruments or utensils used in the manufacture of alcoholic liquors, or materials which are being used, or are intended to be used in the manufacture of alcoholic liquors, in the possession of or under the control of any person, under and by authority of a search warrant or other process of law, and which shall have been finally adjudicated and declared forfeited by the court, shall be competent evidence of maintaining a nuisance or bootlegging, or of illegal transportation of alcoholic liquors, as the case may be, by such person.

[C27, 31, 35, §1966-a1; C39, §**1966.1;** C46, 50, 54, 58, 62, 66, 71, §126.23; C73, 75, 77, 79, 81, §123.119]

2018 Acts, ch 1060, §59

123.120 Attempt to destroy.

The destruction of or attempt to destroy any liquid by any person while in the presence of peace officers or while a property is being searched by a peace officer, shall be competent evidence that such liquid is alcoholic liquor, wine, or beer and intended for unlawful purposes.

[C27, 31, 35, §1966-a3; C39, §**1966.3;** C46, 50, 54, 58, 62, 66, 71, §126.25; C73, 75, 77, 79, 81, §123.120]

2013 Acts, ch 35, §38; 2018 Acts, ch 1060, §60

123.121 Venue.

1. In any prosecution under this chapter for the unlawful sale of alcoholic liquor, wine, or beer, including a sale which requires a shipment or delivery of the alcoholic liquor, wine, or beer, shall be deemed to be made in the county in which the delivery is made by the carrier to the consignee, or the consignee's agent or employee.

2. In any prosecution under this chapter for the unlawful transportation of alcoholic liquor, wine, or beer, the offense shall be held to have been committed in any county in which such alcoholic liquor, wine, or beer is received for transportation, through which it is transported, or in which it is delivered.

[C97, §2419; C24, §1928, 2060; C27, 31, 35, §1928, 1945-a3; C39, §**1928, 1945.4;** C46, 50, 54, 58, 62, 66, 71, §125.8, 125.29; C73, 75, 77, 79, 81, §123.121]

85 Acts, ch 32, §60; 2013 Acts, ch 35, §39; 2018 Acts, ch 1060, §61

SUBCHAPTER II

BEER PROVISIONS

123.122 Beer certificate, permit, or license required — exception for personal use.

1. A person shall not cause the manufacture, importation, or sale of beer in this state unless a certificate or permit as provided in this subchapter, or a liquor control license as provided in subchapter I of this chapter, is first obtained which authorizes that manufacture, importation, or sale.

2. Any person of legal age may manufacture beer for personal use without a class "A" beer permit, subject to the requirements of this subsection. Such beer may be consumed on the premises or removed from the premises where it was manufactured only if the beer is not sold, exchanged, bartered, dispensed, or given in consideration of purchase for any property or services or in evasion of the requirements of this chapter.

3. Except as otherwise provided in this chapter, a person shall not import beer. However, an individual of legal age may import beer into the state without a certificate, permit, or license an amount of beer not to exceed four and one-half gallons per calendar month that the individual personally obtained outside the state or, in the case of beer personally obtained outside the United States, a quantity which does not exceed the amount allowed by federal law governing the importation of alcoholic beverages into the United States for personal consumption. Beer imported pursuant to this section shall be for personal consumption in a private home or other private accommodation and only if the beer is not sold, exchanged, bartered, dispensed, or given in consideration of purchase for any property or services or in evasion of the requirements of this chapter.

[C35, §1921-f96; C39, §**1921.095;** C46, 50, 54, 58, 62, 66, 71, §124.1; C73, 75, 77, 79, 81, §123.122]

88 Acts, ch 1088, §7; 2015 Acts, ch 30, §48; 2015 Acts, ch 138, §26, 161, 162; 2019 Acts, ch 113, §37

Referred to in §123.10

Charity beer, spirits, and wine auction and event permits, see §123.173A, 123.173B

123.123 Effect on liquor control licensees.

All applicable provisions of this subchapter relating to class "B" beer permits shall apply to liquor control licensees in the purchasing, storage, handling, serving, and sale of beer.

[C73, 75, 77, 79, 81, §123.123]

2015 Acts, ch 30, §49

123.124 Beer permits — classes.

Permits for the manufacture and sale, or sale, of beer shall be divided into four classes, known as class "A", special class "A", class "B", or class "C" beer permits. A holder of a class "A" or special class "A" beer permit shall have the authority as provided in section 123.130. A holder of a class "B" beer permit shall have the authority as provided in section 123.131, and a holder of a class "C" beer permit shall have the authority as provided in section 123.132.

[C35, §1921-f98; C39, §**1921.097;** C46, 50, 54, 58, 62, 66, 71, §124.3; C73, 75, 77, 79, 81, §123.124]

88 Acts, ch 1241, §15; 89 Acts, ch 221, §1; 92 Acts, ch 1003, §1; 94 Acts, ch 1017, §6; 2010 Acts, ch 1031, §89, 96; 2015 Acts, ch 53, §3; 2016 Acts, ch 1073, §33; 2017 Acts, ch 119, §20

Referred to in §123.45, 123.130

123.125 Issuance of beer permits.

The administrator shall issue class "A", special class "A", class "B", and class "C" beer permits and may suspend or revoke permits for cause as provided in this chapter.

[C35, §1921-f98; C39, §**1921.097;** C46, 50, 54, 58, 62, 66, 71, §124.3; C73, 75, 77, 79, 81, §123.125]

89 Acts, ch 221, §2; 2010 Acts, ch 1031, §90, 96; 2017 Acts, ch 119, §21

123.126 High alcoholic content beer — applicability.

Unless otherwise provided by this chapter, the provisions of this chapter applicable to beer shall also apply to high alcoholic content beer.

2010 Acts, ch 1189, §42, 43

123.126A Canned cocktails — applicability — manufacture.

1. Unless otherwise provided by this chapter, the provisions of this chapter applicable to beer shall also apply to canned cocktails.

2. Notwithstanding any provision of this chapter to the contrary, a manufacturer of beer may obtain and possess alcoholic liquor from the division for the purpose of manufacturing canned cocktails.

2019 Acts, ch 107, §3, 6; 2020 Acts, ch 1010, §1, 2

123.127 Class "A" and special class "A" beer permit application and issuance.

1. A person applying for a class "A" or special class "A" beer permit shall submit a completed application electronically, or in a manner prescribed by the administrator, which shall set forth under oath the following:

a. The name and place of residence of the applicant.

b. The names and addresses of all persons or, in the case of a corporation, limited liability company, or any other similar legal entity, the officers, directors, and persons owning or controlling ten percent or more of the capital stock thereof, having a financial interest, by way of loan, ownership, or otherwise, in the business.

c. The location of the premises where the applicant intends to operate.

d. The name of the owner of the premises and if the owner of the premises is not the applicant, whether the applicant is the actual lessee of the premises.

e. When required by the administrator, and in such form and containing such information as the administrator may require, a description of the premises where the applicant intends to use the permit, to include a sketch or drawing of the premises and, if applicable, the number of square feet of interior floor space which comprises the retail sales area of the premises.

f. Whether any person specified in paragraph *"b"* has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any such state or territory.

g. Any other information as required by the administrator.

2. The administrator shall issue a class "A" or special class "A" beer permit to any applicant who establishes all of the following:

a. That the applicant has submitted a completed application as required by subsection 1.

b. That the applicant is a person of good moral character as provided in section 123.3, subsection 40.

c. That the applicant is a citizen of the state of Iowa or, if a corporation, that the applicant is authorized to do business in the state.

d. That the applicant has filed with the division a basic permit issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury, and that the applicant will faithfully observe and comply with all laws, rules, and regulations governing the manufacture and sale of beer.

e. That the premises where the applicant intends to use the permit conforms to all applicable laws, health regulations, and fire regulations, and constitutes a safe and proper place or building.

f. That the applicant gives consent to a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the applicant to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

g. That the applicant has submitted a bond in the amount of ten thousand dollars in a manner prescribed by the administrator with good and sufficient sureties to be approved by the division conditioned upon compliance with this chapter.

h. If the person is applying for a special class "A" beer permit, that the applicant holds or has applied for a class "C" liquor control license or class "B" beer permit.

[C35, §1921-f102; C39, §**1921.103;** C46, 50, 54, 58, 62, 66, §124.8; C71, §124.8, 124.41; C73, 75, 77, 79, 81, §123.127]

88 Acts, ch 1241, §16; 89 Acts, ch 221, §3; 2003 Acts, ch 143, §6, 17; 2009 Acts, ch 41, §177; 2010 Acts, ch 1031, §91, 92, 96; 2013 Acts, ch 35, §8, 9; 2015 Acts, ch 53, §4; 2016 Acts, ch 1073, §34, 35; 2017 Acts, ch 119, §22; 2018 Acts, ch 1060, §62; 2019 Acts, ch 113, §38, 39

Referred to in §123.32, 123.128, 123.129

123.128 Class "B" beer permit application.

A class "B" beer permit shall be issued by the administrator to any person who:

1. Submits an application electronically, or in a manner prescribed by the administrator, which shall state under oath:

a. All the information required of an applicant by section 123.127, subsection 1.

b. That the premises for which the permit is sought is and will continue to be equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and in areas where such business is permitted by any valid zoning ordinance or will be so permitted on the effective date of the permit.

2. Fulfills the requirements of section 123.127, subsection 2, paragraphs *"b"*, *"c"*, and *"e"*.

3. Consents to inspection as required in section 123.30, subsection 1.

[C35, §1921-f103; C39, §**1921.104;** C46, 50, 54, 58, 62, 66, 71, §124.9; C73, 75, 77, 79, 81, §123.128]

88 Acts, ch 1088, §8; 88 Acts, ch 1241, §17; 2009 Acts, ch 41, §178, 179; 2013 Acts, ch 35, §10; 2015 Acts, ch 53, §5, 6; 2016 Acts, ch 1073, §36; 2017 Acts, ch 119, §23, 24

Referred to in §123.32

123.129 Class "C" beer permit application.

1. A class "C" beer permit shall not be issued to any person except the owner or proprietor of a grocery store or pharmacy.

2. A class "C" beer permit shall be issued by the administrator to any person who is the owner or proprietor of a grocery store or pharmacy, who:

a. Submits an application electronically, or in a manner prescribed by the administrator, which shall state under oath all the information required of an applicant by section 123.127, subsection 1.

b. Fulfills the requirements of section 123.127, subsection 2, paragraphs *"b"*, *"c"*, and *"e*.

c. Consents to inspection as required in section 123.30, subsection 1.

[C35, §1921-f104; C39, §**1921.105;** C46, 50, 54, 58, 62, 66, 71, §124.10; C73, 75, 77, 79, 81, §123.129]

88 Acts, ch 1088, §9; 88 Acts, ch 1241, §18; 2009 Acts, ch 41, §180; 2009 Acts, ch 133, §193; 2011 Acts, ch 17, §12; 2013 Acts, ch 35, §11; 2015 Acts, ch 53, §7; 2016 Acts, ch 1073, §37, 38; 2017 Acts, ch 119, §25, 26

Referred to in §123.32

123.130 Authority under class "A" and special class "A" beer permits.

1. *a.* Any person holding a class "A" beer permit issued by the division shall be authorized to manufacture and sell, or sell at wholesale, beer for consumption off the premises, such sales within the state to be made only to persons holding subsisting class "A", "B", or "C" beer permits, both a class "C" native wine permit and a class "A" wine permit pursuant to section 123.178B, subsection 4, or liquor control licenses issued in accordance with the provisions of this chapter. However, a person holding a class "A" beer permit issued by the division who also holds a brewer's notice issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury shall be authorized to sell, at wholesale, no more than thirty thousand barrels of beer on an annual basis for consumption off the premises to a licensee or permittee authorized under this chapter to sell beer at retail.

b. A person holding a class "A" beer permit may sell beer to distributors outside of the state that are authorized by the laws of that jurisdiction to sell beer at wholesale.

c. A class "A" or special class "A" beer permit does not grant authority to manufacture wine as defined in section 123.3, subsection 54.

2. Pursuant to section 123.45, subsection 3, a native brewery may be granted not more than two class "B" beer permits as defined in section 123.124 for the purpose of selling beer at retail for consumption on or off the premises of the manufacturing facility.

3. All class "A" premises shall be located within the state. All beer received by the holder of a class "A" beer permit from the holder of a certificate of compliance before being resold must first come to rest on the licensed premises of the permit holder, must be inventoried, and is subject to the barrel tax when resold as provided in section 123.136. A class "A" beer permittee shall not store beer overnight except on premises licensed under a class "A" beer permit.

4. All special class "A" premises shall be located within the state. A person who holds a special class "A" beer permit for the same location at which the person holds a class "C" liquor control license or class "B" beer permit for the purpose of operating as a brewpub may manufacture and sell beer to be consumed on the premises, may sell at retail at the manufacturing premises for consumption off the premises beer that is transferred at the time of sale to another container subject to the requirements of section 123.131, subsection 2, may sell beer to a class "A" beer permittee for resale purposes, and may sell beer to distributors outside of the state that are authorized by the laws of that jurisdiction to sell beer at wholesale. The permit issued to holders of a special class "A" beer permit shall clearly state on its face that the permit is limited.

5. A manufacturer of beer issued a class "A" or special class "A" beer permit shall file with the division, on or before the fifteenth day of each calendar month, all documents filed with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, including all brewer's operation and excise tax return reports.

[C35, §1921-f105; C39, §**1921.106;** C46, 50, 54, 58, 62, 66, 71, §124.11; C73, 75, 77, 79, 81, §123.130]

88 Acts, ch 1241, §19; 89 Acts, ch 221, §4; 92 Acts, ch 1003, §2; 2010 Acts, ch 1031, §93, 96; 2015 Acts, ch 53, §8; 2016 Acts, ch 1073, §39; 2017 Acts, ch 119, §27; 2018 Acts, ch 1060, §63; 2019 Acts, ch 8, §5; 2019 Acts, ch 113, §40 – 42; 2021 Acts, ch 133, §3

Referred to in §123.124, 123.136
Subsection 2 amended

123.131 Authority under class "B" beer permit.

1. Subject to the provisions of this chapter, any person holding a class "B" beer permit shall be authorized to sell beer for consumption on or off the premises. Sales of beer for consumption off the premises made pursuant to this section shall be made in original containers except as provided in subsection 2. However, unless otherwise provided in this chapter, no sale of beer shall be made for consumption on the premises unless the place where such service is made is equipped with tables and seats sufficient to accommodate not less than twenty-five persons at one time.

2. Subject to the rules of the division, sales of beer for consumption off the premises made pursuant to this section may be made in a container other than the original container only if the container is carried into an immediately adjacent premises covered by a license or permit that authorizes the consumption of beer, temporarily closed public right-of-way, or a private place, or if all of the following requirements are met:

a. The beer is transferred from the original container to the container to be sold on the licensed premises at the time of sale or when sold by telephonic or other electronic means.

b. The person transferring the beer from the original container to the container to be sold shall be eighteen years of age or more.

c. The container to be sold shall be no larger than seventy-two ounces.

d. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of beer has been tampered with or the sealed container has otherwise been reopened.

3. A container of beer other than the original container that is sold and sealed in

compliance with the requirements of subsection 2 and the rules of the division shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

4. A person holding a class "B" beer permit and a class "A" beer permit whose primary purpose is manufacturing beer may purchase wine from a wholesaler holding a class "A" wine permit for sale at retail for consumption on the premises covered by the class "B" beer permit.

5. A person holding a class "B" beer permit may also hold a special class "A" beer permit for the premises licensed under a class "B" beer permit for the purpose of operating as a brewpub pursuant to this chapter.

[C35, §1921-f106; C39, §**1921.107;** C46, 50, 54, 58, 62, 66, 71, §124.12; C73, 75, 77, 79, 81, §123.131]

2016 Acts, ch 1073, §40; 2017 Acts, ch 119, §28; 2018 Acts, ch 1060, §64; 2018 Acts, ch 1172, §61; 2019 Acts, ch 113, §43; 2020 Acts, ch 1114, §14, 16

Referred to in §123.124, 123.130, 123.177

123.132 Authority under class "C" beer permit.

1. The holder of a class "C" beer permit shall be allowed to sell beer to consumers at retail for consumption off the premises. The sales made pursuant to this section shall be made in original containers except as provided in subsection 2.

2. Subject to the rules of the division, sales made pursuant to this section may be made in a container other than the original container only if all of the following requirements are met:

a. The beer is transferred from the original container to the container to be sold on the licensed premises at the time of sale.

b. The person transferring the beer from the original container to the container to be sold shall be eighteen years of age or more.

c. The container to be sold shall be no larger than seventy-two ounces.

d. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of beer has been tampered with or the sealed container has otherwise been reopened.

3. A container of beer other than the original container that is sold and sealed in compliance with the requirements of subsection 2 and the division's rules shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

4. The holder of a class "C" beer permit or the permittee's agents or employees shall not sell beer to other retail license or permit holders knowing or having reasonable cause to believe that the beer will be resold in another licensed establishment.

[C35, §1921-f107; C39, §**1921.108;** C46, 50, 54, 58, 62, 66, 71, §124.13; C73, 75, 77, 79, 81, §123.132]

94 Acts, ch 1017, §7; 2015 Acts, ch 66, §1; 2015 Acts, ch 138, §14, 161, 162; 2016 Acts, ch 1073, §41

Referred to in §123.124

123.133 Sale on trains — bond. Repealed by 2011 Acts, ch 17, §16.

123.134 Beer permit fees — Sunday sales.

1. The annual permit fee for a class "A" or special class "A" beer permit is seven hundred fifty dollars.

2. The annual permit fee for a class "B" beer permit shall be graduated according to population as follows:

a. For premises located within the corporate limits of cities with a population of ten thousand and over, three hundred dollars.

b. For premises located within the corporate limits of cities with a population of at least fifteen hundred but less than ten thousand, two hundred dollars.

c. For premises located within the corporate limits of cities with a population of under fifteen hundred, one hundred dollars.

d. For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be operated under the permit, and in case there is doubt as to which of two or more differing corporate limits is the nearest, the permit fee which is the largest shall prevail. However, if the premises are located in an unincorporated town, for purposes of this subsection the unincorporated town shall be treated as if it is a city.

3. The annual permit fee for a class "C" beer permit shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:

a. Up to one thousand five hundred square feet, the sum of seventy-five dollars.

b. Over one thousand five hundred square feet and up to two thousand square feet, the sum of one hundred dollars.

c. Over two thousand and up to five thousand square feet, the sum of two hundred dollars.

d. Over five thousand square feet, the sum of three hundred dollars.

4. Any club, hotel, motel, or commercial establishment holding a class "B" beer permit, subject to the provisions of section 123.49, subsection 2, paragraph "*b*", may apply for and receive permission to sell and dispense beer to patrons on Sunday for consumption on or off the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday. Any class "C" beer permittee may sell beer for consumption off the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday. For the privilege of selling beer on Sunday the beer permit fees of the applicant shall be increased by twenty percent of the regular fees prescribed for the permit pursuant to this section and the privilege shall be noted on the beer permit.

[C35, §1921-f117; C39, §**1921.119;** C46, 50, 54, 58, 62, 66, 71, §124.24; C73, 75, 77, 79, 81, §123.134]

84 Acts, ch 1275, §5; 87 Acts, ch 22, §10; 88 Acts, ch 1241, §20; 89 Acts, ch 221, §5; 91 Acts, ch 245, §4; 2010 Acts, ch 1031, §94, 96; 2011 Acts, ch 17, §13; 2016 Acts, ch 1073, §42 – 44; 2017 Acts, ch 119, §29, 30; 2021 Acts, ch 155, §9

Referred to in §123.34, 123.49, 123.143, 123.150
Subsection 4 amended

123.135 Brewer's certificate of compliance — penalties.

1. A manufacturer, brewer, bottler, importer, or vendor of beer, or any agent thereof, desiring to ship or sell beer, or have beer brought into this state for resale by a class "A" beer permittee, shall first make application for and be issued a brewer's certificate of compliance by the administrator for that purpose. The certificate of compliance expires at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each completed application for a certificate of compliance or renewal of a certificate shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of five hundred dollars payable to the division. Each holder of a certificate of compliance shall furnish the information in a manner the administrator requires.

2. At the time of applying for a certificate of compliance, each applicant shall file with the division a list of all class "A" beer permittees with whom it intends to do business and shall designate the geographic area in which its products are to be distributed by such permittee. The listing of class "A" beer permittees and geographic area as filed with the division shall be amended by the holder of a certificate of compliance as necessary to keep the listing current with the division.

3. All class "A" beer permit holders shall sell only those brands of beer which are manufactured, brewed, bottled, shipped, or imported by a person holding a current certificate of compliance. Any employee or agent working for or representing the holder of a certificate of compliance within this state shall submit electronically, or in a manner prescribed by the administrator, the employee's or agent's name and address with the division.

4. It shall be unlawful for any holder of a certificate of compliance or the holder's agent,

or any class "A" beer permit holder or the beer permit holder's agent, to grant to any retail beer permit holder, directly or indirectly, any rebates, free goods, or quantity discounts on beer which are not uniformly offered to all retail permittees.

5. Any violation of the requirements of this chapter or the rules adopted pursuant to this chapter shall subject the holder of a brewer's certificate of compliance or a class "A" beer permit holder to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the certificate or permit, or revocation of the certificate or permit after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

[C73, 75, 77, 79, 81, §123.135]

89 Acts, ch 221, §6; 89 Acts, ch 252, §3; 2010 Acts, ch 1031, §95, 96; 2012 Acts, ch 1021, §38; 2013 Acts, ch 35, §12; 2015 Acts, ch 53, §9; 2016 Acts, ch 1073, §45; 2017 Acts, ch 119, §31; 2019 Acts, ch 113, §44, 45

Referred to in §123.32

123.136 Barrel tax.

1. In addition to the annual permit fee to be paid by all class "A" beer permittees under this chapter there shall be levied and collected from the permittees on all beer manufactured for sale or sold in this state at wholesale and on all beer imported into this state for sale at wholesale and sold in this state at wholesale, and from special class "A" beer permittees on all beer manufactured for consumption on the premises and on all beer sold at retail at the manufacturing premises for consumption off the premises pursuant to section 123.130, subsection 4, a tax of five and eighty-nine hundredths dollars for every barrel containing thirty-one gallons, and at a like rate for any other quantity or for the fractional part of a barrel. However, no tax shall be levied or collected on beer shipped outside this state by a class "A" beer permittee or special class "A" beer permittee or on beer sold to a class "A" beer permittee by a special class "A" beer permittee or another class "A" beer permittee.

2. All revenue derived from the barrel tax shall accrue to the state general fund.

3. All of the provisions of this chapter relating to the administration of the barrel tax on beer shall apply to this section.

[C35, §1921-f118; C39, §**1921.120;** C46, 50, 54, 58, 62, 66, 71, §124.25; C73, 75, 77, 79, 81, §123.136]

86 Acts, ch 1246, §751; 89 Acts, ch 221, §7; 2015 Acts, ch 53, §10; 2016 Acts, ch 1073, §46; 2017 Acts, ch 119, §32; 2019 Acts, ch 113, §46

Referred to in §123.130, 123.137, 123.142

123.137 Report of barrel sales — penalty.

1. A person holding a class "A" or special class "A" beer permit shall, on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a beer permit, make a report under oath to the division electronically, or in a manner prescribed by the administrator, showing the exact number of barrels of beer, or fractional parts of barrels, sold by the beer permit holder during the preceding calendar month. The report shall also state information the administrator requires, and beer permit holders shall at the time of filing a report pay to the division the amount of tax due at the rate fixed in section 123.136.

2. A penalty of ten percent of the amount of the tax shall be added thereto if the report is not filed and the tax paid within the time required by this section.

[C35, §1921-f119; C39, §**1921.121;** C46, 50, 54, 58, 62, 66, 71, §124.26; C73, 75, 77, 79, 81, §123.137]

89 Acts, ch 221, §8; 2013 Acts, ch 35, §13; 2015 Acts, ch 53, §11; 2016 Acts, ch 1073, §47; 2017 Acts, ch 119, §33

123.138 Records required — keg identification sticker.

1. Each class "A" or special class "A" beer permittee shall keep proper records showing the amount of beer sold by the permittee, and these records shall be at all times open to inspection by the administrator and to other persons pursuant to section 123.30, subsection 1. Each class "B" beer permittee, class "C" beer permittee, or retail liquor control licensee

shall keep proper records showing each purchase of beer made by the permittee or licensee, and the date and the amount of each purchase and the name of the person from whom each purchase was made, which records shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the permittee or licensee.

2. *a.* Each class "B", "C", or special class "C" liquor control licensee and class "B" or "C" beer permittee who sells beer for off-premises consumption shall affix to each keg of beer an identification sticker provided by the administrator. The sticker provided shall allow for its full removal when common external keg cleaning procedures are performed. For the purposes of this subsection, "*keg*" means all durable and disposable containers with a liquid capacity of five gallons or more. Each class "B", "C", or special class "C" liquor control licensee and class "B" or "C" beer permittee shall also keep a record of the identification sticker number of each keg of beer sold by the licensee or permittee with the name and address of the purchaser and the number of the purchaser's driver's license, nonoperator's identification card, or military identification card, if the military identification card contains a picture and signature. This information shall be retained by the licensee or permittee for a minimum of ninety days. The records kept pursuant to this subsection shall be available for inspection by any law enforcement officer during normal business hours.

b. (1) The division shall provide the keg identification stickers described in paragraph "*a*" and shall, prior to utilizing a sticker, notify licensed brewers and licensed beer importers of the type of sticker to be utilized. Each sticker shall contain a number and the following statement:

> It is unlawful to sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person under legal age. Any person who defaces this sticker shall be guilty of criminal mischief punishable pursuant to section 716.6 and shall cause the forfeiture of any deposit, if applicable.

(2) The identification sticker shall be placed on the keg at the time of retail sale. The licensee or permittee shall purchase the stickers referred to in this subsection from the division and shall remit to the division deposits forfeited pursuant to this lettered paragraph due to defacement. The cost of the stickers to licensees and permittees shall not exceed the division's cost of producing and distributing the stickers. The moneys collected by the division relating to the sale of stickers and forfeited deposits shall be credited to the beer and liquor control fund.

c. The provisions of this subsection shall be implemented uniformly throughout the state. The provisions of this subsection shall preempt any local county or municipal ordinance regarding keg registration or the sale of beer in kegs. In addition, a county or municipality shall not adopt or continue in effect an ordinance regarding keg registration or the sale of beer in kegs.

d. The division shall establish by rule procedures relating to the forfeiture and remittance of deposits pursuant to paragraph "*b*".

[C35, §1921-f120; C39, §**1921.122;** C46, 50, 54, 58, 62, 66, 71, §124.27; C73, 75, 77, 79, 81, §123.138]

88 Acts, ch 1241, §21; 89 Acts, ch 221, §9; 2007 Acts, ch 46, §2; 2013 Acts, ch 35, §40; 2014 Acts, ch 1092, §29; 2015 Acts, ch 53, §12; 2016 Acts, ch 1073, §48; 2017 Acts, ch 119, §34

Referred to in §123.50

123.139 Separate locations — class "A" or special class "A" beer permit.

A class "A" or special class "A" beer permittee having more than one place of business is required to have a separate beer permit for each separate place of business maintained by the permittee where beer is manufactured, stored, warehoused, or sold.

[C35, §1921-f121; C39, §**1921.123;** C46, 50, 54, 58, 62, 66, 71, §124.28; C73, 75, 77, 79, 81, §123.139]

89 Acts, ch 221, §10; 2015 Acts, ch 53, §13; 2016 Acts, ch 1073, §49; 2017 Acts, ch 119, §35; 2018 Acts, ch 1060, §65

123.140 Separate locations — class "B" or "C" beer permit.

Every person holding a class "B" or class "C" beer permit having more than one place of business where such beer is sold which places do not constitute a single premises within the meaning of section 123.3, subsection 29, shall be required to have a separate license for each separate place of business, except as otherwise provided by this chapter.

[C35, §1921-f122; C39, §**1921.124;** C46, 50, 54, 58, 62, 66, 71, §124.29; C73, 75, 77, 79, 81, §123.140]

2016 Acts, ch 1073, §50

123.141 Keeping liquor where beer is sold.

No alcoholic liquor for beverage purposes shall be used, or kept for any purpose in the place of business of class "B" beer permittees, or on the premises of such class "B" beer permittees, at any time. A violation of any provision of this section shall be grounds for suspension or revocation of the beer permit pursuant to section 123.50, subsection 3. This section shall not apply in any manner or in any way to the premises of any hotel or motel for which a class "B" beer permit has been issued, other than that part of such premises regularly used by the hotel or motel for the principal purpose of selling beer or food to the general public, to a premises for which both a class "B" beer permit and a class "A" native distilled spirits license have been issued, or to keep a pharmacy from having alcohol in stock for medicinal and compounding purposes.

[C35, §1921-g4; C39, §**1921.126;** C46, 50, 54, 58, 62, 66, 71, §124.31; C73, 75, 77, 79, 81, §123.141]

2011 Acts, ch 17, §14; 2016 Acts, ch 1073, §51; 2017 Acts, ch 29, §40; 2019 Acts, ch 160, §4

123.142 Unlawful sale and importation.

1. It is unlawful for the holder of a class "B" or class "C" beer permit issued under this chapter to sell beer, except beer brewed on the premises covered by a special class "A" beer permit or beer purchased from a person holding a class "A" beer permit issued in accordance with this chapter, and on which the tax provided in section 123.136 has been paid. However, this section does not apply to class "D" liquor control licensees as provided in this chapter.

2. It shall be unlawful for any person not holding a class "A" beer permit to import beer into this state for the purpose of sale or resale.

[C35, §1921-f124; C39, §**1921.127;** C46, 50, 54, 58, 62, 66, 71, §124.32; C73, 75, 77, 79, 81, §123.142]

89 Acts, ch 221, §11; 2011 Acts, ch 17, §15; 2015 Acts, ch 53, §14; 2016 Acts, ch 1073, §52; 2017 Acts, ch 119, §36

123.143 Distribution of funds.

The revenues obtained from permit fees and the barrel tax collected under the provisions of this chapter shall be distributed as follows:

1. All retail beer permit fees collected by any local authority at the time application for the permit is made shall be retained by the local authority. A certified copy of the receipt for the permit fee shall be submitted to the division with the application and the local authority shall be notified at the time the permit is issued. Those amounts collected for the privilege authorized under section 123.134, subsection 4, shall be deposited in the beer and liquor control fund.

2. All permit fees and taxes collected by the division under this subchapter shall accrue to the state general fund, except as otherwise provided.

3. Barrel tax revenues collected on beer manufactured in this state from a class "A" beer permittee which owns and operates a native brewery shall be credited to the barrel tax fund hereby created in the office of the treasurer of state. Moneys deposited in the barrel tax fund shall not revert to the general fund of the state without a specific appropriation by the general

assembly. Moneys in the barrel tax fund are appropriated to the economic development authority for purposes of section 15E.117.

[C35, §1921-f125; C39, §**1921.128;** C46, 50, 54, 58, 62, 66, 71, §124.33; C73, 75, 77, 79, 81, §123.143]

83 Acts, ch 123, §60, 209; 84 Acts, ch 1312, §7; 85 Acts, ch 198, §2; 87 Acts, ch 95, §1; 2010 Acts, ch 1188, §29; 2011 Acts, ch 118, §85, 89; 2015 Acts, ch 30, §50; 2015 Acts, ch 53, §15; 2016 Acts, ch 1073, §53; 2017 Acts, ch 119, §37; 2019 Acts, ch 113, §47

Referred to in §15E.117, 125.59, 331.427

123.144 Bottling beer. Repealed by 2019 Acts, ch 113, §63. See §123.122.

123.145 Labels on bottles, barrels, etc. — conclusive evidence.

The label on any bottle, keg, barrel, or other container in which beer is offered for sale in this state, representing the alcoholic content of such beer as being in excess of five percent by weight shall be conclusive evidence as to the alcoholic content of the beer contained therein.

[C35, §1921-f128; C39, §**1921.133;** C46, 50, 54, 58, 62, 66, 71, §124.38; C73, 75, 77, 79, 81, §123.145]

2013 Acts, ch 30, §24

123.146 Importation of beer for personal use. Repealed by 2019 Acts, ch 113, §63. See §123.122.

123.147 through 123.149 Reserved.

SUBCHAPTER III

SPECIAL PROVISIONS

123.150 Sunday sales before New Year's Day.

Notwithstanding section 123.36, subsection 6, section 123.49, subsection 2, paragraph "*b*", and section 123.134, subsection 4, a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer to patrons for consumption on the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 6:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day. The liquor control license fee or beer permit fee of licensees and permittees permitted to sell or dispense liquor, wine, or beer on a Sunday when that Sunday is the day before New Year's Day shall not be increased because of this privilege. The special privileges granted in this section are in force only during the specified times provided in this section.

[C79, 81, §123.150]

85 Acts, ch 195, §15; 86 Acts, ch 1122, §10; 91 Acts, ch 245, §5; 2021 Acts, ch 155, §10

Section amended

123.151 Posting notice on drunk driving laws required. Repealed by 93 Acts, ch 91, §22.

123.152 Reserved.

SUBCHAPTER IV

WAREHOUSE PROJECT

123.153 through 123.162 Repealed by 2011 Acts, ch 17, §16.

123.163 through 123.170 Reserved.

SUBCHAPTER V

WINE PROVISIONS — CHARITY BEER, SPIRITS, AND WINE AUCTIONS AND EVENTS

123.171 Wine certificate, permit, or license required — exceptions for personal use.

1. A person shall not cause the manufacture, importation, or sale of wine in this state unless a certificate or permit as provided in this subchapter, or a liquor control license as provided in subchapter I of this chapter, is first obtained which authorizes that manufacture, importation, or sale.

2. Any person of legal age may manufacture wine for personal use without a class "A" wine permit, subject to the requirements of this subsection. Such wine may be consumed on the premises or removed from the premises where it was manufactured only if the wine is not sold, exchanged, bartered, dispensed, or given in consideration of purchase for any property or services or in evasion of the requirements of this chapter.

3. Notwithstanding subsection 1, an individual of legal age may import into the state without a certificate, permit, or license an amount of wine not to exceed nine liters per calendar month that the individual personally obtained outside the state or, in the case of wine personally obtained outside the United States, a quantity which does not exceed the amount allowed by federal law governing the importation of alcoholic beverages into the United States for personal consumption. Wine imported pursuant to this subsection shall be for personal consumption in a private home or other private accommodation and only if the wine is not sold, exchanged, bartered, dispensed, or given in consideration of purchase for any property or services or in evasion of the requirements of this chapter.

85 Acts, ch 32, §62; 2015 Acts, ch 30, §51; 2016 Acts, ch 1008, §10; 2018 Acts, ch 1096, §5, 6
Referred to in §123.10

123.172 Effect on liquor control licensees.

All applicable provisions of this subchapter relating to class "B" wine permits apply to liquor control licensees in the purchasing, storage, handling, serving, and sale of wine.

85 Acts, ch 32, §63; 2015 Acts, ch 30, §52

123.173 Wine permits — classes — authority.

1. Except as provided in section 123.187, permits exclusively for the sale or manufacture and sale of wine shall be divided into four classes, and shall be known as class "A", "B", "B" native, or "C" native wine permits.

2. A class "A" wine permit allows the holder to manufacture and sell, or sell at wholesale, in this state, wine. The holder of a class "A" wine permit may manufacture in this state wine having an alcoholic content greater than seventeen percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume for shipment outside this state. All class "A" premises shall be located within the state. A class "B" or class "B" native wine permit allows the holder to sell wine at retail for consumption off the premises. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license may sell wine to class "A", class "B", class "C", special class "C", and class "D" liquor control licensees for resale for consumption on the premises. Such wine sales shall be in quantities of less than one case of any wine brand but not more than one such sale shall be made to the same liquor control licensee in a twenty-four-hour period. A class "B" or class "B" native wine permittee shall not sell wine to other class "B" or class "B" native wine permittees. A class "C" native wine permit allows the holder to sell native wine for consumption on or off the premises.

3. A class "A" wine permittee shall be required to deliver wine to a retail wine permittee, and a retail wine permittee shall be required to accept delivery of wine from a class "A" wine permittee, only at the licensed premises of the retail wine permittee. Except as specifically permitted by the division upon good cause shown, delivery or transfer of wine from an unlicensed premises to a licensed retail wine permittee's premises, or from one licensed retail wine permittee's premises to another licensed retail wine permittee's premises, even if there is common ownership of all of the premises by one retail permittee, is prohibited. A class "B" or class "B" native wine permittee who also holds a class "E" liquor control license

shall keep and maintain records for each sale of wine to liquor control licensees showing the name of the establishment to which wine was sold, the date of sale, and the brands and number of bottles sold to the liquor control licensee.

4. When a class "B" or class "B" native wine permittee who also holds a class "E" liquor control license sells wine to a liquor control licensee, the liquor control licensee shall sign a report attesting to the purchase. The class "B" or class "B" native wine permittee who also holds a class "E" liquor control license shall submit a report to the division electronically, or in a manner prescribed by the administrator, not later than the tenth of each month stating each sale of wine to liquor control licensees during the preceding month, the date of each sale, and the brands and numbers of bottles with each sale. A class "B" permittee who holds a class "E" liquor control license may sell to class "A", class "B", or class "C" liquor control licensees only if the licensed premises of the liquor control licensee is located within the geographic territory of the class "A" wine permittee from which the wine was originally purchased by the class "B" or class "B" native wine permittee.

85 Acts, ch 32, §64; 88 Acts, ch 1241, §22; 91 Acts, ch 203, §2, 3; 2003 Acts, ch 143, §7, 17; 2006 Acts, ch 1032, §2; 2010 Acts, ch 1031, §99; 2013 Acts, ch 35, §14; 2016 Acts, ch 1008, §11; 2018 Acts, ch 1060, §66

Referred to in §123.30, 123.176

123.173A Charity beer, spirits, and wine auction permit.

1. For purposes of this section, *"authorized nonprofit entity"* includes a nonprofit entity which has a principal office in the state, a nonprofit corporation organized under chapter 504, or a foreign corporation as defined in section 504.141, whose income is exempt from federal taxation under section 501(c) of the Internal Revenue Code.

2. An authorized nonprofit entity may, upon application to the division and receipt of a charity beer, spirits, and wine auction permit from the division, conduct a charity auction which includes beer, spirits, and wine. The completed application shall specify the date and time when the charity beer, spirits, and wine auction is to be conducted and the premises in this state where the charity beer, spirits, and wine auction is to be physically conducted. The applicant shall certify that the objective of the charity beer, spirits, and wine auction is to raise funds solely to be used for educational, religious, or charitable purposes and that the entire proceeds from the charity beer, spirits, and wine auction are to be expended for any of the purposes described in section 423.3, subsection 78.

3. An authorized nonprofit entity shall be eligible to receive only two charity beer, spirits, and wine auction permits during a calendar year and each charity beer, spirits, and wine auction permit shall be valid for a period not to exceed thirty-six consecutive hours.

4. The authorized nonprofit entity conducting the charity beer, spirits, and wine auction shall obtain the beer, spirits, and wine to be auctioned at the charity beer, spirits, and wine auction from an Iowa retail beer permittee, an Iowa retail liquor control licensee, or an Iowa retail wine permittee, or may receive donations of beer, spirits, or wine to be auctioned at the charity beer, spirits, and wine auction from persons who purchased the donated beer, spirits, or wine from an Iowa retail beer permittee, an Iowa retail liquor control licensee, an Iowa class "A" native distilled spirits licensee, or an Iowa retail wine permittee and who present a receipt documenting the purchase at the time the beer, spirits, or wine is donated. The authorized nonprofit entity conducting the charity beer, spirits, and wine auction shall retain a copy of the receipt for a period of one year from the date of the charity beer, spirits, and wine auction.

5. Persons shall be physically present at the charity beer, spirits, and wine auction to be eligible to bid on beer, spirits, and wine sold at the charity auction.

6. The beer, spirits, and wine sold at the charity beer, spirits, and wine auction shall be in original containers for consumption off of the premises where the charity beer, spirits, and wine auction is conducted. No other alcoholic beverage may be sold by the charity beer, spirits, and wine auction permittee at the charity beer, spirits, and wine auction. A purchaser of beer, spirits, or wine at a charity beer, spirits, and wine auction shall not take possession of the beer, spirits, or wine until the person is leaving the event. A purchaser of beer, spirits, or wine at a charity beer, spirits, and wine auction shall not open the container or consume

or permit the consumption of the beer, spirits, or wine purchased on the premises where the charity beer, spirits, and wine auction is conducted. A purchaser of beer, spirits, or wine at a charity beer, spirits, and wine auction shall not resell the beer, spirits, or wine.

7. A liquor control licensee, beer permittee, class "A" native distilled spirits licensee, or wine permittee shall not purchase beer, spirits, or wine at a charity beer, spirits, and wine auction. The charity beer, spirits, and wine auction may be conducted on a premises for which a class "B" liquor control license or class "C" liquor control license has been issued, provided that the liquor control licensee does not participate in the charity beer, spirits, and wine auction, supply beer, spirits, or wine to be auctioned at the charity beer, spirits, and wine auction, or receive any of the proceeds of the charity beer, spirits, and wine auction.

8. Any violation of the requirements of this chapter or the rules adopted pursuant to this chapter shall subject the permit holder to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the permit, or revocation of the permit after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

2010 Acts, ch 1031, §85; 2013 Acts, ch 51, §1; 2017 Acts, ch 119, §47; 2019 Acts, ch 113, §48, 49

Referred to in §123.32

123.173B Charity beer, spirits, and wine event permit.

1. For purposes of this section,"*authorized nonprofit entity*" includes a nonprofit entity which has a principal office in the state, a nonprofit corporation organized under chapter 504, or a foreign corporation as defined in section 504.141, whose income is exempt from federal taxation under section 501(c) of the Internal Revenue Code.

2. Upon application to the division and receipt of a charity beer, spirits, and wine event permit, an authorized nonprofit entity may conduct an event at which the entity is authorized to serve the event's attendees beer, spirits, and wine for consumption on the premises of the event, regardless of whether the entity charges an admission fee to the event or otherwise collects the cost of the beer, spirits, and wine served from the event's attendees and subject to the requirements of this section.

3. An application for a charity beer, spirits, and wine event permit shall include all of the following information:

a. The date and time when the charity beer, spirits, and wine event is to be conducted and the location of the premises in this state where the charity beer, spirits, and wine event is to be physically conducted.

b. The liquor control license or wine or beer permit number issued by the division for the premises where the charity beer, spirits, and wine event is to be conducted.

c. A certification that the objective of the charity beer, spirits, and wine event is to raise funds solely to be used for educational, religious, or charitable purposes and that the entire proceeds from the charity beer, spirits, and wine event are to be expended for any of the purposes described in section 423.3, subsection 78.

4. A charity beer, spirits, and wine event shall comply with all of the following requirements:

a. The event is to be conducted on a premises covered by a valid liquor control license or wine or beer permit issued by the division.

b. The authorized nonprofit entity shall have a written agreement with the liquor control licensee or wine or beer permittee covering the premises where the event is to be conducted specifying that that licensee or permittee shall act as the agent of the authorized nonprofit entity for the purpose of providing and serving alcoholic beverages to the attendees of the event.

c. The liquor control licensee or wine or beer permittee covering the premises where the event is to be conducted shall supply all alcoholic beverages served to the attendees of the event.

d. Only those types of alcoholic beverages as are authorized to be sold by the liquor control license or wine or beer permit covering the premises where the event is to be conducted are to be served to the attendees of the event.

5. An authorized nonprofit entity shall be eligible to receive no more than two charity beer, spirits, and wine event permits during a calendar year and each charity beer, spirits, and wine event permit shall be valid for a period not to exceed thirty-six consecutive hours.

6. Any violation of the requirements of this chapter or the rules adopted pursuant to this chapter shall subject the charity beer, spirits, and wine event permit holder to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the permit, or revocation of the permit after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

2020 Acts, ch 1114, §2
Referred to in §123.32

123.174 Issuance of wine permits.

The administrator shall issue wine permits as provided in this chapter, and may suspend or revoke a wine permit for cause as provided in this chapter.

85 Acts, ch 32, §65; 2003 Acts, ch 143, §8, 17

123.175 Class "A" or retail wine permit application and issuance.

1. A person applying for a class "A" or retail wine permit shall submit a completed application electronically, or in a manner prescribed by the administrator, which shall set forth under oath the following:

a. The name and place of residence of the applicant.

b. The names and addresses of all persons or, in the case of a corporation, limited liability company, or any other similar legal entity, the officers, directors, and persons owning or controlling ten percent or more of the capital stock thereof, having a financial interest, by way of loan, ownership, or otherwise, in the business.

c. The location of the premises where the applicant intends to operate.

d. The name of the owner of the premises and if the owner of the premises is not the applicant, whether the applicant is the actual lessee of the premises.

e. When required by the administrator, and in such form and containing such information as the administrator may require, a description of the premises where the applicant intends to use the permit, to include a sketch or drawing of the premises and, if applicable, the number of square feet of interior floor space which comprises the retail sales area of the premises.

f. Whether any person specified in paragraph "*b*" has ever been convicted of any offense against the laws of the United States, or any state or territory thereof, or any political subdivision of any such state or territory.

g. Any other information as required by the administrator.

2. The administrator shall issue a class "A" or retail wine permit to any applicant who establishes all of the following:

a. That the applicant has submitted a completed application as required by subsection 1.

b. That the applicant is a person of good moral character as provided in section 123.3, subsection 40.

c. That the applicant is a citizen of the state of Iowa or, if a corporation, that the applicant is authorized to do business in the state.

d. That, in the case of a class "A" wine permit, the applicant has filed with the division a basic permit issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury, and that the applicant will faithfully observe and comply with all the laws, rules, and regulations governing the manufacture and sale of wine.

e. That the premises where the applicant intends to use the permit conforms to all applicable laws, health regulations, and fire regulations, and constitutes a safe and proper place or building.

f. That the applicant gives consent to a person, pursuant to section 123.30, subsection 1, to enter upon the premises without a warrant during the business hours of the applicant to inspect for violations of the provisions of this chapter or ordinances and regulations that local authorities may adopt.

g. That the applicant has submitted, in the case of a class "A" wine permit, a bond in the amount of five thousand dollars in a manner prescribed by the administrator with good

and sufficient sureties to be approved by the division conditioned upon compliance with this chapter.

85 Acts, ch 32, §66; 88 Acts, ch 1241, §23; 2003 Acts, ch 143, §9, 17; 2013 Acts, ch 35, §15, 16; 2017 Acts, ch 119, §13; 2018 Acts, ch 1060, §67; 2019 Acts, ch 113, §50, 51

Referred to in §123.32, 123.187

123.176 Native wines.

1. Subject to rules of the division, manufacturers of native wines from grapes, cherries, other fruits or other fruit juices, vegetables, vegetable juices, dandelions, clover, honey, or any combination of these ingredients, holding a class "A" wine permit as required by this chapter, may sell, keep, or offer for sale and deliver the wine. Notwithstanding section 123.24, subsection 2, paragraph *"b"*, or any other provision of this chapter, manufacturers of native wine may obtain and possess grape brandy from the division for the sole purpose of manufacturing wine.

2. Native wine may be sold at retail for off-premises consumption when sold on the premises of the manufacturer, or in a retail establishment operated by the manufacturer. Sales may also be made to class "A" or retail wine permittees or liquor control licensees as authorized by sections 123.173 and 123.177. A manufacturer of native wines shall not sell the wines other than as permitted in this chapter and shall not allow wine sold to be consumed upon the premises of the manufacturer. However, prior to sale, native wines may be tasted pursuant to the rules of the division on the premises where made, when no charge is made for the tasting.

3. A manufacturer of native wines may ship wine in closed containers to individual purchasers inside this state by obtaining a wine direct shipper permit pursuant to section 123.187.

4. A class "A" wine permit issued for a native wine manufacturer shall only allow the native wine manufacturer to sell, keep, or offer for sale and deliver the manufacturer's native wines as provided under this section.

5. Notwithstanding any other provision of this chapter, a person engaged in the business of manufacturing native wine may sell native wine at retail for consumption on the premises of the manufacturing facility by applying for a class "C" native wine permit as provided in section 123.178B. A manufacturer of native wine may be granted not more than two class "C" native wine permits. A manufacturer of native wine may be issued a class "C" native wine permit regardless of whether the manufacturer is also a manufacturer of beer pursuant to a class "A" beer permit or a manufacturer of native distilled spirits pursuant to a class "A" native distilled spirits license.

6. Notwithstanding any other provision of this chapter, a person employed by a manufacturer of native wine holding a class "A" wine permit may be employed by a brewery with a class "A" beer permit provided the person has no ownership interest in either licensed premises.

7. A manufacturer may use the space and equipment of another manufacturer for the purpose of manufacturing native wine, provided that such an alternating proprietorship arrangement is approved by the alcohol and tobacco tax and trade bureau of the United States department of the treasury. A separate class "A" wine permit shall be issued to each manufacturer, and each manufacturer shall be subject to the provisions of this chapter and the rules of the division. Notwithstanding subsection 5, not more than one class "C" native wine permit shall be issued to a premises with alternating proprietorships.

8. A manufacturer of native wines shall file with the division, on or before the fifteenth day of each calendar month, all documents filed with the alcohol and tobacco tax and trade bureau of the United States department of the treasury, including all wine premises operations and excise tax return reports.

9. For the purposes of this section, *"manufacturer"* includes only those persons who process in Iowa the fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wines.

[C35, §1921-f56; C39, §**1921.056;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §123.56]

85 Acts, ch 32, §49; 85 Acts, ch 198, §1; 2003 Acts, ch 143, §4, 5, 17; 2009 Acts, ch 73, §1; 2011 Acts, ch 17, §11; 2011 Acts, ch 30, §8; 2015 Acts, ch 53, §2; 2016 Acts, ch 1008, §8; 2017 Acts, ch 119, §46; 2018 Acts, ch 1060, §41; 2019 Acts, ch 113, §33 – 35, 62; 2019 Acts, ch 160, §3

C2020, §123.176

2021 Acts, ch 133, §4

Referred to in §123.3

Former §123.176 repealed by 2003 Acts, ch 143, §15, 17

Subsection 5 amended

123.177 Authority under class "A" wine permit.

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to persons holding a class "A" or "B" wine permit and to persons holding a retail liquor control license. However, if the person holding the class "A" permit is a manufacturer of native wine, the person may sell only native wine to a person holding a retail wine permit or a retail liquor control license. A person holding a class "A" wine permit may sell wine to distributors outside of the state that are authorized by the laws of that jurisdiction to sell wine at wholesale. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be manufactured, stored, warehoused, or sold.

2. A class "A" wine permit holder may purchase and resell only those brands of wine which are manufactured, fermented, bottled, shipped, or imported by a person holding a certificate of compliance issued pursuant to section 123.180.

3. A class "A" wine permit holder may sell wine to a person holding both a class "B" beer permit and a class "A" beer permit pursuant to section 123.131, subsection 4.

85 Acts, ch 32, §68; 88 Acts, ch 1241, §25; 93 Acts, ch 91, §21; 2003 Acts, ch 143, §10, 17; 2017 Acts, ch 119, §14; 2018 Acts, ch 1060, §68; 2019 Acts, ch 113, §52

Referred to in §123.30, 123.176

123.178 Authority under class "B" wine permit.

1. A person holding a class "B" wine permit may sell wine at retail for consumption off the premises. Wine shall be sold for consumption off the premises in original containers except as provided in subsection 4.

2. A class "B" wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.

3. A person holding a class "B" wine permit may purchase wine for resale only from a person holding a class "A" wine permit.

4. Subject to the rules of the division, sales made pursuant to this section may be made in a container other than the original container only if all of the following requirements are met:

a. The wine is transferred from the original container to the container to be sold on the licensed premises at the time of sale or when sold by telephonic or other electronic means.

b. The person transferring the wine from the original container to the container to be sold shall be eighteen years of age or more.

c. The container to be sold shall be no larger than seventy-two ounces.

d. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of wine has been tampered with or the sealed container has otherwise been reopened.

5. A container of wine other than the original container that is sold and sealed in compliance with the requirements of subsection 4 and the rules of the division shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

85 Acts, ch 32, §69; 86 Acts, ch 1246, §752; 2020 Acts, ch 1114, §4, 5

123.178A Authority under class "B" native wine permit.

1. A person holding a class "B" native wine permit may sell native wine only at retail for

consumption off the premises. Native wine shall be sold for consumption off the premises in original containers except as provided in subsection 4.

2. A class "B" native wine permittee having more than one place of business where wine is sold shall obtain a separate permit for each place of business.

3. A person holding a class "B" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

4. Subject to the rules of the division, sales made pursuant to this section may be made in a container other than the original container only if all of the following requirements are met:

a. The wine is transferred from the original container to the container to be sold on the licensed premises at the time of sale or when sold by telephonic or other electronic means.

b. The person transferring the wine from the original container to the container to be sold shall be eighteen years of age or more.

c. The container to be sold shall be no larger than seventy-two ounces.

d. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of wine has been tampered with or the sealed container has otherwise been reopened.

5. A container of wine other than the original container that is sold and sealed in compliance with the requirements of subsection 4 and the rules of the division shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

2003 Acts, ch 143, §11, 17; 2020 Acts, ch 1114, §6, 7

123.178B Authority under class "C" native wine permit.

1. A person holding a class "C" native wine permit may sell native wine only at retail for consumption on or off the premises. Sales of wine for consumption off the premises made pursuant to this section shall be made in original containers except as provided in subsection 5.

2. A class "C" native wine permittee having more than one place of business where wine is sold and served shall obtain a separate permit for each place of business.

3. A person holding a class "C" native wine permit may purchase wine for resale only from a native winery holding a class "A" wine permit.

4. A person holding a class "C" native wine permit and a class "A" wine permit whose primary purpose is manufacturing native wine may purchase beer from a wholesaler holding a class "A" beer permit for sale at retail for consumption on or off the premises covered by the class "C" native wine permit.

5. Subject to the rules of the division, sales made pursuant to this section may be made in a container other than the original container only if all of the following requirements are met:

a. The wine is transferred from the original container to the container to be sold on the licensed premises at the time of sale or when sold by telephonic or other electronic means.

b. The person transferring the wine from the original container to the container to be sold shall be eighteen years of age or more.

c. The container to be sold shall be no larger than seventy-two ounces.

d. The container to be sold shall be securely sealed by a method authorized by the division that is designed so that if the sealed container is reopened or the seal tampered with, it is visibly apparent that the seal on the container of wine has been tampered with or the sealed container has otherwise been reopened.

6. A container of wine other than the original container that is sold and sealed in compliance with the requirements of subsection 5 and the rules of the division shall not be deemed an open container subject to the requirements of sections 321.284 and 321.284A if the sealed container is unopened and the seal has not been tampered with, and the contents of the container have not been partially removed.

2003 Acts, ch 143, §12, 17; 2009 Acts, ch 104, §1; 2017 Acts, ch 119, §15; 2020 Acts, ch 1114, §8, 9

Referred to in §123.130, 123.176

123.179 Permit fees.

1. The annual permit fee for a class "A" wine permit that is not issued to a native wine manufacturer is seven hundred fifty dollars.
2. The annual permit fee for a class "A" wine permit issued to a native wine manufacturer is twenty-five dollars.
3. The annual permit fee for a class "B" wine permit is five hundred dollars.
4. The annual permit fee for a class "B" native wine permit is twenty-five dollars.
5. The annual permit fee for a class "C" native wine permit is twenty-five dollars.
6. The fee for a charity beer, spirits, and wine auction permit is one hundred dollars.
7. The fee for a charity beer, spirits, and wine event permit is one hundred dollars.

85 Acts, ch 32, §70; 2003 Acts, ch 143, §13, 17; 2010 Acts, ch 1031, §86; 2013 Acts, ch 51, §2; 2019 Acts, ch 113, §53, 54; 2020 Acts, ch 1114, §3

Referred to in §123.34

123.180 Vintner's certificate of compliance — wholesale and retail restrictions — penalties.

1. A manufacturer, vintner, bottler, importer, or vendor of wine, or an agent thereof, desiring to ship, sell, or have wine brought into this state for sale at wholesale by a class "A" permittee shall first make application for and shall be issued a vintner's certificate of compliance by the administrator for that purpose. The vintner's certificate of compliance shall expire at the end of one year from the date of issuance and shall be renewed for a like period upon application to the administrator unless otherwise revoked for cause. Each completed application for a vintner's certificate of compliance or renewal of a certificate shall be submitted electronically, or in a manner prescribed by the administrator, and shall be accompanied by a fee of one hundred dollars payable to the division. Each holder of a vintner's certificate of compliance shall furnish the information required by the administrator in the form the administrator requires. A vintner or wine bottler whose plant is located in Iowa and who otherwise holds a class "A" wine permit to sell wine at wholesale is exempt from the fee, but not the other terms and conditions. The holder of a vintner's certificate of compliance may also hold a class "A" wine permit.
2. At the time of applying for a vintner's certificate of compliance, each applicant shall file with the division a list of all class "A" wine permittees with whom it intends to do business. The listing of class "A" wine permittees as filed with the division shall be amended by the holder of the certificate of compliance as necessary to keep the listing current with the division.
3. All class "A" wine permit holders shall sell only those brands of wine which are manufactured, bottled, fermented, shipped, or imported by a person holding a current vintner's certificate of compliance. An employee or agent working for or representing the holder of a vintner's certificate of compliance within this state shall register the employee's or agent's name and address with the division. These names and addresses shall be filed with the division's copy of the certificate of compliance issued except that this provision does not require the listing of those persons who are employed on the premises of a bottling plant, or winery where wine is manufactured, fermented, or bottled in Iowa or the listing of those persons who are thereafter engaged in the transporting of the wine.
4. It is unlawful for a holder of a vintner's certificate of compliance or the holder's agent, or any class "A" wine permittee or the permittee's agent, to discriminate between class "B" wine permittees authorized to sell wine at retail.
5. It is unlawful for a holder of a vintner's certificate of compliance or the vintner's agent who is engaged in the business of selling wine to class "A" wine permittees to discriminate between class "A" wine permittees authorized to sell wine at wholesale.
6. Any violation of the requirements of this chapter or the rules adopted pursuant to this chapter shall subject the holder of a vintner's certificate of compliance or a class "A" wine permit holder to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty, suspension of the certificate or permit, or revocation of the

certificate or permit after notice and opportunity for a hearing pursuant to section 123.39 and chapter 17A.

85 Acts, ch 32, §71; 89 Acts, ch 161, §8; 89 Acts, ch 252, §4; 2012 Acts, ch 1021, §39; 2013 Acts, ch 35, §17; 2015 Acts, ch 53, §16; 2017 Acts, ch 119, §16; 2019 Acts, ch 113, §55, 56

Referred to in §123.32, 123.177

123.181 Prohibited acts.

1. A holder of any class "B" wine permit shall not sell wine except wine which is purchased from a person holding a class "A" wine permit and on which the tax imposed by section 123.183 has been paid or wine purchased from a manufacturer of native wines.

2. A class "A" wine permittee shall not sell wine on credit to a retail licensee or permittee for a period exceeding thirty days from date of delivery.

85 Acts, ch 32, §72; 89 Acts, ch 252, §5; 2018 Acts, ch 1060, §69

123.182 Labels — point of origin — conclusive evidence.

1. All imported bulk wines to be bottled and distributed in the state shall have the point of origin stated on the label. The print size for the point of origin shall be at least half the print size of the brand name on the label.

2. The label on a bottle or other container in which wine is offered for sale in this state, which label represents the alcoholic content of the wine as being in excess of seventeen percent by weight or twenty-one and twenty-five hundredths percent of alcohol by volume, is conclusive evidence of the alcoholic content of that wine.

85 Acts, ch 32, §73; 2006 Acts, ch 1032, §3

123.183 Wine gallonage tax and related funds.

1. In addition to the annual permit fee to be paid by each class "A" wine permittee, a wine gallonage tax shall be levied and collected from each class "A" wine permittee on all wine manufactured for sale and sold in this state at wholesale and on all wine imported into this state for sale at wholesale and sold in this state at wholesale. A wine gallonage tax shall also be levied and collected on the direct shipment of wine pursuant to section 123.187. The rate of the wine gallonage tax is one dollar and seventy-five cents for each wine gallon. The same rate shall apply for the fractional parts of a wine gallon. The wine gallonage tax shall not be levied or collected on wine sold by one class "A" wine permittee to another class "A" wine permittee or on wine that is sold by a class "A" wine permittee to a distributor outside of the state.

2. *a.* Revenue collected from the wine gallonage tax on wine manufactured for sale and sold at wholesale in this state, and on wine subject to direct shipment as provided in section 123.187 by a wine manufacturer licensed or permitted pursuant to laws regulating alcoholic beverages in this state, shall be deposited in the wine gallonage tax fund as created in this section.

b. (1) A wine gallonage tax fund is created in the office of the treasurer of state.

(2) Moneys deposited in the fund are appropriated as follows:

(a) To the midwest grape and wine industry institute at Iowa state university of science and technology, two hundred fifty thousand dollars.

(b) To the economic development authority for purposes of section 15E.117, the balance of moneys in the fund after the appropriation in subparagraph division (a).

(3) Moneys in the fund and moneys appropriated from the fund pursuant to subparagraph (2) are not subject to reversion under section 8.33.

3. The revenue collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale, and on wine subject to direct shipment as provided in section 123.187 by a wine manufacturer licensed or permitted pursuant to laws regulating alcoholic beverages in another state, shall be deposited in the beer and liquor control fund created in section 123.17.

85 Acts, ch 32, §74; 85 Acts, ch 198, §4, 5; 86 Acts, ch 1246, §753; 87 Acts, ch 95, §2; 2001 Acts, ch 162, §1; 2002 Acts, ch 1050, §15; 2003 Acts, ch 143, §14, 17; 2005 Acts, ch 113, §1;

2007 Acts, ch 211, §41; 2010 Acts, ch 1193, §164; 2011 Acts, ch 118, §85, 89; 2011 Acts, ch 130, §29, 71; 2012 Acts, ch 1136, §26; 2017 Acts, ch 119, §17; 2019 Acts, ch 113, §57
Referred to in §15E.117, 123.181, 123.184, 123.187

123.184 Report of gallonage sales — penalty.

1. Each class "A" wine permit holder on or before the tenth day of each calendar month commencing on the tenth day of the calendar month following the month in which the person is issued a permit, shall make a report under oath to the division electronically, or in a manner prescribed by the administrator, showing the exact number of gallons of wine and fractional parts of gallons sold by that permit holder during the preceding calendar month. The report also shall state whatever reasonable additional information the administrator requires. The permit holder at the time of filing this report shall pay to the division the amount of tax due at the rate fixed in section 123.183. A penalty of ten percent of the amount of the tax shall be assessed and collected if the report required to be filed pursuant to this subsection is not filed and the tax paid within the time required by this subsection.

2. Each wine direct shipper license holder shall make a report under oath to the division electronically, or in a manner prescribed by the administrator, on or before the tenth day of the calendar months of June and December, showing the exact number of gallons of wine and fractional parts of gallons sold and shipped pursuant to section 123.187 during the preceding six-month calendar period. The report shall also state whatever reasonable additional information the administrator requires. The license holder at the time of filing this report shall pay to the division the amount of tax due at the rate fixed in section 123.183. A penalty of ten percent of this amount shall be assessed and collected if the report required to be filed pursuant to this subsection is not filed and the tax paid within the time required by this subsection.

85 Acts, ch 32, §75; 2013 Acts, ch 35, §18; 2015 Acts, ch 104, §1
Referred to in §123.187

123.185 Records required.

Each class "A" wine permittee shall keep records showing each sale of wine, which shall be at all times open to inspection by the administrator and pursuant to section 123.30, subsection 1. Each class "B" wine permittee shall keep proper records showing each purchase of wine and the date and the amount of each purchase and the name of the person from whom each purchase was made, which shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the permittee.

85 Acts, ch 32, §76; 88 Acts, ch 1241, §26; 2013 Acts, ch 35, §42

123.186 Federal regulations adopted as rules — penalties.

1. The division shall adopt as rules the substance of the federal regulations 27 C.F.R. pt. 6, 27 C.F.R. pt. 8, 27 C.F.R. pt. 10, and 27 C.F.R. pt. 11.

2. The division shall adopt as rules the substance of 27 C.F.R. §6.88, to permit a manufacturer of alcoholic beverages, wine, or beer, or an agent of such manufacturer, to provide to a retailer without charge wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters. The rules shall provide that the manufacturer shall be responsible for paying the costs of any filters provided.

3. A licensee or permittee who permits or assents to or is a party in any way to a violation or infringement of a rule adopted pursuant to this section is guilty of a violation of this section. A violation of this section shall subject the licensee or permittee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the license or permit pursuant to section 123.39.

85 Acts, ch 32, §77; 2006 Acts, ch 1061, §1; 2007 Acts, ch 22, §36; 2018 Acts, ch 1060, §70; 2019 Acts, ch 113, §58

123.187 Direct shipment of wine — permit and requirements.

1. A wine manufacturer licensed or permitted pursuant to laws regulating alcoholic beverages in this state or another state may apply for a wine direct shipper permit, as

provided in this section. For the purposes of this section, a *"wine manufacturer"* means a person who processes the fruit, vegetables, dandelions, clover, honey, or any combination of these ingredients, by fermentation into wines.

2. *a.* Only a wine manufacturer that holds a wine direct shipper permit issued pursuant to this section shall sell wine at retail for direct shipment to any person within this state. This section shall not prohibit an authorized retail licensee or permittee from delivering wine pursuant to section 123.46A.

b. A wine manufacturer applying for a wine direct shipper permit shall submit an application for the permit electronically, or in a manner prescribed by the administrator, accompanied by a true copy of the manufacturer's current alcoholic beverage license or permit issued by the state where the manufacturer is primarily located and a copy of the manufacturer's basic permit issued by the alcohol and tobacco tax and trade bureau of the United States department of the treasury.

c. An application submitted pursuant to paragraph *"b"* shall be accompanied by a permit fee in the amount of twenty-five dollars.

d. An application submitted pursuant to paragraph *"a"* shall also be accompanied by a bond in the amount of five thousand dollars in the form prescribed and furnished by the division with good and sufficient sureties to be approved by the division conditioned upon compliance with this chapter. However, a wine manufacturer that has submitted a bond pursuant to section 123.175, subsection 2, paragraph *"g"*, shall not be required to provide a bond as provided in this paragraph.

e. A permit issued pursuant to this section may be renewed annually by submitting a renewal application with the administrator in a manner prescribed by the administrator, accompanied by the twenty-five dollar permit fee.

3. The direct shipment of wine pursuant to this section shall be subject to the following requirements and restrictions:

a. Wine shall only be shipped to a resident of this state who is at least twenty-one years of age, for the resident's personal use and consumption and not for resale.

b. Wine subject to direct shipping shall be properly registered with the federal alcohol and tobacco tax and trade bureau, and fermented on the winery premises of the wine direct shipper permittee.

c. All containers of wine shipped directly to a resident of this state shall be conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or shall be conspicuously labeled with alternative wording preapproved by the administrator.

d. All containers of wine shipped directly to a resident of this state shall be shipped by a holder of a wine carrier permit as provided in section 123.188.

e. Shipment of wine pursuant to this subsection does not require a refund value for beverage container control purposes under chapter 455C.

4. A wine direct shipper permittee shall remit to the division an amount equivalent to the wine gallonage tax on wine subject to direct shipment at the rate specified in section 123.183 for deposit as provided in section 123.183, subsections 2 and 3. The amount shall be remitted at the time and in the manner provided in section 123.184, subsection 2, and the ten percent penalty specified therein shall be applicable.

5. A wine direct shipper permittee shall be deemed to have consented to the jurisdiction of the division or any other agency or court in this state concerning enforcement of this section and any related laws, rules, or regulations. A permit holder shall allow the division to perform an audit of shipping records upon request.

6. A violation of this section shall subject the permittee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the permit pursuant to section 123.39.

96 Acts, ch 1101, §1; 2003 Acts, 1st Ex, ch 2, §158, 205; 2010 Acts, ch 1031, §100; 2010 Acts, ch 1193, §165; 2013 Acts, ch 35, §19; 2015 Acts, ch 11, §1; 2015 Acts, ch 104, §2; 2017 Acts, ch 119, §18; 2018 Acts, ch 1060, §71; 2019 Acts, ch 113, §59, 60

Referred to in §123.32, 123.46A, 123.173, 123.176, 123.183, 123.184, 123.188

123.188 Wine carrier — permit and requirements.

1. A person desiring to deliver wine subject to direct shipment within this state pursuant to section 123.187 shall submit an application for a wine carrier permit electronically, or in a manner prescribed by the administrator, which shall be accompanied by a fee in the amount of one hundred dollars.

2. The administrator may in accordance with this chapter issue a wine carrier permit which shall be valid for one year from the date of issuance unless it is sooner suspended or revoked for a violation of this chapter.

3. A permit issued pursuant to this section may be renewed annually by submitting a renewal application with the administrator in a manner prescribed by the administrator, accompanied by the one hundred dollar permit fee.

4. The delivery of wine pursuant to this section shall be subject to the following requirements and restrictions:

a. A wine carrier permittee shall not deliver wine to any person under twenty-one years of age, or to any person who either is or appears to be in an intoxicated state or condition.

b. A wine carrier permittee shall obtain valid proof of identity and age prior to delivery, and shall obtain the signature of an adult as a condition of delivery.

c. A wine carrier permittee shall maintain records of wine shipped which include the permit number and name of the wine manufacturer, quantity of wine shipped, recipient's name and address, and an electronic or paper form of signature from the recipient of the wine. Records shall be submitted to the division on a monthly basis in a form and manner to be determined by the division.

5. A violation of this section shall subject the permittee to the general penalties provided in this chapter and shall constitute grounds for imposition of a civil penalty or suspension or revocation of the permit pursuant to section 123.39.

2019 Acts, ch 113, §61; 2020 Acts, ch 1063, §57
Referred to in §123.32, 123.187

CHAPTER 123A

BEER BREWERS AND WHOLESALERS — CANNED COCKTAILS

123A.1 Purposes and scope.
123A.2 Definitions.
123A.3 Termination and notice of cancellation.
123A.4 Cancellation.
123A.5 Prohibited conduct.
123A.6 Transfer of business assets or stock.
123A.7 Reasonable compensation.
123A.8 Right of free association.
123A.9 Judicial remedies.
123A.10 Waiver — prohibited.
123A.11 Indemnification.
123A.12 Application to existing agreements.
123A.13 Canned cocktails — applicability of chapter.

123A.1 Purposes and scope.

This chapter is enacted pursuant to the authority of the state under the provisions of the twenty-first amendment to the Constitution of the United States to promote the public's interest in fair, efficient, and competitive distribution of beer products through regulation and encouragement of brewer and wholesaler vendors to conduct their business relations toward these ends by:

1. Assuring that the beer wholesaler is free to manage its business enterprise.

2. Assuring the brewer and the public of service from wholesalers who will devote reasonable efforts and resources to distribution and sales of all of the brewer's products which the wholesaler has been granted the right to sell and distribute and maintain satisfactory sales levels.

3. Promoting and maintaining a sound, stable, and viable three-tier system of distribution of beer to the public.

95 Acts, ch 101, §1

123A.2 Definitions.

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

1. *"Affected party"* means a wholesaler, brewer, master distributor, successor brewer, or any person that is a party to an agreement.

2. *"Agreement"* means a contract or arrangement whether expressed or implied, oral or written, for a definite or indefinite period between a brewer and a wholesaler pursuant to which a wholesaler has been granted the right to purchase, resell, and distribute one or more brands of beer offered by a brewer, or a contract or arrangement in which a brewer grants to a wholesaler a license to use a trade name, trademark, service mark, or related characteristic and in which there is a community of interest in the marketing of the products of the brewer. An agreement exists when one or more of the following occur:

a. A brewer has shipped beer to a wholesaler or accepted an order for beer from a wholesaler.

b. A brewer purchases the right to manufacture a beer product, the right to use the trade name for the product, or the right to distribute a product from another brewer with whom the wholesaler has an agreement.

3. *"Beer"* means beer or high alcoholic content beer as defined in section 123.3.

4. *"Brand"* means a word, name, group of letters, symbol, or a combination of words, names, letters, or symbols adopted and used by a brewer to identify a specific beer product, and to distinguish that beer product from other beer products brewed or marketed by that brewery or other breweries.

5. *"Brand extension"* means a brand which incorporates all or a substantial part of the unique features of a preexisting brand of the same brewery and which relies to a significant extent on the goodwill associated with the preexisting brand. However, a general corporate logo or symbol or an advertising message, whether appearing on the product packaging or elsewhere, is not a brand, brand extension, or part of a brand or brand extension.

6. *"Brewer"* means a person who is engaged in the manufacture of beer for the purpose of sale, barter, exchange, or transportation, a master distributor, or a fermenter, processor, bottler, packager, or importer of beer, or a successor brewer.

7. *"Canned cocktail"* means as defined in section 123.3.

8. *"Designated member"* means a deceased wholesaler's spouse, child, grandchild, parent, brother, or sister, who is entitled to inherit the deceased wholesaler's ownership interest under the terms of the deceased wholesaler's will, other testamentary device, or the laws of intestate succession. With respect to an incapacitated individual having an ownership interest in a wholesaler, *"designated member"* also means a person appointed by the court as the conservator of the individual's property. *"Designated member"* also includes the appointed and qualified personal representative and the testamentary trustee of a deceased wholesaler.

9. *"Good cause"* exists if the wholesaler or affected party has failed to comply with reasonable requirements which are imposed upon the wholesaler or affected party through an agreement, which do not discriminate either by their terms or in the methods of their enforcement as compared with requirements imposed on other similarly situated wholesalers by the brewer, and which are not in violation of any law or administrative rule.

10. *"Good faith"* means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade and defined and interpreted under section 554.1201.

11. *"Manager"* means an individual named or designated by agreement between the brewer and wholesaler, who is principally responsible for the daily management of the wholesaler.

12. *"Master distributor"* means a wholesaler who acts in the role of or in a similar capacity as a brewer or outside seller of one or more brands of beer to other wholesalers on a regular basis in the normal course of business.

13. *"Reasonable standards and qualifications"* means those criteria applied by the brewer to similarly situated wholesalers during a period of twenty-four months before a proposed change in a successor manager of the wholesaler's business.

14. *"Similarly situated wholesalers"* means wholesalers of a brewer that are of a generally comparable size, and operate in markets with similar demographic characteristics, including

population size, density, distribution, and vital statistics, and reasonably similar economic and geographic conditions.

15. *"Successor brewer"* means a person who succeeds to the role of a brewer or master distributor to manufacture or distribute one or more brands of beer whether by merger, purchase of corporate shares, purchase of assets, or any other arrangement.

16. *"Successor manager"* means an individual named or designated by agreement between a brewer and wholesaler who succeeds to the role of manager who will be principally responsible for the daily management of the wholesaler.

17. *"Territory"* means the geographic area of primary sales responsibility designated by an agreement between a wholesaler and brewer for one or more brands of beer of the brewer.

18. *"Wholesaler"* means a person, other than a vintner, brewer, or bottler of beer, who sells, barters, exchanges, offers for sale, possesses with intent to sell, deals, or traffics in beer.

95 Acts, ch 101, §2; 2008 Acts, ch 1032, §23; 2015 Acts, ch 17, §1; 2019 Acts, ch 107, §4, 6

123A.3 Termination and notice of cancellation.

1. Except as provided in subsection 5, a brewer or wholesaler shall not amend, modify, cancel, fail to renew, or otherwise terminate an agreement unless the brewer or wholesaler furnishes prior notification to the other party in accordance with subsection 2.

2. The notification required under subsection 1 shall be in writing and sent to the affected party by certified mail not less than ninety days before the date on which the agreement will be amended, modified, canceled, not renewed, or otherwise terminated. The notification shall contain all of the following:

a. A statement of intention to amend, modify, cancel, fail to renew, or otherwise terminate the agreement.

b. A statement enumerating the facts and reasons for the action, including documentation necessary to fully inform the wholesaler of the reasons for the action.

c. The date on which the action will take effect.

3. For each cancellation, nonrenewal, or termination, the brewer shall have the burden of showing that it has acted in good faith, that the notice requirements under this section have been complied with, and that there was good cause for the cancellation, nonrenewal, or termination.

4. Notwithstanding the terms or conditions of any agreement, good cause exists for the purpose of a cancellation, nonrenewal, or termination if all of the following occur:

a. The wholesaler fails to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the wholesaler and the brewer.

b. The brewer first acquired knowledge of the failure described in paragraph *"a"* not more than twenty-four months before the date notification was given pursuant to subsection 2.

c. The wholesaler was given notice by the brewer of failure to comply with the agreement.

d. The wholesaler has been given thirty days in which to submit a plan of corrective action to comply with the agreement and an additional ninety days to cure the noncompliance in accordance with the plan, and has failed to correct the failure to comply with the provisions of the agreement.

5. A brewer may cancel, fail to renew, or otherwise terminate an agreement without furnishing any prior notification and without good cause as required in subsection 4 for any of the following reasons:

a. The wholesaler's failure to pay any account when due and upon written demand by the brewer for the payment, in accordance with agreed upon payment terms.

b. The wholesaler's assignment for the benefit of creditors, or similar disposition, of substantially all of the assets of the party's business.

c. The insolvency of the wholesaler, or the institution of proceedings in bankruptcy by or against the wholesaler.

d. The dissolution or liquidation of the wholesaler.

e. The wholesaler's conviction of, or plea of guilty or no contest to, a charge of violating a law or rule in this state which materially and adversely affects the ability of either party to

continue to sell beer in this state, or the revocation or suspension of a license or permit to sell beer in this state for a period greater than thirty-one days.

f. Any attempted transfer of business assets of the wholesaler, ten percent or more of the voting stock of the wholesaler or the voting stock of any parent corporation of the wholesaler, or any change in the beneficial ownership or control of any wholesaler without obtaining the prior consent or approval as provided for under section 123A.6.

g. The wholesaler's fraudulent conduct relating to a material matter on the part of the wholesaler in dealings with the brewer or its product. However, the brewer shall have the burden of proving fraudulent conduct relating to a material matter on the part of the wholesaler in any legal action challenging the termination.

h. The wholesaler distributes, sells, or delivers beer to a retailer whose premises are situated outside the geographic territory agreed upon by the wholesaler and the brewer as the area in which the wholesaler will sell beer purchased from the brewer, without the consent of the brewer and the distributor who has been assigned the territory by the brewer.

95 Acts, ch 101, §3

Referred to in §123A.4

123A.4 Cancellation.

A brewer or a wholesaler shall not cancel, fail to renew, or otherwise terminate an agreement unless the party intending that action has good cause for the cancellation, failure to renew, or termination, has made good faith efforts to resolve disagreements, and, in any case in which prior notification is required under section 123A.3, the party intending to act has furnished the prior notification and the other party has not eliminated the reasons specified in the notification for cancellation, failure to renew, or termination, within the periods provided in section 123A.3, subsection 4, paragraph *"d"*.

95 Acts, ch 101, §4

123A.5 Prohibited conduct.

1. A brewer shall not commit any of the following actions:

a. Induce or coerce, or attempt to induce or coerce, any wholesaler to engage in any illegal act or course of conduct.

b. Require a wholesaler to assent to any unreasonable requirement, condition, understanding, or term of an agreement prohibiting a wholesaler from selling the product of another brewer.

c. Fix, maintain, or establish the price at which a wholesaler may resell beer, or to change, by any means, the price charged to the wholesaler after beer has been ordered by the wholesaler from the brewer.

d. Require any wholesaler to accept delivery of any beer or any other item or commodity which shall not have been ordered by the wholesaler.

e. Require a wholesaler without the wholesaler's approval to participate in an arrangement for the payment or crediting by an electronic fund transfer transaction for any item or commodity other than beer, or to access a wholesaler's account for any item or commodity other than beer.

f. Require or prohibit any change in the manager or successor manager of any wholesaler who has been approved by the brewer as of or subsequent to July 1, 1995, unless the brewer acts in good faith. If a wholesaler changes an approved manager or successor manager, a brewer shall not require or prohibit the change unless the person selected by the wholesaler fails to meet the nondiscriminatory, material, and reasonable standards and qualifications for managers or successor managers consistently applied to similarly situated wholesalers by the brewer. However, the brewer shall have the burden of proving that the person fails to meet the reasonable standards and qualifications.

g. Discriminate among the brewer's wholesalers in any business dealings including, but not limited to, the price of beer sold to the wholesaler or terms of sale offered to wholesalers, unless the difference among its wholesalers is based on reasonable grounds.

h. Fail to provide each wholesaler of the brewer's brand with a written agreement which contains in total the brewer's agreement with each wholesaler, and designates a specific

exclusive sales territory. The terms of written agreements executed, amended, or renewed after July 1, 1995, shall be consistent with this chapter, and this chapter may be incorporated by reference in the agreement.

i. Enter into an additional agreement with any other wholesaler for, or to sell to any other wholesaler, the same brand of beer or brand extension in the same territory or any portion of the territory, or to sell directly to any retailer in this state.

j. Require a wholesaler to purchase one or more brands of beer in order for the wholesaler to purchase another brand of beer for any reason.

k. Require a wholesaler, by any means, directly to participate in or contribute to any local or national advertising fund controlled directly or indirectly by a brewer.

l. Require by a provision of an agreement or other instrument in connection with the agreement that any dispute arising out of or in connection with the agreement be determined through the application of any other state's laws, be determined in federal court sitting in a state other than Iowa, or be determined in a state court of a state other than this state. A provision contained in any agreement or other instrument in connection with the agreement which contravenes this section shall be null and void.

2. A wholesaler who, pursuant to an agreement, is granted a sales territory for which the wholesaler is primarily responsible or in which the wholesaler is required to concentrate the wholesaler's efforts, shall not make any sale or delivery of beer to any retail licensee whose place of business is not within the territory granted to the wholesaler unless agreed upon by all affected parties.

95 Acts, ch 101, §5

123A.6 Transfer of business assets or stock.

1. A brewer shall not unreasonably withhold or delay its approval of any assignment, sale, or transfer of the stock or other indicia of ownership of a wholesaler or all or any portion of a wholesaler's assets, wholesaler's voting stock, the voting stock of any parent corporation, or the beneficial ownership or control of any other entity owning or controlling the wholesaler, including the wholesaler's rights and obligations under the terms of an agreement when the person to be substituted meets reasonable standards. Upon the death of one of the partners of a partnership operating the business of a wholesaler, a brewer shall not deny the surviving partner of the partnership the right to become a successor-in-interest to the agreement between the brewer and the partnership, if the survivor has been active in the management of the partnership and is otherwise capable of carrying on the business of the partnership.

2. Notwithstanding subsection 1, upon the death of a wholesaler, a brewer shall not deny approval for any transfer of ownership or management to a designated member, including the rights under the agreement with the brewer. The transfer or assignment shall not be effective until written notice is given to the brewer, but the brewer's consent to the transfer or assignment shall not be required.

95 Acts, ch 101, §6
Referred to in §123A.3

123A.7 Reasonable compensation.

1. A brewer who cancels, fails to renew, or terminates any agreement, or unlawfully denies approval of, or unreasonably withholds consent to any assignment, transfer, or sale of a wholesaler's business assets or voting stock or other equity securities, except as provided in this chapter, shall pay the wholesaler with which the brewer has an agreement pursuant to this chapter, reasonable compensation for the fair market value of the wholesaler's business with relation to the affected brand of beer. The fair market value of the wholesaler's business shall include, but not be limited to, its goodwill, if any.

2. If a brewer and a wholesaler are unable to mutually agree on the reasonable compensation to be paid for the value of the wholesaler's business, either party may maintain a civil action as provided in section 123A.9, or the matter may, by mutual agreement of the parties, be submitted to a three-member arbitration panel consisting of one representative selected by the brewer but unassociated with the brewer; one representative selected by

the wholesaler but unassociated with the wholesaler; and an impartial arbitrator selected by the other two members from a list provided by the American arbitration association, and the claim settled in accordance with the rules provided by the American arbitration association. Arbitration costs shall be paid one-half by the wholesaler and one-half by the brewer. Arbitration shall be conducted in accordance with the commercial arbitration rules of the American arbitration association and the laws of this state, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The award of the arbitrator shall be final and binding on the parties.

95 Acts, ch 101, §7

123A.8 Right of free association.

A brewer or wholesaler shall not restrict or inhibit, directly or indirectly, the right of free association among brewers or wholesalers for any lawful purpose.

95 Acts, ch 101, §8

123A.9 Judicial remedies.

1. If a brewer or a wholesaler who is a party to an agreement pursuant to this chapter fails to comply with this chapter or otherwise engages in conduct prohibited under this chapter, the aggrieved party may maintain a civil action in district court if the cause of action directly relates to or stems from the relationship of the individual parties under the agreement.

2. A brewer or wholesaler may bring an action for declaratory judgment for determination of any controversy arising under this chapter or out of the brewer and wholesaler agreement.

3. Upon proper petition to the district court, a brewer or wholesaler may obtain injunctive relief against a violation of this chapter.

4. In an action under subsection 1, the district court may grant the relief as the court determines is necessary or appropriate considering the purposes of this chapter. The district court may, if it finds that a brewer has acted in bad faith in invoking the amendment, modification, cancellation, nonrenewal, or termination provision of the agreement between the brewer and wholesaler, or has unreasonably withheld its consent to any assignment, transfer, or sale of the wholesaler's business, award equitable relief, actual damages, court costs, and attorney's fees.

5. The prevailing party in an action under subsection 1 shall be entitled to actual damages, court costs, and attorney's fees at the court's discretion.

6. With respect to a dispute arising under this chapter or out of the agreement between a brewer and wholesaler, the wholesaler and brewer each has the absolute right, before the wholesaler or brewer has agreed to arbitrate a particular dispute, to refuse to arbitrate that particular dispute. A brewer shall not, as a condition of entering into or renewing an agreement, require the wholesaler to agree to arbitration in lieu of judicial remedies.

7. A brewer shall not take retaliatory action against a wholesaler who files or manifests an intention to file a complaint of alleged violation of state or federal law or regulation by the brewer with the appropriate state or federal regulatory authority. Retaliatory action shall include, but shall not be limited to, refusal without good cause to continue the agreement, or a material reduction in the quality of service or quantity of products available to the wholesaler under the agreement, or impede the normal business operations of the wholesaler.

95 Acts, ch 101, §9

Referred to in §123A.7

123A.10 Waiver — prohibited.

A brewer shall not require a wholesaler to waive compliance with any provision of this chapter. This chapter shall not be construed to limit or prohibit a good faith settlement of a dispute voluntarily entered into between the parties.

95 Acts, ch 101, §10

123A.11 Indemnification.

A brewer shall fully indemnify and hold harmless the brewer's wholesaler against any losses, including but not limited to court costs and reasonable attorney fees or damages

arising out of complaints, claims, or lawsuits, including but not limited to strict liability, negligence, misrepresentation, or express or implied warranty where the complaint, claim, or lawsuit relates to the manufacture or packaging of beer or other functions by the brewer which are beyond the control of the wholesaler.

95 Acts, ch 101, §11

123A.12 Application to existing agreements.

1. The provisions of this chapter apply to a valid agreement in effect immediately before July 1, 1995, when the first of the following dates occurs:

a. On the effective date of the next amendment, modification, or renewal of the existing valid agreement.

b. On the next anniversary date of the execution of the original agreement between the wholesaler and the brewer.

2. If no written agreement exists, the provisions of the chapter apply to the implied or oral unwritten agreement of a brewer and a wholesaler of that brewery on July 1, 1995.

95 Acts, ch 101, §12

123A.13 Canned cocktails — applicability of chapter.

The provisions of this chapter that apply to a brewer and wholesaler of beer shall apply to a manufacturer and wholesaler of canned cocktails.

2019 Acts, ch 107, §5, 6

CHAPTERS 123B and 123C

RESERVED

CHAPTER 124

CONTROLLED SUBSTANCES

Referred to in §124B.2, 124C.1, 124E.12, 124E.16, 155A.3, 155A.6, 155A.6A, 155A.6B, 155A.12, 155A.13A, 155A.13C, 155A.17, 155A.17A, 155A.23, 155A.26, 155A.27, 155A.42, 189.16, 204.7, 204.8, 204.14, 204.15, 205.3, 205.11, 205.12, 205.13, 232.45, 232.52, 321.19, 321.215, 422.72, 462A.2, 702.6, 809A.21, 811.1, 811.2, 901.5, 914.7

See §205.11 – 205.13 for additional provisions relating to administration and enforcement

This chapter not enacted as a part of this title; transferred from chapter 204 in Code 1993

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SUBCHAPTER I

DEFINITIONS — CONTROLLED SUBSTANCES ADMINISTRATION — IMITATION CONTROLLED SUBSTANCES

124.101 Definitions.

As used in this chapter:

1. *"Administer"* means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

a. A practitioner, or in the practitioner's presence, by the practitioner's authorized agent; or

b. The patient or research subject at the direction and in the presence of the practitioner.

2. *"Agent"* means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouser, or employee of the carrier or warehouser.

3. *"Board"* means the board of pharmacy.

4. *"Bureau"* means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

5. *"Controlled substance"* means a drug, substance, or immediate precursor in schedules I through V of subchapter II of this chapter.

6. *"Counterfeit substance"* means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

7. *"Deliver"* or *"delivery"* means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

8. *"Department"* means the department of public safety of the state of Iowa.

9. *"Dispense"* means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

10. *"Dispenser"* means a practitioner who dispenses.

11. *"Distribute"* means to deliver other than by administering or dispensing a controlled substance.

12. *"Distributor"* means a person who distributes.

13. *"Drug"* means:

a. Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

c. Substances, other than food, intended to affect the structure or any function of the human body or animals; and

d. Substances intended for use as a component of any article specified in paragraph *"a"*,

"b", or *"c"* of this subsection. It does not include devices or their components, parts, or accessories.

14. *"Electronic prescription"* means a prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

15. *"Facsimile prescription"* means a prescription which is transmitted by a device which sends an exact image to the receiver.

16. *"Imitation controlled substance"* means a substance which is not a controlled substance but which by color, shape, size, markings, and other aspects of dosage unit appearance, and packaging or other factors, appears to be or resembles a controlled substance. The board may designate a substance as an imitation controlled substance pursuant to the board's rulemaking authority and in accordance with chapter 17A. *"Imitation controlled substance"* also means any substance determined to be an imitation controlled substance pursuant to section 124.101B.

17. *"Immediate precursor"* means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

18. *"Isomer"* means the optical isomer, except as used in section 124.204, subsection 4, and section 124.206, subsection 2, paragraph *"d"*. As used in section 124.204, subsection 4, *"isomer"* means the optical, positional, or geometric isomer. As used in section 124.206, subsection 2, paragraph *"d"*, *"isomer"* means the optical or geometric isomer.

19. *"Manufacture"* means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

a. By a practitioner as an incident to administering or dispensing of a controlled substance in the course of the practitioner's professional practice, or

b. By a practitioner, or by an authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

20. *"Marijuana"* means all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

21. *"Narcotic drug"* means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

b. Poppy straw and concentrate of poppy straw.

c. Opium poppy.

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs *"a"* through *"c"*.

22. *"Office"* means the governor's office of drug control policy, as referred to in section 80E.1.

23. *"Opiate"* means any substance having an addiction-forming or addiction-sustaining

liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 124.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

24. *"Opium poppy"* means the plant of the species Papaver somniferum L., except its seeds.

25. *"Person"* means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

26. *"Poppy straw"* means all parts, except the seeds, of the opium poppy, after mowing.

27. *"Practitioner"* means either:

a. A physician, dentist, podiatric physician, prescribing psychologist, veterinarian, scientific investigator or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

b. A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

28. *"Production"* includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

29. *"Simulated controlled substance"* means a substance which is not a controlled substance but which is expressly represented to be a controlled substance, or a substance which is not a controlled substance but which is impliedly represented to be a controlled substance and which because of its nature, packaging, or appearance would lead a reasonable person to believe it to be a controlled substance.

30. *"State"*, when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession, and any area subject to the legal authority of the United States of America.

31. *"Ultimate user"* means a person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for administering to an animal owned by the person or by a member of the person's household.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593; S13, §2593, 2596-a; C24, 27, 31, 35, §3151; C39, §**3169.01, 3169.07;** C46, 50, 54, 58, 62, 66, §204.1, 204.7; C71, §204.1, 204.7, 204A.1; C73, 75, 77, 79, 81, §204.101; 82 Acts, ch 1147, §1]

84 Acts, ch 1013, §1 – 3; 91 Acts, ch 8, §1

C93, §124.101

94 Acts, ch 1009, §1; 95 Acts, ch 108, §1; 99 Acts, ch 89, §1, 2; 2001 Acts, ch 24, §28; 2004 Acts, ch 1036, §1; 2007 Acts, ch 8, §1; 2007 Acts, ch 10, §8; 2009 Acts, ch 25, §1; 2009 Acts, ch 133, §194; 2016 Acts, ch 1112, §2; 2017 Acts, ch 54, §76; 2017 Acts, ch 145, §2

Referred to in §80.1A, 96.5, 124.308, 124.410, 124B.1, 125.2, 155A.27, 204.2, 279.9, 321.208, 453B.1, 657.2, 717F.4, 808B.3, 808B.5, 901D.2

124.101A Administration of controlled substances — delegation.

Nothing contained in this chapter shall be construed to prevent a physician, dentist, podiatric physician, or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, intern, or other qualified individual or, as to veterinarians, to an orderly or assistant, under the veterinarian's direction and supervision; all pursuant to rules adopted by the board.

2009 Acts, ch 133, §195

124.101B Factors indicating an imitation controlled substance.

If a substance has not been designated as an imitation controlled substance by the board and if dosage unit appearance alone does not establish that a substance is an imitation controlled substance, the following factors may be considered in determining whether the substance is an imitation controlled substance:

1. The person in control of the substance expressly or impliedly represents that the substance has the effect of a controlled substance.

2. The person in control of the substance expressly or impliedly represents that the substance because of its nature or appearance can be sold or delivered as a controlled substance or as a substitute for a controlled substance.

3. The person in control of the substance either demands or receives money or other property having a value substantially greater than the actual value of the substance as consideration for delivery of the substance.

2017 Acts, ch 145, §3
Referred to in §124.101

124.102 through 124.200 Reserved.

SUBCHAPTER II

STANDARDS AND SCHEDULES

Referred to in §124.101, 155A.3, 724.8B

124.201 Duty to recommend changes in schedules — temporary amendments to schedules.

1. The board shall administer the regulatory provisions of this chapter. Annually, within thirty days after the convening of each regular session of the general assembly, the board shall recommend to the general assembly any deletions from, or revisions in the schedules of substances, enumerated in section 124.204, 124.206, 124.208, 124.210, or 124.212, which it deems necessary or advisable. In making a recommendation to the general assembly regarding a substance, the board shall consider the following:

a. The actual or relative potential for abuse;

b. The scientific evidence of its pharmacological effect, if known;

c. State of current scientific knowledge regarding the substance;

d. The history and current pattern of abuse;

e. The scope, duration, and significance of abuse;

f. The risk to the public health;

g. The potential of the substance to produce psychic or physiological dependence liability; and

h. Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

2. After considering the factors described in subsection 1, the board shall make a recommendation to the general assembly, specifying the change which should be made in existing schedules, if it finds that the potential for abuse or lack thereof of the substance is not properly reflected by the existing schedules.

3. If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor. Such designations shall be made pursuant to the procedures of chapter 17A.

4. If any new substance is designated as a controlled substance under federal law and notice of the designation is given to the board, the board shall similarly designate as controlled the new substance under this chapter after the expiration of thirty days from publication in the federal register of a final order designating a new substance as a controlled substance, unless within that thirty-day period the board objects to the new designation. In that case the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing the board shall announce its decision. Upon publication of objection to a new substance being designated as a controlled substance under this chapter by the board, control under this chapter is stayed until the board publishes its decision. If a substance is designated as controlled by the board under this subsection the control shall be considered a temporary amendment to the schedules of controlled substances in this chapter. If the board so designates a substance as controlled, which is considered a temporary amendment to the schedules of controlled substances in this chapter, and if

the general assembly does not amend this chapter to enact the temporary amendment and make the enactment effective within two years from the date the temporary amendment first became effective, the temporary amendment is repealed by operation of law two years from the effective date of the temporary amendment. A temporary amendment repealed by operation of law is subject to section 4.13 relating to the construction of statutes and the application of a general savings provision.

[C73, 75, 77, 79, 81, §204.201]

C93, §124.201

2012 Acts, ch 1122, §7, 11; 2013 Acts, ch 90, §24; 2014 Acts, ch 1026, §28; 2017 Acts, ch 54, §76; 2017 Acts, ch 145, §1; 2020 Acts, ch 1063, §58

Referred to in §124.101

124.201A Cannabis-derived products — rules.

1. If a cannabis-derived investigational product approved as a prescription drug medication by the United States food and drug administration is added to the federal schedule of controlled substances by the federal drug enforcement administration and notice of the addition is given to the board, the board shall similarly add the prescription drug medication in the schedule of controlled substances under this chapter.

2. If a cannabis-derived product approved as a prescription drug medication by the United States food and drug administration is eliminated from or revised in the federal schedule of controlled substances by the federal drug enforcement administration and notice of the elimination or revision is given to the board, the board shall similarly eliminate or revise the prescription drug medication in the schedule of controlled substances under this chapter.

3. The board shall adopt rules pursuant to chapter 17A to administer this section. The board may adopt rules on an emergency basis as provided in section 17A.4, subsection 3, and section 17A.5, subsection 2, to administer this section, and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any emergency rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4, subsection 1.

4. Any cannabis-derived investigational product or cannabis-derived product approved as a prescription drug medication by the United States food and drug administration shall not be considered marijuana or cannabimimetic agents, both as defined in section 124.204, tetrahydrocannabinols as used in section 124.204, subsection 4, paragraph "*u*", unnumbered paragraph 1, or hemp as defined in section 204.2.

2017 Acts, ch 162, §1, 25; 2020 Acts, ch 1023, §1, 13

124.202 Controlled substances — listed regardless of name.

The controlled substances listed in the schedules in sections 124.204, 124.206, 124.208, 124.210 and 124.212 are included by whatever official name, common or usual name, chemical name, or trade name is designated.

[C73, 75, 77, 79, 81, §204.202]

C93, §124.202

124.203 Substances listed in schedule I — criteria.

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule I if the substance is not already included therein and the board finds that the substance:

a. Has high potential for abuse; and

b. Has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

2. If the board finds that any substance included in schedule I does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.203]

C93, §124.203

2009 Acts, ch 41, §34, 263

124.204 Schedule I — substances included.

1. Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

2. *Opiates*. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

a. Acetylmethadol.
b. Allylprodine.
c. Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
d. Alphameprodine.
e. Alphamethadol.
f. Alpha-Methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).
g. Benzethidine.
h. Betacetylmethadol.
i. Betameprodine.
j. Betamethadol.
k. Betaprodine.
l. Clonitazene.
m. Dextromoramide.
n. Difenoxin.
o. Diampromide.
p. Diethylthiambutene.
q. Dimenoxadol.
r. Dimepheptanol.
s. Dimethylthiambutene.
t. Dioxaphetyl butyrate.
u. Dipipanone.
v. Ethylmethylthiambutene.
w. Etonitazene.
x. Etoxeridine.
y. Furethidine.
z. Hydroxypethidine.
aa. Ketobemidone.
ab. Levomoramide.
ac. Levophenacylmorphan.
ad. Morpheridine.
ae. Noracymethadol.
af. Norlevorphanol.
ag. Normethadone.
ah. Norpipanone.
ai. Phenadoxone.
aj. Phenampromide.
ak. Phenomorphan.
al. Phenoperidine.
am. Piritramide.
an. Proheptazine.
ao. Properidine.
ap. Propiram.
aq. Racemoramide.
ar. Tilidine.
as. Trimeperidine.
at. Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).

au. Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).

av. Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

aw. Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).

ax. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide). For purposes of this opiate, *"isomers"* includes optical and geometric isomers.

ay. 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

az. MPPP (1-methyl-4-phenyl-4-propionoxypiperidine).

ba. Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide).

bb. PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine).

bc. Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).

bd. AH-7921 (3,4-dichloro-N-[(1-dimethylamino) cyclohexylmethyl]benzamide.

be. MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine).

bf. N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide. Other name: acetyl fentanyl.

bg. N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide. Other name: Furanyl fentanyl.

bh. N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide. Other name: Butyryl fentanyl.

bi. N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide. Other name: beta-hydroxythiofentanyl.

bj. 3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide. Other name: U-47700.

bk. N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other names: 4-fluoroisobutyryl fentanyl, para-fluoroisobutyryl fentanyl.

bl. N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide. Other names: ortho-fluorofentanyl; 2-fluorofentanyl.

bm. N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide. Other name: tetrahydrofuranyl fentanyl.

bn. 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide. Other name: methoxyacetyl fentanyl.

bo. N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide. Other names: acryl fentanyl; acryloylfentanyl.

bp. N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide. Other name: cyclopropyl fentanyl.

bq. N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide. Other name: para-fluorobutyryl fentanyl.

br. N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl) acetamide. Other name: ocfentanil.

bs. (E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide. Other name: crotonyl fentanyl.

3. *Opium derivatives.* Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers and salts of isomers, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

a. Acetorphine.

b. Acetyldihydrocodeine.

c. Benzylmorphine.

d. Codeine methylbromide.

e. Codeine-N-Oxide.

f. Cyprenorphine.

g. Desomorphine.
h. Dihydromorphine.
i. Etorphine (except hydrochloride salt).
j. Heroin.
k. Hydromorphinol.
l. Methyldesorphine.
m. Methyldihydromorphine.
n. Morphine methylbromide.
o. Morphine methylsulfonate.
p. Morphine-N-Oxide.
q. Myrophine.
r. Nicocodeine.
s. Nicomorphine.
t. Normorphine.
u. Pholcodine.
v. Thebacon.
w. Drotebanol.

4. *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term *"isomer"* includes the optical, position and geometric isomers):

a. 4-bromo-2,5-dimethoxy-amphetamine. Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA.

b. 2,5-dimethoxyamphetamine. Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA.

c. 4-methoxyamphetamine. Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA.

d. 5-methoxy-3,4-methylenedioxy-amphetamine.

e. 4-methyl-2,5-dimethoxyl-amphetamine. Some trade or other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP".

f. 3,4-methylenedioxy amphetamine, also known as MDA.

g. 3,4,5-trimethoxy amphetamine.

h. Bufotenine. Some trade or other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.

i. Diethyltryptamine. Some trade or other names: N,N-Diethyltryptamine; DET.

j. Dimethyltryptamine. Some trade or other names: DMT.

k. Ibogaine. Some trade or other names: 7-Ethyl-6,6B,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole; Tabernanthe iboga.

l. Lysergic acid diethylamide.

m. Marijuana, except as otherwise provided in subsection 7.

n. Mescaline.

o. Parahexyl. Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo [b,d]pyran; Synhexyl.

p. Peyote, except as otherwise provided in subsection 8. Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or extracts.

q. N-ethyl-3-piperidyl benzilate.

r. N-methyl-3-piperidyl benzilate.

s. Psilocybin.

t. Psilocyn.

u. (1) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (Cannabis plant) as well as synthetic equivalents of the

substances contained in the Cannabis plant, or in the resinous extractives of such plant, and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

(a) 1 cis or trans tetrahydrocannabinol, and their optical isomers.

(b) 6 cis or trans tetrahydrocannabinol, and their optical isomers.

(c) 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(2) Subparagraph (1) does not include tetrahydrocannabinol to the extent excluded in subsection 7.

v. Ethylamine analog of phencyclidine. Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.

w. Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.

x. Thiophene analog of phencyclidine. Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP.

y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine. Some other names: TCPy.

z. 3,4-methylenedioxymethamphetamine (MDMA).

aa. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA).

ab. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA).

ac. 2,5-dimethoxy-4-ethylamphet-amine. Some trade or other names: DOET.

ad. Alpha-ethyltryptamine. Some trade or other names: etryptamine; Monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET.

ae. 4-Bromo-2,5-dimethoxyphenethylamine. Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.

af. 2,5-dimethoxy-4-(n)-propylthiophenethylamine. Other name: 2C-T-7.

ag. Alpha-methyltryptamine. Other name: AMT.

ah. 5-methoxy-N,N-diisopropyltryptamine. Other name: 5-MeO-DIPT.

ai. (1) Salvia divinorum.

(2) Salvinorin A.

(3) HU-210. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) 6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol)].

(4) HU-211(dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol).

(5) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(a) The term *"cannabimimetic agents"* means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

(ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

(iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

(v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the

indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

(b) Such terms include:

(i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497).

(ii) 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678).

(iii) 1-butyl-3-(1-naphthoyl)indole (JWH-073).

(iv) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200).

(v) 1-hexyl-3-(1-naphthoyl)indole (JWH-019).

(vi) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081).

(vii) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122).

(viii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250).

(ix) RCS-4 and SR-19 1-pentyl-3-[(4methoxy)-benzoyl]indole.

(x) RCS-8 and SR 18 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole.

(xi) AM2201 1-(5-fluoropentyl)-3-(1-naphthoyl)indole.

(xii) JWH-203 1-pentyl-3-(2-chlorophenylacetyl)indole.

(xiii) JWH-398 1-pentyl-3-(4-chloro-1-naphthoyl)indole.

(xiv) AM694 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.

(xv) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Cannabicyclohexanol or CP-47,497 C8-homolog).

aj. 3,4-Methylenedioxyl-N-methylcathinone (Methylone).

ak. 5-methoxy-N,N-dimethyltryptamine. Some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT.

al. 4-methyl-N-ethylcathinone. Other names: 4-MEC, 2-(ethylamino)-1-(4-methylphenyl)propan-1-one.

am. 4-methyl-alpha-pyrrolidinopropiophenone. Other names: 4-MePPP, MePPP, 4-methyl-[alpha]-pyrrolidinopropiophenone, 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one.

an. Alpha-pyrrolidinopentiophenone. Other names: [alpha]-PVP, [alpha]-pyrrolidinovalerophenone, 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one.

ao. Butylone. Other names: bk-MBDB, 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one.

ap. Pentedrone. Other names: [alpha]-methylaminovalerophenone, 2-(methylamino)-1-phenylpentan-1-one.

aq. Pentylone. Other names: bk-MBDP, 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one.

ar. 4-fluoro-N-methylcathinone. Other names: 4-FMC, flephedrone, 1-(4-fluorophenyl)-2-(methylamino)propan-1-one.

as. 3-fluoro-N-methylcathinone. Other names: 3-FMC, 1-(3-fluorophenyl)-2-(methylamino)propan-1-one.

at. Naphyrone. Other names: naphthylpyrovalerone, 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one.

au. Alpha-pyrrolidinobutiophenone. Other names: [alpha]-PBP, 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one.

av. Marijuana extract meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, containing greater than 0.3 percent tetrahydrocannabinol on a dry weight basis, other than the separated resin (whether crude or purified) obtained from the plant.

aw. Any substance, compound, mixture, or preparation which contains any quantity of any synthetic cathinone that is not approved as a pharmaceutical, including but not limited to the following:

(1) 4-methylmethcathinone (Mephedrone).

(2) 3,4-methylenedioxypyrovalerone (MDPV).

(3) 4-methoxymethcathinone (methedrone; Bk-PMMA).

(4) 3,4-methylenedioxyethcathinone (ethylone).

(5) N,N-dimethylcathinone(metamfepramone).

(6) Alpha-pyrrolidinopropiophenone (alpha-PPP).

(7) 4-methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
(8) 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (MDPPP).
(9) 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine) (MDAI).
(10) 3-fluoromethcathinone.
(11) 4'-Methyl-alpha-pyrrolidinobutiophenone (MPBP).
(12) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).
(13) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).
(14) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).
(15) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).
(16) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).
(17) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4).
(18) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).
(19) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N).
(20) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

ax. (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone. Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole.

ay. [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone. Other names: 5-fluoro-UR-144, 5-F-UR-144, XLR11, 1-(5-fluoro-pentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole.

az. N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide. Other names: APINACA, AKB48.

ba. 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine. Other names: 25I-NBOMe,2C-I-NBOMe, 25I, Cimbi-5.

bb. 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine. Other names: 25C-NBOMe,2C-C-NBOMe, 25C, Cimbi-82.

bc. 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine. Other names: 25B-NBOMe,2C-B-NBOMe, 25B, Cimbi-36.

bd. Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate. Other names: PB-22, QUPIC.

be. Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate. Other names: 5-fluoro-PB-22, 5F-PB-22.

bf. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide. Other names: AB-FUBINACA.

bg. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide. Other name: ADB-PINACA.

bh. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide. Other name: AB-CHMINACA.

bi. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide. Other name: AB-PINACA.

bj. [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalene-1-yl) methanone. Other name: THJ-2201.

bk. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide. Other names: MAB-CHMINACA; ADB-CHMINACA.

bl. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate. Other names: 5F-ADB; 5F-MDMB-PINACA.

bm. Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate. Other name: 5F-AMB.

bn. N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide. Other names: 5F-APINACA, 5F-AKB48.

bo. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide. Other name: ADB-FUBINACA.

bp. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate. Other names: MDMB-CHMICA, MMB-CHMINACA.

bq. Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate. Other name: MDMB-FUBINACA.

br. Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate. Other names: FUB-AMB, MMB-FUBINACA, AMB-FUBINACA.

5. *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Mecloqualone.

b. Methaqualone.

c. Gamma-hydroxybutyric acid. Some trade or other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate.

6. *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

a. Fenethylline.

b. N-ethylamphetamine.

c. (+-)cis-4-methylaminorex ((+-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).

d. N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).

e. Cathinone. Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone.

f. Aminorex. Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine.

g. Methcathinone, its salts, optical isomers, and salts of optical isomers. Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432.

h. N-Benzylpiperazine. Some other names: BZP, 1-benzylpiperazine.

7. *Exclusions.* This section does not apply to any of the following:

a. Hemp as defined in section 204.2 that is or was produced in this state, or was produced in another state, in accordance with the provisions of chapter 204 with a maximum delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis.

b. A hemp product as provided in chapter 204 with a maximum tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis.

8. *Peyote.* Nothing in this chapter shall apply to peyote when used in bona fide religious ceremonies of the Native American Church; however, persons supplying the product to the church shall register, maintain appropriate records of receipts and disbursements of peyote, and otherwise comply with all applicable requirements of this chapter and rules adopted pursuant thereto.

9. *Other substances.* Any material, compound, mixture, or preparation which contains any quantity of the following substances or their optical, positional, and geometric isomers, salts, and salts of isomers:

a. 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one. Other names: N-ethylpentylone or ephylone.

b. 2-(ethylamino)-1-phenylhexan-1-one). Other name: N-Ethylhexedrone.

c. Alpha-Pyrrolidinohexanophenone. Other names: alpha-PHP; alpha-pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one.

d. 4-Methyl-alpha-ethylaminopentiophenone. Other names: 4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one.

e. 4'-Methyl-alpha-pyrrolidinohexiophenone. Other names: MPHP; 4'-methyl-alpha-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one.

f. alpha-Pyrrolidinoheptaphenone. Other names:

PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one.

g. 4'-Chloro-alpha-pyrrolidinovalerophenone. Other names: 4-chloro-alpha-PVP; 4'-chloro-alpha-pyrrolidinopentiophenonoe; 1-(4-chlorphenyl)-2-(pyrrolidin-1-yl)pentan-1-one.

h. N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide. Other name: valeryl fentanyl.

i. N-(4-methyoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butryamide. Other name: para-methoxybutyryl fentanyl.

j. N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide. Other name: para-chloroisobutyryl fentanyl.

k. N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide. Other name: isobutyryl fentanyl.

l. N-(1-phenethylpiperidin-4-yl)-N-phenylcylopentanecarboxamide. Other name: cyclopentyl fentanyl.

m. Fentanyl-related substances. *"Fentanyl-related substance"* means any substance not otherwise listed under this schedule or another schedule, and for which no exemption or approval is in effect under section 505 of the federal Food, Drug, and Cosmetic Act that is structurally related to fentanyl by one or more of the following modifications:

(1) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle.

(2) Substitution in or on the phenethyl group with alkyl, alkenyl, akloxyl, hydroxyl, halo, haloalkyl, amino, or nitro groups.

(3) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups.

(4) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle.

(5) Replacement of the N-propionyl group by another acyl group.

n. Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate. Other names: NM2201; CBL2201.

o. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide. Other name: 5F-AB-PINACA.

p. 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide. Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78.

q. Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate. Other names: MMB-CHMICA; AMB-CHMICA.

r. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide. Other name: 5F-CUMYL-P7AICA.

s. Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate. Other name: 5F-EDMB-PINACA.

t. Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate. Other name: 5F-MDMB-PICA.

u. N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide. Other names: FUB-AKB48; FUB-APINACA, ADKB48 N-(4-FLUOROBENZYL).

v. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide. Other names: 5F-CUMYL-PINACA; SGT-25.

w. (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl) methanone. Other name: FUB-144.

x. N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine. Other names: isotonitazene; N,N-diethyl-2-[[4-(1-methylethoxy)phenyl]-5-nitro-1H-benzimidzole-1-ethanamine.*

[C73, 75, 77, 79, 81, §204.204; 82 Acts, ch 1044, §1, 2]

84 Acts, ch 1013, §4 – 8; 85 Acts, ch 86, §1, 2; 86 Acts, ch 1037, §1, 2; 87 Acts, ch 122, §1; 88 Acts, ch 1024, §1; 89 Acts, ch 109, §1, 2; 91 Acts, ch 8, §2

C93, §124.204

94 Acts, ch 1009, §2 – 8; 2000 Acts, ch 1140, §2 – 4; 2001 Acts, ch 58, §1; 2003 Acts, ch 53, §1 – 3; 2007 Acts, ch 8, §2 – 7; 2007 Acts, ch 10, §9 – 11; 2011 Acts, ch 131, §134 – 136; 2011

Acts, ch 134, §18, 27, 28; 2012 Acts, ch 1021, §122, 123, 141, 145, 146; 2012 Acts, ch 1122, §1, 8, 9, 11; 2014 Acts, ch 1056, §1, 2; 2016 Acts, ch 1081, §1, 2; 2017 Acts, ch 27, §1, 2, 11; 2017 Acts, ch 145, §28; 2018 Acts, ch 1138, §28, 31; 2019 Acts, ch 130, §22, 23, 33; 2020 Acts, ch 1023, §2 – 7, 13; 2021 Acts, ch 80, §61, 62; 2021 Acts, ch 93, §1 – 19, 38

Referred to in §29B.107A, 124.101, 124.201, 124.201A, 124.202, 124.303, 124.401, 124.410, 124.411, 124.506A, 321J.1, 411.6

*The chemical name "N,N-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1H-benzimidzole-1-ethanamine" probably intended; corrective legislation is pending

See Code editor's note on simple harmonization at the beginning of this Code volume

Subsection 2, paragraphs f and az stricken and rewritten

Subsection 2, NEW paragraphs bf – bs

Subsection 4, unnumbered paragraph 1 amended

Subsection 4, paragraphs h, i, and k stricken and rewritten

Subsection 4, paragraph m amended

Subsection 4, paragraphs o, v, x, ac, and ad stricken and rewritten

Subsection 4, paragraph ai, subparagraph (5), subparagraph division (b), subparagraph subdivisions (i) – (viii) and (xv) stricken and rewritten

Subsection 4, paragraph aj stricken and rewritten

Subsection 4, NEW paragraphs av – br

Subsection 6, paragraph h stricken and rewritten

Subsection 6, paragraph i stricken

Subsection 7 amended

Subsection 9 stricken and rewritten

124.205 Substances listed in schedule II — criteria.

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule II if the substance is not already included therein and the board finds that:

a. The substance has high potential for abuse;

b. The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

c. Abuse of the substance may lead to severe psychic or physical dependence.

2. If the board finds that any substance included in schedule II does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.205]

C93, §124.205

2009 Acts, ch 41, §35

124.206 Schedule II — substances included.

1. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

2. *Substances, vegetable origin or chemical synthesis.* Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, naldemedine, nalmefene, naloxegol, naloxone, 6beta-naltrexol, and naltrexone, and their respective salts, but including the following:

(1) Raw opium.
(2) Opium extracts.
(3) Opium fluid.
(4) Powdered opium.
(5) Granulated opium.
(6) Tincture of opium.
(7) Codeine.
(8) Ethylmorphine.
(9) Etorphine hydrochloride.
(10) Hydrocodone, also known as dihydrocodeinone.
(11) Hydromorphone, also known as dihydromorphinone.
(12) Metopon.

(13) Morphine.
(14) Oxycodone.
(15) Oxymorphone.
(16) Thebaine.
(17) Dihydroetorphine.
(18) Oripavine.
(19) Noroxymorphone.

b. Any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph "*a*", except that these substances shall not include the isoquinoline alkaloids of opium.

c. Opium poppy and poppy straw.

d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical to any of such substances, except that the substances shall not include:

(1) Decocainized coca leaves or extractions of coca leaves, which extractions do not contain cocaine or ecgonine.

(2) [\123\I]ioflupane.

e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy).

3. *Opiates.* Unless specifically excepted or unless listed in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

a. Alphaprodine.
b. Alfentanyl.
c. Anileridine.
d. Bezitramide.
e. Bulk dextropropoxyphene (nondosage forms).
f. Carfentanil.
g. Dihydrocodeine.
h. Diphenoxylate.
i. Fentanyl.
j. Isomethadone.
k. Levomethorphan.
l. Levorphanol.
m. Metazocine.
n. Methadone.
o. Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.
p. Moraide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
q. Pethidine (meperidine).
r. Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
s. Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
t. Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
u. Phenazocine.
v. Piminodine.
w. Racemethorphan.
x. Racemorphan.
y. Sufentanil.
z. Levo-alphacetylmethadol. Some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM.
aa. Remifentanil.
ab. Tapentadol.
ac. Thiafentanil.
ad. Oliceridine.

4. *Stimulants.* Unless specifically excepted or unless listed in another schedule, any

material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.

b. Methamphetamine, its salts, isomers, and salts of its isomers.

c. Phenmetrazine and its salts.

d. Methylphenidate and its salts.

e. Lisdexamfetamine, its salts, isomers, and salts of its isomers.

5. *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Amobarbital.

b. Glutethimide.

c. Pentobarbital.

d. Phencyclidine.

e. Secobarbital.

6. *Immediate precursors.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Phenylacetone, an immediate precursor to amphetamine and methamphetamine. Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone;
methyl benzyl ketone.

b. Immediate precursors to phencyclidine (PCP):

(1) 1-phenylcyclohexylamine.

(2) 1-piperidinocyclohexanecarbonitrile (PCC).

c. Immediate precursors to fentanyl:

(1) 4-anilino-N-phenethylpiperidine. Other name: ANPP.

(2) N-phenyl-N-(piperidin-4-yl)propionamide. Other name: norfentanyl.

7. *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Nabilone. Other name:
(+-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-
hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

b. Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the United States food and drug administration.

8. The board, by rule, may except any compound, mixture, or preparation containing any stimulant listed in subsection 4 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant effect on the central nervous system, and if the admixtures are included in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

[C73, 75, 77, 79, 81, §204.206; 82 Acts, ch 1044, §3, 4]

84 Acts, ch 1013, §9; 85 Acts, ch 86, §3, 4; 86 Acts, ch 1037, §3 – 5; 87 Acts, ch 122, §2; 90 Acts, ch 1059, §1, 2; 91 Acts, ch 8, §3

C93, §124.206

94 Acts, ch 1009, §9, 10; 2000 Acts, ch 1140, §5 – 7; 2003 Acts, ch 53, §4, 5; 2007 Acts, ch 8, §8, 9; 2007 Acts, ch 10, §12, 13; 2008 Acts, ch 1010, §1, 2; 2010 Acts, ch 1046, §1; 2012 Acts, ch 1122, §2; 2017 Acts, ch 27, §3 – 5, 11; 2018 Acts, ch 1041, §40; 2018 Acts, ch 1138, §29, 31; 2020 Acts, ch 1023, §8, 13; 2021 Acts, ch 93, §20 – 26, 38

Referred to in §124.101, 124.201, 124.202, 124.303, 321J.1, 411.6
Subsection 2, paragraph a, unnumbered paragraph 1 amended
Subsection 2, paragraph a, NEW subparagraph (19)
Subsection 2, paragraph b amended
Subsection 3, paragraphs o, p, r, s, and t stricken and rewritten
Subsection 3, NEW paragraph ad

Subsection 6, paragraph c stricken and rewritten
Subsection 7 stricken and rewritten

124.207 Substances listed in schedule III — criteria.

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule III if the substance is not already included therein and the board finds that:

a. The substance has a potential for abuse which is less than that of the substances listed in schedules I and II;

b. The substance has currently accepted medical use in treatment in the United States; and

c. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

2. If the board finds that any substance included in schedule III does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.207]
C93, §124.207
2009 Acts, ch 41, §36

124.208 Schedule III — substances included.

1. Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

2. *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Benzphetamine.
b. Chlorphentermine.
c. Clortermine.
d. Phendimetrazine.

3. *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

a. Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedules.

b. Any suppository dosage form containing amobarbital, secobarbital, pentobarbital or any salt of any of these drugs and approved by the federal food and drug administration for marketing only as a suppository.

c. Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof including but not limited to Fioricet.

d. Chlorhexadol.
e. Lysergic acid.
f. Lysergic acid amide.
g. Methyprylon.
h. Sulfondiethylmethane.
i. Sulfonethylmethane.
j. Sulfonmethane.
k. Tiletamine and zolazepam or any salt thereof, including the following:

(1) Some trade or other names for a tiletamine-zolazepam combination product: Telazol.

(2) Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

(3) Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyraxolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

l. Ketamine, its salts, isomers, and salts of isomers. Some other names for ketamine: (+-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone.

m. Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act.

n. Embutramide.

o. Perampanel, its salts, isomers, and salts of isomers.

4. *Nalorphine.*

5. *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule:

a. Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than one point eight grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than one point eight grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(4) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

b. Any material, compound, mixture, or preparation containing the narcotic drug buprenorphine, or its salts.

6. *Anabolic steroids.* Unless specifically excepted in subsection 7 or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, esters, and ethers:

a. 3[beta],17-dihydroxy-5[alpha]-androstane.

b. 3[alpha],17[beta]-dihydroxy-5[alpha]-androstane.

c. 5[alpha]-androstan-3,17-dione.

d. 1-androstenediol(3[beta],17[beta]-dihydroxy-5[alpha]-androst-1-ene).

e. 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1-ene).

f. 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene).

g. 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene).

h. 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione).

i. 4-androstenedione (androst-4-en-3,17-dione).

j. 5-androstenedione (androst-5-en-3,17-dione).

k. Bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one).

l. Boldenone (17[beta]-hydroxyandrost-1,4-diene-3-one).

m. Calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one).

n. Clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one).

o. Dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy-17[alpha]-methyl-androst-1,4-dien-3-one).

p. [Delta]1-dihydrotestosterone (also known as 1-testosterone)(17[beta]-hydroxy-5[alpha]-androst-1-en-3-one).

q. 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one).

r. Drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]-androstan-3-one).
s. Ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene).
t. Fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]-dihydroxyandrost-4-en-3-one).
u. Formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]-dihydroxyandrost-1,4-dien-3-one).
v. Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]-furazan).
w. 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one.
x. 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one).
y. 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3-one).
z. Mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5-androstan-3-one).
aa. Mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]-androstan-3-one).
ab. Methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one).
ac. Methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-5-ene).
ad. Methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one).
ae. 17[alpha]-methyl-3[beta],17[beta]-dihydroxy-5[alpha]-androstane.
af. 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5[alpha]-androstane.
ag. 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene.
ah. 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one).
ai. Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)-dien-3-one).
aj. Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9-11-trien-3-one).
ak. Methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost-4-en-3-one).
al. Mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr-4-en-3-one).
am. 17[alpha]-methyl-[Delta]1-dihydrotestosterone (17b[beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (also known as 17-[alpha]-methyl-1-testosterone).
an. Nandrolone (17[beta]-hydroxyestr-4-en-3-one).
ao. 19-nor-4-androstenediol (3[beta],17[beta]-dihydroxyestr-4-ene).
ap. 19-nor-4-androstenediol (3[alpha],17[beta]-dihydroxyestr-4-ene).
aq. 19-nor-5-androstenediol (3[beta],17[beta]-dihydroxyestr-5-ene).
ar. 19-nor-5-androstenediol (3[alpha],17[beta]-dihydroxyestr-5-ene).
as. 19-nor-4-androstenedione (estr-4-en-3,17-dione).
at. 19-nor-5-androstenedione (estr-5-en-3,17-dione).
au. Norbolethone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one).
av. Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one).
aw. Norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3-one).
ax. Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one).
ay. Oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]-androstan-3-one).
az. Oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en-3-one).
ba. Oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]-hydroxy-[5[alpha]]-androstan-3-one).
bb. Stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-androst-2-eno[3,2-c]-pyrazole).
bc. Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one).
bd. Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone).
be. Testosterone (17[beta]-hydroxyandrost-4-en-3-one).
bf. Tetrahydrogestrinone (13[beta],17[alpha]-diethyl-17[beta]-hydroxygon-4,9,11-trien-3-one).
bg. Trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one).
bh. Boldione (androsta-1,4-diene-3,17-dione).
bi. Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol); also known as madol.
bj. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione).
bk. Methasterone (2[alpha],17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one.

bl. Prostanozol (17[beta]-hydroxy-5[alpha]-androstano[3,2-c]pyrazole).

7. *Exclusions — anabolic steroids.* This section shall not apply to an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved for such administration. A person who prescribes, dispenses, or distributes such steroid for human use shall be considered to have prescribed, dispensed, or distributed an anabolic steroid subject to this section. This section shall not apply to estrogens, progestins, corticosteroids, or dehydroepiandrosterone.

8. The board by rule may except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 and 3 of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

9. *Hallucinogenic substances.*

a. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved for marketing by the United States food and drug administration. Other names: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol; (-)-delta-9-(trans)-tetrahydrocannabinol.

b. Any drug product in tablet or capsule form containing natural dronabinol (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic materials) for which an abbreviated new drug application (ANDA) has been approved by the United States food and drug administration under section 505(j) of the federal Food, Drug, and Cosmetic Act and which references as its listed drug the drug product identified in paragraph *"a"*.

[C73, 75, 77, 79, 81, §204.208; 82 Acts, ch 1044, §5]

84 Acts, ch 1013, §10; 88 Acts, ch 1024, §2; 91 Acts, ch 8, §4; 91 Acts, ch 37, §1

C93, §124.208

94 Acts, ch 1009, §11 – 13; 95 Acts, ch 6, §1; 2000 Acts, ch 1140, §8 – 10; 2001 Acts, ch 58, §2; 2003 Acts, ch 53, §6, 7; 2007 Acts, ch 8, §10 – 12; 2008 Acts, ch 1010, §3, 4; 2012 Acts, ch 1122, §3; 2014 Acts, ch 1056, §3, 4; 2017 Acts, ch 27, §6, 11; 2020 Acts, ch 1023, §9, 13; 2021 Acts, ch 93, §27 – 30, 38

Referred to in §124.201, 124.202, 124.303, 126.2
Subsection 2, unnumbered paragraph 1 amended
Subsection 6, paragraphs o, z, bj, and bl stricken and rewritten
Subsection 9, paragraph a amended
Subsection 9, paragraph c stricken

124.209 Substances listed in schedule IV — criteria.

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule IV if the substance is not already included therein and the board finds that:

a. The substance has a low potential for abuse when compared with the substances listed in schedule III;

b. The substance has currently accepted medical use in treatment in the United States; and

c. Abuse of the substance may lead to limited physical dependence or psychological dependence when compared with the substances listed in schedule III.

2. If the board finds that any substance included in schedule IV does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.209]

C93, §124.209

2009 Acts, ch 41, §37

124.210 Schedule IV — substances included.

1. Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

2. *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

a. Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

b. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

c. 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol).

3. *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Alprazolam.
b. Barbital.
c. Bromazepam.
d. Camazepam.
e. Carisoprodol.
f. Chloral betaine.
g. Chloral hydrate.
h. Chlordiazepoxide.
i. Clobazam.
j. Clonazepam.
k. Clorazepate.
l. Clotiazepam.
m. Cloxazolam.
n. Delorazepam.
o. Diazepam.
p. Dichloralphenazone.
q. Estazolam.
r. Ethchlorvynol.
s. Ethinamate.
t. Ethyl Loflazepate.
u. Fludiazepam.
v. Flunitrazepam.
w. Flurazepam.
x. Halazepam.
y. Haloxazolam.
z. Ketazolam.
aa. Loprazolam.
ab. Lorazepam.
ac. Lormetazepam.
ad. Mebutamate.
ae. Medazepam.
af. Meprobamate.
ag. Methohexital.
ah. Methylphenobarbital (mephobarbital).
ai. Midazolam.
aj. Nimetazepam.
ak. Nitrazepam.
al. Nordiazepam.
am. Oxazepam.

an. Oxazolam.
ao. Paraldehyde.
ap. Petrichloral.
aq. Phenobarbital.
ar. Pinazepam.
as. Prazepam.
at. Quazepam.
au. Temazepam.
av. Tetrazepam.
aw. Triazolam.
ax. Zaleplon.
ay. Zolpidem.
az. Zopiclone.
ba. Fospropofol.
bb. Alfaxalone.
bc. Suvorexant.
bd. Brexanolone.
be. Lemborexant.
bf. Remimazolam.

4. *Fenfluramine.* Any material, compound, mixture, or preparation which contains any quantity of fenfluramine, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

5. *Lorcaserin.* Any material, compound, mixture, or preparation which contains any quantity of lorcaserin, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible.

6. *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

a. Cathine [(+)-norpseudoephedrine].
b. Diethylpropion.
c. Fencamfamin.
d. Fenproporex.
e. Mazindol.
f. Mefenorex.
g. Pemoline (including organometallic complexes and chelates thereof).
h. Phentermine.
i. Pipradrol.
j. SPA ((-)-1-dimethylamino-1,2-diphenylethane).
k. Modafinil.
l. Sibutramine.
m. Solriamfetol (2-amino-3-phenylpropyl carbamate; benzenepropanol, beta-amino-, carbamate (ester).

7. *Other substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

a. Pentazocine.
b. Butorphanol (including its optical isomers).
c. Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.

[C73, 75, §204.210; C77, 79, 81, §204.208(6c), 204.210; 82 Acts, ch 1044, §6 – 10]
84 Acts, ch 1013, §11; 85 Acts, ch 86, §5; 87 Acts, ch 122, §3; 89 Acts, ch 109, §3

C93, §124.210
94 Acts, ch 1009, §14, 15; 2000 Acts, ch 1140, §11 – 14; 2002 Acts, ch 1108, §1; 2007 Acts, ch 8, §13, 14; 2010 Acts, ch 1046, §2; 2012 Acts, ch 1122, §4; 2014 Acts, ch 1056, §5; 2017 Acts, ch 27, §7 – 9, 11; 2020 Acts, ch 1023, §10, 11, 13; 2021 Acts, ch 93, §31, 38
Referred to in §124.201, 124.202, 124.303
Subsection 3, NEW paragraphs be and bf

124.211 Schedule V — criteria.

1. The board shall recommend to the general assembly that the general assembly place a substance in schedule V if any substance is not already included therein and the board finds that:

a. The substance has a low potential for abuse when compared with the substances listed in schedule IV;

b. The substance has currently accepted medical use in treatment in the United States; and

c. The substance has limited physical dependence or psychological dependence liability when compared with the controlled substances listed in schedule IV.

2. If the board finds that any substance included in schedule V does not meet these criteria, the board shall recommend that the general assembly place the substance in a different schedule or remove the substance from the list of controlled substances, as appropriate.

[C73, 75, 77, 79, 81, §204.211]
C93, §124.211
2009 Acts, ch 41, §38

124.212 Schedule V — substances included.

1. Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

2. *Narcotic drugs containing nonnarcotic active medicinal ingredients.* Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams.

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams.

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams.

d. Not more than two point five milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit.

e. Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams.

f. Not more than point five milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

3. *Stimulants.* Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of pyrovalerone, including its salts, isomers, and salts of isomers.

4. *Precursors to amphetamine and methamphetamine.* Unless specifically excepted in paragraph "*d*" or "*e*" or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following precursors to amphetamine or methamphetamine, including their salts, optical isomers, and salts of their optical isomers:

a. Ephedrine.

b. Phenylpropanolamine.

c. Pseudoephedrine. A person shall present a government-issued photo identification

card when purchasing a pseudoephedrine product from a pharmacy. A person shall not purchase a quantity of pseudoephedrine in violation of section 124.213 from a pharmacy, unless the person has a prescription for a pseudoephedrine product in excess of that quantity. A pseudoephedrine product not excepted from this schedule shall be sold by a pharmacy as provided in section 124.212A.

d. Any product that contains three hundred sixty milligrams or less of pseudoephedrine, its salts, optical isomers, and salts of its optical isomers, which is in liquid, liquid capsule, or liquid-filled gel capsule form, is excepted from this schedule and may be warehoused, distributed, and sold over the counter pursuant to section 126.23A.

e. A pseudoephedrine product warehoused by a distributor located in this state which is warehoused for export to a retailer outside this state is excepted from this schedule. A distributor warehousing and exporting a pseudoephedrine product shall register with the board and comply with any rules adopted by the board and relating to the diversion of pseudoephedrine products from legitimate commerce.

5. *Depressants.* Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of any of the following substances having a depressant effect on the central nervous system, including salts of such substances:

a. Ezogabine [N-[2-amino-4(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester].

b. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].

c. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

d. Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide), including its salts. Other names: BRV, UCB-34714, Briviact.

e. Cenobamate. Other names: [(1R)-1-(2-chlorophenyl)-2-(tetrazol-2-yl)ethyl] carbamate; 2H-tetrazole-2-ethanol, alpha-(2-chlorphenyl)-, carbamate (ester), (alphaR)-; carbamic acid (R)-(+)-1-(2-chlorophenyl)-2-(2H-tetrazol-2-yl)ethyl ester.

[C73, 75, 77, 79, 81, §204.212]

84 Acts, ch 1013, §12; 85 Acts, ch 86, §6; 89 Acts, ch 109, §4

C93, §124.212

94 Acts, ch 1009, §16, 17; 97 Acts, ch 77, §1; 2000 Acts, ch 1140, §15, 16; 2003 Acts, ch 53, §8; 2005 Acts, ch 15, §1, 14; 2005 Acts, ch 179, §56; 2007 Acts, ch 8, §15, 16; 2009 Acts, ch 25, §2; 2010 Acts, ch 1046, §3; 2012 Acts, ch 1122, §5; 2017 Acts, ch 27, §10, 11; 2020 Acts, ch 1023, §12, 13; 2021 Acts, ch 93, §32 – 34, 38

Referred to in §124.201, 124.202, 124.303, 126.23A
Subsection 5, paragraph a stricken and rewritten
Subsection 5, NEW paragraph e
Subsection 6 stricken

124.212A Pharmacy pseudoephedrine sale — restrictions — records — contingent applicability.

A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall do the following:

1. Provide for the sale of a pseudoephedrine product from a locked cabinet or behind the sales counter where the public is unable to reach the product and where the public is not permitted.

2. Require the purchaser to present a government-issued photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.

3. Provide an electronic logbook for purchasers of pseudoephedrine products to sign.

4. Require the purchaser to sign the electronic logbook. If the electronic logbook is not available, require a signature that is associated with a transaction number.

5. Enter the purchaser's name, address, date of purchase, time of purchase, name of the pseudoephedrine product purchased, and the quantity sold in the electronic logbook. If the electronic logbook is unavailable, an alternative record shall be kept that complies with the rules adopted by both the office and the board.

6. Determine that the signature in the electronic logbook corresponds with the name on the government-issued photo identification card.

7. Provide notice that a purchaser entering a false statement or misrepresentation in the electronic logbook may subject the purchaser to criminal penalties under 18 U.S.C. §1001.

8. Keep electronic logbook records and any other records obtained from pseudoephedrine purchases if the electronic logbook is unavailable for twenty-four months from the date of the last entry.

9. Disclose electronic logbook information and any other pseudoephedrine purchase records as provided by state and federal law.

10. Comply with training requirements pursuant to federal law.

2009 Acts, ch 25, §3, 9; 2010 Acts, ch 1061, §23
Referred to in §124.212

124.212B Pseudoephedrine sales — tracking — penalty.

1. The office shall establish a real-time electronic repository to monitor and control the sale of schedule V products containing any detectable amount of pseudoephedrine, its salts, or optical isomers, or salts of optical isomers; ephedrine; or phenylpropanolamine. A pharmacy dispensing such products shall report all such sales electronically to a central repository under the control of the office.

2. The information collected in the central repository is confidential unless otherwise ordered by a court, or released by the lawful custodian of the records pursuant to state or federal law.

3. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall not be provided access to the stored information in the electronic central repository. However, a pharmacy, an employee of a pharmacy, or a licensed pharmacist shall be provided access to the stored information for the limited purpose of determining what sales have been made by the pharmacy. A pharmacy, an employee of a pharmacy, or a licensed pharmacist shall not be given the obligation or duty to view the stored information.

4. A pharmacy, or an employee of a pharmacy, or a licensed pharmacist shall not be given the obligation or duty to seek information from the central repository if the real-time electronic logbook becomes unavailable for use.

5. If the electronic logbook is unavailable for use, a paper record for each sale shall be maintained including the purchaser's signature. Any paper record maintained by the pharmacy shall be provided to the office for inclusion in the electronic real-time central repository as soon as practicable.

6. A pharmacy, or an employee of a pharmacy, or a licensed pharmacist shall not be liable, if acting reasonably and in good faith, to any person for any claim which may arise when reporting sales of products enumerated in subsection 1 to the central repository.

7. A person who discloses information stored in the central repository in violation of this section commits a simple misdemeanor.

8. Both the office and the board shall adopt rules to administer this section.

9. The office shall report to the board on an annual basis, beginning January 1, 2010, regarding the repository, including the effectiveness of the repository in discovering unlawful sales of pseudoephedrine products.

2009 Acts, ch 25, §4, 9; 2010 Acts, ch 1069, §13

124.212C Pseudoephedrine advisory council — electronic monitoring. Repealed by 2013 Acts, ch 68, §2.

124.213 Pseudoephedrine purchase restrictions from pharmacy or retailer — penalty.

1. A person shall not purchase more than three thousand six hundred milligrams of pseudoephedrine, either separately or collectively, within a twenty-four-hour period from a pharmacy, or more than one package of a product containing pseudoephedrine within a twenty-four-hour period from a retailer in violation of section 126.23A.

2. A person shall not purchase more than seven thousand five hundred milligrams of pseudoephedrine, either separately or collectively, within a thirty-day period from a pharmacy or from a retailer in violation of section 126.23A.

3. A person who violates this section commits a serious misdemeanor.

2005 Acts, ch 15, §2, 14; 2009 Acts, ch 25, §6
Referred to in §124.212

124.214 through 124.300 Reserved.

SUBCHAPTER III

REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED SUBSTANCES

Referred to in §124.402

124.301 Rules.

The board may, subject to chapter 17A, promulgate rules and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

[C73, 75, 77, 79, 81, §204.301]

C93, §124.301

Referred to in §147.82, 155A.43

124.302 Registration requirements.

1. Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance in this state or who proposes to engage in the manufacture, distribution, or dispensing of or conducting research with any controlled substance within this state, shall obtain and maintain a registration issued by the board in accordance with the board's rules.

2. Persons registered by the board under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this subchapter.

3. The following persons need not register and may lawfully possess controlled substances under this chapter:

a. An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of the agent's or employee's business or employment.

b. A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.

c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in possession of a schedule V substance.

4. A separate registration is required for each principal place of business or professional practice where the applicant manufactures, distributes, dispenses, or conducts research with controlled substances.

5. The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules.

[C24, 27, 31, 35, §3155; C39, §**3169.03, 3169.12;** C46, 50, 54, 58, 62, 66, 71, §204.03, 204.12; C73, 75, 77, 79, 81, §204.302]

91 Acts, ch 233, §5

C93, §124.302

2017 Acts, ch 54, §76; 2018 Acts, ch 1138, §24; 2019 Acts, ch 59, §47

Referred to in §124.417, 124.557

124.303 Registration.

1. The board shall register an applicant to manufacture or distribute controlled substances included in sections 124.204, 124.206, 124.208, 124.210 and 124.212 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider all of the following factors:

a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

b. Compliance with applicable state and local law.

c. Any convictions of the applicant under any federal and state laws relating to any controlled substance.

d. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion.

e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter.

f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law.

g. Any other factors relevant to and consistent with the public health and safety.

2. Registration under subsection 1 of this section does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.

3. Practitioners shall be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this subchapter for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this subchapter in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research in schedule I substances within this state upon furnishing the board evidence of the federal registration.

4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration, excluding fees, entitles them to be registered under this chapter.

[C73, 75, 77, 79, 81, §204.303]

C93, §124.303

2017 Acts, ch 54, §76

Referred to in §124.304

124.304 Revocation, suspension, or restriction of registration.

1. The board may suspend, revoke, or restrict a registration under section 124.303, or otherwise discipline a registrant, upon a finding that any of the following apply to the registrant:

a. The registrant has furnished false or fraudulent material information in any application filed under this chapter or any other chapter which applies to the registrant or the registrant's practice.

b. The registrant has had the registrant's federal registration to manufacture, distribute, dispense, or conduct research with controlled substances suspended, revoked, or restricted.

c. The registrant has been convicted of a public offense under any state or federal law relating to any controlled substance. For the purpose of this section only, a conviction shall include a plea of guilty, a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which forfeiture has not been vacated, or a finding of guilt in a criminal action even though the entry of the judgment or sentence has been withheld and the individual placed on probation.

d. The registrant has committed such acts as would render the registrant's registration under section 124.303 inconsistent with the public interest as determined under that section.

e. If the registrant is a licensed health care professional, the registrant has had the registrant's professional license revoked or suspended or has been otherwise disciplined in a way that restricts the registrant's authority to handle or prescribe controlled substances.

2. The board may limit revocation, suspension, or restriction of a registration or discipline of a registrant to the particular controlled substance with respect to which grounds for revocation, suspension, restriction, or discipline exist.

3. If the board suspends, revokes, or restricts a registration, or otherwise disciplines a registrant, all controlled substances owned or possessed by the registrant at the time of the suspension, revocation, restriction, or discipline, or at the time of the effective date of the order, may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon an order becoming final, all such controlled substances may be forfeited to the state.

4. The board shall promptly notify the bureau and the department of all orders suspending, revoking, or restricting a registration, or otherwise disciplining a registrant.

[C39, §**3169.04;** C46, 50, 54, 58, 62, 66, 71, §204.4; C73, 75, 77, 79, 81, §204.304]
91 Acts, ch 233, §6
C93, §124.304
2003 Acts, ch 53, §9; 2018 Acts, ch 1138, §25, 26

124.305 Contested case proceedings.

1. Prior to suspending, restricting, or revoking a registration, refusing a renewal of registration, or otherwise disciplining a registrant, the board shall serve upon the registrant a notice in accordance with section 17A.12, subsection 1. The proceedings shall comply with the contested case procedures in accordance with chapter 17A. The proceedings shall also be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

2. The board may suspend any registration while simultaneously pursuing emergency adjudicative proceedings in accordance with section 17A.18A, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, under the provisions of the Iowa administrative procedure Act, chapter 17A, unless sooner withdrawn by the board or dissolved by the order of the district court or an appellate court.

[C73, 75, 77, 79, 81, §204.305]
C93, §124.305
2003 Acts, ch 44, §114; 2018 Acts, ch 1138, §27

124.306 Records of registrants.

1. *a.* Persons registered to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with such additional rules as may be issued by the board. A practitioner who engages in dispensing any controlled substance to the practitioner's patients shall keep records of receipt and disbursements of such drugs, including dispensing or other disposition, and information as to controlled substances stolen, lost, or destroyed. In every such case the records of controlled substance received shall show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances dispensed or otherwise disposed of shall show the date of dispensing, the name and address of the person to whom or for whose use, or the owner and species of animal for which the drugs were dispensed and the kind and quantity of drugs dispensed.

b. Every such record shall be kept for a period of two years from the date of the transaction recorded. Records of controlled substances lost, destroyed, or stolen, shall contain a detailed list of the kind and quantity of such drugs and the date of the discovery of such loss, destruction, or theft.

2. No person shall distribute complimentary packages of controlled substances to a practitioner unless that person prepares and leaves with the practitioner a specific written list of the items so distributed. This list shall be prepared on a form prescribed by rules promulgated by the board, and the person who distributes the items listed shall send a copy of the list to the board as soon as practicable after distribution of the complimentary packages to the practitioner.

[C39, §**3169.09;** C46, 50, 54, 58, 62, 66, §204.9; C71, §204.9, 204A.4; C73, 75, 77, 79, 81, §204.306]
C93, §124.306
2017 Acts, ch 54, §28

124.307 Order forms.

Controlled substances in schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

[C24, 27, 31, 35, §3154, 3155; C39, §**3169.05;** C46, 50, 54, 58, 62, 66, 71, §204.5; C73, 75, 77, 79, 81, §204.307]

C93, §124.307

Referred to in §124.403

124.308 Prescriptions.

1. Except when dispensed directly by a practitioner to an ultimate user, a prescription drug as defined in section 155A.3 that is a controlled substance shall not be dispensed without a prescription. The prescription must be authorized by a practitioner and must comply with this section, section 155A.27, applicable federal law and regulation, and rules of the board.

2. *a.* Beginning January 1, 2020, every prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription pursuant to the requirements in subsection 2, paragraph "*b*", unless exempt under subsection 2, paragraph "*c*".

b. Except for prescriptions identified in paragraph "*c*", a prescription that is transmitted pursuant to paragraph "*a*" shall be transmitted to a pharmacy by a practitioner or the practitioner's authorized agent in compliance with federal law and regulation for electronic prescriptions of controlled substances. The practitioner's electronic prescription system and the receiving pharmacy's dispensing system shall comply with federal law and regulation for electronic prescriptions of controlled substances.

c. Paragraph "*b*" shall not apply to any of the following:

(1) A prescription for a patient residing in a nursing home, long-term care facility, correctional facility, or jail.

(2) A prescription authorized by a licensed veterinarian.

(3) A prescription dispensed by a department of veterans affairs pharmacy.

(4) A prescription requiring information that makes electronic submission impractical, such as complicated or lengthy directions for use or attachments.

(5) A prescription for a compounded preparation containing two or more components.

(6) A prescription issued in response to a public health emergency in a situation where a non-patient specific prescription would be permitted.

(7) A prescription issued pursuant to an established and valid collaborative practice agreement, standing order, or drug research protocol.

(8) A prescription issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location, provided that a prescription issued pursuant to this subparagraph shall indicate on the prescription that the practitioner or pharmacy is experiencing a temporary technical or electronic failure.

(9) A prescription issued in an emergency situation pursuant to federal law and regulation rules of the board.

d. A practitioner, as defined in section 124.101, subsection 27, paragraph "*a*", who violates paragraph "*a*" is subject to an administrative penalty of two hundred fifty dollars per violation, up to a maximum of five thousand dollars per calendar year. The assessment of an administrative penalty pursuant to this paragraph by the appropriate licensing board of the practitioner alleged to have violated paragraph "*a*" shall not be considered a disciplinary action or reported as discipline. A practitioner may appeal the assessment of an administrative penalty pursuant to this paragraph, which shall initiate a contested case proceeding under chapter 17A. A penalty collected pursuant to this paragraph shall be deposited into the drug information program fund established pursuant to section 124.557. The board shall be notified of any administrative penalties assessed by the appropriate professional licensing board and deposited into the drug information program fund under this paragraph.

e. A pharmacist who receives a written, oral, or facsimile prescription shall not be required to verify that the prescription is subject to an exception under paragraph "*c*" and may dispense a prescription drug pursuant to an otherwise valid written, oral, or facsimile

prescription. However, a pharmacist shall exercise professional judgment in identifying and reporting suspected violations of this section to the board or the appropriate professional licensing board of the practitioner.

3. A prescription issued prior to January 1, 2020, or a prescription that is exempt from the electronic prescription requirement in subsection 2, paragraph *"c"*, may be transmitted by a practitioner or the practitioner's authorized agent to a pharmacy in any of the following ways:

a. Electronically, if transmitted in accordance with the requirements for electronic prescriptions pursuant to subsection 2.

b. By facsimile for a schedule III, IV, or V controlled substance, or for a schedule II controlled substance only pursuant to federal law and regulation and rules of the board.

c. Orally for a schedule III, IV, or V controlled substance, or for a schedule II controlled substance only in an emergency situation pursuant to federal regulation and rules of the board.

d. By providing an original signed prescription to a patient or a patient's authorized representative.

4. If permitted by federal law and in accordance with federal requirements, an electronic or facsimile prescription shall serve as the original signed prescription and the practitioner shall not provide a patient, a patient's authorized representative, or the dispensing pharmacy with a signed, written prescription. An original signed prescription shall be retained for a minimum of two years from the date of the latest dispensing or refill of the prescription.

5. A prescription for a schedule II controlled substance shall not be filled more than six months after the date of issuance. A prescription for a schedule II controlled substance shall not be refilled.

6. A prescription for a schedule III, IV, or V controlled substance shall not be filled or refilled more than six months after the date on which the prescription was issued or be refilled more than five times.

7. A controlled substance shall not be distributed or dispensed other than for a medical purpose.

8. A practitioner, medical group, or pharmacy that is unable to timely comply with the electronic prescribing requirements in subsection 2, paragraph *"b"*, may petition the board for an exemption from the requirements based upon economic hardship, technical limitations that the practitioner, medical group, or pharmacy cannot control, or other exceptional circumstances. The board shall adopt rules establishing the form and specific information to be included in a request for an exemption and the specific criteria to be considered by the board in determining whether to approve a request for an exemption. The board may approve an exemption for a period of time determined by the board not to exceed one year from the date of approval, and may be renewed annually upon request subject to board approval.

[C39, §**3169.06;** C46, 50, 54, 58, 62, 66, §204.6; C71, §204.6, 204A.7; C73, 75, 77, 79, 81, §204.308]

87 Acts, ch 215, §44

C93, §124.308

2004 Acts, ch 1036, §2, 3; 2005 Acts, ch 3, §29; 2007 Acts, ch 8, §17; 2018 Acts, ch 1138, §10; 2019 Acts, ch 59, §48

Referred to in §124.402, 155A.29

Drug dispensing and prescriptions, see §147.107, 205.3

124.309 through 124.400 Reserved.

SUBCHAPTER IV

OFFENSES AND PENALTIES

Referred to in §155A.24

124.401 Prohibited acts — manufacture, delivery, possession — counterfeit substances, simulated controlled substances, imitation controlled substances — penalties.

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with the intent to manufacture or deliver, a controlled substance, a counterfeit substance, a simulated controlled substance, or an imitation controlled substance, or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver a controlled substance, a counterfeit substance, a simulated controlled substance, or an imitation controlled substance.

a. Violation of this subsection, with respect to the following controlled substances, counterfeit substances, simulated controlled substances, or imitation controlled substances, is a class "B" felony, and notwithstanding section 902.9, subsection 1, paragraph *"b"*, shall be punished by confinement for no more than fifty years and a fine of not more than one million dollars:

(1) More than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than five hundred grams of a mixture or substance containing a detectable amount of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) through (c).

(3) More than two hundred grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than one hundred grams of phencyclidine (PCP) or one kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one thousand kilograms of a mixture or substance containing a detectable amount of marijuana.

(7) More than five kilograms of a mixture or substance containing a detectable amount of any of the following:

(a) Methamphetamine, its salts, isomers, or salts of isomers.

(b) Amphetamine, its salts, isomers, and salts of isomers.

(c) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) and (b).

(8) More than ten kilograms of a mixture or substance containing any detectable amount of those substances identified in section 124.204, subsection 9.

b. Violation of this subsection with respect to the following controlled substances, counterfeit substances, simulated controlled substances, or imitation controlled substances is a class "B" felony, and in addition to the provisions of section 902.9, subsection 1, paragraph *"b"*, shall be punished by a fine of not less than five thousand dollars nor more than one hundred thousand dollars:

(1) More than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of heroin.

(2) More than one hundred grams but not more than five hundred grams of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) through (c).

(3) More than forty grams but not more than two hundred grams of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) More than ten grams but not more than one hundred grams of phencyclidine (PCP) or more than one hundred grams but not more than one kilogram of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) Not more than ten grams of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD).

(6) More than one hundred kilograms but not more than one thousand kilograms of marijuana.

(7) More than five grams but not more than five kilograms of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

(8) More than five grams but not more than five kilograms of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, or salts of isomers.

(9) More than five kilograms but not more than ten kilograms of a mixture or substance containing any detectable amount of those substances identified in section 124.204, subsection 9.

c. Violation of this subsection with respect to the following controlled substances, counterfeit substances, simulated controlled substances, or imitation controlled substances is a class "C" felony, and in addition to the provisions of section 902.9, subsection 1, paragraph *"d"*, shall be punished by a fine of not less than one thousand dollars nor more than fifty thousand dollars:

(1) One hundred grams or less of a mixture or substance containing a detectable amount of heroin.

(2) One hundred grams or less of any of the following:

(a) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine and their salts have been removed.

(b) Cocaine, its salts, optical and geometric isomers, or salts of isomers.

(c) Ecgonine, its derivatives, their salts, isomers, or salts of isomers.

(d) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraph divisions (a) through (c).

(3) Forty grams or less of a mixture or substance described in subparagraph (2) which contains cocaine base.

(4) Ten grams or less of phencyclidine (PCP) or one hundred grams or less of a mixture or substance containing a detectable amount of phencyclidine (PCP).

(5) More than fifty kilograms but not more than one hundred kilograms of marijuana.

(6) Five grams or less of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine, or any compound, mixture, or preparation which contains any quantity or detectable amount of methamphetamine, its salts, isomers, or salts of isomers, or analogs of methamphetamine.

(7) Five grams or less of amphetamine, its salts, isomers, or salts of isomers, or any compound, mixture, or preparation which contains any quantity or detectable amount of amphetamine, its salts, isomers, or salts of isomers.

(8) Five kilograms or less of a mixture or substance containing any detectable amount of those substances identified in section 124.204, subsection 9.

(9) Any other controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance classified in schedule I, II, or III, except as provided in paragraph *"d"*.

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, simulated controlled substances, or imitation controlled substances classified

in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving fifty kilograms or less of marijuana or involving flunitrazepam is a class "D" felony.

e. A person in the immediate possession or control of a firearm while participating in a violation of this subsection shall be sentenced to two times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

f. A person in the immediate possession or control of an offensive weapon, as defined in section 724.1, while participating in a violation of this subsection, shall be sentenced to three times the term otherwise imposed by law, and no such judgment, sentence, or part thereof shall be deferred or suspended.

2. If the same person commits two or more acts which are in violation of subsection 1 and the acts occur in approximately the same location or time period so that the acts can be attributed to a single scheme, plan, or conspiracy, the acts may be considered a single violation and the weight of the controlled substances, counterfeit substances, simulated controlled substances, or imitation controlled substances involved may be combined for purposes of charging the offender.

3. It is unlawful for any person to sell, distribute, or make available any product containing ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine, if the person knows, or should know, that the product may be used as a precursor to any illegal substance or an intermediary to any controlled substance. A person who violates this subsection commits a serious misdemeanor.

4. A person who possesses any product containing any of the following commits a class "D" felony, if the person possesses with the intent that the product be used to manufacture any controlled substance:

a. Ephedrine, its salts, optical isomers, salts of optical isomers, or analogs of ephedrine.

b. Pseudoephedrine, its salts, optical isomers, salts of optical isomers, or analogs of pseudoephedrine.

c. Ethyl ether.

d. Anhydrous ammonia.

e. Red phosphorus.

f. Lithium.

g. Iodine.

h. Thionyl chloride.

i. Chloroform.

j. Palladium.

k. Perchloric acid.

l. Tetrahydrofuran.

m. Ammonium chloride.

n. Magnesium sulfate.

o. Sodium hydroxide.

p. Ammonia nitrate.

q. Ammonia sulfate.

r. Light or medium petroleum distillates.

5. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a serious misdemeanor for a first offense. A person who commits a violation of this subsection and who has previously been convicted of violating this chapter or chapter 124B or 453B, or chapter 124A as it existed prior to July 1, 2017, is guilty of an aggravated misdemeanor. A person who commits a violation of this subsection and has previously been convicted two or more times of violating this chapter or chapter 124B or 453B, or chapter 124A as it existed prior to July 1, 2017, is guilty of a class "D" felony.

If the controlled substance is marijuana, the punishment shall be by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars, or by both such fine and imprisonment for a first offense. If the controlled substance is

marijuana and the person has been previously convicted of a violation of this subsection in which the controlled substance was marijuana, the punishment shall be as provided in section 903.1, subsection 1, paragraph *"b"*. If the controlled substance is marijuana and the person has been previously convicted two or more times of a violation of this subsection in which the controlled substance was marijuana, the person is guilty of an aggravated misdemeanor.

A person may knowingly or intentionally recommend, possess, use, dispense, deliver, transport, or administer cannabidiol if the recommendation, possession, use, dispensing, delivery, transporting, or administering is in accordance with the provisions of chapter 124E. For purposes of this paragraph, *"cannabidiol"* means the same as defined in section 124E.2.

All or any part of a sentence imposed pursuant to this subsection may be suspended and the person placed upon probation upon such terms and conditions as the court may impose including the active participation by such person in a drug treatment, rehabilitation or education program approved by the court.

If a person commits a violation of this subsection, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. If the person is not sentenced to confinement under the custody of the director of the department of corrections, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

If the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions as the court may impose. The court may place the person on intensive probation. However, the terms and conditions of probation shall require submission to random drug testing. If the person fails a drug test, the court may transfer the person's placement to any appropriate placement permissible under the court order.

6. Notwithstanding any other provision in this section to the contrary, a person may produce, possess, use, harvest, handle, manufacture, market, transport, deliver, or distribute any of the following:

a. Hemp that is hemp seed delivered for planting at a licensed crop site, or hemp that is or was produced at the site, by a person operating under a hemp license issued by the department of agriculture and land stewardship in accordance with the provisions of chapter 204.

b. Hemp that was produced in another state in accordance with the federal hemp law and other applicable law.

c. A hemp product as provided in chapter 204.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593, 5003; S13, §2593, 2596-a; C24, 27, 31, 35, §3152, 3168, 3169; C39, §**3169.02, 3169.21;** C46, 50, 54, 58, 62, §204.2, 204.22; C66, §204.2, 204.20; C71, §204.2, 204.20, 204A.3, 204A.10; C73, 75, 77, 79, 81, §204.401; 82 Acts, ch 1147, §2]

84 Acts, ch 1013, §13, 14; 84 Acts, ch 1105, §2, 3; 89 Acts, ch 225, §11; 90 Acts, ch 1233, §7
C93, §124.401

94 Acts, ch 1107, §7; 96 Acts, ch 1164, §1 – 4; 97 Acts, ch 122, §1 – 3; 98 Acts, ch 1138, §24, 25; 99 Acts, ch 12, §2, 3; 99 Acts, ch 65, §1; 2000 Acts, ch 1144, §1; 2000 Acts, ch 1201, §4; 2003 Acts, ch 16, §1; 2003 Acts, ch 156, §1 – 7; 2004 Acts, ch 1057, §1; 2004 Acts, ch 1086, §32; 2006 Acts, ch 1030, §12; 2007 Acts, ch 8, §18; 2007 Acts, ch 126, §24; 2009 Acts, ch 41, §263; 2011 Acts, ch 134, §19, 20, 47; 2012 Acts, ch 1023, §23; 2012 Acts, ch 1122, §10, 11; 2013 Acts, ch 30, §25, 236 – 238; 2014 Acts, ch 1082, §1; 2014 Acts, ch 1125, §1; 2015 Acts, ch 30, §53, 207; 2017 Acts, ch 122, §7 – 9; 2017 Acts, ch 145, §4 – 10, 24 – 27; 2017 Acts, ch 162, §2, 25; 2018 Acts, ch 1026, §39, 182; 2019 Acts, ch 130, §24, 33

Referred to in §124.401E, 124.401G, 124.409, 124.410, 124.411, 124.413, 124.416, 124.418, 155A.24, 232.8, 232.22, 232.52, 321.279, 462A.34B, 712.1, 723A.1, 726.6, 809A.4, 811.1, 901.10, 901.11, 901.12, 907.3

Sale, transfer, furnishing, or receipt of precursor for unlawful purpose, see §124B.9

124.401A Enhanced penalty for manufacture or distribution to persons on certain real property.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully manufactures with intent to distribute, distributes, or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, II, or III, or a simulated or imitation controlled substance represented to be a controlled substance classified in schedule I, II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced up to an additional term of confinement of five years.

90 Acts, ch 1251, §5

C91, §204.401A

C93, §124.401A

94 Acts, ch 1172, §6; 96 Acts, ch 1164, §5; 2002 Acts, ch 1175, §25; 2002 Acts, 2nd Ex, ch 1003, §236, 262; 2017 Acts, ch 145, §11

Referred to in §671A.2

124.401B Possession of controlled substances on certain real property — additional penalty.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated or imitation controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

94 Acts, ch 1172, §7; 96 Acts, ch 1164, §6; 2017 Acts, ch 145, §12

Referred to in §671A.2

124.401C Manufacturing methamphetamine in presence of minors.

1. In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older and who either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufactures methamphetamine, its salts, isomers, or salts of its isomers in the presence of a minor shall be sentenced up to an additional term of confinement of five years. However, the additional term of confinement shall not be imposed on a person who has been convicted and sentenced for a child endangerment offense under section 726.6, subsection 1, paragraph "*g*", arising from the same facts.

2. For purposes of this section, the term "*in the presence of a minor*" shall mean, but is not limited to, any of the following:

a. When a minor is physically present during the activity.

b. When the activity is conducted in the residence of a minor.

c. When the activity is conducted in a building where minors can reasonably be expected to be present.

d. When the activity is conducted in a room offered to the public for overnight accommodation.

e. When the activity is conducted in any multiple-unit residential building.

97 Acts, ch 125, §1; 2004 Acts, ch 1151, §1; 2006 Acts, ch 1030, §13

124.401D Conspiracy to manufacture for delivery or delivery or intent or conspiracy to deliver amphetamine or methamphetamine to a minor.

1. *a.* It is unlawful for a person eighteen years of age or older to act with, or enter into a common scheme or design with, or conspire with one or more persons to manufacture for delivery to a person under eighteen years of age a material, compound, mixture, preparation,

or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

b. A violation of this subsection is a felony punishable under section 902.9, subsection 1, paragraph *"a"*.

c. A second or subsequent violation of this subsection is a class "A" felony.

2. *a.* It is unlawful for a person eighteen years of age or older to deliver, or possess with the intent to deliver to a person under eighteen years of age, a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, or to act with, or enter into a common scheme or design with, or conspire with one or more persons to deliver or possess with the intent to deliver to a person under eighteen years of age a material, compound, mixture, preparation, or substance that contains any detectable amount of amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers.

b. A violation of this subsection is a felony punishable under section 902.9, subsection 1, paragraph *"a"*.

c. A second or subsequent violation of this subsection is a class "A" felony.

99 Acts, ch 12, §4; 2000 Acts, ch 1144, §2; 2009 Acts, ch 41, §181; 2013 Acts, ch 30, §239, 240

Referred to in §901.10, 902.8A, 902.9

124.401E Certain penalties for manufacturing or delivery of amphetamine or methamphetamine.

1. If a court sentences a person for the person's first conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, paragraph *"c"*, and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

2. If a court sentences a person for a conviction of manufacturing of a controlled substance under section 124.401, subsection 1, paragraph *"c"*, and if the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court may suspend the sentence, and the court may order the person to complete a drug court program if a drug court has been established in the county in which the person is sentenced, or order the person to be assigned to a community-based correctional facility for a period of one year or until maximum benefits are achieved, whichever is earlier.

3. If a court sentences a person for the person's second or subsequent conviction for delivery or possession with intent to deliver a controlled substance under section 124.401, subsection 1, and the controlled substance is amphetamine, its salts, isomers, or salts of its isomers, or methamphetamine, its salts, isomers, or salts of its isomers, the court, in addition to any other authorized penalties, shall sentence the person to imprisonment in accordance with section 124.401, subsection 1, and the person shall serve the minimum period of confinement as required by section 124.413.

99 Acts, ch 12, §5; 2000 Acts, ch 1144, §3

124.401F Prohibitions on tampering with, possessing, or transporting anhydrous ammonia or anhydrous ammonia equipment.

1. A person shall not intentionally tamper with anhydrous ammonia equipment. Tampering occurs when a person who is not authorized by the owner of anhydrous ammonia equipment uses the equipment in violation of a provision of this section. A person shall not in any manner or for any purpose sell, fill, refill, deliver, permit to be delivered, or use an anhydrous ammonia container or receptacle, including for the storage of any gas or compound, unless the person owns the container or receptacle or is authorized to do so

by the owner. A person shall not possess or transport anhydrous ammonia in a container or receptacle which is not authorized by the secretary of agriculture to hold anhydrous ammonia.

2. A person violating this section commits a serious misdemeanor. In addition to the imposition of the serious misdemeanor penalty, a person shall be subject to a civil penalty of not more than one thousand five hundred dollars, if the person does any of the following:

a. Intentionally tampers with anhydrous ammonia equipment.

b. Possesses or transports anhydrous ammonia in a container or receptacle which is not authorized to hold anhydrous ammonia according to rules adopted by the secretary of agriculture.

3. A person tampering with anhydrous ammonia equipment in violation of this section shall not have a cause of action against the owner of the equipment, any person responsible for the installation and maintenance of the equipment, or the person lawfully selling the anhydrous ammonia for damages arising out of the tampering.

99 Acts, ch 12, §6; 99 Acts, ch 208, §48; 2000 Acts, ch 1058, §13
Referred to in §200.18

124.401G Iowa hemp Act — negligent violation program.

Notwithstanding any provision of this chapter to the contrary, a person shall not be guilty of an offense under this chapter, including under section 124.401 or 124.410, for producing, possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing the plant cannabis, if all of the following apply:

1. The person holds a valid hemp license issued by the department of agriculture and land stewardship as provided in chapter 204.

2. The plant is or was produced on the licensee's crop site as provided in chapter 204.

3. The offense arises out of a test of a sample of plants that are part of a crop produced on the licensee's crop site and the test indicates that the sample does not qualify as hemp under section 204.8 and does not exceed a maximum concentration of two percent delta-9 tetrahydrocannabinol on a dry weight basis.

4. The licensee is participating in or has successfully completed the negligent violation program that applies to the licensee's crop site described in subsection 3 if such program is established by the department of agriculture and land stewardship pursuant to section 204.15.

2019 Acts, ch 130, §25, 33

124.402 Prohibited acts — distributors — registrants — proprietors — penalties.

1. It is unlawful for any person:

a. Who is subject to subchapter III to distribute or dispense a controlled substance in violation of section 124.308;

b. Who is a registrant, to manufacture a controlled substance not authorized by the registration, or to distribute or dispense a controlled substance not authorized by the registration to another registrant or other authorized person;

c. To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;

d. To refuse an entry into any premises during reasonable business hours for any inspection authorized by this chapter; or

e. Knowingly to keep or permit the keeping or to maintain any premises, store, shop, warehouse, dwelling, temporary, or permanent building, vehicle, boat, aircraft, or other temporary or permanent structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping, possessing or selling them in violation of this chapter.

2. Any person who violates subsection 1 of this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate subsection 1 of this section, is guilty of a public offense and upon conviction:

a. Of a violation of paragraphs "*a*", "*b*", "*d*", or "*e*" shall be an aggravated misdemeanor.

b. Of a violation of paragraph *"c"* shall be a serious misdemeanor.

[C73, 75, 77, 79, 81, §204.402]
C93, §124.402
2017 Acts, ch 54, §76

124.403 Prohibited acts — controlled substances, distribution, use, possession — records and information — penalties.

1. It is unlawful for any person knowingly or intentionally:

a. To distribute as a registrant a controlled substance classified in schedules I or II, except pursuant to an order form as required by section 124.307;

b. To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

c. To acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge;

d. To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or

e. To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

2. Any person who violates this section, or who acts with, enters into a common scheme or design with, or conspires with one or more other persons to violate this section, is guilty of a serious misdemeanor.

[C39, §**3169.17;** C46, 50, 54, 58, 62, §204.18; C66, §204.17; C71, §204.17, 204A.3; C73, 75, 77, 79, 81, §204.403]
C93, §124.403

124.404 Penalties under other laws.

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

[C73, 75, 77, 79, 81, §204.404]
C93, §124.404
2017 Acts, ch 54, §76

124.405 Bar to prosecution.

If a violation of this chapter is a violation of a federal law or the law of another state, the conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

[C39, §**3169.22;** C46, 50, 54, 58, 62, §204.23; C66, 71, §204.21; C73, 75, 77, 79, 81, §204.405]
C93, §124.405

124.406 Distribution to person under age eighteen.

1. A person who is eighteen years of age or older who:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with the intent to distribute a controlled substance listed in schedule III to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

c. Unlawfully distributes a controlled substance listed in schedule IV or V to a person

under eighteen years of age who is at least three years younger than the violator commits an aggravated misdemeanor.

2. A person who is eighteen years of age or older who:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II, or a simulated or imitation controlled substance represented to be a substance classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony.

b. Unlawfully distributes or possesses with intent to distribute a counterfeit substance listed in schedule III, or a simulated or imitation controlled substance represented to be any substance listed in schedule III, to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

c. Unlawfully distributes a counterfeit substance listed in schedule IV or V, or a simulated or imitation controlled substance represented to be a substance listed in schedule IV or V, to a person under eighteen years of age who is at least three years younger than the violator commits an aggravated misdemeanor.

3. It is unlawful for a person to deliver a controlled substance to another person in order to act with, enter into a common scheme or design with, conspire with, or recruit the other person for the purpose of delivering a controlled substance to one or more persons under eighteen years of age. A person who violates this subsection with respect to a controlled substance classified in schedule I, II, III, IV, or V is guilty of a class "D" felony.

[C97, §5003; C24, 27, 31, 35, §3168, 3169; C39, §**3169.21;** C46, 50, 54, 58, 62, §204.22; C66, §204.20; C71, §204.20, 204A.11; C73, 75, 77, 79, 81, §204.406; 82 Acts, ch 1147, §3]

84 Acts, ch 1013, §15; 89 Acts, ch 225, §12; 90 Acts, ch 1251, §6, 7

C93, §124.406

94 Acts, ch 1172, §8, 9; 97 Acts, ch 33, §2, 3; 2017 Acts, ch 145, §13

Referred to in §124.416, 901.10, 903A.5

124.406A Use of persons under age eighteen in the drug trade.

It is unlawful for a person who is eighteen years of age or older to conspire with or recruit a person under the age of eighteen for the purpose of delivering or manufacturing a controlled substance classified in schedules I through IV. A person violating this section commits a class "C" felony.

94 Acts, ch 1172, §10

124.407 Gatherings where controlled substances unlawfully used — penalties.

1. It is unlawful for any person to sponsor, promote, or aid, or assist in the sponsoring or promoting of a meeting, gathering, or assemblage with the knowledge or intent that a controlled substance be there distributed, used, or possessed, in violation of this chapter.

2. *a.* Any person who violates this section and where the controlled substance is any one other than marijuana is guilty of a class "D" felony.

b. Any person who violates this section, and where the controlled substance is marijuana only, is guilty of a serious misdemeanor.

3. The district court shall grant an injunction barring a meeting, gathering, or assemblage if upon hearing the court finds that the sponsors or promoters of the meeting, gathering, or assemblage have not taken reasonable means to prevent the unlawful distribution, use, or possession of a controlled substance. Further injunctive relief may be granted against all persons furnishing goods or services to such meeting, gathering, or assemblage.

4. The district court may, upon application and a showing of one or more of the grounds provided in section 639.3, grant to the state or governmental subdivision thereof a writ of attachment, ex parte, without bond, in an amount necessary to secure the payment of any fine that may be imposed and the payment of costs. The reasonable expense to the state and governmental subdivisions thereof to provide the necessary law enforcement resulting from a meeting, gathering, or assemblage held in violation of this section may be taxed as costs in the criminal action.

[C73, 75, 77, 79, 81, §204.407]

C93, §124.407
99 Acts, ch 135, §13; 2017 Acts, ch 54, §29
Referred to in §124.418

124.408 Joint criminal trials.

Information, indictments, trial, and sentencing for violations of this chapter may allege any number of violations of their provisions against one person and join one or more persons as defendants who it is alleged violated the same provisions in the same transaction or series of transactions and which involve common questions of law and fact. The several charges shall be set out in separate counts and each accused person shall be convicted or acquitted upon each count by separate verdict. Each accused person shall thereafter be sentenced upon each verdict of guilty. The court may consider such separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing as provided in this chapter. The court may grant a severance and separate trial to any accused person jointly charged or indicted if it appears that substantial injustice would result to such accused person unless a separate trial was granted.

[C73, 75, 77, 79, 81, §204.408]
C93, §124.408

124.409 Conditional discharge, commitment for treatment, and probation.

1. Whenever the court finds that a person who is charged with a violation of section 124.401 and who consents thereto, or who has entered a plea of guilty to or been found guilty of a violation of that section, is addicted to, dependent upon, or a chronic abuser of any controlled substance and that such person will be aided by proper medical treatment and rehabilitative services, the court may order that the person be committed as an in-patient or out-patient to a facility licensed by the Iowa department of public health for medical treatment and rehabilitative services.

2. A person committed under this section who is not possessed of sufficient income or estate to enable the person to make payment of the costs of such treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44. The determination of ability to pay shall be made by the court. The court shall require the patient, or the patient's parent, guardian, or custodian to complete under oath a detailed financial statement. The court may enter appropriate orders requiring the patient or those legally liable for the patient's support to reimburse the state with the costs, or any part thereof.

3. In order to obtain the most effective results from such medical treatment and rehabilitative services, the court may commit the person to the custody of a public or private agency or any other responsible person and impose other conditions upon the commitment as is necessary to ensure compliance with the court's order and to ensure that the person will not, during the period of treatment and rehabilitation, again violate a provision of this chapter.

4. If it is established thereafter to the satisfaction of the court that the person has again violated a provision of this chapter, the person may be returned to custody or sentenced upon conviction as provided by law.

5. The public or private agency or responsible person to whom the accused person was committed by the court shall immediately report to the court when the person has received maximum benefit from the program or has recovered from addiction, dependency, or tendency to chronically abuse any controlled substance. The person shall then be returned to the court for disposition of the case. If the person has been charged or indicted, but not convicted, such charge shall proceed to trial or final disposition. If the person has been convicted or is thereafter convicted, the court shall sentence the person as provided by law but may remit all or any part of the sentence and place the person on probation upon terms and conditions as the court may prescribe.

[C73, 75, 77, 79, 81, §204.409]
84 Acts, ch 1013, §16

C93, §124.409
96 Acts, ch 1034, §4; 2002 Acts, ch 1175, §26; 2002 Acts, 2nd Ex, ch 1003, §237, 262; 2019 Acts, ch 59, §49; 2020 Acts, ch 1062, §23; 2021 Acts, ch 76, §26
Referred to in §125.44, 125.89
Subsection 3 amended

124.410 Accommodation offense.

1. In a prosecution for unlawful delivery or possession with intent to deliver marijuana, if the prosecution proves that the defendant violated the provisions of section 124.401, subsection 1, by proving that the defendant delivered or possessed with intent to deliver one-half ounce or less of marijuana which was not offered for sale, the defendant is guilty of an accommodation offense and rather than being sentenced as if convicted for a violation of section 124.401, subsection 1, paragraph *"d"*, shall be sentenced as if convicted of a violation of section 124.401, subsection 5. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver marijuana in violation of section 124.401, subsection 1.

2. Subsection 1 does not apply to any of the following:

a. Hashish, hashish oil, or other derivatives of marijuana as defined in section 124.101, subsection 20.

b. Hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

[C73, 75, 77, 79, 81, §204.410]
89 Acts, ch 225, §13
C93, §124.410
99 Acts, ch 67, §1; 2019 Acts, ch 130, §26, 33
Referred to in §124.401G, 124.413

124.411 Second or subsequent offenses.

1. Any person convicted of a second or subsequent offense under this chapter, may be punished by imprisonment for a period not to exceed three times the term otherwise authorized, or fined not more than three times the amount otherwise authorized, or punished by both such imprisonment and fine.

2. For purposes of this section, an offense is considered a second or subsequent offense, if, prior to the person's having been convicted of the offense, the offender has ever been convicted under this chapter or under any state or federal statute relating to narcotic drugs or cocaine, marijuana, depressant, stimulant, or hallucinogenic drugs.

3. This section does not apply to any of the following:

a. An offense under section 124.401, subsection 5.

b. Hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

[C97, §5003; C24, 27, 31, 35, §3168, 3169; C39, §**3169.21;** C46, 50, 54, 58, 62, §204.22; C66, 71, §204.20; C73, 75, 77, 79, 81, §204.411]
84 Acts, ch 1013, §17
C93, §124.411
2019 Acts, ch 130, §27, 33

124.412 Notice of conviction.

If a person enters a plea of guilty to, or forfeits bail or collateral deposited to secure the person's appearance in court, and such forfeiture is not vacated, or if a person is found guilty upon an indictment or information alleging a violation of this chapter, a copy of the minutes attached to the indictment returned by the grand jury, or to the county attorney's information, a copy of the judgment and sentence, and a copy of the opinion of the judge if one is filed, shall be sent by the clerk of the district court or the judge to any state board or officer by whom the convicted person has been licensed or registered to practice the person's profession or carry on the person's business. On the conviction of a person, the court may suspend or revoke the license or registration of the convicted defendant to practice the defendant's profession or carry on the defendant's business. On the application of a person whose license

or registration has been suspended or revoked, and upon proper showing and for good cause, the board or officer may reinstate the license or registration.

[C39, §**3169.15;** C46, 50, 54, 58, 62, §204.16; C66, 71, §204.15; C73, 75, 77, 79, 81, §204.412]
C93, §124.412
93 Acts, ch 16, §1; 2018 Acts, ch 1172, §95, 104
Referred to in §602.8102(35)

124.413 Mandatory minimum sentence — parole eligibility.

1. Except as provided in subsection 3 and sections 901.11 and 901.12, a person sentenced pursuant to section 124.401, subsection 1, paragraph *"a"*, *"b"*, *"e"*, or *"f"*, shall not be eligible for parole or work release until the person has served a minimum term of confinement of one-third of the maximum indeterminate sentence prescribed by law.

2. This section shall not apply if:

a. The offense is found to be an accommodation pursuant to section 124.410; or

b. The controlled substance is marijuana.

3. A person serving a sentence pursuant to section 124.401, subsection 1, paragraph *"b"*, shall be denied parole or work release, based upon all the pertinent information as determined by the court under section 901.11, subsection 1, until the person has served between one-half of the minimum term of confinement prescribed in subsection 1 and the maximum indeterminate sentence prescribed by law.

[C79, 81, §204.413]
89 Acts, ch 225, §14
C93, §124.413
2009 Acts, ch 41, §182; 2016 Acts, ch 1104, §1, 2; 2017 Acts, ch 122, §10, 11
Referred to in §124.401E, 232.45, 901.10, 901.11, 901.12, 903A.5

124.414 Drug paraphernalia.

1. *a.* As used in this section, *"drug paraphernalia"* means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

(1) Manufacture a controlled substance.

(2) Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

(3) Test the strength, effectiveness, or purity of a controlled substance.

(4) Enhance the effect of a controlled substance.

b. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

3. A person who violates this section commits a simple misdemeanor.

2000 Acts, ch 1144, §4
Referred to in §124.418

124.415 Parental and school notification — persons under eighteen years of age.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, simulated controlled substance, or imitation controlled substance in violation of this chapter, and if the person is not referred to juvenile court, the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall notify a juvenile court officer who shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of

the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first-class mail.

90 Acts, ch 1251, §8
C91, §204.415
C93, §124.415
94 Acts, ch 1172, §11; 95 Acts, ch 191, §5; 2017 Acts, ch 145, §14
Referred to in §232.147

124.416 Exception to restrictions on bail.

Notwithstanding section 811.1, the court, after making the finding required by section 811.1, subsection 3, may admit a person convicted of a violation of section 124.401, subsection 2, or of a violation of section 124.406, to bail if the prosecuting attorney in the action and the defendant's counsel jointly petition the court to admit the person to bail.

90 Acts, ch 1251, §9
C91, §204.416
C93, §124.416
95 Acts, ch 191, §6

124.417 Imitation controlled substances — exceptions.

It is not unlawful under this chapter for a person registered under section 124.302, to manufacture, deliver, or possess with the intent to manufacture or deliver, or to act with, one or more other persons to manufacture, deliver, or possess with the intent to manufacture or deliver an imitation controlled substance for use as a placebo by a registered practitioner in the course of professional practice or research.

2017 Acts, ch 145, §15

124.418 Persons seeking medical assistance for drug-related overdose.

1. As used in this section, unless the context otherwise requires:

a. "Drug-related overdose" means a condition of a person for which each of the following is true:

(1) The person is in need of medical assistance.

(2) The person displays symptoms including but not limited to extreme physical illness, pinpoint pupils, decreased level of consciousness including coma, or respiratory depression.

(3) The person's condition is the result of, or a prudent layperson would reasonably believe such condition to be the result of, the consumption or use of a controlled substance.

b. "Overdose patient" means a person who is, or would reasonably be perceived to be, suffering a drug-related overdose and who has not previously received immunity under this section.

c. "Overdose reporter" means a person who seeks medical assistance for an overdose patient and who has not previously received immunity under this section.

d. "Protected information" means information or evidence collected or derived as a result of any of the following:

(1) An overdose patient's good-faith actions to seek medical assistance while experiencing a drug-related overdose.

(2) An overdose reporter's good-faith actions to seek medical assistance for an overdose patient experiencing a drug-related overdose if all of the following are true:

(a) The overdose patient is in need of medical assistance for an immediate health or safety concern.

(b) The overdose reporter is the first person to seek medical assistance for the overdose patient.

(c) The overdose reporter provides the overdose reporter's name and contact information to medical or law enforcement personnel.

(d) The overdose reporter remains on the scene until assistance arrives or is provided.

(e) The overdose reporter cooperates with medical and law enforcement personnel.

(f) Medical assistance was not sought during the execution of an arrest warrant, search warrant, or other lawful search.

2. Protected information shall not be considered to support probable cause and shall not be admissible as evidence against an overdose patient or overdose reporter for any of the following offenses:

a. Delivery of a controlled substance under section 124.401, subsection 1, if such delivery involved the sharing of the controlled substance without profit.

b. Possession of a controlled substance under section 124.401, subsection 5.

c. Violation of section 124.407.

d. Violation of section 124.414.

3. A person's pretrial release, probation, supervised release, or parole shall not be revoked based on protected information.

4. Notwithstanding any other provision of law to the contrary, a court may consider the act of providing first aid or other medical assistance to someone who is experiencing a drug-related overdose as a mitigating factor in a criminal prosecution.

5. Nothing in this section shall do any of the following:

a. Preclude or prevent an investigation by law enforcement of the drug-related overdose where medical assistance was provided.

b. Be construed to limit or bar the use or admissibility of any evidence or information obtained in connection with the investigation of the drug-related overdose in the investigation or prosecution of other crimes or violations which do not qualify for immunity under this section and which are committed by any person, including the overdose patient or overdose reporter.

c. Preclude the investigation or prosecution of any person on the basis of evidence obtained from sources other than the specific drug-related overdose where medical assistance was provided.

2018 Acts, ch 1138, §32

See also §135.190

124.419 through 124.500 Reserved.

SUBCHAPTER V

ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

124.501 Responsibility for enforcement.

The department is primarily responsible for the enforcement of this chapter, and all other laws and regulations of this state, relating to controlled or counterfeit substances, or simulated or imitation controlled substances, except that the board is primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, and health care facilities as defined in section 135C.1, subsection 8, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances, and is also primarily responsible for any other duties in respect to controlled substances as specifically delegated to the board by law. An officer or employee of the board may, when so directed or authorized by the board:

1. Execute and serve search warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.

2. Make seizures of property pursuant to the provisions of this chapter.

[C39, §**3169.19;** C46, 50, 54, 58, 62, §204.20, 204.26; C66, 71, §204.19; C73, 75, 77, 79, 81, §204.501; 82 Acts, ch 1147, §10]

C93, §124.501

Referred to in §124.502

124.502 Administrative inspections and warrants.

1. Issuance and execution of administrative inspection warrants shall be as follows:

a. A district judge or district associate judge, within the court's jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of

conducting administrative inspections under this chapter or a related rule. The warrant may also permit seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of the statute or related rules, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

b. A warrant shall issue only upon sworn testimony of an officer or employee of the board duly designated and having knowledge of the facts alleged, before the judicial officer, establishing the grounds for issuing the warrant. If the judicial officer is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the officer shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any.

c. The warrant shall:

(1) State the grounds for its issuance and the name of each person whose testimony has been taken in support thereof.

(2) Be directed to a person authorized by section 124.501 to execute it.

(3) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.

(4) Identify the item or types of property to be seized, if any.

(5) Direct that it be served during normal business hours, if appropriate, and designate the judge to whom it shall be returned.

d. A warrant issued pursuant to this section must be executed and returned within ten days after its date unless, upon a showing of a need for additional time, the court so instructs otherwise in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a copy of the warrant and a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was seized and to the applicant for the warrant.

e. The judicial officer who has issued a warrant under this section shall require that there be attached to the warrant a copy of the return, and of all papers filed in connection with the return, and shall file them with the clerk of the district court for the county in which the inspection was made.

2. The department may make administrative inspections of controlled premises in accordance with the following provisions:

a. For purposes of this section only, *"controlled premises"* means:

(1) Places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(2) Places including factories, warehouse establishments, and conveyances where persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

b. Whenever authorized by an administrative inspection warrant issued pursuant to subsection 1 of this section an officer or employee of the board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, has the right to enter controlled premises for the purpose of conducting an administrative inspection.

c. Whenever authorized by an administrative inspection warrant, an officer or employee of the board has the right:

(1) To inspect and copy records required by this chapter to be kept;

(2) To inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph *"e"* of this subsection, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(3) To inventory any stock of any controlled substance therein and obtain samples of any such substance.

d. This section shall not be construed to prevent the inspection without a warrant of books and records pursuant to a subpoena issued in accordance with section 622.65, nor shall this section be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator, or agent in charge of the controlled premises;

(2) In situations presenting imminent danger to health or safety;

(3) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(5) In all other situations where a warrant is not constitutionally required.

e. Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to financial data; sales data, other than shipment data; or pricing data.

[C73, 75, 77, 79, 81, §204.502; 82 Acts, ch 1147, §11]
83 Acts, ch 186, §10051, 10052, 10201
C93, §124.502
99 Acts, ch 96, §10; 2009 Acts, ch 41, §183; 2017 Acts, ch 145, §16

124.503 Injunctions.

1. The district court may exercise jurisdiction to enjoin violations of this chapter.

2. In case of an alleged violation of an injunction or restraining order issued under this section, upon demand of the defendant, trial shall be by a jury.

[C73, 75, 77, 79, 81, §204.503]
C93, §124.503

124.504 Cooperative arrangements and confidentiality.

1. The department and board, subject to approval and direction of the governor, shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, they may jointly:

a. Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.

b. Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels.

c. Cooperate with the bureau by establishing a centralized unit which will accept, catalogue, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state and local law enforcement purposes; except that they shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection 3.

d. Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

2. Results, information, and evidence received from the bureau relating to the regulatory functions of this chapter, including results of inspections conducted by that agency may be relied upon and acted upon by the board or the department in the exercise of their regulatory functions under this chapter.

3. A practitioner engaged in medical practice or research or the Iowa drug abuse authority or any program which is licensed by the authority shall not be required to furnish the name

or identity of a patient or research subject to the board or the department, nor shall the practitioner or the authority or any program which is licensed by the authority be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner or the authority or any of its licensed programs is obligated to keep confidential.

[C73, 75, 77, 79, 81, §204.504]
C93, §124.504

124.505 Reserved.

124.506 Controlled substances — disposal.

All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, or excess or undesired controlled substances, which have come into the custody of the board, the department, or any peace officer, shall be disposed of as follows:

1. Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where the controlled substances were seized, of the kinds and quantities of controlled substances so destroyed, and of the time, place, and manner of destruction, shall be kept for not less than ten years after destruction, and a return under oath, reporting said destruction, shall be made to the court.

2. Upon written application by the board, the court by whom the forfeiture of controlled substances has been decreed may order the delivery of any of them, except controlled substances listed in schedule I, to the board for distribution or destruction, as provided by this section.

3. Upon a request of any law enforcement agency, the court may order that a portion of a controlled substance subject to forfeiture and destruction pursuant to this section becomes the possession of the requesting law enforcement agency for the sole purpose of canine controlled substance detection training. A law enforcement agency receiving a controlled substance pursuant to this subsection shall do the following:

a. Establish a policy that includes reasonable controls regarding the possession, storage, use, and destruction of the controlled substance.

b. Retain a record of the following for at least ten years from the date the controlled substance is destroyed:

(1) The court order granting the law enforcement agency possession of the controlled substance.

(2) The name of each peace officer who takes possession of the controlled substance.

(3) The time, place, and manner of the destruction of the controlled substance.

4. Upon application by any hospital within this state, not operated for private gain, the board may in its discretion deliver any controlled substances that have come into its custody by authority of this section to the applicant for medicinal use. The board may from time to time deliver excess stocks of controlled substances to the bureau for disposition, or may destroy the excess controlled substances.

5. According to an order for the disposal of a crop that does not qualify as hemp as provided in section 204.10.

6. The board shall keep a full and complete record of all controlled substances received and disposed of, showing the exact kinds, quantities, and forms of controlled substances, the persons from whom received and to whom delivered, by whose authority received, delivered, and destroyed and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state laws relating to any controlled substance.

[C39, §**3169.14;** C46, 50, 54, 58, 62, §204.15; C66, 71, §204.14; C73, 75, 77, 79, 81, §204.506]
C93, §124.506
2009 Acts, ch 24, §2, 3; 2020 Acts, ch 1065, §1, 19; 2020 Acts, ch 1121, §107 – 109
Referred to in §124.506A, 809A.17

124.506A Large seizure of a controlled substance — evidence and disposal.

1. *a.* Notwithstanding the provisions of section 124.506, if more than ten pounds of marijuana or more than one pound of any other controlled substance is seized as a result of a violation of this chapter, the law enforcement agency responsible for retaining the seized controlled substance may destroy the seized controlled substance if the law enforcement agency retains at least ten pounds of the marijuana seized or at least one pound of any other controlled substance seized for evidence purposes.

b. Paragraph *"a"* does not apply to hemp or a hemp product excluded from schedule I of controlled substances as provided in section 124.204, subsection 7.

2. Prior to the destruction of any controlled substance under this section, the law enforcement agency shall photograph the controlled substance to be destroyed with identifying case numbers or any other case identifiers and prepare a written report detailing any relevant information about the destruction of the controlled substance. At least thirty days prior to any destruction of a controlled substance, the law enforcement agency destroying the controlled substance shall notify in writing any person arrested in connection with the seizure, the attorney of the person if represented, and any other attorney of record including the prosecuting attorney, and the law enforcement agency that made the arrest if the agency is different than the law enforcement agency responsible for retaining the seized controlled substance, that the law enforcement agency is planning to photograph and destroy part of the controlled substance seized, and any person or agency notified may be present at the photographing of the controlled substance to be destroyed.

3. Any person or agency notified about the destruction of part of the controlled substance seized, or any other interested party, may file an application with the district court resisting the destruction of any of the controlled substance.

4. A rebuttable presumption is created that the portion of any controlled substance retained for representation purposes as evidence and all photographs and records made under this section and properly identified are admissible in any court proceeding for any purpose for which the destroyed controlled substance would have been admissible.

2006 Acts, ch 1027, §1; 2006 Acts, ch 1185, §119; 2019 Acts, ch 130, §28, 33

124.507 Burden of proof — liabilities.

1. It is not necessary for the state to negate any exemption or exception set forth in this chapter in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this chapter. The proof of entitlement to any exemption or exception by the person claiming its benefit shall be a valid defense.

2. The absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter creates a rebuttable presumption that the person is not the holder of such registration or form.

3. No liability shall be imposed by virtue of this chapter upon any authorized state, county or municipal officer, engaged in the lawful performance of the officer's duties.

[C24, 27, 31, 35, §3156; C39, §**3169.18;** C46, 50, 54, 58, 62, §204.19; C66, 71, §204.18; C73, 75, 77, 79, 81, §204.507]

C93, §124.507

124.508 Judicial review.

Judicial review of actions of board or department may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

[C73, 75, 77, 79, 81, §204.508]

C93, §124.508

2003 Acts, ch 44, §114

124.509 Education and research.

1. The board and the department, subject to approval and direction of the governor, shall carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. They shall consult with each other and coordinate their programs so as to avoid duplication of effort. In connection with these programs they may:

a. Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

b. Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

c. Consult with interested groups and organizations to aid them in solving administrative and organizational problems;

d. Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

e. Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and,

f. Assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

2. The board and the department, subject to approval and direction of the governor, shall encourage research on misuse and abuse of controlled substances. In connection with such research, and in furtherance of the enforcement of this chapter, they may in such manner as will best insure coordination and avoid duplication of effort:

a. Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

b. Make studies and undertake programs of research to:

(1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;

(2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(3) Improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,

c. Enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

3. The board or department, subject to approval and direction of the governor, may enter into contracts for educational and research activities without performance bonds.

4. The board and department, subject to approval and direction of the governor, may jointly authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization shall not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

5. The board and department, subject to approval and direction of the governor, may jointly authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

[C73, 75, 77, 79, 81, §204.509]
C93, §124.509

124.510 Reports of arrests and analyses to department.

Any peace officer who arrests for any crime, any known unlawful user of the drugs described in schedule I, II, III, or IV, or who arrests any person for a violation of this chapter, or charges any person with a violation of this chapter subsequent to the person's arrest, shall within five days after the arrest or the filing of the charge, whichever is later, report the arrest and the charge filed to the department. The peace officer or any other peace officer or law enforcement agency which makes or obtains any quantitative or qualitative analysis of any substance seized in connection with the arrest of the person charged, shall report to the department the results of the analysis at the time the arrest is reported or at such later time as the results of the analysis become available. This information is for the exclusive

use of the division of narcotics enforcement in the department of public safety, and shall not be a matter of public record.

[C73, 75, 77, 79, 81, §204.510]
C93, §124.510
2005 Acts, ch 35, §29; 2018 Acts, ch 1041, §41

124.511 through 124.549 Reserved.

SUBCHAPTER VI

DRUG PRESCRIBING AND DISPENSING— INFORMATION PROGRAM

124.550 Definitions.

For purposes of this subchapter, unless the context otherwise requires:

1. *"Pharmacist"* means a practicing pharmacist who is actively engaged in and responsible for the pharmaceutical care of the patient about whom information is requested.

2. *"Prescribing practitioner"* means a practitioner who has prescribed or is contemplating the authorization of a prescription for the patient about whom information is requested. *"Prescribing practitioner"* does not include a licensed veterinarian.

3. *"Proactive notification"* means a notification by the board, generated based on factors determined by the board and issued to a specific prescribing practitioner or pharmacist, indicating that a patient may be practitioner shopping or pharmacy shopping or at risk of abusing or misusing a controlled substance.

4. *"Program"* means the information program for drug prescribing and dispensing.

2016 Acts, ch 1052, §1; 2017 Acts, ch 54, §76; 2018 Acts, ch 1138, §1, 2, 17

124.551 Information program for drug prescribing and dispensing.

1. Contingent upon the receipt of funds pursuant to section 124.557 sufficient to carry out the purposes of this subchapter, the board, in conjunction with the advisory council created in section 124.555, shall establish and maintain an information program for drug prescribing and dispensing.

2. *a.* The program shall collect from pharmacies dispensing information for controlled substances identified pursuant to section 124.554, subsection 1, paragraph *"g"*, and from first responders as defined in section 147A.1, subsection 7, with the exception of emergency medical care providers as defined in section 147A.1, subsection 4, administration information for opioid antagonists. The department of public health shall provide information for the administration of opioid antagonists to the board as prescribed by rule for emergency medical care providers as defined in section 147A.1, subsection 4. The board shall adopt rules requiring the following information to be provided regarding the administration of opioid antagonists:

(1) Patient identification.
(2) Identification of the person administering opioid antagonists.
(3) The date of administration.
(4) The quantity of opioid antagonists administered.

b. The information collected shall be used by prescribing practitioners, veterinarians, and pharmacists on a need-to-know basis for purposes of improving patient health care by facilitating early identification of patients who may be at risk for addiction, or who may be using, abusing, or diverting drugs for unlawful or otherwise unauthorized purposes at risk to themselves and others, or who may be appropriately using controlled substances lawfully prescribed for them but unknown to the practitioner.

3. The board shall implement technological improvements to facilitate secure access to the program through electronic health and pharmacy information systems. The board shall collect, store, and disseminate program information consistent with security criteria established by rule, including use of appropriate encryption or other industry-recognized security technology.

4. The board shall seek any federal waiver necessary to implement the provisions of the program.

2006 Acts, ch 1147, §2, 11; 2016 Acts, ch 1052, §2; 2017 Acts, ch 54, §76; 2018 Acts, ch 1138, §3; 2020 Acts, ch 1024, §1

Referred to in §22.7(51)

124.551A Prescribing practitioner program registration.

A prescribing practitioner shall register for the program at the same time the prescribing practitioner applies to the board to register or renews registration to prescribe controlled substances as required by the board. Once the prescribing practitioner registers for the program, the prescribing practitioner or the prescribing practitioner's designated agent shall utilize the program database prior to issuing an opioid prescription as prescribed by rules adopted by the prescribing practitioner's licensing board to assist the prescribing practitioner in determining appropriate treatment options and to improve the quality of patient care. A prescribing practitioner shall not be required to utilize the program database to assist in the treatment of a patient receiving inpatient hospice care or long-term residential facility patient care.

2018 Acts, ch 1138, §4

124.552 Information reporting.

1. Unless otherwise prohibited by federal or state law, each licensed pharmacy that dispenses controlled substances identified pursuant to section 124.554, subsection 1, paragraph *"g"*, to patients in the state, each licensed pharmacy located in the state that dispenses such controlled substances identified pursuant to section 124.554, subsection 1, paragraph *"g"*, to patients inside or outside the state, unless specifically excepted in this section or by rule, and each prescribing practitioner furnishing, dispensing, or supplying controlled substances to the prescribing practitioner's patient, shall submit the following prescription information to the program:

a. Pharmacy identification.
b. Patient identification.
c. Prescribing practitioner identification.
d. The date the prescription was issued by the prescribing practitioner.
e. The date the prescription was dispensed.
f. An indication of whether the prescription dispensed is new or a refill.
g. Identification of the drug dispensed.
h. Quantity of the drug dispensed.
i. The number of days' supply of the drug dispensed.
j. Serial or prescription number assigned by the pharmacy.
k. Type of payment for the prescription.
l. Other information identified by the board by rule.

2. Information shall be submitted electronically in a secure format specified by the board unless the board has granted a waiver and approved an alternate secure format.

3. Information shall be timely transmitted within one business day of the dispensing of the controlled substance, unless the board grants an extension. The board may grant an extension if either of the following occurs:

a. The pharmacy or prescribing practitioner suffers a mechanical or electronic failure, or cannot meet the deadline established by the board for other reasons beyond the pharmacy's or practitioner's control.
b. The board is unable to receive electronic submissions.

4. This section shall not apply to dispensing by a licensed pharmacy for the purposes of inpatient hospice care or long-term residential facility patient care.

2006 Acts, ch 1147, §3, 11; 2007 Acts, ch 126, §25, 26; 2018 Acts, ch 1138, §5

124.553 Information access.

1. The board may provide information from the program to the following:

a. (1) A pharmacist, veterinarian, or prescribing practitioner who requests the

information and certifies in a form specified by the board that it is for the purpose of providing medical or pharmaceutical care to a patient of the pharmacist, veterinarian, or prescribing practitioner. A pharmacist, veterinarian, or prescribing practitioner may delegate program information access to another authorized individual or agent only if that individual or agent registers for program information access, pursuant to board rules, as an agent of the pharmacist, veterinarian, or prescribing practitioner. Board rules shall identify the qualifications for a pharmacist's, veterinarian's, or prescribing practitioner's agent and shall limit the number of agents to whom each pharmacist, veterinarian, or prescribing practitioner may delegate program information access.

(2) Notwithstanding subparagraph (1), a prescribing practitioner may delegate program information access to another licensed health care professional in emergency situations where the patient would be placed in greater jeopardy if the prescribing practitioner was required to access the information personally.

b. An individual who requests the individual's own program information in accordance with the procedure established in rules of the board and advisory council adopted under section 124.554.

c. Pursuant to an order, subpoena, or other means of legal compulsion for access to or release of program information that is issued based upon a determination of probable cause in the course of a specific investigation of a specific individual.

d. A prescription database or monitoring program in another jurisdiction pursuant to subsection 7.

e. An institutional user established by the board to facilitate the secure access of a prescribing practitioner or pharmacist to the program through electronic health and pharmacy information systems.

f. The state medical examiner or a county medical examiner as appointed pursuant to section 331.801 or 691.5 or a medical examiner investigator recognized by the office of the state medical examiner when the information requested by the examiner or investigator relates to an investigation being conducted by the examiner or investigator.

g. A prescribing practitioner or pharmacist through the use of a targeted distribution of proactive notifications.

h. A prescribing practitioner for the issuance of a required report pursuant to section 124.554, subsection 3.

2. The board shall maintain a record of each person that requests information from the program and of all proactive notifications distributed to prescribing practitioners and dispensing pharmacists as provided in subsection 1, paragraph *"g"*. Pursuant to rules adopted by the board under section 124.554, the board may use the records to document and report statistical information, and may provide program information for statistical, public research, public policy, or educational purposes, after removing personal identifying information of a patient, prescribing practitioner, dispenser, or other person who is identified in the information.

3. Information contained in the program and any information obtained from it, and information contained in the records of requests for information from the program and information distributed to prescribing practitioners and dispensing pharmacists as provided in subsection 1, paragraph *"g"*, is privileged and strictly confidential information. Such information is a confidential public record pursuant to section 22.7, and is not subject to discovery, subpoena, or other means of legal compulsion for release except as provided in this subchapter. Information from the program shall not be released, shared with an agency or institution, or made public except as provided in this subchapter.

4. A pharmacist or other dispenser making a report to the program reasonably and in good faith pursuant to this subchapter is immune from any liability, civil, criminal, or administrative, which might otherwise be incurred or imposed as a result of the report.

5. Nothing in this section shall require a pharmacist, veterinarian, or prescribing practitioner to obtain information about a patient from the program. A pharmacist, veterinarian, or prescribing practitioner does not have a duty and shall not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist, veterinarian, or

prescribing practitioner did or did not seek or obtain or use information from the program. A pharmacist, veterinarian, or prescribing practitioner acting reasonably and in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving or using information from the program.

6. The board shall not charge a fee to a pharmacy, pharmacist, veterinarian, or prescribing practitioner for the establishment, maintenance, or administration of the program, including costs for forms required to submit information to or access information from the program, except that the board may charge a fee to an individual who requests the individual's own program information. A fee charged pursuant to this subsection shall not exceed the actual cost of providing the requested information and shall be considered a repayment receipt as defined in section 8.2.

7. The board may enter into an agreement with a prescription database or monitoring program operated in any state for the mutual exchange of information. Any agreement entered into pursuant to this subsection shall specify that all the information exchanged pursuant to the agreement shall be used and disseminated in accordance with the laws of this state.

2006 Acts, ch 1147, §4, 11; 2007 Acts, ch 8, §19; 2007 Acts, ch 126, §27, 28; 2011 Acts, ch 58, §1; 2014 Acts, ch 1053, §1, 2; 2016 Acts, ch 1052, §3, 4; 2017 Acts, ch 54, §76; 2017 Acts, ch 152, §1; 2017 Acts, ch 162, §3, 25; 2018 Acts, ch 1138, §6, 13, 18, 19; 2020 Acts, ch 1024, §2, 3
Referred to in §22.7(51), 124.554, 124.558

124.554 Rules and reporting.

1. The board and advisory council shall jointly adopt rules in accordance with chapter 17A to carry out the purposes of, and to enforce the provisions of, this subchapter. The rules shall include but not be limited to the development of procedures relating to:

a. Identifying each patient about whom information is entered into the program.

b. An electronic format for the submission of information from pharmacies and prescribing practitioners.

c. A waiver to submit information in another format for a pharmacy or prescribing practitioner unable to submit information electronically.

d. An application by a pharmacy or prescribing practitioner for an extension of time for transmitting information to the program.

e. The submission by an authorized requestor of a request for information and a procedure for the verification of the identity of the requestor.

f. Use by the board or advisory council of the program request records required by section 124.553, subsection 2, to document and report statistical information.

g. Including all schedule II, schedule III, and schedule IV controlled substances, schedule V controlled substances including when dispensed by a pharmacist without a prescription except for sales of pseudoephedrine that are reported to the real-time electronic repository, opioid antagonists, and other prescription substances that the advisory council and board determine can be addictive or fatal if not taken under the proper care and direction of a prescribing practitioner.

h. Access by a pharmacist or prescribing practitioner to information in the program pursuant to a written agreement with the board and advisory council.

i. The correction or deletion of erroneous information in the program.

j. The issuance annually of a prescribing practitioner activity report compiled from information from the program pursuant to subsection 3.

k. The establishment of thresholds or other criteria or measures to be used in identifying an at-risk patient as provided in section 124.553, subsection 1, paragraph "*g*", and the targeted distribution of proactive notifications suggesting review of the patient's prescription history.

2. Beginning February 1, 2021, and annually by February 1 thereafter, the board and advisory council shall present to the general assembly and the governor a report prepared consistent with section 124.555, subsection 3, paragraph "*d*", which shall include but not be limited to the following:

a. The cost to the state of implementing and maintaining the program.

b. Information from pharmacies, prescribing practitioners, the board, the advisory council, and others regarding the benefits or detriments of the program.

c. Information from pharmacies, prescribing practitioners, the board, the advisory council, and others regarding the board's effectiveness in providing information from the program.

3. *a.* Annually by February 1, the board shall electronically, and at as low a cost as possible, issue each prescribing practitioner who prescribed a controlled substance reported to the program as dispensed in the preceding calendar year in this state a prescribing practitioner activity report which shall include but not be limited to the following:

(1) A summary of the prescribing practitioner's history of prescribing controlled substances.

(2) A comparison of the prescribing practitioner's history of prescribing controlled substances with the history of other prescribing practitioners of the same profession or specialty.

(3) The prescribing practitioner's history of program use.

(4) General patient risk factors.

(5) Educational updates.

(6) Other pertinent information identified by the board and advisory council by rule.

b. Information provided to a prescribing practitioner in a report required under this subsection is privileged and shall be kept confidential pursuant to section 124.553, subsection 3.

2006 Acts, ch 1147, §5, 11; 2007 Acts, ch 126, §29, 30; 2017 Acts, ch 54, §76; 2018 Acts, ch 1138, §7, 14, 15, 20; 2020 Acts, ch 1024, §4 – 6

Referred to in §124.551, 124.552, 124.553, 124.555, 124.556

124.555 Advisory council established.

An advisory council shall be established to provide oversight to the board and the program and to comanage program activities. The board and advisory council shall jointly adopt rules specifying the duties and activities of the advisory council and related matters.

1. The council shall consist of eight members appointed by the governor. The members shall include three licensed pharmacists, four physicians licensed under chapter 148, and one licensed prescribing practitioner who is not a physician. The governor shall solicit recommendations for council members from Iowa health professional licensing boards, associations, and societies. The license of each member appointed to and serving on the advisory council shall be current and in good standing with the professional's licensing board.

2. The council shall advance the goals of the program, which include identification of misuse and diversion of controlled substances identified pursuant to section 124.554, subsection 1, paragraph "*g*", and enhancement of the quality of health care delivery in this state.

3. Duties of the council shall include but not be limited to the following:

a. Ensuring the confidentiality of the patient, prescribing practitioner, and dispensing pharmacist and pharmacy.

b. Respecting and preserving the integrity of the patient's treatment relationship with the patient's health care providers.

c. Encouraging and facilitating cooperative efforts among health care practitioners and other interested and knowledgeable persons in developing best practices for prescribing and dispensing controlled substances and in educating health care practitioners and patients regarding controlled substance use and abuse.

d. Making recommendations regarding the continued benefits of maintaining the program in relationship to cost and other burdens to the patient, prescribing practitioner, pharmacist, and the board. The council's recommendations shall be included in reports required by section 124.554, subsection 2.

e. One physician and one pharmacist member of the council shall include in their duties the responsibility for monitoring and ensuring that patient confidentiality, best interests, and civil liberties are at all times protected and preserved during the existence of the program.

4. Members of the advisory council shall be eligible to request and receive actual expenses for their duties as members of the advisory council, subject to reimbursement limits imposed by the department of administrative services, and shall also be eligible to receive a per diem compensation as provided in section 7E.6, subsection 1.

2006 Acts, ch 1147, §6, 11; 2007 Acts, ch 126, §31, 32; 2008 Acts, ch 1088, §82
Referred to in §124.551, 124.554

124.556 Education and treatment.

The program shall include education initiatives and outreach to consumers, prescribing practitioners, and pharmacists, and shall also include assistance for identifying substance abuse treatment programs and providers. The program shall also include educational updates and information on general patient risk factors for prescribing practitioners. The board and advisory council shall adopt rules, as provided under section 124.554, to implement this section.

2006 Acts, ch 1147, §7, 11; 2007 Acts, ch 126, §33; 2018 Acts, ch 1138, §16

124.557 Drug information program fund — surcharge.

The drug information program fund is established to be used by the board to fund or assist in funding the program. The board may make deposits into the fund from any source, public or private, including grants or contributions of money or other items of value, which it determines necessary to carry out the purposes of this subchapter. The board may add a surcharge of not more than twenty-five percent to the applicable fee for a registration issued pursuant to section 124.302 and the surcharge shall be deposited into the fund. Moneys received by the board to establish and maintain the program must be used for the expenses of administering this subchapter. Notwithstanding section 8.33, amounts contained in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated in future years.

2006 Acts, ch 1147, §8, 11; 2017 Acts, ch 54, §76; 2018 Acts, ch 1138, §8
Referred to in §124.308, 124.551, 155A.27

124.558 Prohibited acts — penalties.

1. *Failure to comply with requirements.* A pharmacist, pharmacy, prescribing practitioner, or agent of a pharmacist or prescribing practitioner who knowingly fails to comply with the confidentiality requirements of this subchapter or who delegates program information access to another individual except as provided in section 124.553, is subject to disciplinary action by the appropriate professional licensing board. A pharmacist, pharmacy, or prescribing practitioner that knowingly fails to comply with other requirements of this subchapter is subject to disciplinary action by the board. Each licensing board may adopt rules in accordance with chapter 17A to implement the provisions of this section.

2. *Unlawful access, disclosure, or use of information.* A person who intentionally or knowingly accesses, uses, or discloses program information in violation of this subchapter, unless otherwise authorized by law, is guilty of a class "D" felony. This section shall not preclude a pharmacist or prescribing practitioner who requests and receives information from the program consistent with the requirements of this chapter from otherwise lawfully providing that information to any other person for medical or pharmaceutical care purposes.

2006 Acts, ch 1147, §9, 11; 2007 Acts, ch 126, §34; 2011 Acts, ch 58, §2; 2017 Acts, ch 54, §76; 2018 Acts, ch 1138, §9

124.559 through 124.600 Reserved.

SUBCHAPTER VII

MISCELLANEOUS

124.601 Uniformity of interpretation.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[C24, 27, 31, 35, §3167; C39, §**3169.23;** C46, 50, 54, 58, 62, §204.24; C66, 71, §204.22; C73, 75, 77, 79, 81, §204.601]

C93, §124.601

124.602 Short title.

This chapter may be cited as the *"Uniform Controlled Substances Act"*.

[C39, §**3169.24;** C46, 50, 54, 58, 62, §204.25; C66, 71, §204.23; C73, 75, 77, 79, 81, §204.602]

C93, §124.602

CHAPTER 124A

IMITATION CONTROLLED SUBSTANCES

Repealed by 2017 Acts, ch 145, §23; see chapter 124

CHAPTER 124B

PRECURSOR SUBSTANCES

Referred to in §124.401, 155A.6, 155A.6A, 155A.6B, 155A.13A, 155A.13C, 155A.17, 155A.17A, 155A.42

This chapter not enacted as a part of this title; transferred from chapter 204B in Code 1993

124B.1 Definitions.
124B.2 Reporting required.
124B.3 Identification required.
124B.4 Vendor reporting.
124B.5 Receipt of substance from outside the state — penalty.
124B.6 Exceptions.
124B.7 Reporting form.
124B.8 Missing quantity — reporting.
124B.9 Sale, transfer, furnishing, or receipt for unlawful purpose — penalty.
124B.10 False statement — penalty.
124B.11 Permit requirements — penalty.
124B.12 Permit — refusal, suspension, or revocation.

124B.1 Definitions.

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

1. *"Board"* means the board of pharmacy.
2. *"Controlled substance"* means a controlled substance as defined in section 124.101.
3. *"Practitioner"* means a practitioner as defined in section 155A.3.
4. *"Precursor substance"* means a substance which may be used as a precursor in the illegal production of a controlled substance and is specified under section 124B.2.
5. *"Recipient"* means a person in this state who purchases, transfers, or otherwise receives a precursor substance.
6. *"Vendor"* means a person who manufactures, wholesales, retails, or otherwise sells, transfers, or furnishes in this state a precursor substance.

90 Acts, ch 1251, §10

C91, §204B.1

C93, §124B.1

2007 Acts, ch 10, §16

124B.2 Reporting required.

1. A report to the board shall be submitted in accordance with this chapter by a manufacturer, retailer, or other person who sells, transfers, or otherwise furnishes to any person in this state any of the following substances:

a. Anthranilic acid, its esters, and its salts.

b. Benzyl cyanide.

c. Ethylamine and its salts.

d. Ergonovine and its salts.

e. Ergotamine and its salts.

f. 3,4 - methylenedioxyphenyl-2-propanone.

g. N-acetylanthranilic acid, its esters, and its salts.

h. Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

i. Phenylacetic acid, its esters, and its salts.

j. Piperidine and its salts.

k. Methylamine and its salts.

l. Propionic anhydride.

m. Isosafrole.

n. Safrole.

o. Piperonal.

p. N-methylephedrine, its salts, optical isomers, and salts of optical isomers.

q. N-methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

r. Hydriodic acid.

s. Benzaldehyde.

t. Nitroethane.

u. Gamma-Butyrolactone (also known as GBL; Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; or gamma-hydroxy-butyric acid lactone).

v. Red phosphorus.

w. White phosphorus (another name: yellow phosphorus).

x. Hypophosphorous acid and its salts (including ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, and sodium hypophosphite).

y. Iodine.

z. N-phenethyl-4-piperidone (NPP).

aa. Ergocristine and its salts.

ab. Alpha-phenylacetoacetonitrile and its salts, optical isomers, and salts of optical isomers. Other name: APAAN.

ac. N-(1-benzylpiperidin-4-yl)-N-phenylpropionamide (benzylfentanyl) and its salts.

ad. N-phenylpiperidin-4-amine(4-anilinopiperidine; N-phenyl-4-piperidinamine; 4-AP), its amides, its carbamates, and its salts.

2. The board shall administer the regulatory provisions of this chapter and may, by rule adopted pursuant to chapter 17A, add a substance to or remove a substance from the list in subsection 1. In determining whether to add or remove a substance from the list, the board shall consider the following:

a. The likelihood that the substance may be used as a precursor in the illegal production of a controlled substance.

b. The availability of the substance.

c. The appropriateness of including the substance under this chapter or under chapter 124.

d. The extent and nature of legitimate uses for the substance.

3. On or before November 1 of each year, the board shall inform the general assembly of any substances added, deleted, or changed in the list contained in this section and shall provide an explanation of any addition, deletion, or change.

90 Acts, ch 1251, §11

C91, §204B.2

C93, §124B.2
2000 Acts, ch 1140, §17, 18; 2002 Acts, ch 1108, §2, 3; 2003 Acts, ch 53, §10; 2008 Acts, ch 1010, §5; 2009 Acts, ch 36, §1; 2012 Acts, ch 1122, §6; 2018 Acts, ch 1138, §30, 31; 2021 Acts, ch 93, §35, 36, 38
Referred to in §124B.1, 124B.3, 124B.6
Subsection 1, unnumbered paragraph 1 amended
Subsection 1, NEW paragraphs ac and ad

124B.3 Identification required.

1. Before selling, transferring, or otherwise furnishing any substance specified in section 124B.2 to a person in this state, a vendor shall require proper identification from the purchaser.

2. For the purposes of this section, in the case of a face-to-face purchase, "*proper identification*" means all of the following:

a. A driver's license containing the purchaser's photograph and residential or mailing address, other than a post office box number, or any other official state-issued identification containing this information.

b. The motor vehicle license number of the vehicle owned or operated by the purchaser.

c. A letter of authorization from the person who is making the purchase. The letter shall include the person's business license number and business address, a description as to how the substance will be used, and the purchaser's signature. The vendor shall affix the vendor's signature as a witness to the signature and identification of the purchaser.

3. The board shall provide by rule for the form of proper identification required for purchases which are not face to face.

4. A person who violates this section or rules adopted pursuant to this section commits a simple misdemeanor.

90 Acts, ch 1251, §12
C91, §204B.3
92 Acts, ch 1175, §27
C93, §124B.3
98 Acts, ch 1073, §9
Referred to in §124B.4, 124B.6

124B.4 Vendor reporting.

1. At least twenty-one days prior to the delivery of a precursor substance to a recipient, the vendor shall submit a report of the transaction to the board. The report must contain the identification information specified under section 124B.3. However, if regular, repeated transactions of a particular precursor substance occur between the vendor and the recipient, the board may authorize the vendor to report the transactions monthly if either of the following conditions exists:

a. A pattern of regular supply of the precursor substance exists between the vendor and the recipient.

b. The recipient has established a record of lawfully using the precursor substance.

2. A vendor who does not submit a report pursuant to this section commits a serious misdemeanor.

90 Acts, ch 1251, §13
C91, §204B.4
C93, §124B.4
Referred to in §124B.6

124B.5 Receipt of substance from outside the state — penalty.

1. A vendor, recipient, or other person required to report pursuant to this chapter who receives a precursor substance from a source outside the state shall submit a report to the board pursuant to rules adopted by the board.

2. A person who does not submit a report required under this section commits a serious misdemeanor.

90 Acts, ch 1251, §14

C91, §204B.5
C93, §124B.5
Referred to in §124B.6

124B.6 Exceptions.

The requirements of sections 124B.2 through 124B.5 do not apply to any of the following:

1. A licensed pharmacist or other person authorized under chapter 155A to sell or furnish a precursor substance upon the prescription of a practitioner.

2. A practitioner who administers or furnishes a precursor substance to a patient.

3. A vendor who holds a permit issued by the board and who sells, transfers, or otherwise furnishes a precursor substance to a practitioner or a pharmacy as defined in section 155A.3.

4. A sale, transfer, furnishing, or receipt of a drug containing ephedrine, phenylpropanolamine, or pseudoephedrine or of a cosmetic containing a precursor substance if the drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription in accordance with chapter 126.

90 Acts, ch 1251, §15
C91, §204B.6
C93, §124B.6
Referred to in §124B.8

124B.7 Reporting form.

1. The board shall adopt rules prescribing a common form for the filing of reports required under this chapter. The rules shall provide that the information which must be submitted shall include but is not limited to all of the following:

a. The name of the precursor substance.

b. The quantity of the precursor substance sold, transferred, or furnished.

c. The date the precursor substance was sold, transferred, or furnished.

d. The name and address of the recipient.

e. The name and address of the vendor.

2. Reports authorized under subsection 1 may be computer-generated and submitted monthly in accordance with rules adopted by the board.

90 Acts, ch 1251, §16
C91, §204B.7
C93, §124B.7

124B.8 Missing quantity — reporting.

A person who is required to report to the board pursuant to this chapter or a person listed as an exception under section 124B.6 shall report to the board either of the following occurrences within seven days of knowledge of the loss or occurrence:

1. Loss or theft of a precursor substance.

2. A difference between the amount of a precursor substance shipped and the amount of a precursor substance received. If applicable, the report shall include the name of the person who transported the precursor substance and the date of shipment.

90 Acts, ch 1251, §17
C91, §204B.8
C93, §124B.8

124B.9 Sale, transfer, furnishing, or receipt for unlawful purpose — penalty.

1. A person who sells, transfers, or otherwise furnishes a precursor substance with knowledge or the intent that the recipient will use the precursor substance to unlawfully manufacture a controlled substance commits a class "C" felony.

2. A person who receives a precursor substance with the intent that the substance be used unlawfully to manufacture a controlled substance commits a class "C" felony.

90 Acts, ch 1251, §18
C91, §204B.9

C93, §124B.9
2004 Acts, ch 1057, §2
Unlawful manufacture of a controlled substance, see §124.401

124B.10 False statement — penalty.

A person who knowingly makes a false statement in connection with any report or record required to be made under this chapter commits an aggravated misdemeanor.

90 Acts, ch 1251, §19
C91, §204B.10
C93, §124B.10

124B.11 Permit requirements — penalty.

1. A vendor or a recipient who receives a precursor substance from a source outside the state shall obtain a permit for the transaction from the board. However, a permit is not required of a vendor of a drug containing ephedrine, phenylpropanolamine, or pseudoephedrine or of a cosmetic that contains a precursor substance if the drug or cosmetic is lawfully sold, transferred, or furnished either over the counter without a prescription in accordance with chapter 126 or with a prescription pursuant to chapter 155A.

2. An application for a permit shall be filed in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any precursor substance sold, transferred, or otherwise furnished or received.

3. The board may grant a permit on a form adopted by rule. A permit shall be effective for not more than one year from the date of issuance.

4. An applicant shall pay, at the time of filing an application, a permit fee determined by the board.

5. A permit granted under this chapter may be annually renewed on a date to be determined by the board pursuant to rule, upon the filing of a renewal application and the payment of a permit renewal fee.

6. Permit fees charged by the board shall not exceed the costs incurred by the board in administering this chapter.

7. Selling, transferring, or otherwise furnishing, or receiving a precursor substance without a permit obtained pursuant to this section is a serious misdemeanor.

90 Acts, ch 1251, §20
C91, §204B.11
C93, §124B.11

124B.12 Permit — refusal, suspension, or revocation.

The board shall refuse, suspend, or revoke a permit upon finding that any of the following conditions exist:

1. The permit was obtained through fraud, misrepresentation, or deceit.

2. The permittee has violated or has permitted any employee of the permittee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated this chapter, a rule adopted pursuant to this chapter, or any other rule of the board.

90 Acts, ch 1251, §21
C91, §204B.12
C93, §124B.12

CHAPTER 124C

CLEANUP OF CLANDESTINE LABORATORY SITES

124C.1	Definitions.	124C.5	Liability of state employees or persons providing cleanup assistance.
124C.2	Powers and duties of the commissioner.	124C.6	Legal remedies.
124C.3	Liability to the state.	124C.7	Rulemaking authority.
124C.4	Claim of state.		

124C.1 Definitions.

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

1. *"Clandestine laboratory site"* means a location or operation, including but not limited to buildings or vehicles equipped with glassware, heating devices, and precursors or related reagents and solvents needed to unlawfully prepare or manufacture controlled substances defined in chapter 124.

2. *"Cleanup"* means actions necessary to contain, collect, control, identify, analyze, disassemble, treat, remove, or otherwise disperse all substances and materials, including but not limited to those found to be hazardous waste as defined in section 455B.411 and controlled substances defined in chapter 124, including contamination caused by those chemicals or substances.

3. *"Commissioner"* means the commissioner of public safety.

4. *"Department"* means the department of public safety.

5. *"Hazardous substance"* means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, and other substances defined in rules adopted pursuant to section 455B.381 and controlled substances as defined in chapter 124.

6. *"Person having control over a clandestine laboratory site"* means a person who at any time possesses, produces, handles, stores, uses, transports, or disposes of a hazardous substance or controlled substance used or intended for use at a clandestine laboratory site. A person having control over a clandestine laboratory site does not include persons performing duties listed in section 124C.2 at the direction of the commissioner and does not include a person who is the owner of the property or a person holding a security interest in the property in or upon which the clandestine laboratory site is located unless the person knew that a clandestine laboratory existed in or upon the person's property.

93 Acts, ch 141, §1; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §12, 200, 201; 2003 Acts, ch 44, §35

124C.2 Powers and duties of the commissioner.

1. The commissioner or the commissioner's designee may use funds appropriated or otherwise available to the department for the following purposes:

a. Administrative services for the identification, assessment, and cleanup of clandestine laboratory sites.

b. Payments to other government agencies or private contractors for services consistent with the management and cleanup of a clandestine laboratory site.

c. Emergency response activities involving clandestine laboratory sites, including surveillance, entry, security, cleanup, and disposal.

2. The commissioner may request the assistance of other state, federal, and local agencies as necessary.

3. The commissioner shall proceed, pursuant to this section, to collect all costs incurred in cleanup of a clandestine laboratory site from the person having control over a clandestine laboratory site.

4. The commissioner shall make all reasonable efforts to recover the full amount of moneys expended, through litigation or otherwise. Moneys recovered shall be deposited with the treasurer of state and credited to the department of public safety.

93 Acts, ch 141, §2; 2009 Acts, ch 41, §184

Referred to in §124C.1

124C.3 Liability to the state.

A person having control over a clandestine laboratory site shall be strictly liable to the state for all of the following:

1. The reasonable costs incurred by the state as a result of cleanup of the site.
2. The reasonable costs incurred by the state to evacuate people from the area threatened by the clandestine laboratory site.
3. The reasonable damages to the state for the injury to, destruction of, or loss of natural resources resulting from the clandestine laboratory site, including the costs of assessing the injury, destruction, or loss.

93 Acts, ch 141, §3
Referred to in §124C.4

124C.4 Claim of state.

1. An amount for which a person having control over a clandestine laboratory is liable to the state shall constitute a lien in favor of the state upon all property and rights to property, real and personal, belonging to that person. This lien shall attach at the time the charges set out in section 124C.3 become due and payable and shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches, by filing a notice with the appropriate county official of the appropriate county and from the time of filing the lien shall be extended as to the property in that county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions.
2. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors for value and without notice of the lien, the commissioner shall file with the recorder of the county in which the property is located a notice of the lien. A laboratory cleanup lien shall be recorded in the index of income tax liens in the county.
3. Each notice of lien shall be endorsed with the day, hour, and minute when the notice was filed for recording and the document reference number, and the notice shall be preserved, indexed, and recorded in the manner provided for recording real estate mortgages. The lien is effective from the time of its indexing. The department shall pay recording fees as provided by section 331.604 for the recording of the lien or for its satisfaction.
4. Upon payment of a charge for which the commissioner has filed a notice of lien with a county, the commissioner shall immediately file with the county a satisfaction of the charge and the satisfaction of the charge shall be indicated on the index.
5. The attorney general, upon the request of the commissioner, shall bring an action at law or in equity, without bond, to enforce payment of any charges or penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.
6. The remedies available to the state in this chapter shall be cumulative and no action taken by the commissioner or attorney general shall be construed to be an election on the part of the state to pursue any remedy to the exclusion of any other remedy provided by law.

93 Acts, ch 141, §4; 2002 Acts, ch 1113, §2; 2009 Acts, ch 27, §3; 2009 Acts, ch 41, §185

124C.5 Liability of state employees or persons providing cleanup assistance.

The state and its officers or employees are not liable for damages or injury caused by a condition at a clandestine laboratory site or resulting from action or inaction taken by any officers or employees when acting in their official capacity pursuant to this chapter, unless the damage or injury resulted from intentional wrongdoing or gross negligence.

93 Acts, ch 141, §5

124C.6 Legal remedies.

This chapter does not deny a person any legal or equitable rights, remedies, or defenses, or affect any legal relationship other than the legal relationship between the state and a person having control over a clandestine laboratory site.

93 Acts, ch 141, §6

124C.7 Rulemaking authority.
The department may adopt rules pursuant to chapter 17A necessary to administer this chapter.
93 Acts, ch 141, §7

CHAPTER 124D

MEDICAL CANNABIDIOL ACT

Repealed by 2017 Acts, ch 162, §23, 25; see chapter 124E

CHAPTER 124E

MEDICAL CANNABIDIOL ACT

Referred to in §124.401, 204.17, 730.5

124E.1 Short title.
124E.2 Definitions.
124E.3 Health care practitioner certification — duties.
124E.4 Medical cannabidiol registration card.
124E.5 Medical cannabidiol board — duties.
124E.6 Medical cannabidiol manufacturer licensure.
124E.7 Medical cannabidiol manufacturers.
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124E.15 Iowa patients and primary caregivers registering in the state of Minnesota.
124E.16 Penalties.
124E.17 Use of medical cannabidiol — smoking prohibited.
124E.18 Reciprocity.
124E.19 Background investigations.
124E.20 Observational effectiveness study.
124E.21 Employer regulation of marijuana use.
124E.22 Regulation of marijuana use by government medical assistance programs, private health insurers, and other entities.
124E.23 Regulation of marijuana use on property.
124E.24 Limitation of liability.
124E.25 Cannabis-derived products — exemption.
124E.26 Applicability.

124E.1 Short title.
This chapter shall be known and may be cited as the "*Medical Cannabidiol Act*".
2017 Acts, ch 162, §4, 25

124E.2 Definitions.
As used in this chapter:
1. "*Bordering state*" means the same as defined in section 331.910.
2. "*Debilitating medical condition*" means any of the following:
a. Cancer, if the underlying condition or treatment produces one or more of the following:
(1) Severe or chronic pain.
(2) Nausea or severe vomiting.
(3) Cachexia or severe wasting.
b. Multiple sclerosis with severe and persistent muscle spasms.
c. Seizures, including those characteristic of epilepsy.
d. AIDS or HIV as defined in section 141A.1.
e. Crohn's disease.
f. Amyotrophic lateral sclerosis.

g. Any terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:

(1) Severe or chronic pain.

(2) Nausea or severe vomiting.

(3) Cachexia or severe wasting.

h. Parkinson's disease.

i. Chronic pain.

j. Severe, intractable autism with self-injurious or aggressive behaviors.

k. Post-traumatic stress disorder.

3. *"Department"* means the department of public health.

4. *"Disqualifying felony offense"* means a violation under federal or state law of a felony under federal or state law, which has as an element the possession, use, or distribution of a controlled substance, as defined in 21 U.S.C. §802(6).

5. *"Employee"* means a natural person who is employed in this state for wages by an employer.

6. *"Employer"* means a person who in this state employs for wages an employee.

7. *"Health care practitioner"* means an individual licensed under chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or an advanced practice registered nurse under chapter 152E, who is a patient's primary care provider or a podiatrist licensed pursuant to chapter 149.

8. *"Laboratory"* means the state hygienic laboratory at the university of Iowa in Iowa City or any other independent medical cannabidiol testing facility accredited to standard ISO/IEC 17025 by an international organization for standards-approved accrediting body, with a controlled substance registration certificate from the United States drug enforcement administration and a certificate of registration from the board of pharmacy. For the purposes of this chapter, an independent laboratory is a laboratory operated by an entity that has no equity ownership in a medical cannabidiol manufacturer.

9. *"Marijuana"* means any derivative of marijuana including but not limited to medical cannabidiol.

10. *"Medical cannabidiol"* means any pharmaceutical grade cannabinoid found in the plant Cannabis sativa L. or Cannabis indica or any other preparation thereof that is delivered in a form recommended by the medical cannabidiol board, approved by the board of medicine, and adopted by the department pursuant to rule.

11. *"Primary caregiver"* means a person who is a resident of this state or a bordering state as defined in section 331.910, including but not limited to a parent or legal guardian, at least eighteen years of age, who has been designated by a patient's health care practitioner as a necessary caretaker taking responsibility for managing the well-being of the patient with respect to the use of medical cannabidiol pursuant to the provisions of this chapter.

12. *"Total tetrahydrocannabinol"* means eighty-seven and seven-tenths percent of the amount of tetrahydrocannabinolic acid plus the amount of tetrahydrocannabinol.

13. *"Untreatable pain"* means any pain whose cause cannot be removed and, according to generally accepted medical practice, the full range of pain management modalities appropriate for the patient has been used without adequate result or with intolerable side effects.

14. *"Written certification"* means a document signed by a health care practitioner, with whom the patient has established a patient-provider relationship, which states that the patient has a debilitating medical condition and identifies that condition and provides any other relevant information.

2017 Acts, ch 162, §5, 25; 2020 Acts, ch 1116, §2 – 5

Referred to in §96.5, 124.401

124E.3 Health care practitioner certification — duties.

1. Prior to a patient's submission of an application for a medical cannabidiol registration card pursuant to section 124E.4, a health care practitioner shall do all of the following:

a. Determine, in the health care practitioner's medical judgment, whether the patient

whom the health care practitioner has examined and treated suffers from a debilitating medical condition that qualifies for the use of medical cannabidiol under this chapter, and if so determined, provide the patient with a written certification of that diagnosis.

b. Provide explanatory information as provided by the department to the patient about the therapeutic use of medical cannabidiol and the possible risks, benefits, and side effects of the proposed treatment.

2. Subsequently, the health care practitioner shall do the following:

a. Determine, on an annual basis, if the patient continues to suffer from a debilitating medical condition and, if so, issue the patient a new certification of that diagnosis.

b. Otherwise comply with all requirements established by the department pursuant to rule.

3. A health care practitioner may provide, but has no duty to provide, a written certification pursuant to this section.

2017 Acts, ch 162, §6, 25
Referred to in §124E.11

124E.4 Medical cannabidiol registration card.

1. *Issuance to patient.* Subject to subsection 6, the department may issue a medical cannabidiol registration card to a patient who:

a. Is at least eighteen years of age.

b. Is a permanent resident of this state.

c. Submits a written certification to the department signed by the patient's health care practitioner that the patient is suffering from a debilitating medical condition.

d. Submits an application to the department, on a form created by the department, that contains all of the following:

(1) The patient's full name, Iowa residence address, date of birth, and telephone number.

(2) A copy of the patient's valid photo identification.

(3) Full name, address, and telephone number of the patient's health care practitioner.

(4) Full name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.

(5) Any other information required by rule.

e. Submits a medical cannabidiol registration card fee of one hundred dollars to the department. If the patient attests to receiving social security disability benefits, supplemental security insurance payments, or being enrolled in the medical assistance program, the fee shall be twenty-five dollars.

2. *Patient card contents.* A medical cannabidiol registration card issued to a patient by the department pursuant to subsection 1 shall contain, at a minimum, all of the following:

a. The patient's full name, Iowa residence address, and date of birth.

b. The date of issuance and expiration date of the medical cannabidiol registration card.

c. Any other information required by rule.

3. *Issuance to primary caregiver.* For a patient in a primary caregiver's care, subject to subsection 6, the department may issue a medical cannabidiol registration card to the primary caregiver who:

a. Submits a written certification to the department signed by the patient's health care practitioner that the patient in the primary caregiver's care is suffering from a debilitating medical condition.

b. Submits an application to the department, on a form created by the department, that contains all of the following:

(1) The primary caregiver's full name, residence address, date of birth, and telephone number.

(2) The patient's full name.

(3) A copy of the primary caregiver's valid photo identification.

(4) Full name, address, and telephone number of the patient's health care practitioner.

(5) Any other information required by rule.

c. Submits a medical cannabidiol registration card fee of twenty-five dollars to the department.

4. *Primary caregiver card contents.* A medical cannabidiol registration card issued by the department to a primary caregiver pursuant to subsection 3 shall contain, at a minimum, all of the following:

a. The primary caregiver's full name, residence address, and date of birth.

b. The date of issuance and expiration date of the registration card.

c. The medical cannabidiol registration card number of each patient in the primary caregiver's care. If the patient in the primary caregiver's care is under the age of eighteen, the full name of the patient's parent or legal guardian.

d. Any other information required by rule.

5. *Expiration date of card.* A medical cannabidiol registration card issued pursuant to this section shall expire one year after the date of issuance and may be renewed.

6. *Federally approved clinical trials.* The department shall not approve the issuance of a medical cannabidiol registration card pursuant to this section for a patient who is enrolled in a federally approved clinical trial for the treatment of a debilitating medical condition with medical cannabidiol.

2017 Acts, ch 162, §7, 25; 2019 Acts, ch 24, §17, 18; 2020 Acts, ch 1116, §6 – 16
Referred to in §124E.3, 124E.11

124E.5 Medical cannabidiol board — duties.

1. *a.* A medical cannabidiol board is created consisting of eight practitioners representing the fields of neurology, pain management, gastroenterology, oncology, psychiatry, pediatrics, family medicine, and pharmacy, and one representative from law enforcement.

b. The practitioners shall be licensed in this state and nationally board-certified in their area of specialty and knowledgeable about the use of medical cannabidiol.

c. Applicants for membership on the board shall submit a membership application to the department and the governor shall appoint members from the applicant pool.

d. For purposes of this subsection, *"representative from law enforcement"* means a regularly employed member of a police force of a city or county, including a sheriff, or of the state patrol, in this state, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.

2. The medical cannabidiol board shall convene at least twice per year.

3. The duties of the medical cannabidiol board shall include but not be limited to the following:

a. Accepting and reviewing petitions to add medical conditions, medical treatments, or debilitating diseases to the list of debilitating medical conditions for which the medical use of cannabidiol would be medically beneficial under this chapter.

b. Making recommendations relating to the removal or addition of debilitating medical conditions to the list of allowable debilitating medical conditions for which the medical use of cannabidiol under this chapter would be medically beneficial.

c. Working with the department regarding the requirements for the licensure of medical cannabidiol manufacturers and medical cannabidiol dispensaries, including licensure procedures.

d. Advising the department regarding the location of medical cannabidiol manufacturers and medical cannabidiol dispensaries throughout the state.

e. Making recommendations relating to the form and quantity of allowable medical uses of cannabidiol.

4. Recommendations made by the medical cannabidiol board pursuant to subsection 3, paragraphs *"b"* and *"e"*, shall be made to the board of medicine for consideration, and if approved, shall be adopted by the board of medicine by rule.

5. On or before January 1 of each year, beginning January 1, 2018, the medical cannabidiol board shall submit a report detailing the activities of the board.

6. The general assembly shall have the sole authority to revise the definition of medical cannabidiol for purposes of this chapter.

2017 Acts, ch 162, §8, 25; 2020 Acts, ch 1116, §17

124E.6 Medical cannabidiol manufacturer licensure.

1. *a.* The department shall issue a request for proposals to select and license by December 1, 2017, up to two medical cannabidiol manufacturers to manufacture and to possess, cultivate, harvest, transport, package, process, or supply medical cannabidiol within this state consistent with the provisions of this chapter. The department shall license new medical cannabidiol manufacturers or relicense the existing medical cannabidiol manufacturers by December 1 of each year.

b. Information submitted during the application process shall be confidential until a medical cannabidiol manufacturer is licensed by the department unless otherwise protected from disclosure under state or federal law.

2. As a condition for licensure, a medical cannabidiol manufacturer must agree to begin supplying medical cannabidiol to medical cannabidiol dispensaries in this state no later than December 1, 2018.

3. The department shall consider the following factors in determining whether to select and license a medical cannabidiol manufacturer:

a. The technical expertise of the medical cannabidiol manufacturer regarding medical cannabidiol.

b. The qualifications of the medical cannabidiol manufacturer's employees.

c. The long-term financial stability of the medical cannabidiol manufacturer.

d. The ability to provide appropriate security measures on the premises of the medical cannabidiol manufacturer.

e. Whether the medical cannabidiol manufacturer has demonstrated an ability to meet certain medical cannabidiol production needs for medical use regarding the range of recommended dosages for each debilitating medical condition, the range of chemical compositions of any plant of the genus cannabis that will likely be medically beneficial for each of the debilitating medical conditions, and the form of the medical cannabidiol in the manner determined by the department pursuant to rule.

f. The medical cannabidiol manufacturer's projection of and ongoing assessment of fees on patients with debilitating medical conditions.

4. A medical cannabidiol manufacturer shall contract with a laboratory to perform spot-check testing of the medical cannabidiol produced by the medical cannabidiol manufacturer as provided in section 124E.7. The department shall require that the laboratory report testing results to the medical cannabidiol manufacturer and the department as determined by the department by rule. If a medical cannabidiol manufacturer contracts with a laboratory other than the state hygienic laboratory at the university of Iowa in Iowa City, the department shall approve the laboratory to perform testing pursuant to this chapter.

5. Each entity submitting an application for licensure as a medical cannabidiol manufacturer shall pay a nonrefundable application fee of seven thousand five hundred dollars to the department.

2017 Acts, ch 162, §9, 25; 2020 Acts, ch 1116, §18

124E.7 Medical cannabidiol manufacturers.

1. A medical cannabidiol manufacturer shall contract with a laboratory to perform spot-check testing of the medical cannabidiol produced by the medical cannabidiol manufacturer as to content, contamination, and consistency. The cost of all laboratory testing shall be paid by the medical cannabidiol manufacturer.

2. The operating documents of a medical cannabidiol manufacturer shall include all of the following:

a. Procedures for the oversight of the medical cannabidiol manufacturer and procedures to ensure accurate recordkeeping.

b. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas containing medical cannabidiol.

3. A medical cannabidiol manufacturer shall implement security requirements, including requirements for protection of each location by a fully operational security alarm system,

facility access controls, perimeter intrusion detection systems, and a personnel identification system.

4. A medical cannabidiol manufacturer shall not share office space with, refer patients to, or have any financial relationship with a health care practitioner.

5. A medical cannabidiol manufacturer shall not permit any person to consume medical cannabidiol on the property of the medical cannabidiol manufacturer.

6. A medical cannabidiol manufacturer is subject to reasonable inspection by the department.

7. A medical cannabidiol manufacturer shall not employ a person who is under eighteen years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabidiol manufacturer shall be subject to a background investigation conducted by the division of criminal investigation of the department of public safety and a national criminal history background check pursuant to section 124E.19.

8. A medical cannabidiol manufacturer owner shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the division of criminal investigation of the department of public safety and a national criminal history background check pursuant to section 124E.19.

9. A medical cannabidiol manufacturer shall not operate at the same physical location as a medical cannabidiol dispensary.

10. A medical cannabidiol manufacturer shall not operate in any location, whether for manufacturing, possessing, cultivating, harvesting, transporting, packaging, processing, or supplying, within one thousand feet of a public or private school existing before the date of the medical cannabidiol manufacturer's licensure by the department.

11. A medical cannabidiol manufacturer shall comply with reasonable restrictions set by the department relating to signage, marketing, display, and advertising of medical cannabidiol.

12. *a.* A medical cannabidiol manufacturer shall provide a reliable and ongoing supply of medical cannabidiol to medical cannabidiol dispensaries pursuant to this chapter.

b. All manufacturing, cultivating, harvesting, packaging, and processing of medical cannabidiol shall take place in an enclosed, locked facility at a physical address provided to the department during the licensure process.

c. A medical cannabidiol manufacturer shall not manufacture edible medical cannabidiol products.

2017 Acts, ch 162, §10, 25; 2018 Acts, ch 1165, §122, 126; 2020 Acts, ch 1116, §19
Referred to in §124E.6

124E.8 Medical cannabidiol dispensary licensure.

1. *a.* The department shall issue a request for proposals to select and license by April 1, 2018, up to five medical cannabidiol dispensaries to dispense medical cannabidiol within this state consistent with the provisions of this chapter. The department shall license new medical cannabidiol dispensaries or relicense the existing medical cannabidiol dispensaries by December 1 of each year.

b. Information submitted during the application process shall be confidential until a medical cannabidiol dispensary is licensed by the department unless otherwise protected from disclosure under state or federal law.

2. As a condition for licensure, a medical cannabidiol dispensary must agree to begin supplying medical cannabidiol to patients by December 1, 2018.

3. The department shall consider the following factors in determining whether to select and license a medical cannabidiol dispensary:

a. The technical expertise of the medical cannabidiol dispensary regarding medical cannabidiol.

b. The qualifications of the medical cannabidiol dispensary's employees.

c. The long-term financial stability of the medical cannabidiol dispensary.

d. The ability to provide appropriate security measures on the premises of the medical cannabidiol dispensary.

e. The medical cannabidiol dispensary's projection and ongoing assessment of fees for the purchase of medical cannabidiol on patients with debilitating medical conditions.

4. Each entity submitting an application for licensure as a medical cannabidiol dispensary shall pay a nonrefundable application fee of five thousand dollars to the department.

2017 Acts, ch 162, §11, 25

124E.9 Medical cannabidiol dispensaries.

1. *a.* The medical cannabidiol dispensaries shall be located based on geographical need throughout the state to improve patient access.

b. A medical cannabidiol dispensary may dispense medical cannabidiol pursuant to the provisions of this chapter but shall not dispense any medical cannabidiol in a form or quantity other than the form or quantity allowed by the department pursuant to rule.

2. The operating documents of a medical cannabidiol dispensary shall include all of the following:

a. Procedures for the oversight of the medical cannabidiol dispensary and procedures to ensure accurate recordkeeping.

b. Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabidiol and unauthorized entrance into areas containing medical cannabidiol.

3. A medical cannabidiol dispensary shall implement security requirements, including requirements for protection by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

4. A medical cannabidiol dispensary shall not share office space with, refer patients to, or have any financial relationship with a health care practitioner.

5. A medical cannabidiol dispensary shall not permit any person to consume medical cannabidiol on the property of the medical cannabidiol dispensary.

6. A medical cannabidiol dispensary is subject to reasonable inspection by the department.

7. A medical cannabidiol dispensary shall not employ a person who is under eighteen years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabidiol dispensary shall be subject to a background investigation conducted by the division of criminal investigation of the department of public safety and a national criminal history background check pursuant to section 124E.19.

8. A medical cannabidiol dispensary owner shall not have been convicted of a disqualifying felony offense and shall be subject to a background investigation conducted by the division of criminal investigation of the department of public safety and a national criminal history background check pursuant to section 124E.19.

9. A medical cannabidiol dispensary shall not operate at the same physical location as a medical cannabidiol manufacturer.

10. A medical cannabidiol dispensary shall not operate in any location within one thousand feet of a public or private school existing before the date of the medical cannabidiol dispensary's licensure by the department.

11. A medical cannabidiol dispensary shall comply with reasonable restrictions set by the department relating to signage, marketing, display, and advertising of medical cannabidiol.

12. Prior to dispensing of any medical cannabidiol, a medical cannabidiol dispensary shall do all of the following:

a. Verify that the medical cannabidiol dispensary has received a valid medical cannabidiol registration card from a patient or a patient's primary caregiver, if applicable.

b. Assign a tracking number to any medical cannabidiol dispensed from the medical cannabidiol dispensary.

c. Properly package medical cannabidiol in compliance with federal law regarding child resistant packaging and exemptions for packaging for elderly patients, and label medical cannabidiol with a list of all active ingredients and individually identifying information.

13. A medical cannabidiol dispensary shall employ a pharmacist or pharmacy technician licensed or registered pursuant to chapter 155A for the purpose of making dosing recommendations.

14. A medical cannabidiol dispensary shall not dispense more than a combined total of four and one-half grams of total tetrahydrocannabinol to a patient and the patient's primary caregiver in a ninety-day period, except as provided in subsection 15.

15. A medical cannabidiol dispensary may dispense more than a combined total of four and one-half grams of total tetrahydrocannabinol to a patient and the patient's primary caregiver in a ninety-day period if any of the following apply:

a. The health care practitioner who certified the patient to receive a medical cannabidiol registration card certifies that patient's debilitating medical condition is a terminal illness with a life expectancy of less than one year. A certification issued pursuant to this paragraph shall include a total tetrahydrocannabinol cap deemed appropriate by the patient's health care practitioner.

b. The health care practitioner who certified the patient to receive a medical cannabidiol registration card certifies that the patient has participated in the medical cannabidiol program and that the health care practitioner has determined that four and one-half grams of total tetrahydrocannabinol in a ninety-day period is insufficient to treat the patient's debilitating medical condition. A certification issued pursuant to this paragraph shall include a total tetrahydrocannabinol cap deemed appropriate by the patient's health care practitioner.

2017 Acts, ch 162, §12, 25; 2018 Acts, ch 1165, §123, 126; 2020 Acts, ch 1116, §20; 2020 Acts, ch 1121, §62, 70

124E.10 Fees.

All fees collected by the department under this chapter shall be retained by the department for operation of the medical cannabidiol registration card program and the medical cannabidiol manufacturer and medical cannabidiol dispensary licensing programs. The moneys retained by the department shall be considered repayment receipts as defined in section 8.2 and shall be used for any of the department's duties under this chapter, including but not limited to the addition of full-time equivalent positions for program services and investigations. Notwithstanding section 8.33, moneys retained by the department pursuant to this section shall not revert to the general fund of the state but shall remain available for expenditure only for the purposes specified in this section.

2017 Acts, ch 162, §13, 25; 2018 Acts, ch 1165, §124, 126

124E.11 Department duties — rules.

1. *a.* The department shall maintain a confidential file of the names of each patient to or for whom the department issues a medical cannabidiol registration card and the name of each primary caregiver to whom the department issues a medical cannabidiol registration card under section 124E.4.

b. Individual names contained in the file shall be confidential and shall not be subject to disclosure, except as provided in subparagraph (1).

(1) Information in the confidential file maintained pursuant to paragraph *"a"* may be released on an individual basis to the following persons under the following circumstances:

(a) To authorized employees or agents of the department as necessary to perform the duties of the department pursuant to this chapter.

(b) To authorized employees of law enforcement agencies of a state or political subdivision thereof, but only for the purpose of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to this chapter.

(c) To authorized employees of a medical cannabidiol dispensary, but only for the purposes of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to this chapter and that a person has not purchased total tetrahydrocannabinol in excess of the amount authorized by this chapter.

(d) To any other authorized persons recognized by the department by rule, but only for the purpose of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to this chapter.

(e) To a health care practitioner for the purpose of determining whether a patient seeking a written certification pursuant to section 124E.3 has already received a written certification from another health care practitioner.

(2) Release of information pursuant to subparagraph (1) shall be consistent with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

2. The department shall adopt rules pursuant to chapter 17A to administer this chapter which shall include but not be limited to rules to do all of the following:

a. Govern the manner in which the department shall consider applications for new and renewal medical cannabidiol registration cards.

b. Ensure that the medical cannabidiol registration card program operates on a self-sustaining basis.

c. Establish the form and quantity of medical cannabidiol allowed to be dispensed to a patient or primary caregiver pursuant to this chapter as appropriate to serve the medical needs of patients with debilitating medical conditions, subject to recommendation by the medical cannabidiol board and approval by the board of medicine.

d. Establish requirements for the licensure of medical cannabidiol manufacturers and medical cannabidiol dispensaries and set forth procedures for medical cannabidiol manufacturers and medical cannabidiol dispensaries to obtain licenses.

e. Develop a dispensing system for medical cannabidiol within this state that provides for all of the following:

(1) Medical cannabidiol dispensaries within this state housed on secured grounds and operated by licensed medical cannabidiol dispensaries.

(2) The dispensing of medical cannabidiol to patients and their primary caregivers to occur at locations designated by the department.

f. Establish and collect annual fees from medical cannabidiol manufacturers and medical cannabidiol dispensaries to cover the costs associated with regulating and inspecting medical cannabidiol manufacturers and medical cannabidiol dispensaries.

g. Specify and implement procedures that address public safety including security procedures and product quality including measures to ensure contaminant-free cultivation of medical cannabidiol, safety, and labeling.

h. Establish and implement a real-time, statewide medical cannabidiol registry management sale tracking system that is available to medical cannabidiol dispensaries on a twenty-four-hour-a-day, seven-day-a-week basis for the purpose of verifying that a person is lawfully in possession of a medical cannabidiol registration card issued pursuant to this chapter and for tracking the date of the sale and quantity of medical cannabidiol purchased by a patient or a primary caregiver.

i. Establish and implement a medical cannabidiol inventory and delivery tracking system to track medical cannabidiol from production by a medical cannabidiol manufacturer through dispensing at a medical cannabidiol dispensary.

2017 Acts, ch 162, §14, 25; 2020 Acts, ch 1116, §21, 22

124E.12 Use of medical cannabidiol — affirmative defenses.

1. A health care practitioner, including any authorized agent or employee thereof, shall not be subject to prosecution for the unlawful certification, possession, or administration of marijuana under the laws of this state for activities arising directly out of or directly related to the certification or use of medical cannabidiol in the treatment of a patient diagnosed with a debilitating medical condition as authorized by this chapter.

2. A medical cannabidiol manufacturer, including any authorized agent or employee thereof, shall not be subject to prosecution for manufacturing, possessing, cultivating, harvesting, transporting, packaging, processing, or supplying medical cannabidiol pursuant to this chapter.

3. A medical cannabidiol dispensary, including any authorized agent or employee thereof, shall not be subject to prosecution for dispensing medical cannabidiol pursuant to this chapter.

4. *a.* In a prosecution for the unlawful possession of marijuana under the laws of this state for the possession of medical cannabidiol, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the patient has been diagnosed with a debilitating medical condition, used or possessed medical cannabidiol pursuant to a certification by a health care practitioner as authorized under this chapter, and,

for a patient eighteen years of age or older, is in possession of a valid medical cannabidiol registration card issued pursuant to this chapter.

b. In a prosecution for the unlawful possession of marijuana under the laws of this state for the possession of medical cannabidiol, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the person possessed medical cannabidiol because the person is a primary caregiver of a patient who has been diagnosed with a debilitating medical condition and is in possession of a valid medical cannabidiol registration card issued pursuant to this chapter, and where the primary caregiver's possession of the medical cannabidiol is on behalf of the patient and for the patient's use only as authorized under this chapter.

c. If a patient or primary caregiver is charged with the unlawful possession of marijuana under the laws of this state for the possession of medical cannabidiol, including but not limited to chapters 124 and 453B, and is not in possession of the person's medical cannabidiol registration card, any charge or charges filed against the person for the possession of medical cannabidiol shall be dismissed by the court if the person produces to the court prior to or at the person's trial a medical cannabidiol registration card issued to that person and valid at the time the person was charged.

5. An agency of this state or a political subdivision thereof, including any law enforcement agency, shall not remove or initiate proceedings to remove a patient under the age of eighteen from the home of a parent based solely upon the parent's or patient's possession or use of medical cannabidiol as authorized under this chapter.

6. The department and any health care practitioner, including any authorized agent or employee thereof, are not subject to any civil or disciplinary penalties by the board of medicine or any business, occupational, or professional licensing board or entity, solely for activities conducted relating to a patient's possession or use of medical cannabidiol as authorized under this chapter. Nothing in this section affects a professional licensing board from taking action in response to violations of any other section of law.

7. Notwithstanding any law to the contrary, the department, the governor, or any employee of any state agency shall not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment as authorized under this chapter.

8. An attorney shall not be subject to disciplinary action by the Iowa supreme court or attorney disciplinary board for providing legal assistance to a patient, primary caregiver, or others based upon a patient's or primary caregiver's possession or use of medical cannabidiol as authorized under this chapter.

9. Possession of a medical cannabidiol registration card or an application for a medical cannabidiol registration card by a person entitled to possess or apply for a medical cannabidiol registration card shall not constitute probable cause or reasonable suspicion, and shall not be used to support a search of the person or property of the person possessing or applying for the medical cannabidiol registration card, or otherwise subject the person or property of the person to inspection by any governmental agency.

2017 Acts, ch 162, §15, 25; 2020 Acts, ch 1116, §23; 2021 Acts, ch 80, §63
Subsection 6 amended

124E.13 Medical cannabidiol source.

Medical cannabidiol provided exclusively pursuant to a written certification of a health care practitioner, if not legally available in this state or from any other bordering state, shall be obtained from an out-of-state source.

2017 Acts, ch 162, §16, 25

124E.14 Out-of-state medical cannabidiol dispensaries.

The department of public health shall utilize a request for proposals process to select and license by December 1, 2017, up to two out-of-state medical cannabidiol dispensaries from a bordering state to sell and dispense medical cannabidiol to a patient or primary caregiver in possession of a valid medical cannabidiol registration card issued under this chapter.

2017 Acts, ch 162, §17, 25

124E.15 Iowa patients and primary caregivers registering in the state of Minnesota.

A patient or a primary caregiver with a valid medical cannabidiol registration card issued pursuant to this chapter may register in the state of Minnesota as a visiting qualified patient or primary caregiver and may register with one or more medical cannabis manufacturers registered under the laws of Minnesota.

2017 Acts, ch 162, §18, 25

124E.16 Penalties.

1. A person who knowingly or intentionally possesses or uses medical cannabidiol in violation of the requirements of this chapter is subject to the penalties provided under chapters 124 and 453B.

2. A medical cannabidiol manufacturer or a medical cannabidiol dispensary shall be assessed a civil penalty of up to one thousand dollars per violation for any violation of this chapter in addition to any other applicable penalties.

2017 Acts, ch 162, §19, 25

124E.17 Use of medical cannabidiol — smoking prohibited.

A patient shall not consume medical cannabidiol possessed or used as authorized under this chapter by smoking medical cannabidiol.

2017 Acts, ch 162, §20, 25

124E.18 Reciprocity.

A valid medical cannabidiol registration card, or its equivalent, issued under the laws of another state that allows an out-of-state patient to possess or use medical cannabidiol in the jurisdiction of issuance shall have the same force and effect as a valid medical cannabidiol registration card issued pursuant to this chapter, except that an out-of-state patient in this state shall not obtain medical cannabidiol from a medical cannabidiol dispensary in this state.

2017 Acts, ch 162, §21, 25

124E.19 Background investigations.

1. The division of criminal investigation of the department of public safety shall conduct thorough background investigations for the purposes of licensing medical cannabidiol manufacturers and medical cannabidiol dispensaries under this chapter. The results of any background investigation conducted pursuant to this section shall be presented to the department.

a. An applicant for a medical cannabidiol manufacturer license or a medical cannabidiol dispensary license and their owners, investors, and employees shall submit all required information on a form prescribed by the department of public safety.

b. The department shall charge an applicant for a medical cannabidiol manufacturer license or a medical cannabidiol dispensary license a fee determined by the department of public safety and adopted by the department by rule to defray the costs associated with background investigations conducted pursuant to the requirements of this section. The fee shall be in addition to any other fees charged by the department. The fee may be retained by the department of public safety and shall be considered repayment receipts as defined in section 8.2.

2. The department shall require an applicant for a medical cannabidiol manufacturer license or a medical cannabidiol dispensary license, their owners and investors, and applicants for employment at a medical cannabidiol manufacturer or medical cannabidiol dispensary to submit fingerprints and other required identifying information to the department on a form prescribed by the department of public safety. The department shall submit the fingerprint cards and other identifying information to the division of criminal investigation of the department of public safety for submission to the federal bureau of investigation for the purpose of conducting a national criminal history record check. The department may require employees and contractors involved in carrying out a background investigation to submit fingerprints and other identifying information for the same purpose.

3. The department may enter into a chapter 28E agreement with the department of public safety to meet the requirements of this section.

4. An applicant for a medical cannabidiol manufacturer license or a medical cannabidiol dispensary license shall submit information and fees required by this section at the time of application.

5. The results of background investigations conducted pursuant to this section shall not be considered public records under chapter 22.

2018 Acts, ch 1165, §125, 126
Referred to in §124E.7, 124E.9

124E.20 Observational effectiveness study.

The department may conduct an observational effectiveness study in cooperation with patients and health care practitioners and pursuant to rules of the department in order to study the effectiveness of medical cannabidiol in the treatment of debilitating medical conditions.

2020 Acts, ch 1116, §24

124E.21 Employer regulation of marijuana use.

1. Nothing in this chapter shall require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of marijuana in the workplace.

2. Nothing in this chapter shall prohibit an employer from implementing policies restricting the use of marijuana by employees for the purpose of promoting workplace health and safety.

3. Nothing in this chapter shall prohibit an employer from including in a contract with an employee a provision prohibiting the use of marijuana.

4. Nothing in this chapter shall prohibit an employer from establishing and enforcing a zero-tolerance drug policy or a drug-free workplace by use of a drug testing policy in accordance with section 730.5 or any other procedures provided by federal statutes, federal regulations, or orders issued pursuant to federal law.

2020 Acts, ch 1116, §25

124E.22 Regulation of marijuana use by government medical assistance programs, private health insurers, and other entities.

Nothing in this chapter shall require a government medical assistance program, private health insurer, workers' compensation carrier, or self-insured employer providing workers' compensation benefits to reimburse a person for costs associated with the medical use of marijuana.

2020 Acts, ch 1116, §26

124E.23 Regulation of marijuana use on property.

Nothing in this chapter shall require a person that owns, occupies, or controls a property to allow the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of marijuana on or in that property.

2020 Acts, ch 1116, §27

124E.24 Limitation of liability.

Nothing in this chapter shall create any claim, cause of action, sanction, or penalty, for discrimination or under any other theory of liability, under chapter 216 or any other provision of law, based on an act, omission, policy, or contractual provision permissible under this chapter including but not limited to refusing to hire, discharging, disciplining, discriminating, retaliating, or otherwise taking any adverse employment action against a person with respect to hiring, tenure, or any terms, conditions, or privileges of employment.

2020 Acts, ch 1116, §28

124E.25 Cannabis-derived products — exemption.

This chapter shall not apply to any cannabis-derived investigational product or cannabis-derived product approved as a prescription drug medication by the United States food and drug administration.

2020 Acts, ch 1116, §29

124E.26 Applicability.

The provisions of this chapter apply notwithstanding any other provision of law to the contrary.

2020 Acts, ch 1116, §30

CHAPTER 125

SUBSTANCE-RELATED DISORDERS

Referred to in §11.6, 123.17, 135.11, 136.3, 229.6, 229.45, 232.69, 235B.2, 235B.3, 235E.1, 235E.2, 235F.1, 237.4, 237C.1, 321J.3, 321J.17, 321J.22, 321J.25, 602.6306, 602.6405, 904.513

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SUBCHAPTER I

INTRODUCTORY PROVISIONS

125.1 Declaration of policy.

It is the policy of this state:

1. That persons with substance-related disorders be afforded the opportunity to receive quality treatment and directed into rehabilitation services which will help them resume a socially acceptable and productive role in society.

2. To encourage substance abuse education and prevention efforts and to insure that such efforts are coordinated to provide a high quality of services without unnecessary duplication.

3. To insure that substance abuse programs are being operated by individuals who are qualified in their field whether through formal education or through employment or personal experience.

[C71, 73, §123B.2; C75, 77, 79, 81, §125.1]

[A portion of subsection 1 was inadvertently omitted in the 1993 Code]

2011 Acts, ch 121, §24, 62

Referred to in §125.3, 125.7

125.2 Definitions.

For purposes of this chapter, unless the context clearly indicates otherwise:

1. *"Board"* means the state board of health created pursuant to chapter 136.

2. *"Chemical substance"* means alcohol, wine, spirits, and beer as defined in chapter 123 and controlled substances as defined in section 124.101.

3. *"Chief medical officer"* means the medical director in charge of a public or private hospital, or the director's physician-designee. This chapter does not negate the authority otherwise reposed by chapter 226 in the respective superintendents of the state mental health institutes to make decisions regarding the appropriateness of admissions or discharges of patients of those institutes, however, it is the intent of this chapter that a superintendent who is not a licensed physician shall be guided in these decisions by the chief medical officer of the institute.

4. *"Clerk"* means the clerk of the district court.

5. *"County of residence"* means the same as defined in section 331.394.

6. *"Department"* means the Iowa department of public health.

7. *"Director"* means the director of the Iowa department of public health.

8. *"Facility"* means an institution, a detoxification center, or an installation providing care, maintenance and treatment for persons with substance-related disorders licensed by the department under section 125.13, hospitals licensed under chapter 135B, or the state mental health institutes designated by chapter 226.

9. *"Incapacitated by a chemical substance"* means that a person, as a result of the use of a

chemical substance, is unconscious or has the person's judgment otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to the need for treatment.

10. *"Incompetent person"* means a person who has been adjudged incompetent by a court of law.

11. *"Interested person"* means a person who, in the discretion of the court, is legitimately concerned that a respondent receive substance abuse treatment services.

12. *"Mental health professional"* means the same as defined in section 228.1.

13. *"Psychiatric advanced registered nurse practitioner"* means an individual currently licensed as a registered nurse under chapter 152 or 152E who holds a national certification in psychiatric mental health care and who is licensed by the board of nursing as an advanced registered nurse practitioner.

14. *"Respondent"* means a person against whom an application is filed under section 125.75.

15. *"Substance-related disorder"* means a diagnosable substance abuse disorder of sufficient duration to meet diagnostic criteria specified within the most current diagnostic and statistical manual of mental disorders published by the American psychiatric association that results in a functional impairment.

[C62, 66, §123A.1; C71, 73, §123A.1, 123B.1; C75, 77, §125.2; C79, 81, §125.2, 229.50; 81 Acts, ch 58, §1; 82 Acts, ch 1212, §1]

86 Acts, ch 1245, §1122; 89 Acts, ch 197, §21; 90 Acts, ch 1085, §1, 2; 2005 Acts, ch 175, §59, 60; 2008 Acts, ch 1082, §1; 2011 Acts, ch 121, §25 – 28, 62; 2012 Acts, ch 1021, §40; 2015 Acts, ch 56, §1; 2017 Acts, ch 34, §1; 2018 Acts, ch 1137, §21, 22

Referred to in §125.3, 125.7, 125.44, 125.75, 229.6, 282.19, 321J.24, 321J.25, 600A.8, 709.16

SUBCHAPTER II

SUBSTANCE ABUSE PROGRAM

125.3 Substance abuse program established.

The Iowa department of public health shall develop, implement, and administer a comprehensive substance abuse program pursuant to sections 125.1 and 125.2, this section, and sections 125.7, 125.9, 125.10, 125.12 through 125.21, 125.25, 125.32 through 125.34, and 125.37 through 125.43.

[C62, 66, 71, 73, §123A.2; C75, 77, 79, 81, §125.3; 81 Acts, ch 58, §2]

86 Acts, ch 1245, §1123; 2005 Acts, ch 175, §61; 2021 Acts, ch 80, §64

Referred to in §125.7

Section amended

125.4 through 125.6 Repealed by 2005 Acts, ch 175, §128.

125.7 Duties of the board.

The board shall:

1. Approve the comprehensive substance abuse program, developed by the department pursuant to sections 125.1 through 125.3, this section, and sections 125.9, 125.10, 125.12 through 125.21, 125.25, 125.32 through 125.34, and 125.37 through 125.43.

2. Advise the department on policies governing the performance of the department in the discharge of any duties imposed on the department by law.

3. Advise or make recommendations to the governor and the general assembly relative to substance abuse treatment, intervention, education, and prevention programs in this state.

4. Adopt rules for subsections 1 and 6 and review other rules necessary to carry out the provisions of this chapter, subject to review in accordance with chapter 17A.

5. Investigate the work of the department relating to substance abuse, and for this purpose the board shall have access at any time to all books, papers, documents, and records of the department.

6. Consider and approve or disapprove all applications for a license and all cases involving the renewal, denial, suspension, or revocation of a license.

7. Act as the appeal board regarding funding decisions made by the department.

[C71, 73, §123B.3; C75, 77, 79, 81, §125.7]

86 Acts, ch 1245, §1126; 89 Acts, ch 243, §1; 2005 Acts, ch 175, §62; 2021 Acts, ch 80, §65

Referred to in §125.3

Subsection 1 amended

125.8 Reserved.

125.9 Powers of director.

The director may:

1. Plan, establish and maintain treatment, intervention, education, and prevention programs as necessary or desirable in accordance with the comprehensive substance abuse program.

2. Make contracts necessary or incidental to the performance of the duties and the execution of the powers of the director, including contracts with public and private agencies, organizations and individuals to pay them for services rendered or furnished to persons with substance-related disorders.

3. Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies and the department in making an application for any grant.

4. Coordinate the activities of the department and cooperate with substance abuse programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local or private agencies in this and other states for the treatment of persons with substance-related disorders and for the common advancement of substance abuse programs.

5. Require that a written report, in reasonable detail, be submitted to the director at any time by any agency of this state or of any of its political subdivisions in respect to any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse, which is being conducted by the agency.

6. Submit to the governor a written report of the pertinent facts at any time the director concludes that any agency of this state or of any of its political subdivisions is conducting any substance abuse prevention function, or program for the benefit of persons who are or have been involved in substance abuse in a manner not consistent with or which impairs achievement of the objectives of the state plan to combat substance abuse, and has failed to effect appropriate changes in the function or program.

7. Keep records and engage in research and the gathering of relevant statistics.

8. Employ a deputy director who shall be exempt from the merit system. The director may employ other staff necessary to carry out the duties assigned to the director.

9. Do other acts and things necessary or convenient to execute the authority expressly granted to the director.

[C62, 66, §123A.5, 123A.7, 123A.8; C71, 73, §123A.7, 123A.8, 123B.17; C75, 77, §125.9, 224B.4, 224B.6; C79, 81, §125.9]

86 Acts, ch 1245, §1128; 87 Acts, ch 8, §1; 90 Acts, ch 1085, §3; 2005 Acts, ch 175, §63; 2011 Acts, ch 121, §29, 62

Referred to in §125.3, 125.7

Merit system, see chapter 8A, subchapter IV

125.10 Duties of director.

The director shall:

1. Prepare and submit a state plan subject to approval by the board and in accordance with 42 U.S.C. §300x-21 et seq. The state plan shall designate the department as the sole agency for supervising the administration of the plan.

2. Develop, encourage, and foster statewide, regional, and local plans and programs for

the prevention of substance misuse and the treatment of persons with substance-related disorders in cooperation with public and private agencies, organizations and individuals, and provide technical assistance and consultation services for these purposes.

3. Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in the prevention of substance misuse and the treatment of persons with substance-related disorders. The director's actions to implement this subsection shall also address the treatment needs of persons who have a mental illness, an intellectual disability, brain injury, or other co-occurring condition in addition to a substance-related disorder.

4. Cooperate with the department of human services and the Iowa department of public health in establishing and conducting programs to provide treatment for persons with substance-related disorders.

5. Cooperate with the department of education, boards of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of substance misuse and the treatment of persons with substance-related disorders, and in preparing relevant curriculum materials for use at all levels of school education.

6. Prepare, publish, evaluate and disseminate educational material dealing with the nature and effects of chemical substances.

7. Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of persons with substance-related disorders, which program shall include the dissemination of information concerning the nature and effects of substances.

8. Organize and implement, in cooperation with local treatment programs, training programs for all persons engaged in treatment of persons with substance-related disorders.

9. Sponsor and implement research in cooperation with local treatment programs into the causes and nature of substance misuse and treatment of persons with substance-related disorders, and serve as a clearing house for information relating to substance misuse.

10. Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment.

11. Develop and implement, with the counsel and approval of the board, the comprehensive plan for treatment of persons with substance-related disorders in accordance with this chapter.

12. Assist in the development of, and cooperate with, substance abuse education and treatment programs for employees of state and local governments and businesses and industries in the state.

13. Utilize the support and assistance of interested persons in the community, particularly persons who are recovering from substance-related disorders to encourage persons with substance-related disorders to voluntarily undergo treatment.

14. Cooperate with the commissioner of public safety in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated.

15. Encourage general hospitals and other appropriate health facilities to admit without discrimination persons with substance-related disorders and to provide them with adequate and appropriate treatment. The director may negotiate and implement contracts with hospitals and other appropriate health facilities with adequate detoxification facilities.

16. Encourage all health and disability insurance programs to include substance-related disorders as covered illnesses.

17. Review all state health, welfare, education and treatment proposals to be submitted

for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance misuse and persons with substance-related disorders.

[C62, 66, §123A.5; C71, 73, §123B.17; C75, 77, §125.10, 224B.5; C79, 81, §125.10; 81 Acts, ch 58, §3]

83 Acts, ch 96, §157, 159; 90 Acts, ch 1085, §4; 2005 Acts, ch 175, §64; 2011 Acts, ch 121, §30, 62; 2012 Acts, ch 1021, §41; 2012 Acts, ch 1120, §62; 2014 Acts, ch 1092, §30, 167

Referred to in §125.3, 125.7

125.11 Reserved.

SUBCHAPTER III

TREATMENT PROGRAMS AND FACILITIES

125.12 Comprehensive program for treatment — regional facilities.

1. The board shall review the comprehensive substance abuse program implemented by the department for the treatment of persons with substance-related disorders and concerned family members. Subject to the review of the board, the director shall divide the state into appropriate regions for the conduct of the program and establish standards for the development of the program on the regional level. In establishing the regions, consideration shall be given to city and county lines, population concentrations, and existing substance abuse treatment services.

2. The program of the department shall include:

a. Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital.

b. Inpatient treatment.

c. Residential treatment.

d. Outpatient and follow-up treatment and rehabilitation.

e. Prevention and education.

f. Assessment.

g. Halfway house treatment.

3. The director shall provide for adequate and appropriate treatment for persons with substance-related disorders and concerned family members admitted under sections 125.33 and 125.34, or under section 125.75, 125.81, or 125.91. Treatment shall not be provided at a correctional institution except for inmates. A mental health professional who is employed by a treatment provider under the program may provide treatment to a person with co-occurring substance-related and mental health disorders. Such treatment may also be provided by a person employed by such a treatment provider who is receiving the supervision required to meet the definition of mental health professional but has not completed the supervision component.

4. The director shall maintain, supervise and control all facilities operated by the director pursuant to this chapter.

5. All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

6. The director shall prepare, publish and distribute annually a list of all facilities.

7. The director may contract for the use of a facility if the director, pursuant to section 125.44, considers this to be an effective and economical course to follow.

[C75, 77, 79, 81, §125.12; 82 Acts, ch 1212, §23]

86 Acts, ch 1001, §3; 86 Acts, ch 1245, §1129; 90 Acts, ch 1085, §5; 2005 Acts, ch 175, §65; 2011 Acts, ch 121, §31, 62; 2012 Acts, ch 1120, §63; 2017 Acts, ch 34, §2

Referred to in §125.3, 125.7, 321J.25

125.13 Programs licensed — exceptions.

1. *a.* Except as provided in subsection 2, a person shall not maintain or conduct any chemical substitutes or antagonists program, residential program, or nonresidential outpatient program, the primary purpose of which is the treatment and rehabilitation of

persons with substance-related disorders without having first obtained a written license for the program from the department.

b. Four types of licenses may be issued by the department. A renewable license may be issued for one, two, or three years. A treatment program applying for its initial license may be issued a license for two hundred seventy days. A license issued for two hundred seventy days shall not be renewed or extended.

2. The licensing requirements of this chapter do not apply to any of the following:

a. A hospital providing care or treatment to persons with substance-related disorders licensed under chapter 135B which is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the board. All survey reports from the accrediting or licensing body must be sent to the department.

b. Any practitioner of medicine and surgery or osteopathic medicine and surgery, in the practitioner's private practice. However, a program shall not be exempted from licensing by the board by virtue of its utilization of the services of a medical practitioner in its operation.

c. Private institutions conducted by and for persons who adhere to the faith of any well recognized church or religious denomination for the purpose of providing care, treatment, counseling, or rehabilitation to persons with substance-related disorders and who rely solely on prayer or other spiritual means for healing in the practice of religion of such church or denomination.

d. A program that provides only education, prevention, referral or post treatment services.

e. Alcoholics anonymous.

f. Individuals in private practice who are providing substance abuse treatment services independent from a program that is required to be licensed under subsection 1.

g. Intervention and referral programs which are financed and managed by a county or counties, are staffed by county employees, and do not receive state payments pursuant to a contract under section 125.44.

h. Voluntary, nonprofit groups whose funding is provided solely from nontax sources.

i. A substance abuse treatment program not funded by the department which is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the board. All survey reports from the accrediting or licensing body must be sent to the department.

j. A hospital substance abuse treatment program that is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the board. All survey reports for the hospital substance abuse treatment program from the accrediting or licensing body shall be sent to the department.

[C75, 77, §125.14, 224B.12, 224B.13; C79, 81, §125.13; 81 Acts, ch 58, §4 – 7; 82 Acts, ch 1244, §1, 2]

86 Acts, ch 1001, §4; 89 Acts, ch 243, §2; 90 Acts, ch 1085, §6, 7; 94 Acts, ch 1068, §1; 2002 Acts, ch 1108, §4, 5; 2005 Acts, ch 175, §66; 2009 Acts, ch 41, §263; 2011 Acts, ch 121, §32, 33, 62

Referred to in §125.2, 125.3, 125.7, 125.20, 125.21, 125.58, 125.59, 135H.4

125.14 Licenses — renewal — fees.

The board shall consider all cases involving initial issuance, and renewal, denial, suspension, or revocation of a license. The department shall issue a license to an applicant whom the board determines meets the licensing requirements of this chapter. Licenses shall expire no later than three years from the date of issuance and shall be renewed upon timely application made in the same manner as for initial issuance of a license unless notice of nonrenewal is given to the licensee at least thirty days prior to the expiration of the license.

The department shall not charge a fee for licensing or renewal of programs contracting with the department for provision of treatment services. A fee may be charged to other licensees.

[C75, 77, §224B.14, 224B.15; C79, 81, §125.14; 81 Acts, ch 58, §8]

89 Acts, ch 243, §3; 2000 Acts, ch 1140, §19; 2002 Acts, ch 1108, §6; 2005 Acts, ch 175, §67

Referred to in §125.3, 125.7

125.14A Personnel of a licensed program admitting juveniles.

1. If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a program admitting juveniles subject to licensure under this chapter, or if a person will reside in a facility utilized by such a program, and if the person has been convicted of a crime or has a record of founded child abuse, the department of human services and the program, for an employee of the program, shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department of human services shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

2. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a program licensed under this chapter, or resides in a licensed facility the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

3. In an evaluation, the department of human services and the program for an employee of the program shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department of human services may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a program, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this subsection.

4. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a program admitting juveniles and shall not be employed by a program or reside in a facility admitting juveniles licensed under this chapter.

5. In addition to the record checks required under this section, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of this section, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random check conducted under this subsection.

6. Beginning July 1, 1994, a program or facility shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

7. On or after July 1, 1994, a program or facility shall include the following inquiry in an application for employment:

Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?

90 Acts, ch 1221, §1; 91 Acts, ch 138, §1; 92 Acts, ch 1163, §33; 94 Acts, ch 1130, §11
Referred to in §125.3, 125.7

125.15 Inspections.

The department may inspect the facilities and review the procedures utilized by any chemical substitutes or antagonists program, residential program, or nonresidential outpatient program that has as a primary purpose the treatment and rehabilitation of persons with substance-related disorders, for the purpose of ensuring compliance with this chapter and the rules adopted pursuant to this chapter. The examination and review may include case record audits and interviews with staff and patients, consistent with the confidentiality safeguards of state and federal law.

[C75, 77, §224B.16; C79, 81, §125.15]

86 Acts, ch 1245, §1130; 2000 Acts, ch 1140, §20; 2011 Acts, ch 121, §34, 62
Referred to in §125.3, 125.7

125.15A Licensure — emergencies.

1. The department may place an employee or agent to serve as a monitor in a licensed substance abuse treatment program or may petition the court for appointment of a receiver for a program when any of the following conditions exist:

a. The program is operating without a license.

b. The board has suspended, revoked, or refused to renew the existing license of the program.

c. The program is closing or has informed the department that it intends to close and adequate arrangements for the location of clients have not been made at least thirty days before the closing.

d. The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee to remedy the emergency, the department determines that a monitor or receiver is necessary. As used in this paragraph, "*emergency*" means a threat to the health, safety, or welfare of a client that the program is unwilling or unable to correct.

2. The monitor shall observe operation of the program, assist the program with advice regarding compliance with state regulations, and report periodically to the department on the operation of the program.

93 Acts, ch 139, §1; 2005 Acts, ch 175, §68
Referred to in §125.3, 125.7

125.16 Transfer of license or change of location prohibited.

A license issued under this chapter may not be transferred, and the location of the physical facilities occupied or utilized by any program licensed under this chapter shall not be changed without the prior written consent of the board.

[C75, 77, §224B.17; C79, 81, §125.16]

2005 Acts, ch 175, §69
Referred to in §125.3, 125.7

125.17 License suspension or revocation.

Violation of any of the requirements or restrictions of this chapter or of any of the rules adopted pursuant to this chapter is cause for suspension, revocation, or refusal to renew a license. The director shall at the earliest time feasible notify a licensee whose license the board is considering suspending or revoking and shall inform the licensee what changes must be made in the licensee's operation to avoid such action. The licensee shall be given a reasonable time for compliance, as determined by the director, after receiving such notice or a notice that the board does not intend to renew the license. When the licensee believes compliance has been achieved, or if the licensee considers the proposed suspension, revocation, or refusal to renew unjustified, the licensee may submit pertinent information

to the board and the board shall expeditiously make a decision in the matter and notify the licensee of the decision.

[C75, 77, §224B.18; C79, 81, §125.17]

2005 Acts, ch 175, §70

Referred to in §125.3, 125.7

125.18 Hearing before board.

If a licensee under this chapter makes a written request for a hearing within thirty days of suspension, revocation, or refusal to renew a license, a hearing before the board shall be expeditiously arranged by the department of inspections and appeals whose decision is subject to review by the board. The board shall issue a written statement of the board's findings within thirty days after conclusion of the hearing upholding or reversing the proposed suspension, revocation, or refusal to renew a license. Action involving suspension, revocation, or refusal to renew a license shall not be taken by the board unless a quorum is present at the meeting. A copy of the board's decision shall be promptly transmitted to the affected licensee who may, if aggrieved by the decision, seek judicial review of the actions of the board in accordance with the terms of chapter 17A.

[C75, 77, §224B.19; C79, 81, §125.18]

86 Acts, ch 1245, §1131; 2005 Acts, ch 175, §71

Referred to in §125.3, 125.7

125.19 Reissuance or reinstatement.

After suspension, revocation, or refusal to renew a license pursuant to this chapter, the affected licensee shall not have the license reissued or reinstated within one year of the effective date of the suspension, revocation, or expiration upon refusal to renew, unless the board orders otherwise. After that time, proof of compliance with the requirements and restrictions of this chapter and the rules adopted pursuant to this chapter must be presented to the board prior to reinstatement or reissuance of a license.

[C75, 77, §224B.20; C79, 81, §125.19]

2005 Acts, ch 175, §72

Referred to in §125.3, 125.7

125.20 Rules.

The department shall establish rules pursuant to chapter 17A requiring facilities to use reasonable accounting and reimbursement systems which recognize relevant cost-related factors for substance abuse patients. A facility shall not be licensed nor shall any payment be made under this chapter to a facility which fails to comply with those rules or which does not permit inspection by the department or examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the department deems relevant to the establishment of such a system. However, rules issued pursuant to this paragraph shall not apply to any facility referred to in section 125.13, subsection 2 or section 125.43.

[C77, §125.13(8); C79, 81, §125.20]

86 Acts, ch 1245, §1132

Referred to in §125.3, 125.7

125.21 Chemical substitutes and antagonists programs.

1. The board has exclusive power in this state to approve and license chemical substitutes and antagonists programs, and to monitor chemical substitutes and antagonists programs to ensure that the programs are operating within the rules adopted pursuant to this chapter. The board shall grant approval and license if the requirements of the rules are met and state funding is not requested. The chemical substitutes and antagonists programs conducted by persons exempt from the licensing requirements of this chapter pursuant to section 125.13, subsection 2, are subject to approval and licensure under this section.

2. The department may do any of the following:

a. Provide advice, consultation, and technical assistance to chemical substitutes and antagonists programs.

b. Approve local agencies or bodies to assist the department in carrying out the provisions of this chapter.

[C75, 77, §224B.21; C79, 81, §125.21; 81 Acts, ch 58, §9]
87 Acts, ch 32, §1; 97 Acts, ch 203, §12; 2005 Acts, ch 175, §73
Referred to in §125.3, 125.7

125.22 through 125.24 Reserved.

125.25 Approval of facility budget.

1. Before making any allocation of funds to a local substance abuse program, the department shall require a detailed line item budget clearly indicating the funds received from each revenue source for the fiscal year for which the funds are requested on forms provided by the department for each program.
2. The department shall adopt rules governing the approval of line item budgets for the operation of facilities. The rules shall include provisions for the approval of a facility's budget by the department.

[C79, 81, §125.25]
86 Acts, ch 1001, §5; 86 Acts, ch 1245, §1133
Referred to in §125.3, 125.7

125.26 through 125.31 Reserved.

125.32 Acceptance for treatment — rules.

The department shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, subject to chapter 17A, considering available treatment resources and facilities, for the purpose of early and effective treatment of persons with substance-related disorders and concerned family members. In establishing the rules the department shall be guided by the following standards:

1. If possible a patient shall be treated on a voluntary rather than an involuntary basis.
2. A patient shall be initially assigned or transferred to outpatient treatment, unless the patient is found to require inpatient, residential, or halfway house treatment.
3. A person shall not be denied treatment solely because the person has withdrawn from treatment against medical advice on a prior occasion or because the person has relapsed after earlier treatment.
4. An individualized treatment plan shall be prepared and maintained on a current basis for each patient after the assessment process.
5. Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and may utilize other appropriate treatment.

[C75, 77, §125.15; C79, 81, §125.32]
86 Acts, ch 1001, §6; 86 Acts, ch 1245, §1134; 90 Acts, ch 1085, §8; 2011 Acts, ch 121, §35, 62
Referred to in §125.3, 125.7

125.32A Discrimination prohibited.

Any substance abuse treatment program receiving state funding under this chapter or any other chapter of the Code shall not discriminate against a person seeking treatment solely because the person is pregnant, unless the program in each instance identifies and refers the person to an alternative and acceptable treatment program for the person.

90 Acts, ch 1264, §33
Referred to in §125.3, 125.7

125.33 Voluntary treatment of persons with substance-related disorders.

1. A person with a substance-related disorder may apply for voluntary treatment or rehabilitation services directly to a facility or to a licensed physician and surgeon or osteopathic physician and surgeon or to a mental health professional. If the proposed patient is a minor or an incompetent person, a parent, a legal guardian or other legal representative

may make the application. The licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or any employee or person acting under the direction or supervision of the physician and surgeon or osteopathic physician and surgeon, mental health professional, or facility shall not report or disclose the name of the person or the fact that treatment was requested or has been undertaken to any law enforcement officer or law enforcement agency; nor shall such information be admissible as evidence in any court, grand jury, or administrative proceeding unless authorized by the person seeking treatment. If the person seeking such treatment or rehabilitation is a minor who has personally made application for treatment, the fact that the minor sought treatment or rehabilitation or is receiving treatment or rehabilitation services shall not be reported or disclosed to the parents or legal guardian of such minor without the minor's consent, and the minor may give legal consent to receive such treatment and rehabilitation.

2. Subject to rules adopted by the department, the administrator or the administrator's designee in charge of a facility may determine who shall be admitted for treatment or rehabilitation. If a person is refused admission, the administrator or the administrator's designee, subject to rules adopted by the department, shall refer the person to another facility for treatment if possible and appropriate.

3. A person with a substance-related disorder seeking treatment or rehabilitation and who is either addicted or dependent on a chemical substance may first be examined and evaluated by a licensed physician and surgeon or osteopathic physician and surgeon or a mental health professional who may prescribe, if authorized or licensed to do so, a proper course of treatment and medication, if needed. The licensed physician and surgeon or osteopathic physician and surgeon or mental health professional may further prescribe a course of treatment or rehabilitation and authorize another licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or facility to provide the prescribed treatment or rehabilitation services. Treatment or rehabilitation services may be provided to a person individually or in a group. A facility providing or engaging in treatment or rehabilitation shall not report or disclose to a law enforcement officer or law enforcement agency the name of any person receiving or engaged in the treatment or rehabilitation; nor shall a person receiving or participating in treatment or rehabilitation report or disclose the name of any other person engaged in or receiving treatment or rehabilitation or that the program is in existence, to a law enforcement officer or law enforcement agency. Such information shall not be admitted in evidence in any court, grand jury, or administrative proceeding. However, a person engaged in or receiving treatment or rehabilitation may authorize the disclosure of the person's name and individual participation.

4. If a patient receiving inpatient or residential care leaves a facility, the patient shall be encouraged to consent to appropriate outpatient or halfway house treatment. If it appears to the administrator in charge of the facility that the patient is a person with a substance-related disorder who requires help, the director may arrange for assistance in obtaining supportive services.

5. If a patient leaves a facility, with or against the advice of the administrator in charge of the facility, the director may make reasonable provisions for the patient's transportation to another facility or to the patient's home. If the patient has no home the patient shall be assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative, or by the minor or incompetent person if the patient was the original applicant.

6. Any person who reports or discloses the name of a person receiving treatment or rehabilitation services to a law enforcement officer or law enforcement agency or any person receiving treatment or rehabilitation services who discloses the name of any other person receiving treatment or rehabilitation services without the written consent of the person

in violation of the provisions of this section shall upon conviction be guilty of a simple misdemeanor.

[C71, 73, §224A.2, 224A.3; C75, 77, §125.16, 224A.2, 224A.3; C79, 81, §125.33]

86 Acts, ch 1001, §7; 86 Acts, ch 1245, §1135; 90 Acts, ch 1085, §9; 2011 Acts, ch 121, §36, 62; 2017 Acts, ch 34, §3; 2021 Acts, ch 76, §27

Referred to in §125.3, 125.7, 125.12, 230.20, 321J.3, 331.910
Subsection 5 amended

125.34 Treatment and services for persons with substance-related disorders due to intoxication and substance-induced incapacitation.

1. A person with a substance-related disorder due to intoxication or substance-induced incapacitation may come voluntarily to a facility for emergency treatment. A person who appears to be intoxicated or incapacitated by a substance in a public place and in need of help may be taken to a facility by a peace officer under section 125.91. If the person refuses the proffered help, the person may be arrested and charged with intoxication under section 123.46, if applicable.

2. If no facility is readily available the person may be taken to an emergency medical service customarily used for incapacitated persons. The peace officer in detaining the person and in taking the person to a facility shall make every reasonable effort to protect the person's health and safety. In detaining the person the detaining officer may take reasonable steps for self-protection. Detaining a person under section 125.91 is not an arrest and no entry or other record shall be made to indicate that the person who is detained has been arrested or charged with a crime.

3. A person who arrives at a facility and voluntarily submits to examination shall be examined by a licensed physician and surgeon or osteopathic physician and surgeon or mental health professional as soon as possible after the person arrives at the facility. The person may then be admitted as a patient or referred to another health facility. The referring facility shall arrange for transportation.

4. If a person is voluntarily admitted to a facility, the person's family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, the request shall be respected.

5. A peace officer who acts in compliance with this section is acting in the course of the officer's official duty and is not criminally or civilly liable therefor, unless such acts constitute willful malice or abuse.

6. If the physician and surgeon or osteopathic physician and surgeon in charge of the facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

7. A licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, facility administrator, or an employee or a person acting as or on behalf of the facility administrator, is not criminally or civilly liable for acts in conformity with this chapter, unless the acts constitute willful malice or abuse.

[C75, 77, §125.17; C79, 81, §125.34; 82 Acts, ch 1212, §24]

86 Acts, ch 1001, §8; 2011 Acts, ch 121, §37, 62; 2017 Acts, ch 34, §4; 2018 Acts, ch 1026, §40

Referred to in §125.3, 125.7, 125.12, 230.20

125.35 and 125.36 Reserved.

125.37 Records confidential.

1. The registration and other records of facilities shall remain confidential and are privileged to the patient.

2. Notwithstanding subsection 1, the director may make available information from patients' records for purposes of research into the causes and treatment of substance abuse. Information under this subsection shall not be published in a way that discloses patients' names or other identifying information.

3. Notwithstanding the provisions of subsection 1, a patient's records may be disclosed only under any of the following circumstances:

a. To medical personnel in a medical emergency with or without the patient's consent.

b. For purposes of care coordination as defined in section 135D.2 if not otherwise restricted by federal law or regulation.

[C75, 77, §125.20, 224B.23; C79, 81, §125.37]

2016 Acts, ch 1055, §1, 3, 4, 6

Referred to in §125.3, 125.7, 125.93

125.38 Rights and privileges of patients.

1. Subject to reasonable rules regarding hours of visitation which the department may adopt, a patient in a facility shall be granted an opportunity for adequate consultation with counsel, and for continuing contact with family and friends consistent with an effective treatment program, provided that such consultation and contact may be provided telephonically or electronically.

2. Neither mail nor other communication to or from a patient in a facility may be intercepted, read or censored, except that the department may adopt reasonable rules regarding the use of telephones by patients in facilities and the delivery of chemical substances.

3. The patient shall be provided an opportunity to receive prompt evaluation, emergency services and care as indicated by sound medical practice and treatment which, in the judgment of the chief medical officer of a facility, is most likely to result in the individual's recovery or in the mitigation of the individual's condition to an extent sufficient to permit the individual's discharge from the facility.

[C75, 77, §125.21; C79, 81, §125.38]

86 Acts, ch 1245, §1136; 2020 Acts, ch 1103, §36, 51

Referred to in §125.3, 125.7

125.39 Eligible entities.

A local governmental unit which is providing funds to a facility for treatment of substance abuse may request from the facility a treatment program plan prior to authorizing payment of any claims filed by the facility. The governing body of the local governmental unit may review the plan, but shall not impose on the facility any requirement conflicting with the comprehensive treatment program of the facility.

[C77, §125.22; C79, 81, §125.39]

86 Acts, ch 1001, §9; 88 Acts, ch 1158, §31; 99 Acts, ch 141, §1

Referred to in §125.3, 125.7

SUBCHAPTER IV

ADMINISTRATIVE PROVISIONS — FUNDING

125.40 Criminal laws limitations.

1. No county or city may adopt or enforce a local law, ordinance, resolution or rule having the force of law in contravention of the provisions of this chapter.

2. No county or city may interpret or apply any law of general application to circumvent the provision of subsection 1.

3. Nothing in this chapter affects any law, ordinance, resolution or rule against drunken driving, driving under the influence of alcohol or other chemical substance, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery or other equipment, or regarding the sale, purchase, dispensing, possessing or use of alcoholic beverages or beer at stated times and places or by a particular class of persons or regarding the sale, purchase, possession or use of another chemical substance.

[C75, 77, §125.23; C79, 81, §125.40]

Referred to in §125.3, 125.7, 331.382

125.41 Judicial review.

Judicial review of the orders or actions of the director may be sought in accordance with the provisions of the Iowa administrative procedure Act, chapter 17A.

[C75, 77, §125.24; C79, 81, §125.41]

2003 Acts, ch 44, §114

Referred to in §125.3, 125.7

125.42 Appeals.

An aggrieved party may obtain a review of any final judgment of the court by appeal to the supreme court. The appeal shall be taken as in other civil cases.

[C75, 77, §125.25; C79, 81, §125.42]

Referred to in §125.3, 125.7

125.43 Funding at mental health institutes.

Chapter 230 governs the determination of the costs and payment for treatment provided to persons with substance-related disorders in a mental health institute under the department of human services, except that the charges are not a lien on real estate owned by persons legally liable for support of the person with a substance-related disorder and the daily per diem shall be billed at twenty-five percent. The superintendent of a state hospital shall total only those expenditures which can be attributed to the cost of providing inpatient treatment to persons with substance-related disorders for purposes of determining the daily per diem. Section 125.44 governs the determination of who is legally liable for the cost of care, maintenance, and treatment of a person with a substance-related disorder and of the amount for which the person is liable.

[C75, 77, §125.26; C79, 81, §125.43]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1067, §21; 86 Acts, ch 1001, §10; 90 Acts, ch 1085, §10; 2011 Acts, ch 121, §38, 62

Referred to in §125.3, 125.7, 125.20

125.43A Prescreening — exception.

Except in cases of medical emergency or court-ordered admissions, a person shall be admitted to a state mental health institute for treatment of a substance-related disorder only after a preliminary intake and assessment by a department-licensed treatment facility or a hospital providing care or treatment for persons with substance-related disorders licensed under chapter 135B and accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the board, or by a designee of a department-licensed treatment facility or a hospital other than a state mental health institute, which confirms that the admission is appropriate to the person's substance-related disorder service needs. A county board of supervisors may seek an admission of a patient to a state mental health institute who has not been confirmed for appropriate admission and the county shall be responsible for one hundred percent of the cost of treatment and services of the patient.

86 Acts, ch 1001, §11; 92 Acts, ch 1097, §1; 2005 Acts, ch 175, §74; 2011 Acts, ch 121, §39, 62; 2012 Acts, ch 1021, §42

Referred to in §125.44

125.44 Agreements with facilities — liability for costs.

1. The director may, consistent with the comprehensive substance abuse program, enter into written agreements with a facility as defined in section 125.2 to pay for one hundred percent of the cost of the care, maintenance, and treatment of persons with substance-related disorders, except when section 125.43A applies. All payments for state patients shall be made in accordance with the limitations of this section. Such contracts shall be for a period of no more than one year.

2. The contract may be in the form and contain provisions as agreed upon by the parties. The contract shall provide that the facility shall admit and treat persons with substance-related disorders regardless of where they have residence. If one payment for

care, maintenance, and treatment is not made by the patient or those legally liable for the patient, the payment shall be made by the department directly to the facility. Payments shall be made each month and shall be based upon the rate of payment for services negotiated between the department and the contracting facility. If a facility projects a temporary cash flow deficit, the department may make cash advances at the beginning of each fiscal year to the facility. The repayment schedule for advances shall be part of the contract between the department and the facility. This section does not pertain to patients treated at the mental health institutes.

3. If the appropriation to the department is insufficient to meet the requirements of this section, the department shall request a transfer of funds and section 8.39 shall apply.

4. The person with a substance-related disorder is legally liable to the facility for the total amount of the cost of providing care, maintenance, and treatment for the person with a substance-related disorder while a voluntary or committed patient in a facility. This section does not prohibit any individual from paying any portion of the cost of treatment.

5. The department is liable for the cost of care, treatment, and maintenance of persons with substance-related disorders admitted to the facility voluntarily or pursuant to section 125.75, 125.81, or 125.91 or section 321J.3 or 124.409 only to those facilities that have a contract with the department under this section, only for the amount computed according to and within the limits of liability prescribed by this section, and only when the person with a substance-related disorder is unable to pay the costs and there is no other person, firm, corporation, or insurance company bound to pay the costs.

6. The department's maximum liability for the costs of care, treatment, and maintenance of persons with substance-related disorders in a contracting facility is limited to the total amount agreed upon by the parties and specified in the contract under this section.

[C71, 73, §123B.4, 123B.8; C75, 77, §125.27, 125.31; C79, §125.44, 125.48; C81, §125.44; 82 Acts, ch 1212, §25]

86 Acts, ch 1001, §12, 13; 86 Acts, ch 1220, §25; 86 Acts, ch 1245, §1137; 89 Acts, ch 243, §4, 5; 90 Acts, ch 1085, §11; 2011 Acts, ch 121, §40, 62

Referred to in §124.409, 125.12, 125.13, 125.43, 321J.3, 462A.14

125.45 Reserved.

125.46 County of residence determined.

The facility shall, when a person with a substance-related disorder is admitted, or as soon thereafter as it receives the proper information, determine and enter upon its records the Iowa county of residence of the person with a substance-related disorder, or that the person resides in some other state or country, or that the person is unclassified with respect to residence.

[C71, 73, §123B.6; C75, 77, §125.29; C79, 81, §125.46]

90 Acts, ch 1085, §12; 2011 Acts, ch 121, §41, 62

125.47 Reserved.

125.48 List of contracting facilities.

The department shall provide a current list of facilities that have a contract with the department to the clerk of each district court in the state. The clerk shall provide the list to all district court judges and judicial magistrates in the district.

[C81, §125.48]

125.49 through 125.53 Reserved.

125.54 Use of funds.

The director is not required to distribute or guarantee funds, except as provided in section 125.59:

1. To any program which does not meet licensing standards,

2. To any program providing unnecessary, duplicative or overlapping services within the same geographical area, or

3. To any program which has adequate resources at its disposal.
[C79, 81, §125.54]
86 Acts, ch 1001, §14

125.55 Audits.
All licensed substance abuse programs are subject to annual audit either by the auditor of state or in lieu of an audit by the auditor of state the substance abuse program may contract with or employ certified public accountants to conduct the audit, in accordance with sections 11.6, 11.14, and 11.19. The audit format shall be as prescribed by the auditor of state. The certified public accountant shall submit a copy of the audit to the director. A licensed substance abuse program is also subject to special audits as the director requests. The licensed substance abuse program or the department shall pay all expenses incurred by the auditor of state in conducting an audit under this section.
[C79, 81, §125.55; 81 Acts, ch 58, §10; 82 Acts, ch 1166, §1]
89 Acts, ch 264, §5; 2011 Acts, ch 75, §35

125.56 and 125.57 Reserved.

125.58 Inspection — penalties.
1. If the department has probable cause to believe that an institution, place, building, or agency not licensed as a substance abuse treatment and rehabilitation facility is in fact a substance abuse treatment and rehabilitation facility as defined by this chapter, and is not exempt from licensing by section 125.13, subsection 2, the board may order an inspection of the institution, place, building, or agency. If the inspector upon presenting proper identification is denied entry for the purpose of making the inspection, the inspector may, with the assistance of the county attorney of the county in which the premises are located, apply to the district court for an order requiring the owner or occupant to permit entry and inspection of the premises to determine whether there have been violations of this chapter. The investigation may include review of records, reports, and documents maintained by the facility and interviews with staff members consistent with the confidentiality safeguards of state and federal law.
2. A person establishing, conducting, managing, or operating a substance abuse treatment and rehabilitation facility without a license is guilty of a serious misdemeanor. Each day of continued violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing or operating a substance abuse treatment and rehabilitation facility without a license may be temporarily or permanently restrained therefrom by a court of competent jurisdiction in an action brought by the state.
3. Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against a person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a substance abuse treatment and rehabilitation facility without a license.
[81 Acts, ch 58, §12; 82 Acts, ch 1244, §3]
2005 Acts, ch 175, §75

125.59 Transfer of certain revenue — county program funding.
The treasurer of state, on each July 1 for that fiscal year, shall transfer the estimated amounts to be received from section 123.36, subsection 8 and section 123.143, subsection 1 to the department.
1. *a.* Of these funds, notwithstanding section 125.13, subsection 1, one-half of the transferred amount shall be used for grants to counties operating a substance abuse program involving only education, prevention, referral or posttreatment services, either with the counties' own employees or by contract with a nonprofit corporation. The grants shall not annually exceed ten thousand dollars to any one county, subject to the following conditions:
(1) The money shall be paid to the county after expenditure by the county and submission

of the requirements in subparagraph (2) on the basis of one dollar for each three dollars spent by the county. The county may submit a quarterly claim for reimbursement.

(2) The county shall submit an accounting of the expenditures and shall submit an annual financial report, a description of the program, and the results obtained within sixty days after the end of the fiscal year in which the money is granted.

b. If the transferred amount for this subsection exceeds grant requests funded to the ten thousand dollar maximum, the department of public health may use the remainder for activities and public information resources that align with best practices for substance-related disorder prevention or to increase grants pursuant to subsection 2.

2. *a.* Of these funds, one-half of the transferred amount shall be used for prevention programs in addition to the amount budgeted for prevention programs by the department in the same fiscal year. The department shall use this additional prevention program money for grants to a county, person, or nonprofit agency operating a prevention program. A grant to a county, person, or nonprofit agency is subject to the following conditions:

(1) The money shall be paid to the county, person, or nonprofit agency after submission of the requirements in subparagraph (2) on the basis of two dollars for each dollar designated for prevention by the county, person, or nonprofit agency.

(2) The county, person, or nonprofit agency shall submit a description of the program.

(3) The county, person, or nonprofit agency shall submit an annual financial report and the results obtained before June 10 of the same fiscal year in which the money is granted.

b. The department may consider in-kind contributions received by a county, person, or nonprofit agency for matching purposes required in paragraph "*a*", subparagraph (1).

86 Acts, ch 1001, §15; 87 Acts, ch 110, §1; 94 Acts, ch 1068, §2; 2009 Acts, ch 41, §186; 2017 Acts, ch 148, §1

Referred to in §125.54

125.60 Grant formula.

The funding distributed by the department for program grants pursuant to the appropriation received by the department shall be distributed to each county or multicounty area by a formula based on population, need, and other criteria as determined by the department.

86 Acts, ch 1001, §16

125.61 through 125.73 Reserved.

SUBCHAPTER V

INVOLUNTARY COMMITMENT OR TREATMENT FOR SUBSTANCE-RELATED DISORDERS

125.74 Preapplication screening assessment — program.

Prior to filing an application pursuant to section 125.75, the clerk of the district court or the clerk's designee shall inform the interested person referred to in section 125.75 about the option of requesting a preapplication screening assessment through a preapplication screening assessment program, if available. The state court administrator shall prescribe practices and procedures for implementation of the preapplication screening assessment program.

2013 Acts, ch 130, §36

Referred to in §125.75, 602.1209

125.75 Application.

1. Proceedings for the involuntary commitment or treatment of a person with a substance-related disorder to a facility pursuant to this chapter or for the involuntary hospitalization of a person pursuant to chapter 229 may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where

the respondent is presently located or which is the respondent's place of residence. The clerk or the clerk's designee shall assist the applicant in completing the application.

2. The application shall:

a. State the applicant's belief that the respondent is a person who presents a danger to self or others and lacks judgmental capacity due to either of the following:

(1) A substance-related disorder as defined in section 125.2.

(2) A serious mental impairment as defined in section 229.1.

b. State facts in support of each belief described in paragraph *"a"*.

c. Be accompanied by one or more of the following:

(1) A written statement of a licensed physician and surgeon or osteopathic physician and surgeon or mental health professional in support of the application.

(2) One or more supporting affidavits corroborating the application.

(3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either subparagraph (1) or (2).

3. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 125.74.

4. The supreme court shall prescribe rules and establish forms as necessary to carry out the provisions of this section.

[C75, 77, §125.19(1, 2); C79, 81, §229.51; 82 Acts, ch 1212, §3]

90 Acts, ch 1085, §13; 2011 Acts, ch 121, §42, 43, 62; 2013 Acts, ch 130, §37; 2017 Acts, ch 34, §5; 2018 Acts, ch 1026, §41

Referred to in §125.2, 125.12, 125.44, 125.74, 125.75A, 125.77, 125.78, 125.79, 125.85, 125.91, 229.21, 331.910

Summary of involuntary commitment procedures available from clerk; see §229.45

125.75A Involuntary proceedings — minors — jurisdiction.

The juvenile court has exclusive original jurisdiction in proceedings concerning a minor for whom an application is filed under section 125.75. In proceedings under this subchapter concerning a minor's involuntary commitment or treatment, the term *"court"*, *"judge"*, or *"clerk"* means the juvenile court, judge, or clerk.

89 Acts, ch 283, §1; 92 Acts, ch 1124, §1; 2013 Acts, ch 130, §38; 2017 Acts, ch 54, §76

Referred to in §229.21

125.75B Dual filings. Repealed by 2013 Acts, ch 130, §55.

125.76 Appointment of counsel for applicant.

The applicant, if not the county attorney, may apply for the appointment of counsel if financially unable to employ an attorney to assist the applicant in presenting evidence in support of the application for commitment. If the applicant applies for the appointment of counsel, the application shall include the submission of a financial statement as required under section 815.9.

[C75, 77, §125.19(10); C79, 81, §229.52(6); 82 Acts, ch 1212, §4]

83 Acts, ch 101, §15; 83 Acts, ch 186, §10044, 10201

Referred to in §229.21

125.77 Service of notice.

Upon the filing of an application pursuant to section 125.75, the clerk shall docket the case and immediately notify a district court judge, a district associate judge, or magistrate who is admitted to the practice of law in this state, who shall review the application and accompanying documentation. The clerk shall send copies of the application and supporting documentation, together with the notice informing the respondent of the procedures required by this subchapter, to the sheriff, for immediate service upon the respondent. If the respondent is taken into custody under section 125.81, service of the application,

documentation, and notice upon the respondent shall be made at the time the respondent is taken into custody.

[C75, 77, §125.19(2); C79, 81, §229.51(3); 82 Acts, ch 1212, §5]

91 Acts, ch 108, §1; 2013 Acts, ch 130, §39; 2017 Acts, ch 54, §76

Referred to in §125.84, 125.85, 229.21, 229.45

125.78 Procedure after application.

As soon as practical after the filing of an application pursuant to section 125.75, the court shall:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the commitment proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting an attorney. In accordance with those determinations, the court shall allow the respondent to select an attorney or shall assign an attorney to the respondent. If the respondent is financially unable to pay an attorney, the county shall compensate the attorney at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

2. If the application includes a request for a court-appointed attorney for the applicant and the court is satisfied that a court-appointed attorney is necessary to assist the applicant in a meaningful presentation of the evidence, and that the applicant is financially unable to employ an attorney, the court shall appoint an attorney to represent the applicant and the county shall compensate the attorney at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

3. Issue a written order:

a. Scheduling a tentative time and place for a hearing, subject to the findings of the report required under section 125.80, subsections 3 and 4, but not less than forty-eight hours after notice to the respondent, unless the respondent waives the forty-eight-hour notice requirement.

b. Requiring an examination of the respondent, prior to the hearing, by one or more licensed physicians and surgeons or osteopathic physicians and surgeons or mental health professionals who shall submit a written report of the examination to the court as required by section 125.80.

[C75, 77, §125.19(1, 2); C79, 81, §229.51(2, 3), 229.52(6); 82 Acts, ch 1212, §6]

84 Acts, ch 1219, §5; 99 Acts, ch 135, §14; 2013 Acts, ch 130, §40; 2017 Acts, ch 34, §6; 2018 Acts, ch 1026, §42

Referred to in §125.79, 125.85, 229.21

125.79 Respondent's attorney informed.

The court shall direct the clerk to furnish at once to the respondent's attorney, copies of the application pursuant to section 125.75 and the supporting documentation, and of the court's order issued pursuant to section 125.78, subsection 3. If the respondent is taken into custody under section 125.81, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings and shall attend the commitment hearing.

[82 Acts, ch 1212, §7]

2013 Acts, ch 130, §41

Referred to in §125.85, 229.21

125.80 Physician's or mental health professional's examination — report — scheduling of hearing.

1. *a.* An examination of the respondent shall be conducted within a reasonable time and prior to the commitment hearing by one or more licensed physicians and surgeons or osteopathic physicians and surgeons or mental health professionals as required by the court's order. If the respondent is taken into custody under section 125.81, the examination shall be conducted within twenty-four hours after the respondent is taken into custody. If the respondent desires, the respondent may have a separate examination by a licensed physician and surgeon or osteopathic physician and surgeon or mental health professional

of the respondent's own choice. The court shall notify the respondent of the right to choose a licensed physician and surgeon or osteopathic physician and surgeon or mental health professional for a separate examination. The reasonable cost of the examinations shall be paid from county funds upon order of the court if the respondent lacks sufficient funds to pay the cost.

b. A licensed physician and surgeon or osteopathic physician and surgeon or mental health professional conducting an examination pursuant to this section may consult with or request the participation in the examination of facility personnel, and may include with or attach to the written report of the examination any findings or observations by facility personnel who have been consulted or have participated in the examination.

c. If the respondent is not taken into custody under section 125.81, but the court is subsequently informed that the respondent has declined to be examined by a licensed physician and surgeon or osteopathic physician and surgeon or mental health professional pursuant to the court order, the court may order limited detention of the respondent as necessary to facilitate the examination of the respondent by the licensed physician and surgeon or osteopathic physician and surgeon or mental health professional.

2. A written report of the examination by a court-designated licensed physician and surgeon or osteopathic physician and surgeon or mental health professional shall be filed with the clerk prior to the hearing date. A written report of an examination by a licensed physician and surgeon or osteopathic physician and surgeon or mental health professional chosen by the respondent may be similarly filed. The clerk shall immediately:

a. Cause a report to be shown to the judge who issued the order.

b. Cause the respondent's attorney to receive a copy of the report of a court-designated licensed physician and surgeon or osteopathic physician and surgeon or mental health professional.

3. If the report of a court-designated licensed physician and surgeon or osteopathic physician and surgeon or mental health professional is to the effect that the respondent is not a person with a substance-related disorder, the court, without taking further action, shall terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of a court-designated licensed physician and surgeon or osteopathic physician and surgeon or mental health professional is to the effect that the respondent is a person with a substance-related disorder, the court shall schedule a commitment hearing as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays, and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

[C75, 77, §125.19(1 – 4); C79, 81, §229.51, 229.52(1, 2); 82 Acts, ch 1212, §8]

90 Acts, ch 1085, §14; 2009 Acts, ch 41, §263; 2011 Acts, ch 121, §44, 62; 2017 Acts, ch 34, §7; 2018 Acts, ch 1026, §43; 2018 Acts, ch 1056, §1

Referred to in §125.78, 125.84, 125.85, 229.21

125.81 Immediate custody.

1. If a person filing an application requests that a respondent be taken into immediate custody, and the court upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is a person with a substance-related disorder who is likely to injure the person or other persons if allowed to remain at liberty, the court may enter a written order directing that the respondent be taken into immediate custody by the sheriff, and be detained until the commitment hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next business day. The court may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 125.88, in accordance with subsection 2, paragraph "*a*", if possible, and if not, then in accordance with subsection 2, paragraph "*b*", or, only if neither of these alternatives is available in accordance with subsection 2, paragraph "*c*".

2. Detention may be:

a. In the custody of a relative, friend, or other suitable person who is willing and able to accept responsibility for supervision of the respondent, with reasonable restrictions as the court may order including but not limited to restrictions on or a prohibition of any expenditure, encumbrance, or disposition of the respondent's funds or property.

b. In a suitable hospital, the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered. The hospital may provide treatment which is necessary to preserve the respondent's life, or to appropriately control the respondent's behavior which is likely to result in physical injury to the person or to others if allowed to continue, and other treatment as deemed appropriate by the chief medical officer.

c. In the nearest facility which is licensed to care for persons with mental illness or substance abuse, provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime shall not be ordered.

3. A respondent shall be released from detention prior to the commitment hearing if a licensed physician or mental health professional examines the respondent and determines the respondent no longer meets the criteria for detention under subsection 1 and provides notification to the court.

4. The respondent's attorney may be allowed by the court to present evidence and arguments before the court's determination under this section. If such an opportunity is not provided at that time, respondent's attorney shall be allowed to present evidence and arguments after the issuance of the court's order of confinement and while the respondent is confined.

[82 Acts, ch 1212, §9]

90 Acts, ch 1085, §15; 91 Acts, ch 108, §2; 92 Acts, ch 1072, §1; 92 Acts, ch 1165, §1; 2009 Acts, ch 41, §187; 2011 Acts, ch 121, §45, 62; 2018 Acts, ch 1056, §2

Referred to in §125.12, 125.44, 125.77, 125.79, 125.80, 125.82, 125.84, 125.87, 125.88, 125.91, 125.92, 229.21

125.82 Commitment hearing.

1. At a commitment hearing, evidence in support of the contentions made in the application may be presented by the applicant, or by an attorney for the applicant, or by the county attorney. During the hearing, the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of other interested persons. If the respondent is present at the hearing, as provided in subsection 3, and has been medicated within twelve hours, or a longer period of time as the court may designate, prior to the beginning of the hearing or a session of the hearing, the court shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

2. A person not necessary for the conduct of the hearing shall be excluded, except that the court may admit a person having a legitimate interest in the hearing. Upon motion of the applicant, the court may exclude the respondent from the hearing during the testimony of a witness if the court determines that the witness' testimony is likely to cause the respondent severe emotional trauma.

3. The person who filed the application and a licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor certified by the nongovernmental Iowa board of substance abuse certification who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless the court for good cause finds that their presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or telephonic appearance of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor who examined the respondent and agree to submit as evidence the written report of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. *"Good cause"* for finding that the testimony of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor who examined

the respondent is not necessary may include, but is not limited to, such a waiver. If the court determines that the testimony of the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor is necessary, the court may allow the licensed physician and surgeon or osteopathic physician and surgeon, mental health professional, or certified alcohol and drug counselor to testify by telephone. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the court before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

4. The respondent's welfare is paramount, and the hearing shall be tried as a civil matter and conducted in as informal a manner as is consistent with orderly procedure. The hearing may be held by video conference at the discretion of the court. Discovery as permitted under the Iowa rules of civil procedure is available to the respondent. The court shall receive all relevant and material evidence, but the court is not bound by the rules of evidence. A presumption in favor of the respondent exists, and the burden of evidence and support of the contentions made in the application shall be upon the person who filed the application. If upon completion of the hearing the court finds that the contention that the respondent is a person with a substance-related disorder has not been sustained by clear and convincing evidence, the court shall deny the application and terminate the proceeding.

5. If the respondent is not taken into custody under section 125.81, but the court finds good cause to believe that the respondent is about to depart from the jurisdiction of the court, the court may order limited detention of the respondent as authorized in section 125.81, as is necessary to ensure that the respondent will not depart from the jurisdiction of the court without the court's approval until the proceeding relative to the respondent has been concluded.

[C75, 77, §125.19(3-7, 10, 13); C79, 81, §229.52(1); 82 Acts, ch 1212, §10]

90 Acts, ch 1085, §16; 91 Acts, ch 108, §3; 2006 Acts, ch 1115, §1; 2006 Acts, ch 1116, §1; 2006 Acts, ch 1159, §30; 2011 Acts, ch 121, §46, 62; 2017 Acts, ch 34, §8; 2018 Acts, ch 1026, §44; 2018 Acts, ch 1056, §3

Referred to in §125.84, 229.21, 602.8103

125.83 Placement for evaluation.

If upon completion of the commitment hearing, the court finds that the contention that the respondent is a person with a substance-related disorder has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility or under the care of a suitable facility on an outpatient basis as expeditiously as possible for a complete evaluation and appropriate treatment. The court shall furnish to the facility at the time of admission or outpatient placement, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the facility, which shall include the chief medical officer's recommendation concerning treatment of a substance-related disorder. An extension of time may be granted for a period not to exceed seven days upon a showing of good cause. A copy of the report shall be sent to the respondent's attorney who may contest the need for an extension of time if one is requested. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation. If the administrator fails to report to the court within fifteen days after the individual is admitted to the facility, and no extension of time has been requested, the administrator is guilty of contempt and shall be punished under chapter 665. The court shall

order a rehearing on the application to determine whether the respondent should continue to be held at the facility.

[C75, 77, §125.19(4); C79, 81, §229.52(2); 82 Acts, ch 1212, §11]

90 Acts, ch 1020, §1; 90 Acts, ch 1085, §17; 2011 Acts, ch 121, §47, 62; 2012 Acts, ch 1021, §43

Referred to in §125.84, 125.85, 125.87, 125.88, 125.89, 229.21

125.83A Placement in certain federal facilities.

1. If upon completion of the commitment hearing, the court finds that the contention that the respondent is a person with a substance-related disorder has been sustained by clear and convincing evidence, and the court is furnished evidence that the respondent is eligible for care and treatment in a facility operated by the United States department of veterans affairs or another agency of the United States government and that the facility is willing to receive the respondent, the court may so order. The respondent, when so placed in a facility operated by the United States department of veterans affairs or another agency of the United States government within or outside of this state, shall be subject to the rules of the United States department of veterans affairs or other agency, but shall not lose any procedural rights afforded the respondent by this chapter. The chief officer of the facility shall have, with respect to the respondent so placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave, or discharge. Jurisdiction is retained in the court to maintain surveillance of the respondent's treatment and care, and at any time to inquire into the respondent's condition and the need for continued care and custody.

2. Upon receipt of a certificate stating that a respondent placed under this chapter is eligible for care and treatment in a facility operated by the United States department of veterans affairs or another agency of the United States government which is willing to receive the respondent without charge to the state of Iowa or any county in the state, the chief medical officer may transfer the respondent to that facility. Upon so doing, the chief medical officer shall notify the court which ordered the respondent's placement in the same manner as would be required in the case of a transfer under section 125.86, subsection 2, and the respondent transferred shall be entitled to the same rights as the respondent would have under that subsection. No respondent shall be transferred under this section who is confined pursuant to conviction of a public offense or whose placement was ordered upon contention of incompetence to stand trial by reason of mental illness, without prior approval of the court which ordered that respondent's placement.

3. A judgment or order of commitment by a court of competent jurisdiction of another state or the District of Columbia, under which any person is hospitalized or placed in a facility operated by the United States department of veterans affairs or another agency of the United States government, shall have the same force and effect with respect to that person while the person is in this state as the judgment or order would have if the person were in the jurisdiction of the court which issued it. That court shall be deemed to have retained jurisdiction of the person so placed for the purpose of inquiring into that person's condition and the need for continued care and custody, as do courts in this state under this section. Consent is given to the application of the law of the state or district in which the court is situated which issued the judgment or order as regards authority of the chief officer of any facility, operated in this state by the United States department of veterans affairs or another agency of the United States government, to retain custody, transfer, place on convalescent leave, or discharge the person so committed.

97 Acts, ch 159, §2; 2009 Acts, ch 26, §8; 2011 Acts, ch 121, §48, 62

Referred to in §229.21

125.84 Evaluation report.

The facility administrator's report to the court of the chief medical officer's substance abuse evaluation of the respondent shall be made no later than the expiration of the time specified in section 125.83. At least two copies of the report shall be filed with the clerk, who shall

distribute the copies in the manner described by section 125.80, subsection 2. The report shall state one of the four following alternative findings:

1. That the respondent does not, as of the date of the report, require further treatment for substance abuse. If the report so states, the court shall order the respondent's immediate release from involuntary commitment and terminate the proceedings.

2. That the respondent is a person with a substance-related disorder who is in need of full-time custody, care, and treatment in a facility, and is considered likely to benefit from treatment. If the report so states, the court shall enter an order which may require the respondent's continued placement and commitment to a facility for appropriate treatment.

3. That the respondent is a person with a substance-related disorder who is in need of treatment, but does not require full-time placement in a facility. If the report so states, the report shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court shall enter an order which may direct the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment, as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 125.81 and, following notice and hearing held in accordance with the procedures of sections 125.77 and 125.82, may order the respondent treated as a patient requiring full-time custody, care, and treatment as provided in subsection 2, and may order the respondent involuntarily committed to a facility.

4. That the respondent is a person with a substance-related disorder who is in need of treatment, but in the opinion of the chief medical officer is not responding to the treatment provided. If the report so states, the report shall include the facility administrator's recommendation for alternative placement, and the court shall enter an order which may direct the respondent's transfer to the recommended placement or to another placement after consultation with respondent's attorney and the facility administrator who made the report under this subsection.

[82 Acts, ch 1212, §12]

90 Acts, ch 1020, §2; 90 Acts, ch 1085, §18; 2011 Acts, ch 121, §49, 62

Referred to in §125.85, 125.86, 229.21, 321J.3

125.85 Custody, discharge, and termination of proceeding.

1. A respondent committed under section 125.84, subsection 2, shall remain in the custody of a facility for treatment for a period of thirty days, unless sooner discharged. The department is not required to pay the cost of any medication or procedure provided to the respondent during that period which is not necessary or appropriate to the specific objectives of detoxification and treatment of substance abuse. At the end of the thirty-day period, the respondent shall be discharged automatically unless the administrator of the facility, before expiration of the period, obtains a court order for the respondent's recommitment pursuant to an application under section 125.75, for a further period not to exceed ninety days.

2. A respondent recommitted under subsection 1 who has not been discharged by the facility before the end of the ninety-day period shall be discharged at the expiration of that period unless the administrator of the facility, before expiration of the period, obtains a court order for the respondent's recommitment pursuant to an application under section 125.75, for a further period not to exceed ninety days.

3. Upon the filing of an application for recommitment under subsection 1 or 2, the court shall schedule a recommitment hearing for no later than ten days after the date the application is filed. A copy of the application, the notice of hearing, and any reports shall be served or provided in the manner and to the persons as required by sections 125.77 through 125.80, 125.83, and 125.84.

4. Following a respondent's discharge from a facility or from treatment, the administrator of the facility shall immediately report that fact to the court which ordered the respondent's commitment or treatment. The court shall issue an order confirming the respondent's discharge from the facility or from treatment, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by regular mail to the facility and the respondent.

5. A person who is placed for evaluation at a facility under section 125.83 or who is committed to a facility under section 125.84, subsection 2, shall remain at that facility unless discharged or otherwise permitted to leave by the court or administrator of the facility. If a person placed at a facility or committed to a facility leaves the facility without permission or without having been discharged, the administrator may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the facility.

[C75, 77, §125.19; C79, 81, §229.52(3 – 5), 229.53; 82 Acts, ch 1212, §13]
92 Acts, ch 1072, §2; 99 Acts, ch 144, §1; 2021 Acts, ch 80, §66
Referred to in §229.21
Subsection 3 amended

125.86 Periodic reports required.

1. No more than thirty days after entry of a court order for commitment to a facility under section 125.84, subsection 2, and thereafter at successive intervals not to exceed ninety days for as long as involuntary commitment of the respondent continues, the administrator of the facility shall report to the court which entered the order. The report shall be submitted in the manner required by section 125.84, shall state whether in the opinion of the chief medical officer the respondent's condition has improved, remains unchanged, or has deteriorated, and shall indicate the further length of time the respondent will be required to remain at the facility.

2. No more than sixty days after entry of a court order for treatment of a respondent under section 125.84, subsection 3, and thereafter at successive intervals not to exceed ninety days for as long as involuntary treatment continues, the administrator of the facility or the psychiatrist or psychiatric advanced registered nurse practitioner treating the patient shall report to the court which entered the order. The report shall be submitted in the manner required by section 125.84, shall state whether in the opinion of the chief medical officer or the psychiatrist or psychiatric advanced registered nurse practitioner the respondent's condition has improved, remains unchanged, or has deteriorated, and shall indicate the further length of time the respondent will require treatment by the facility. If the respondent fails or refuses to submit to treatment as ordered by the court, the administrator of the facility shall at once notify the court, which shall order the respondent committed for treatment as provided by section 125.84, subsection 3, unless the court finds that the failure or refusal was with good cause, and that the respondent is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If the administrator of the facility reports to the court that the respondent requires full-time custody, care, and treatment in a facility, and the respondent is willing to be admitted voluntarily to the facility for these purposes, the court may enter an order approving the placement upon consultation with the administrator of the facility in which the respondent is to be placed. If the respondent is unwilling to be admitted voluntarily to the facility, the procedure for determining involuntary commitment, as provided in section 125.84, subsection 3, shall be followed.

3. *a.* A psychiatric advanced registered nurse practitioner treating a respondent previously committed under this chapter may complete periodic reports pursuant to this section on the respondent if the respondent has been recommended for treatment on an outpatient or other appropriate basis pursuant to section 125.84, subsection 3, and if a psychiatrist licensed pursuant to chapter 148 personally evaluates the respondent on at least an annual basis.

b. An advanced registered nurse practitioner who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications of a mental health professional may complete periodic reports pursuant to paragraph *"a"*.

[82 Acts, ch 1212, §14]
2008 Acts, ch 1082, §2, 3; 2009 Acts, ch 133, §29; 2013 Acts, ch 90, §25; 2017 Acts, ch 34, §9
Referred to in §125.83A, 229.21, 321J.3, 462A.14

125.87 Status during appeal.

If a respondent appeals to the supreme court from a lower court's finding that commitment is warranted, the respondent shall remain committed if already in custody, pursuant to an

order of immediate custody under section 125.81 or pursuant to an order for evaluation and treatment under section 125.83, before notice of appeal was filed, unless the supreme court orders otherwise.

[82 Acts, ch 1212, §15]
Referred to in §229.21

125.88 Status if commitment delayed.

If a court directs a respondent who was previously ordered taken into immediate custody under section 125.81 to be placed at a facility for evaluation and appropriate treatment under section 125.83, and no suitable facility can immediately admit the respondent, the respondent shall remain in custody as previously ordered by the court, notwithstanding the time limits stated in section 125.81, until a suitable facility can admit the respondent. The court shall take appropriate steps to expedite the admission of the respondent to a suitable facility at the earliest feasible time.

[82 Acts, ch 1212, §16]
Referred to in §125.81, 229.21

125.89 Respondents charged with or convicted of crime.

1. If a court orders a respondent placed at a facility for evaluation and treatment under section 125.83 at a time when the respondent has been convicted of a public offense, or when there is pending against the respondent an unresolved formal charge of a public offense, and the respondent's liberty has therefore been restricted in any manner, the findings of fact required by section 125.83 shall clearly so inform the administrator of the facility where the respondent is placed.

2. The commitment powers of the court under section 124.409 supersede the procedures and requirements of this subchapter.

[82 Acts, ch 1212, §17]
2017 Acts, ch 54, §76
Referred to in §229.21

125.90 Judicial hospitalization referee.

Judicial hospitalization referees shall be utilized as provided in section 229.21 for performing the duties of the court prescribed by this subchapter.

[C79, 81, §229.51(3); 82 Acts, ch 1212, §18]
2017 Acts, ch 54, §76
Referred to in §229.21

125.91 Emergency detention.

1. The procedure prescribed by this section shall only be used for a person with a substance-related disorder due to intoxication or substance-induced incapacitation who has threatened, attempted, or inflicted physical self-harm or harm on another, and is likely to inflict physical self-harm or harm on another unless immediately detained, or who is incapacitated by a substance, if an application has not been filed naming the person as the respondent pursuant to section 125.75 and the person cannot be ordered into immediate custody and detained pursuant to section 125.81.

2. *a.* A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2, paragraph *"b"* or *"c"*. Such a person with a substance-related disorder due to intoxication or substance-induced incapacitation who also demonstrates a significant degree of distress or dysfunction may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the attending physician and surgeon or osteopathic physician and surgeon may order treatment of the person, but only to the extent necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to

the attending physician and surgeon or osteopathic physician and surgeon. If the person is a peace officer, the peace officer may do so either in person or by written report. If the attending physician and surgeon or osteopathic physician and surgeon has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the attending physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the attending physician and surgeon or osteopathic physician and surgeon, give the attending physician and surgeon or osteopathic physician and surgeon oral instructions either directing that the person be released forthwith, or authorizing the person's detention in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility.

b. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a person with a substance-related disorder likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the attending physician and surgeon or osteopathic physician and surgeon at the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

3. The attending physician and surgeon or osteopathic physician and surgeon shall examine and may detain the person pursuant to the magistrate's order for a period not to exceed forty-eight hours from the time the order is dated, excluding Saturdays, Sundays, and holidays, unless the order is dismissed by a magistrate. The facility may provide treatment which is necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue or is otherwise deemed medically necessary by the attending physician and surgeon or osteopathic physician and surgeon or mental health professional, but shall not otherwise provide treatment to the person without the person's consent. The person shall be discharged from the facility and released from detention no later than the expiration of the forty-eight-hour period, unless an application for involuntary commitment is filed with the clerk pursuant to section 125.75. The detention of a person by the procedure in this section, and not in excess of the period of time prescribed by this section, shall not render the peace officer, attending physician and surgeon or osteopathic physician and surgeon, or facility detaining the person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, attending physician and surgeon or osteopathic physician and surgeon, mental health professional, or facility had reasonable grounds to believe that the circumstances described in subsection 1 were applicable.

4. The cost of detention in a facility under the procedure prescribed in this section shall be paid in the same way as if the person had been committed to the facility pursuant to an application filed under section 125.75.

[C75, 77, §125.17, 125.18; C79, 81, §125.34(4), 125.35; 82 Acts, ch 1212, §19]

90 Acts, ch 1085, §19; 2003 Acts, ch 68, §1, 2; 2009 Acts, ch 41, §188; 2011 Acts, ch 121, §50, 62; 2012 Acts, ch 1021, §44; 2012 Acts, ch 1079, §2; 2017 Acts, ch 34, §10; 2018 Acts, ch 1026, §45

Referred to in §125.12, 125.34, 125.44, 125.92, 229.21, 602.6405

125.92 Rights and privileges of committed persons.

A person who is detained, taken into immediate custody, or committed under this subchapter has the right to:

1. Prompt evaluation, emergency services, and care and treatment as indicated by sound clinical practice.

2. Render informed consent, except for treatment provided pursuant to sections 125.81 and 125.91. If the person is incompetent treatment may be consented to by the person's next of kin or guardian notwithstanding the person's refusal. If the person refuses treatment which in the opinion of the chief medical officer is necessary or if the person is incompetent and the next of kin or guardian refuses to consent to the treatment or no next of kin or guardian is available the facility may petition a court of appropriate jurisdiction for approval to treat the person.

3. The protection of the person's constitutional rights.

4. Enjoy all legal, medical, religious, social, political, personal, and working rights and privileges, which the person would enjoy if not detained, taken into immediate custody, or committed, consistent with the effective treatment of the person and of the other persons in the facility. If the person's rights are restricted, the physician and surgeon's or osteopathic physician and surgeon's or mental health professional's direction to that effect shall be noted in the person's record. The person or the person's next of kin or guardian shall be advised of the person's rights and be provided a written copy upon the person's admission to or arrival at the facility.

[82 Acts, ch 1212, §20]

2017 Acts, ch 34, §11; 2017 Acts, ch 54, §76; 2018 Acts, ch 1026, §46

Referred to in §229.21

125.93 Commitment records — confidentiality.

Records of the identity, diagnosis, prognosis, or treatment of a person which are maintained in connection with the provision of substance abuse treatment services are confidential, consistent with the requirements of section 125.37, and with the federal confidentiality regulations authorized by the federal Drug Abuse Office and Treatment Act, 42 U.S.C. §290ee and the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, 42 U.S.C. §290dd-2. However, such records may be disclosed to an employee of the department of corrections, if authorized by the director of the department of corrections, or to an employee of a judicial district department of correctional services, if authorized by the director of the judicial district department of correctional services.

[82 Acts, ch 1212, §21]

2014 Acts, ch 1092, §168; 2021 Acts, ch 11, §1

Referred to in §229.21

Section amended

125.94 Supreme court rules.

The supreme court may prescribe rules of pleading, practice, and procedure and the forms of process, writs, and notices under section 602.4201, for all commitment proceedings in a court of this state under this chapter. The rules shall be drawn for the purpose of simplifying and expediting the proceedings, so far as is consistent with the rights of the parties involved. The rules shall not abridge, enlarge, or modify the substantive rights of a party to a commitment proceeding under this chapter.

[82 Acts, ch 1212, §22]

83 Acts, ch 186, §10045, 10201

Referred to in §229.21

Rules adopted by the supreme court are published in the compilation "Iowa Court Rules"

CHAPTER 126

DRUGS, DEVICES, AND COSMETICS

Referred to in §124B.6, 124B.11, 155A.6, 155A.6A, 155A.6B, 155A.12, 155A.13A, 155A.13C, 155A.17, 155A.17A, 155A.26, 155A.42, 205.11, 205.12, 205.13

See §205.11 – 205.13 for additional provisions relating to administration and enforcement
This chapter not enacted as a part of this title; transferred from chapter 203B in Code 1993

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126.25 Human immunodeficiency virus home testing kits — prohibition — penalties. Repealed by 2013 Acts, ch 81, §4.
126.26 Notice of conviction under chapter. Repealed by 2019 Acts, ch 59, §238.

126.1 Title.

This chapter may be cited as the *"Iowa Drug, Device, and Cosmetic Act"*.

89 Acts, ch 197, §1
CS89, §203B.1
C93, §126.1

126.2 Definitions.

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

1. *"Advertising"* means any representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of drugs, devices, or cosmetics.

2. *"Anabolic steroid"* means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, or dehydroepiandrosterone, which substance is identified as an anabolic steroid in section 124.208, subsection 6, and includes any other substance designated by the board as an anabolic steroid through the adoption of rules pursuant to chapter 17A.

3. *"Board"* means the board of pharmacy.

4. *"Contaminated with filth"* means not securely protected from dust, dirt, and as far as is necessary by all reasonable means, from all foreign or injurious contaminations.

5. *"Cosmetic"* means any of the following, but does not include soap:

a. An article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part of a human body for cleaning, beautifying, promoting attractiveness, or altering the appearance.

b. An article intended for use as a component of an article defined in paragraph *"a"*.

6. *"Counterfeit drug"* means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any such likeness, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed the drug

and which falsely purports or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer, or distributor.

7. *"Device"* means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory of any of these, which is any of the following:

a. Recognized as a device in the official United States Pharmacopoeia National Formulary or any supplement to it.

b. Intended for use in the diagnosis of diseases or other conditions, or in the cure, mitigation, treatment, or prevention of diseases or other conditions in a human.

c. Intended to affect the structure or any function of the body of a human, and which does not achieve any of its principal intended purposes through chemical action within or on the body of a human and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

8. *"Drug"* means any of the following, but does not include a device:

a. An article recognized as a drug in the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to either document.

b. An article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in a human.

c. An article, other than food, intended to affect the structure or any function of the body of a human.

d. An article intended for use as a component of any articles specified in paragraphs *"a"*, *"b"*, or *"c"*.

9. *"Electronic prescription"* means a prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

10. *"Facsimile prescription"* means a prescription which is transmitted by a device which sends an exact image to the receiver.

11. *"Federal Act"* means the federal Food, Drug, and Cosmetic Act, which is codified in 21 U.S.C. §301 et seq.

12. *"Immediate container"* does not include a package liner.

13. *"Label"* means a display of written, printed, or graphic matter upon the immediate container of an article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label is not complied with unless the word, statement, or other information also appears on the outside container or wrapper of the retail package of the article, or is easily legible through the outside container or wrapper.

14. *"Labeling"* means all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying an article.

15. *"New drug"* means either of the following:

a. Any drug, the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in its labeling, except that a drug not so recognized is not a new drug if at any time prior to the enactment of this chapter it was subject to the federal Act, and if at that time its labeling contained the same representations concerning the conditions of its use.

b. Any drug, the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under the conditions prescribed, recommended, or suggested in its labeling, has become recognized as safe and effective, but which has not, other than in such investigations, been used to a material extent or for a material time under the conditions prescribed, recommended, or suggested in its labeling.

16. *"Official compendium"* means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to either document.

17. *"Person"* means an individual, partnership, corporation, or association.

18. *"Principal display panel"* means that part of a label that is most likely to be displayed,

presented, shown, or examined under normal and customary conditions of display for retail sale.

19. *"Safe"* as used in this chapter has reference to the health of a human.

20. *"Secretary"* means the secretary of the United States department of health and human services.

89 Acts, ch 197, §2
CS89, §203B.2
90 Acts, ch 1078, §1
C93, §126.2
2004 Acts, ch 1036, §4; 2007 Acts, ch 8, §20; 2007 Acts, ch 10, §17
Referred to in §280.16

126.2A Applicability.

The provisions of this chapter regarding the selling of drugs, devices, or cosmetics are applicable to the manufacture, production, processing, packaging, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such article, in the conduct of any drug, device, or cosmetic establishment.

C93, §126.2(unn. 2)
CS2007, §126.2A

126.3 Prohibited acts.

The following acts and the causing of the acts within this state are unlawful:

1. The introduction or delivery for introduction into commerce of any drug, device, or cosmetic that is adulterated or misbranded.

2. The adulteration or misbranding of any drug, device, or cosmetic in commerce.

3. The receipt in commerce of a drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

4. The introduction or delivery for introduction into commerce of a drug, device, or cosmetic in violation of section 126.12.

5. The dissemination of any false advertising.

6. The refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to or copying of any record as authorized by section 126.18; or the failure to establish or maintain any record or make any report required under section 512(j), 512(l), or 512(m) of the federal Act, or the refusal to permit access to or verification or copying of any such required record.

7. The manufacture within this state of a drug, device, or cosmetic that is adulterated or misbranded.

8. The giving of a guaranty or undertaking referred to in section 126.5, subsection 2, if the guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect, signed by, and containing the name and address of, the person residing in this state from whom the person received the drug, device, or cosmetic in good faith.

9. The removal or disposal of a detained or embargoed drug, device, or cosmetic in violation of section 126.6, subsection 1.

10. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a drug, device, or cosmetic, if the act is done while the article is held for sale, whether or not it would be the first sale, after shipment in commerce; and if the action results in the article being adulterated or misbranded.

11. Forging, counterfeiting, simulating, or falsely representing, or without proper authority using a mark, stamp, tag, label, or other identification device authorized or required by rules or regulations adopted under this chapter or the federal Act.

12. Making, selling, disposing of, or keeping in possession, control, or custody, or concealing a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another

trademark, trade name, mark, imprint, or device or a likeness of any trademark, trade name, mark, imprint, or device upon a drug or drug container or the labeling thereof so as to render the drug a counterfeit drug.

13. The doing of an act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug.

14. The use by a person to the person's own advantage, or the revealing, other than to the board or to the person's authorized representative or to the courts when relevant in a judicial proceeding under this chapter, of any information acquired under authority of this chapter concerning any method or process which as a trade secret is entitled to protection.

15. The use, on the labeling of a drug or device or in advertising relating to a drug or device, of a representation or suggestion that approval of an application with respect to the drug or device is in effect under section 126.12 or section 505, 515, or 520(g) of the federal Act, or that the drug or device complies with the provisions of any of those sections.

16. The use, in labeling, advertising, or other sales promotion of a reference to a report or analysis furnished in compliance with section 126.18 or section 704 of the federal Act.

17. If a prescription drug is distributed or offered for sale in this state, the failure of the manufacturer, packer, or distributor of the prescription drug to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer the drug who makes written request for information as to the drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the federal Act. This subsection does not exempt any person from a labeling requirement imposed by or under this chapter.

18. *a.* Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trademark, trade name, or other identifying mark or imprint of another trademark, trade name, mark, or imprint or any likeness of such a trademark, trade name, mark, or imprint.

b. Selling, dispensing, disposing of; causing to be sold, dispensed, or disposed of; or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, a drug, device, or container thereof, with knowledge that the trademark, trade name, or other identifying mark or imprint of another trademark, trade name, mark, or imprint or any likeness of any trademark, trade name, mark, or imprint has been placed thereon in a manner prohibited by paragraph *"a"*.

c. Making, selling, disposing of; causing to be made, sold, or disposed of; keeping in possession, control, or custody; or concealing with intent to defraud any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another trademark, trade name, mark, or imprint or any likeness of any trademark, trade name, mark, or imprint upon a drug or container or labeling thereof so as to render the drug a counterfeit drug.

19. The failure to register in accordance with section 510 of the federal Act, the failure to provide any information required by section 510(j) or 510(k) of the federal Act, or the failure to provide a notice required by section 510(j)(2) of the federal Act.

20. *a.* The failure or refusal to:

(1) Comply with a requirement prescribed under section 518 or 520(g) of the federal Act.

(2) Furnish any notification or other material or information required by or under section 519 or 520(g) of the federal Act.

b. With respect to any device, the submission of any report required by or under this chapter that is false or misleading in any material respect.

21. The movement of a device in violation of an order under section 304(g) of the federal Act or the removal or alteration of any mark or label required by the order to identify the device as detained.

22. The failure to provide the notice required by section 412(b) or 412(c) of the federal Act, the failure to make the reports required by section 412(d)(1)(B) of the federal Act, or the failure to meet the requirements prescribed under section 412(d)(2) of the federal Act.

23. Selling, dispensing, or distributing; causing to be sold, dispensed, or distributed; or possessing with intent to sell, dispense, or distribute, an anabolic steroid to a person under

eighteen years of age, with knowledge that the anabolic steroid is not necessary for the legitimate treatment of disease pursuant to an order of a physician.

89 Acts, ch 197, §3
CS89, §203B.3
90 Acts, ch 1078, §2
C93, §126.3
Referred to in §126.4, 126.5, 232.52, 321.215

126.4 Injunction proceedings.

The board may apply to the district court for, and the court has jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of section 126.3 whether or not there exists an adequate remedy at law.

89 Acts, ch 197, §4
CS89, §203B.4
C93, §126.4

126.5 Penalties — guaranty — false advertising liability.

1. A person who violates a provision of this chapter, other than a violation of section 126.3, subsection 23, is guilty of a serious misdemeanor; but if the violation is committed after a conviction of the person under this section has become final, the person is guilty of an aggravated misdemeanor.

2. A person is not subject to the penalties of subsection 1 if the person establishes a guaranty or undertaking signed by, and containing the name and address of another person residing in this state from whom the person received the article in good faith, to the effect that the article is not adulterated or misbranded.

3. A publisher, radio-broadcast licensee, or agency or medium which disseminates false advertising, except the manufacturer, packer, distributor, or seller of the article to which false advertising relates, is not liable under this section for the dissemination of the false advertising, unless the person knew or believed that the advertising was deceptive, false, or misleading or the person has refused upon the request of the board to furnish the board the name and address, if known, of the manufacturer, packer, distributor, seller, or advertising agency which caused the person to disseminate the advertisement.

4. A person who violates section 126.3, subsection 23, commits an aggravated misdemeanor.

5. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "*a*".

89 Acts, ch 197, §5
CS89, §203B.5
90 Acts, ch 1078, §3, 4; 92 Acts, ch 1062, §2
C93, §126.5
Referred to in §126.3
See also §716A.3, subsection 2

126.6 Embargo.

1. If a duly authorized agent of the board finds, or has probable cause to believe, that a drug, device, or cosmetic is adulterated or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, or is in violation of section 126.12, the agent shall affix to the article a tag or other appropriate marking, giving notice that the article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by an authorized agent or the court. It is unlawful for a person to remove or dispose of the detained or embargoed article by sale or otherwise without such permission.

2. When an article is adulterated or misbranded or is in violation of section 126.12 and has been detained or embargoed, a petition may be filed with the district court in whose jurisdiction the article is located, detained, or embargoed for an order for condemnation of

the article. If a duly authorized agent has found that an article which is embargoed or detained is not adulterated or misbranded, the agent shall remove the tag or other marking.

3. If the court finds that a sampled, detained, or embargoed article is adulterated or misbranded, the article shall be destroyed at the expense of the claimant of the article, under the supervision of the agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of the article or the claimant's agent; but if the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after costs, fees, storage, and other expenses have been paid and a good and sufficient bond, conditioned that the article shall be so labeled or processed, has been executed, may by order direct that the article be delivered to the claimant for such labeling or processing under the supervision of a duly authorized agent of the board. The expense of supervision shall be paid by the claimant. The article shall be returned to the claimant and the bond shall be discharged on the representation to the court by the board that the article is no longer in violation of this chapter, and that the expenses of supervision have been paid.

89 Acts, ch 197, §6
CS89, §203B.6
C93, §126.6
Referred to in §126.3

126.7 Prosecutions.

The attorney general, or a county attorney, or a city attorney to whom the board reports a violation of this chapter, shall cause appropriate court proceedings to be instituted without delay and to be prosecuted in the manner required by law. Before a violation of this chapter is reported to any such attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated shall be given appropriate notice and an opportunity to present the person's views before the board or its agent, either orally or in writing, in person or by attorney, with regard to the contemplated proceeding. However, the drug, device, or cosmetic shall be embargoed by the duly authorized agent.

89 Acts, ch 197, §7
CS89, §203B.7
C93, §126.7
Referred to in §331.756(36)

126.8 Minor violations.

This chapter does not require the board to report minor violations for prosecution, or for the institution of proceedings under this chapter, if the board believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

89 Acts, ch 197, §8
CS89, §203B.8
C93, §126.8

126.9 Drugs and devices — adulteration.

A drug or device is adulterated under any of the following circumstances:

1. *a.* If it consists in whole or in part of any filthy, putrid, or decomposed substance.

b. If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health.

c. If it is a drug and the methods used in, or the facilities or controls used for its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that the drug meets the requirements of this chapter as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

d. If its container is composed, in whole or part, of any poisonous or deleterious substance which may render the contents injurious to health.

2. If it purports to be or is represented as a drug, the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the

standards set forth in the official compendium. A determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the official compendium, or in the absence of or inadequacy of such tests or methods of assay, those prescribed under authority of the federal Act. A drug defined in an official compendium is not adulterated under this subsection because it differs from the standard of strength, quality, or purity set forth in the official compendium, if its difference in strength, quality, or purity from such standards is plainly stated on its label. If a drug is recognized in both the United States Pharmacopoeia National Formulary and the Homeopathic Pharmacopoeia of the United States it is subject to the United States Pharmacopoeia National Formulary unless it is labeled and offered for sale as a homeopathic drug, in which case it is subject to the Homeopathic Pharmacopoeia of the United States and not to the United States Pharmacopoeia National Formulary.

3. If it is not subject to subsection 2 and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

4. If it is a drug and any substance has been mixed or packed with it so as to reduce its quality or strength, or any substance has been substituted for it wholly or in part.

5. If it is, or purports to be or is represented as, a device which is subject to a performance standard established under section 514 of the federal Act, unless the device is in all respects in conformity with such standard.

6. If it is a device banned by the board or by the United States food and drug administration.

7. If it is a device and the methods used in, or the facilities or controls used for its manufacture, packing, storage, or installation are not in conformity with applicable requirements under section 520(f)(1) of the federal Act or an applicable condition as prescribed by an order under section 520(f)(2) of the federal Act.

8. If it is a device for which an exemption has been granted under section 520(g) of the federal Act for investigational use and the person who was granted the exemption or any investigator who uses the device under the exemption fails to comply with a requirement prescribed by or under that section.

89 Acts, ch 197, §9
CS89, §203B.9
C93, §126.9

126.10 Drugs and devices — misbranding — labeling.

1. A drug or device is misbranded under any of the following circumstances:

a. If its labeling is false or misleading in any particular.

b. (1) If in a package form unless it bears a label containing both of the following:

(a) The name and place of business of the manufacturer, packer, or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

(2) However, under subparagraph (1), subparagraph division (a), reasonable variations shall be permitted, and exemptions as to small packages shall be allowed, in accordance with rules adopted by the board.

c. If any word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

d. If it is for use by humans and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such a substance, which derivative, after investigation, has been designated as habit forming, by rules adopted by the board under this chapter or by regulations adopted by the secretary pursuant to section 502(d) of the federal Act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — May Be Habit Forming".

e. (1) If it is a drug, unless both of the following apply:

(a) Its label bears, to the exclusion of any other nonproprietary name except the applicable systematic chemical name or the chemical formula:

(i) The established name of the drug, as specified in subparagraph (3), if such exists; and

(ii) If the drug is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. However, the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this subparagraph subdivision, applies only to prescription drugs.

(b) For a prescription drug, the established name of the prescription drug or of an ingredient is printed, on the label and on any labeling on which a name for the prescription drug or an ingredient is used, prominently and in type at least half as large as that used thereon for any proprietary name or designation for the prescription drug or ingredient. However, to the extent that compliance with subparagraph division (a), subparagraph subdivision (ii), or this subparagraph division is impracticable, exemptions shall be allowed under rules or regulations adopted by the board or the secretary under the federal Act.

(2) If it is a device and it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name, as defined in subparagraph (4), prominently printed in type at least half as large as that used thereon for any proprietary name or designation for the device, except that to the extent compliance with this subparagraph is impracticable, exemptions shall be allowed under rules or regulations adopted by the board or the secretary under the federal Act.

(3) As used in subparagraph (1), the term *"established name"*, with respect to a drug or ingredient thereof, means one of the following:

(a) The applicable official name designated pursuant to section 508 of the federal Act.

(b) If no such official name exists and the drug or ingredient is an article recognized in an official compendium, then its official title in the compendium.

(c) If neither subparagraph division (a) nor (b) applies, then the common or usual name, if any, of the drug or ingredient. However, if subparagraph division (b) applies to an article recognized in the United States Pharmacopoeia National Formulary and in the Homeopathic Pharmacopoeia of the United States under different official titles, the official title used in the United States Pharmacopoeia National Formulary applies unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia of the United States applies.

(4) As used in subparagraph (2), the term *"established name"* with respect to a device means one of the following:

(a) The applicable official name of the device pursuant to section 508 of the federal Act.

(b) If no such official name exists and the device is an article recognized in an official compendium, then its official title in the compendium.

(c) If neither subparagraph division (a) nor (b) applies, then any common or usual name of the device.

f. (1) Unless its labeling bears both of the following:

(a) Adequate directions for use.

(b) Adequate warnings against use in those pathological conditions, or by children, where its use may be dangerous to health, or against unsafe dosage or methods or durations of administration or application, in the manner and form necessary for the protection of users.

(2) However, if a requirement of subparagraph (1), subparagraph division (a), as applied to a drug or device, is not necessary for the protection of the public health, the board or the secretary shall adopt rules or regulations exempting the drug or device from that requirement.

g. If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed in the official compendium. However, the method of packing may be modified with the consent of the board or the secretary. If

a drug is recognized in both the United States Pharmacopoeia National Formulary and the Homeopathic Pharmacopoeia of the United States, it is subject to the requirements of the United States Pharmacopoeia National Formulary with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it is subject to the Homeopathic Pharmacopoeia of the United States, and not to the United States Pharmacopoeia National Formulary. However, if an inconsistency exists between this paragraph and paragraph *"e"* as to the name by which the drug or its ingredients shall be designated, paragraph *"e"* prevails.

h. If it has been found by the board or the secretary to be a drug liable to deterioration, unless it is packaged in the form and manner, and its label bears a statement of the precautions that the board or the secretary by rule or regulation requires as necessary for the protection of public health. Such a rule or regulation shall not be established for a drug recognized in an official compendium until the board or the secretary has informed the appropriate body charged with the revision of the official compendium of the need for such packaging or labeling requirements and that body has failed within a reasonable time to prescribe such requirements.

i. (1) If it is a drug and its container is so made, formed, or filled as to be misleading.

(2) If it is an imitation of another drug.

(3) If it is offered for sale under the name of another drug.

j. If it is dangerous to health when used in the dosage or manner, or with the frequency or duration prescribed, recommended, or suggested in its labeling.

k. If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless both of the following apply:

(1) It is from a batch with respect to which a certificate or release has been issued pursuant to section 506 of the federal Act.

(2) The certificate or release is in effect with respect to the drug.

l. (1) If it is, or purports to be, or is represented as a drug, composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless both of the following apply:

(a) It is from a batch with respect to which a certificate or release has been issued pursuant to section 507 of the federal Act.

(b) The certificate or release is in effect with respect to the drug.

(2) However, this paragraph *"l"* does not apply to any drug or class of drugs exempted by regulations adopted under section 507(c) or 507(d) of the federal Act.

m. If it is a color additive, the intended use of which is for the purpose of coloring only, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to that color additive, as contained in regulations adopted under section 706 of the federal Act.

n. If it is a prescription drug distributed or offered for sale in this state, unless the manufacturer, packer, or distributor includes in all advertising and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to the prescription drug a true statement of all of the following:

(1) The established name as defined in paragraph *"e"*, printed prominently and in type at least half as large as that used for any trade or brand name thereof.

(2) The formula showing quantitatively each ingredient of the prescription drug to the extent required for labels under paragraph *"e"*.

(3) Other information in brief summary relating to side effects, contraindications, and effectiveness as required in regulations adopted pursuant to section 701(e) of the federal Act.

o. If it was manufactured, prepared, propagated, compounded, or processed in an establishment in this state not duly registered under section 510 of the federal Act, if it was not included on a list required by section 510(j) of the federal Act, if a notice or other information respecting it was not provided as required by that section or section 510(k) of the federal Act, or if it does not bear the symbols from the uniform system for identification of devices prescribed under section 510(e) of the federal Act that are required by regulation.

p. If it is a drug and its packaging or labeling is in violation of an applicable regulation

adopted pursuant to section 3 or 4 of the federal Poison Prevention Packaging Act of 1970, 15 U.S.C. §1471 et seq.

q. If a trademark, trade name, or other identifying mark, imprint, or device of another trademark, trade name, mark, or imprint or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud.

r. In the case of a restricted device distributed or offered for sale in this state, if either of the following applies:

(1) Its advertising is false or misleading in any particular.

(2) It is sold, distributed, or used in violation of regulations adopted pursuant to section 520(e) of the federal Act.

s. In the case of a restricted device distributed or offered for sale in this state, unless the manufacturer, packer, or distributor includes in all advertising and other descriptive printed matter issued by the manufacturer, packer, or distributor with respect to the device both of the following:

(1) A true statement of the device's established name as defined in paragraph *"e"*, printed prominently and in type at least half as large as that used for any trade or brand name thereof.

(2) A brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications; and in the case of a specific device made subject to regulations adopted pursuant to the federal Act, a full description of the components of the device or the formula showing quantitatively each ingredient of the device to the extent required in regulations under the federal Act.

t. If it is a device subject to a performance standard established under section 514 of the federal Act, unless it bears labeling as prescribed in that performance standard.

u. If it is a device and there was a failure or refusal to comply with any requirement prescribed under section 518 of the federal Act respecting the device, or to furnish material required by or under section 519 of the federal Act respecting the device.

2. If an article is alleged to be misbranded because the labeling or advertising is misleading, then in determining whether the labeling or advertising is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling or advertising fails to reveal facts material in the light of such representations, or material with respect to consequences which may result from the use of the article to which the labeling or advertising relates, under the conditions of use prescribed in the labeling or advertising or under customary or usual conditions of use.

3. The representation of a drug, in its labeling, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

89 Acts, ch 197, §10
CS89, §203B.10
C93, §126.10
2009 Acts, ch 41, §189
Referred to in §126.11

126.11 Exemptions in cases of drugs and devices — dispensing by prescription only.

1. The board shall adopt rules exempting from any labeling or packaging requirement of this chapter drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packaged, on condition that such drugs and devices are not adulterated or misbranded upon removal from the processing, labeling, or repacking establishment.

2. Drug and device labeling or packaging exemptions adopted pursuant to the federal Act shall apply to drugs and devices in this state except insofar as modified or rejected by rules adopted by the board.

3. *a.* (1) This paragraph *"a"* applies to a drug intended for use by humans which is any of the following:

(a) Is a habit-forming drug to which section 126.10, subsection 1, paragraph *"d"* applies.

(b) Because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug.

(c) Is limited by an approved application under section 505 of the federal Act to use under the professional supervision of a practitioner licensed by law to administer the drug.

(2) Such a drug shall be dispensed only upon a written, electronic, or facsimile prescription of a practitioner licensed by law to administer the drug, or upon an oral prescription of such a practitioner which is reduced promptly to writing and filed by the pharmacist, or by refilling any such written, electronic, facsimile, or oral prescription if the refilling is authorized by the prescriber either in the original written, electronic, or facsimile prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to this paragraph *"a"* while the drug is held for sale results in the drug being misbranded.

b. A drug dispensed by filling or refilling a written, electronic, facsimile, or oral prescription of a practitioner licensed by law to administer the drug is exempt from section 126.10, except section 126.10, subsection 1, paragraph *"a"*, section 126.10, subsection 1, paragraph *"i"*, subparagraphs (2) and (3), and section 126.10, subsection 1, paragraphs *"k"* and *"l"*, and the packaging requirements of section 126.10, subsection 1, paragraphs *"g"*, *"h"*, and *"p"*, if the drug bears a label containing the name and address of the dispenser, the date of the prescription or of its filling, the name of the prescriber, and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in the prescription. This exemption does not apply to a drug dispensed in the course of the conduct of the business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph *"a"* of this subsection.

c. The board may, by rule, remove a drug subject to section 126.10, subsection 1, paragraph *"d"*, and section 505 of the federal Act from the requirements of paragraph *"a"* of this subsection when such requirements are not necessary for the protection of the public health.

d. A drug which is subject to paragraph *"a"* of this subsection is misbranded if, at any time prior to dispensing, its label fails to bear the statement: "Caution: Federal Law Prohibits Dispensing Without Prescription", or "Caution: State Law Prohibits Dispensing Without Prescription". A drug to which paragraph *"a"* of this subsection does not apply is misbranded if, at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence.

e. Prescription drug samples dispensed by a practitioner licensed by law to administer such drugs are exempt from section 126.10.

f. All electronic or facsimile prescriptions transmitted under this section shall comply with section 155A.27.

89 Acts, ch 197, §11
CS89, §203B.11
C93, §126.11
2004 Acts, ch 1036, §5 – 7; 2009 Acts, ch 41, §190; 2013 Acts, ch 30, §26; 2013 Acts, ch 140, §58

126.12 New drugs.

1. A person shall not sell, deliver, offer for sale, hold for sale, or give away a new drug unless both of the following apply:

a. An application with respect to the new drug has been approved and the approval has not been withdrawn under section 505 of the federal Act.

b. A copy of the letter of approval or approvability issued by the United States food and drug administration is on file with the secretary of the board, if the product is manufactured in this state.

2. A person shall not use in humans a new drug limited to investigational use unless the person has filed with the United States food and drug administration a completed and signed "Notice of Claimed Investigational Exemption for a New Drug" form in accordance with 21

C.F.R. §312.1 and the exemption has not been terminated. The drug shall be plainly labeled in compliance with section 505(i) or 507(d) of the federal Act.

3. This section does not apply to either of the following:

a. A drug which is not a new drug as defined in the federal Act.

b. A drug which is licensed under the federal Public Health Service Act of July 1, 1944, 42 U.S.C. §201 et seq. or under the Animal Virus-Serum-Toxin Act of March 4, 1913, 21 U.S.C. §151 et seq.

89 Acts, ch 197, §12
CS89, §203B.12
C93, §126.12
2010 Acts, ch 1061, §24
Referred to in §126.3, 126.6

126.13 Reserved.

126.14 Cosmetics — adulteration.

A cosmetic is adulterated if any of the following apply:

1. *a.* It bears or contains a poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in its labeling or under customary or usual conditions of use. However, this does not apply to coal-tar hair dye if the label of the dye bears the following legend conspicuously displayed and the label bears adequate directions for the preliminary testing:

> Caution — This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.

b. For the purposes of this subsection and subsection 5, *"hair dye"* does not include eyelash dyes or eyebrow dyes.

2. It consists in whole or in part of any filthy, putrid, or decomposed substance.

3. It has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

4. Its container is composed, in whole or in part, of a poisonous or deleterious substance which may render the contents injurious to health.

5. It is not a hair dye and it is, or it bears or contains a color additive which is "unsafe" within the meaning of section 706(a) of the federal Act.

89 Acts, ch 197, §13
CS89, §203B.14
C93, §126.14
2018 Acts, ch 1041, §42
Referred to in §126.15

126.15 Cosmetics — misbranding.

1. A cosmetic is misbranded if any of the following apply:

a. Its labeling is false or misleading in any particular.

b. If in package form unless it bears a label containing both of the following:

(1) The name and place of business of the manufacturer, packer, or distributor.

(2) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, which statement shall be separately and accurately stated in a uniform location upon the principal display panel of the label.

c. A word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed there with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

d. Its container is so made, formed, or filled as to be misleading.

e. It is a color additive, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to that color additive prescribed under section 706 of the federal Act. This paragraph does not apply to packages of color additives which, with respect to their use of cosmetics, are marketed and intended for use only in or on hair dyes, as specified in section 126.14, subsection 1.

f. Its packaging or labeling is in violation of an applicable regulation adopted pursuant to section 3 or 4 of the federal Poison Prevention Packaging Act of 1970, 15 U.S.C. §1471 et seq.

2. The board shall adopt rules exempting from any labeling requirement of this chapter, cosmetics which are in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where they are originally processed or packed, on condition that such cosmetics are not adulterated or misbranded upon removal from the processing, labeling, or repacking establishment. Cosmetic labeling exemptions adopted under the federal Act apply to cosmetics in this state except as modified or rejected by rules adopted by the board.

89 Acts, ch 197, §14
CS89, §203B.15
C93, §126.15
2009 Acts, ch 41, §263

126.16 False advertising.

1. The advertising of a drug, device, or cosmetic is false if it is false or misleading in any particular.

2. For the purpose of this chapter, advertising is false if it represents a drug, device, or cosmetic to have any effect in the diagnosis, prevention, or treatment of arthritis, blood disorders, bone or joint diseases, kidney diseases or disorders, cancer, diabetes, gall bladder disease or disorders, heart and vascular disease, high blood pressure, diseases or disorders of the ear, mental disease or an intellectual disability, degenerative neurological diseases, paralysis, prostate gland disorders, conditions of the scalp affecting hair loss, baldness, endocrine disorders, sexual impotence, tumors, venereal diseases, varicose ulcers, breast enlargement, purifying blood, metabolic disorders, immune system disorders or conditions affecting the immune system, extension of life expectancy, stress and tension, brain stimulation or performance, the body's natural defense mechanisms, blood flow, and depression. However, advertising not in violation of subsection 1 is not false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices. However, if the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named in this subsection, the board shall by rule authorize the advertising of drugs having curative or therapeutic effect for such disease, subject to the conditions and restrictions the board deems necessary in the interests of the public health. However, this subsection does not indicate that self-medication for diseases other than those named in this subsection is safe and efficacious.

89 Acts, ch 197, §15
CS89, §203B.16
C93, §126.16
2012 Acts, ch 1019, §6

126.17 Rules — hearings.

1. The board may adopt rules pursuant to chapter 17A for the efficient enforcement of this chapter. The board may make the rules adopted under this chapter conform, insofar as practicable, with those regulations adopted pursuant to the federal Act.

2. Hearings authorized or required by this chapter shall be conducted by the board or by an officer, agent, or employee designated by the board.

89 Acts, ch 197, §16

CS89, §203B.17
C93, §126.17

126.18 Inspections.

1. *a.* For purposes of enforcement of this chapter, the board or any of its authorized agents, upon presenting appropriate credentials to the owner, operator, or agent in charge, may do both of the following:

(1) Enter at reasonable times any factory, warehouse, or other establishment in which drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into commerce or after such introduction; or enter a vehicle being used to transport or hold drugs, devices, or cosmetics in commerce.

(2) Inspect at reasonable times and within reasonable limits and in a reasonable manner such a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein, and obtain samples necessary to the enforcement of this chapter. In the case of a factory, warehouse, establishment, or consulting laboratory in which prescription drugs are manufactured, processed, packed, or held, the inspection shall extend to all things therein, including records, files, papers, processes, controls, and facilities, bearing on whether prescription drugs or restricted devices which are adulterated or misbranded or which may not be manufactured, introduced into commerce, or sold or offered for sale by reason of any provision of this chapter, have been or are being manufactured, processed, packed, transported, or held in violation of or bearing on a violation of this chapter. An inspection authorized for prescription drugs by the preceding sentence shall not extend to financial data, sales data other than shipment data, pricing data, personnel data other than data as to qualifications of technical and professional personnel performing functions subject to this chapter, and research data other than data relating to new drugs, and antibiotic drugs, and devices, and subject to reporting and inspection under regulations lawfully issued pursuant to section 505(i) or 505(j), or section 507(d) or 507(g), section 519, or section 520(g) of the federal Act, and data, relating to other drugs, or devices which in the case of a new drug would be subject to reporting or inspection under lawful regulations issued pursuant to section 505(j) of the federal Act. The inspection shall be commenced and completed with reasonable promptness.

b. Paragraph *"a"* does not apply to any of the following:

(1) Pharmacies which maintain establishments in conformance with laws of this state regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs, or devices, upon prescription of practitioners licensed to administer the drugs or devices to patients under the care of the practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture, prepare, propagate, compound, or process drugs or devices for sale other than in the regular course of their business of dispensing or selling drugs or devices at retail.

(2) Practitioners licensed by law to prescribe or administer drugs or prescribe or use devices, and who manufacture, prepare, propagate, compound, or process drugs, or manufacture or process devices solely for use in the course of their professional practice.

(3) Persons who manufacture, prepare, propagate, compound, or process drugs, or manufacture or process devices solely for use in research, teaching, or chemical analysis and not for sale.

(4) Duly employed sales representatives of pharmaceutical companies acting in the normal and customary performance of their duties.

(5) Other classes of persons the board exempts from the application of this section by rule upon a finding that inspection as applied to such classes of persons in accordance with this section is not necessary for the protection of the public health.

2. *a.* Upon completion of an inspection of a factory, warehouse, consulting laboratory, or other establishment and prior to leaving the premises, the authorized agent making the inspection shall give to the owner, operator, or agent in charge a report in writing setting forth any conditions or practices observed by the authorized agent which, in the judgment of the authorized agent, indicate that any drug, device, or cosmetic in the establishment meets either of the following:

(1) Consists in whole or in part of a filthy, putrid, or decomposed substance.

(2) Has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

b. A copy of the report shall be sent promptly to the board.

3. If the authorized agent making an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the authorized agent shall give to the owner, operator, or agent in charge a receipt describing the sample obtained.

4. A person required under this chapter or section 519 or 520(g) of the federal Act to maintain records and a person who is in charge or custody of such records shall, upon request of an authorized agent designated by the board, permit the authorized agent at all reasonable times to have access and to copy and verify such records.

5. For the purposes of enforcing this chapter, carriers engaged in commerce, and persons receiving drugs, devices, or cosmetics in commerce or holding such articles so received, shall, upon the request of a duly authorized agent of the board, permit the agent, at reasonable times, to have access to and to copy all records showing the movement in commerce of a drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof. It is unlawful for any such carrier or person to fail to permit such access to and copying of any such record so requested when the request is accompanied by a statement in writing specifying the nature or kind of drug, device, or cosmetic to which the request relates.

6. Evidence obtained under this section or evidence which is directly or indirectly derived from such evidence obtained under this section, shall not be used in a criminal prosecution of the person from whom the evidence was obtained; and carriers are not subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of drugs, devices, or cosmetics in the usual course of business as carriers.

89 Acts, ch 197, §17
CS89, §203B.18
C93, §126.18
2009 Acts, ch 41, §263
Referred to in §126.3

126.19 Publicity.

1. The board may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charges and their disposition.

2. The board may also cause to be disseminated information regarding drugs, devices, or cosmetics, in situations involving, in the opinion of the board, imminent danger to health, or gross deception of the consumer. This section does not prohibit the board from collecting, reporting, and illustrating the results of investigations by the board.

89 Acts, ch 197, §18
CS89, §203B.19
C93, §126.19

126.20 Chapter not applicable to commercial feed.

This chapter does not apply to the Iowa Commercial Feed Law of 1974 under chapter 198 or to administrative rules adopted pursuant to chapter 198.

89 Acts, ch 197, §19
CS89, §203B.20
C93, §126.20

126.21 Chapter not applicable to animal drugs.

This chapter does not apply to drugs intended for use for animals and not for humans.

89 Acts, ch 197, §20
CS89, §203B.21
C93, §126.21

126.22 Nitrous oxide.

1. *Unlawful possession.* Any person who possesses nitrous oxide or any substance containing nitrous oxide, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses, or who knowingly and with the intent to do so is under the influence of nitrous oxide or any material containing nitrous oxide, is guilty of a serious misdemeanor. This subsection shall not apply to a person who is under the influence of nitrous oxide or any material containing nitrous oxide for the purpose of medical, surgical, or dental care by a person duly licensed to administer such an agent.

2. *Unlawful distribution.* Any person who distributes nitrous oxide, or possesses nitrous oxide with intent to distribute to any other person, if such distribution is with the intent to induce unlawful inhaling of the substance or is with the knowledge that the other person will unlawfully inhale the substance, is guilty of a serious misdemeanor.

97 Acts, ch 39, §6

126.23 Gamma-hydroxybutyrate.

1. *Unlawful possession.* Any person who possesses gamma-hydroxybutyrate (also known as gamma-hydroxybutyric acid, or GHB), or any substance containing gamma-hydroxybutyrate, commits an aggravated misdemeanor. This subsection shall not apply to any person who obtains or possesses gamma-hydroxybutyrate or any material containing gamma-hydroxybutyrate pursuant to a lawful order of a physician or other authorized prescriber for the legitimate treatment of disease.

2. *Unlawful distribution.* Any person who distributes gamma-hydroxybutyrate, or possesses gamma-hydroxybutyrate with the intent to distribute to any other person, commits an aggravated misdemeanor if the person intends to promote or allow the unlawful use of the substance or if the person knows that the other person will use the substance for unlawful purposes.

97 Acts, ch 95, §1

126.23A Pseudoephedrine retail restrictions.

1. *a.* A retailer or an employee of a retailer shall not do any of the following:

(1) Sell more than seven thousand five hundred milligrams of pseudoephedrine to the same person within a thirty-day period.

(2) Knowingly sell more than one package of a product containing pseudoephedrine to a person in a twenty-four-hour period.

(3) Sell a package of a pseudoephedrine product that can be further broken down or subdivided into two or more separate and distinct packages or offer promotions where a pseudoephedrine product is given away for free as part of any purchase transaction.

b. A retailer or an employee of a retailer shall do the following:

(1) Provide for the sale of a pseudoephedrine product from a locked cabinet or behind a sales counter where the public is unable to reach the product and where the public is not permitted.

(2) Require a purchaser to present a government-issued photo identification card identifying the purchaser prior to purchasing a pseudoephedrine product.

(3) Require the purchaser to sign a logbook and to also require the purchaser to legibly print the purchaser's name and address in the logbook.

(4) Print the name of the pseudoephedrine product purchased and quantity sold next to the name of each purchaser in the logbook.

(5) Determine the signature in the logbook corresponds with the name on the government-issued photo identification card.

(6) Keep the logbook twenty-four months from the date of the last entry.

(7) Provide notification in a clear and conspicuous manner in a location where a pseudoephedrine product is offered for sale stating the following:

Iowa law prohibits the over-the-counter purchase of more than one package of a product containing pseudoephedrine in

a twenty-four-hour period or of more than seven thousand five hundred milligrams of pseudoephedrine within a thirty-day period. If you purchase a product containing pseudoephedrine, you are required to sign a logbook which may be accessible to law enforcement officers.

(8) Provide notification affixed to the logbook stating that a purchaser entering a false statement or misrepresentation in the logbook may subject the purchaser to criminal penalties under 18 U.S.C. §1001.

(9) Disclose logbook information as provided by state and federal law.

(10) Comply with training requirements pursuant to federal law.

2. A purchaser shall not do any of the following:

a. Purchase more than one package of a pseudoephedrine product within a twenty-four-hour period from a retailer.

b. Purchase more than seven thousand five hundred milligrams of pseudoephedrine from a retailer, either separately or collectively, within a thirty-day period.

3. A purchaser shall sign the logbook and also legibly print the purchaser's name and address in the logbook.

4. Enforcement of this section shall be implemented uniformly throughout the state. A political subdivision of the state shall not adopt an ordinance regulating the display or sale of products containing pseudoephedrine. An ordinance adopted in violation of this section is void and unenforceable and any enforcement activity of an ordinance in violation of this section is void.

5. The logbook may be kept in an electronic format upon approval by the department of public safety.

6. A pharmacy that sells a product that contains three hundred sixty milligrams or less of pseudoephedrine on a retail basis shall comply with the provisions of this section with respect to the sale of such product. However, a pharmacy is exempted from the provisions of this section when selling a pseudoephedrine product pursuant to section 124.212.

7. A retailer or an employee of a retailer that reports to any law enforcement agency any alleged criminal activity related to the purchase or sale of pseudoephedrine or who refuses to sell a pseudoephedrine product to a person is immune from civil liability for that conduct, except in cases of willful misconduct.

8. If a retailer or an employee of a retailer violates any provision of this section, a city or county may assess a civil penalty against the retailer upon hearing and notice as provided in section 126.23B.

9. An employee of a retailer who commits a violation of subsection 1 or a purchaser who commits a violation of subsection 2 commits a simple misdemeanor punishable by a scheduled fine under section 805.8C, subsection 6.

10. As used in this section, *"retailer"* means a person or business entity engaged in this state in the business of selling products on a retail basis. An *"employee of a retailer"* means any employee, contract employee, or agent of the retailer.

2004 Acts, ch 1127, §1; 2005 Acts, ch 15, §3, 14; 2005 Acts, ch 179, §115 – 117; 2009 Acts, ch 25, §7, 8; 2010 Acts, ch 1061, §25

Referred to in §124.212, 124.213, 126.23B, 602.8105, 714.7C, 805.8C(6)
Theft of pseudoephedrine, see §714.7C

126.23B Civil penalty.

1. A city or a county may enforce section 126.23A, after giving the retailer an opportunity to be heard upon ten days' written notice by restricted certified mail stating the alleged violation and the time and place at which the retailer may appear and be heard.

2. For a violation of section 126.23A by the retailer or an employee of the retailer a civil penalty shall be assessed against the retailer as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars.

b. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars.

c. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of two thousand dollars. The retailer may also be prohibited from selling pseudoephedrine for up to three years from the date of assessment of the civil penalty.

d. For a fourth or subsequent violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of three thousand dollars. On a fourth or subsequent violation, the retailer shall be prohibited from selling pseudoephedrine products for three years from the date of the assessment of the civil penalty.

3. The city or county that takes legal action against a retailer under this section shall report the assessment of a civil penalty to the department of public safety within thirty days of the penalty being assessed.

4. The civil penalty shall be collected by the clerk of the district court and shall be distributed as provided in section 602.8105, subsection 4.

2005 Acts, ch 15, §4, 14
Referred to in §126.23A, 602.8105

126.24 Reserved.

126.25 Human immunodeficiency virus home testing kits — prohibition — penalties. Repealed by 2013 Acts, ch 81, §4.

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CHAPTER 135

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135.177 Physician assistant mental health fellowship program — repeal. Repealed by its own terms; 2015 Acts, ch 30, §214.
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SUBCHAPTER XXX

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135.192 Protections of certain prospective recipients of anatomical gifts.

SUBCHAPTER I

GENERAL PROVISIONS

135.1 Definitions.

For the purposes of chapter 155 and Title IV, subtitle 2, excluding chapter 146, unless otherwise defined:

1. *"Director"* shall mean the director of public health.

2. *"Health officer"* means the physician, physician assistant, advanced registered nurse practitioner, or advanced practice registered nurse who is the health officer of the local board of health.

3. *"Local board"* shall mean the local board of health.

4. *"Physician"* means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or optometry under the laws of this state;

but a person licensed as a physician and surgeon shall be designated as a "physician" or "surgeon", a person licensed as an osteopathic physician and surgeon shall be designated as an "osteopathic physician" or "osteopathic surgeon", a person licensed as a chiropractor shall be designated as a "chiropractor", a person licensed as a podiatrist shall be designated as a "podiatric physician", and a person licensed as an optometrist shall be designated as an "optometrist". A definition or designation contained in this subsection shall not be interpreted to expand the scope of practice of such licensees.

5. *"Rules"* shall include regulations and orders.

6. *"State department"* or *"department"* shall mean the Iowa department of public health.

[S13, §2583-b; C24, 27, 31, 35, 39, §**2181;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.1]

86 Acts, ch 1245, §1101; 88 Acts, ch 1199, §1; 94 Acts, ch 1023, §10; 95 Acts, ch 108, §2; 96 Acts, ch 1036, §1; 96 Acts, ch 1212, §15; 2008 Acts, ch 1058, §14; 2008 Acts, ch 1084, §10; 2008 Acts, ch 1088, §141; 2009 Acts, ch 133, §30; 2012 Acts, ch 1113, §16; 2020 Acts, ch 1083, §1

Referred to in §135C.1, 144.26, 514.21

135.2 Appointment of director and acting director.

1. *a.* The governor shall appoint the director of the department, subject to confirmation by the senate. The director shall serve at the pleasure of the governor. The director is exempt from the merit system provisions of chapter 8A, subchapter IV. The governor shall set the salary of the director within the range established by the general assembly.

b. The director shall possess education and experience in public health.

2. The director may appoint an employee of the department to be acting director, who shall have all the powers and duties possessed by the director. The director may appoint more than one acting director but only one acting director shall exercise the powers and duties of the director at any time.

[C97, S13, §2564; C24, 27, 31, 35, 39, §**2182, 2184, 2185;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, §135.2, 135.4, 135.5; C81, §135.2]

86 Acts, ch 1245, §1102; 88 Acts, ch 1158, §32; 2003 Acts, ch 145, §186; 2006 Acts, ch 1184, §75

Confirmation; §2.32

135.3 Disqualifications.

The director shall not hold any other lucrative office of this state, elective or appointive, during the director's term; provided, however, that the director may serve without compensation as an officer or member of the instructional staff of any of the state educational institutions if any such additional duties and responsibilities do not prohibit the director from performing the duties of the office of director.

[C97, S13, §2564; C24, 27, 31, 35, 39, §**2183;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.3]

135.4 and 135.5 Reserved.

135.6 Assistants and employees.

The director shall employ such assistants and employees as may be authorized by law, and the persons appointed shall perform duties as may be assigned to them by the director.

[C97, S13, §2564; C24, 27, 31, 35, 39, §**2186;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.6]

86 Acts, ch 1245, §1103

135.7 Bonds.

The director shall require every employee who collects fees or handles funds belonging to the state to give an official bond, properly conditioned and signed by sufficient sureties, in a sum to be fixed by the director which bond shall be approved by the director and filed in the office of the secretary of state.

[C24, 27, 31, 35, 39, §**2187;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.7]

135.8 Seal.

The department shall have an official seal and every commission, license, order, or other paper executed by the department may be attested with its seal.

[C24, 27, 31, 35, 39, §**2188;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.8]

135.9 Expenses.

The director, field and office assistants, inspectors, and employees shall, in addition to salary, receive their necessary traveling expenses by the nearest traveled and practicable route and their necessary and incidental expenses when engaged in the performance of official business.

[C97, §2574; S13, §2564, 2574; C24, 27, 31, 35, 39, §**2189;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.9]

135.10 Office.

The department shall be located at the seat of government.

[C97, §2564; S13, §2564; C24, 27, 31, 35, 39, §**2190;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.10]

135.11 Duties of department.

The director of public health shall be the head of the "Iowa Department of Public Health", which shall:

1. Exercise general supervision over the public health, promote public hygiene and sanitation, prevent substance abuse and unless otherwise provided, enforce the laws relating to the same.
2. Conduct campaigns for the education of the people in hygiene and sanitation.
3. Issue monthly health bulletins containing fundamental health principles and other health data deemed of public interest.
4. Make investigations and surveys in respect to the causes of disease and epidemics, and the effect of locality, employment, and living conditions upon the public health. For this purpose the department may use the services of the experts connected with the state hygienic laboratory at the state university of Iowa.
5. Establish stations throughout the state for the distribution of antitoxins and vaccines to physicians, druggists, and other persons, at cost. All antitoxin and vaccine thus distributed shall be labeled "Iowa Department of Public Health".
6. Exercise general supervision over the administration and enforcement of the sexually transmitted diseases and infections law, chapter 139A, subchapter II.
7. Exercise sole jurisdiction over the disposal and transportation of the dead bodies of human beings and prescribe the methods to be used in preparing such bodies for disposal and transportation. However, the department may approve a request for an exception to the application of specific embalming and disposition rules adopted pursuant to this subsection if such rules would otherwise conflict with tenets and practices of a recognized religious denomination to which the deceased individual adhered or of which denomination the deceased individual was a member. The department shall inform the board of mortuary science of any such approved exception which may affect services provided by a funeral director licensed pursuant to chapter 156.
8. Establish, publish, and enforce rules which require companies, corporations, and other entities to obtain a permit from the department prior to scattering cremated human remains.
9. Exercise general supervision over the administration and enforcement of the vital statistics law, chapter 144.
10. Enforce the law relative to chapter 146 and "Health-related Professions", Title IV, subtitle 3, excluding chapter 155.
11. Establish and maintain divisions as are necessary for the proper enforcement of the laws administered by the department.
12. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125 and 155, and Title IV, subtitle 2, excluding chapter 146 and for

the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

13. Administer healthy aging and essential public health services by approving grants of state funds to the local boards of health for the purposes of promoting healthy aging throughout the lifespan and enhancing health promotion and disease prevention services, and by providing guidelines for the approval of the grants and allocation of the state funds. Guidelines, evaluation requirements and formula allocation procedures for the services shall be established by the department by rule.

14. Administer chapters 125, 136A, 136C, 139A, 142, 142A, 144, and 147A.

15. Issue an annual report to the governor as provided in section 7E.3, subsection 4.

16. Consult with the office of statewide clinical education programs at the university of Iowa college of medicine and annually submit a report to the general assembly by January 15 verifying the number of physicians in active practice in Iowa by county who are engaged in providing obstetrical care. To the extent data are readily available, the report shall include information concerning the number of deliveries per year by specialty and county, the age of physicians performing deliveries, and the number of current year graduates of the university of Iowa college of medicine and the Des Moines university — osteopathic medical center entering into residency programs in obstetrics, gynecology, and family practice. The report may include additional data relating to access to obstetrical services that may be available.

17. Administer the statewide maternal and child health program and the program for children with disabilities by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential conditions which may cause disabilities and children with chronic illnesses in accordance with the requirements of Tit. V of the federal Social Security Act. The department shall provide technical assistance to encourage the coordination and collaboration of state agencies in developing outreach centers which provide publicly supported services for pregnant women, infants, and children. The department shall also, through cooperation and collaborative agreements with the department of human services and the mobile and regional child health specialty clinics, establish common intake proceedings for maternal and child health services. The department shall work in cooperation with the legislative services agency in monitoring the effectiveness of the maternal and child health centers, including the provision of transportation for patient appointments and the keeping of scheduled appointments.

18. Establish, publish, and enforce rules requiring prompt reporting of methemoglobinemia, pesticide poisoning, and the reportable poisonings and illnesses established pursuant to section 139A.21.

19. Collect and maintain reports of pesticide poisonings and other poisonings, illnesses, or injuries caused by selected chemical or physical agents, including methemoglobinemia and pesticide and fertilizer hypersensitivity; and compile and publish, annually, a statewide and county-by-county profile based on the reports.

20. Adopt rules which require personnel of a licensed hospice, of a homemaker-home health aide provider agency which receives state homemaker-home health aide funds, or of an agency which provides respite care services and receives funds to complete training concerning blood-borne pathogens, including human immunodeficiency virus and viral hepatitis, consistent with standards from the federal occupational safety and health administration.

21. Adopt rules which require all emergency medical services personnel, fire fighters, and law enforcement personnel to complete training concerning blood-borne pathogens, including human immunodeficiency virus and viral hepatitis, consistent with standards from the federal occupational safety and health administration.

22. Adopt rules which provide for the testing of a convicted or alleged offender for the human immunodeficiency virus pursuant to sections 915.40 through 915.43. The rules shall provide for the provision of counseling, health care, and support services to the victim.

23. Establish ad hoc and advisory committees to the director in areas where technical expertise is not otherwise readily available. Members may be compensated for their actual and necessary expenses incurred in the performance of their duties. To encourage

health consumer participation, public members may also receive a per diem as specified in section 7E.6 if funds are available and the per diem is determined to be appropriate by the director. Expense moneys paid to the members shall be paid from funds appropriated to the department. A majority of the members of such a committee constitutes a quorum.

24. Administer annual grants to county boards of health for the purpose of conducting programs for the testing of private water supply wells, the closing of abandoned private water supply wells, and the renovation or rehabilitation of private water supply wells. Grants shall be funded through moneys transferred to the department from the agriculture management account of the groundwater protection fund pursuant to section 455E.11, subsection 2, paragraph *"b"*, subparagraph (2), subparagraph division (b). The department shall adopt rules relating to the awarding of the grants.

25. Establish and administer, if sufficient funds are available to the department, a program to assess and forecast health workforce supply and demand in the state for the purpose of identifying current and projected workforce needs. The program may collect, analyze, and report data that furthers the purpose of the program. The program shall not release information that permits identification of individual respondents of program surveys.

26. In consultation with the advisory committee for perinatal guidelines, develop and maintain the statewide perinatal program based on the recommendations of the American academy of pediatrics and the American college of obstetricians and gynecologists contained in the most recent edition of the guidelines for perinatal care, and shall adopt rules in accordance with chapter 17A to implement those recommendations. Hospitals within the state shall determine whether to participate in the statewide perinatal program, and select the hospital's level of participation in the program. A hospital having determined to participate in the program shall comply with the guidelines appropriate to the level of participation selected by the hospital. Perinatal program surveys and reports are privileged and confidential and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the affected hospital, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving verification of the participating hospital under this subsection.

27. In consultation with the department of corrections, the antibiotic resistance task force, and the American federation of state, county and municipal employees, develop educational programs to increase awareness and utilization of infection control practices in institutions listed in section 904.102.

28. Administer the Iowa youth survey, in collaboration with other state agencies, as appropriate, every two years to students in grades six, eight, and eleven in Iowa's public and nonpublic schools. Survey data shall be evaluated and reported, with aggregate data available online at the Iowa youth survey internet site.

1. [C97, §2565; C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.11(1)]

2, 3. [C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.11(2, 3)]

4. [C97, §2565; C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.11(4)]

5, 6. [C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(8, 9); C73, 75, 77, 79, 81, §135.11(7, 8)]

7. [S13, §2572-a, -b, -c; C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(11); C73, §135.11(10); C75, 77, 79, 81, §135.11(9)]

8. [C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(12); C73, §135.11(11); C75, 77, 79, 81, §135.11(10)]

9. [S13, §2575-a42; C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(13); C73, §135.11(12); C75, 77, 79, 81, §135.11(11)]

10. [C97, §2565; C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(14); C73, §135.11(13); C75, 77, 79, 81, §135.11(12)]

11, 12. [C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(15, 16); C73, §135.11(14, 15); C75, 77, 79, 81, §135.11(13, 14)]

13. [C97, §2565; C24, 27, 31, 35, 39, §**2191;** C46, 50, 54, 58, 62, 66, 71, §135.11(17); C73, §135.11(16); C75, 77, 79, 81, §135.11(15)]

14. [C75, 77, 79, 81, §135.11(16)]

15. [82 Acts, ch 1260, §55]

83 Acts, ch 27, §7; 86 Acts, ch 1245, §1104; 87 Acts, ch 8, §2; 87 Acts, ch 115, §22; 87 Acts, ch 225, §202; 88 Acts, ch 1224, §12; 89 Acts, ch 304, §103; 90 Acts, ch 1259, §10; 91 Acts, ch 258, §29; 93 Acts, ch 140, §4; 94 Acts, ch 1023, §11; 94 Acts, ch 1132, §9; 96 Acts, ch 1036, §2; 96 Acts, ch 1128, §1; 96 Acts, ch 1129, §23; 97 Acts, ch 23, §13; 97 Acts, ch 197, §1; 98 Acts, ch 1053, §1; 98 Acts, ch 1087, §1; 98 Acts, ch 1090, §60, 84; 98 Acts, ch 1221, §12; 99 Acts, ch 141, §2; 2000 Acts, ch 1058, §14; 2000 Acts, ch 1066, §37; 2000 Acts, ch 1223, §18; 2001 Acts, ch 58, §3; 2001 Acts, ch 122, §1; 2001 Acts, ch 184, §6; 2001 Acts, 2nd Ex, ch 1, §25, 28; 2002 Acts, ch 1108, §7; 2003 Acts, ch 33, §8, 11; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 44, §36; 2004 Acts, ch 1167, §1; 2005 Acts, ch 89, §2, 3; 2007 Acts, ch 10, §18; 2007 Acts, ch 159, §17; 2008 Acts, ch 1058, §1, 2, 15; 2008 Acts, ch 1084, §11; 2008 Acts, ch 1088, §83; 2008 Acts, ch 1180, §20; 2009 Acts, ch 41, §263; 2009 Acts, ch 151, §30; 2010 Acts, ch 1088, §4 – 6; 2011 Acts, ch 63, §33; 2012 Acts, ch 1113, §22; 2013 Acts, ch 129, §49; 2014 Acts, ch 1106, §1; 2017 Acts, ch 148, §2, 20; 2018 Acts, ch 1041, §127; 2019 Acts, ch 91, §1

Referred to in §231B.4, 237.3, 455E.11

Laboratory tests, §263.7, 263.8

Requirement for department to collaborate with Iowa Medicaid enterprise and child health speciality clinics to integrate initiative for first five years of a child's life with various integrated care models; 2013 Acts, ch 138, §3, 133; 2014 Acts, ch 1140, §3; 2015 Acts, ch 137, §3, 123; 2016 Acts, ch 1139, §3; 2017 Acts, ch 174, §3, 42; 2018 Acts, ch 1165, §6; 2019 Acts, ch 85, §3; 2020 Acts, ch 1121, §1; 2021 Acts, ch 182, §3

135.11A Professional licensure division — other licensing boards — expenses — fees.

1. There shall be a professional licensure division within the department of public health. Each board under chapter 147 or under the administrative authority of the department, except the board of nursing, board of medicine, dental board, and board of pharmacy, shall receive administrative and clerical support from the division and may not employ its own support staff for administrative and clerical duties. The executive director of the board of nursing, board of medicine, dental board, and board of pharmacy shall be appointed pursuant to section 135.11B.

2. The professional licensure division and the licensing boards may expend funds in addition to amounts budgeted, if those additional expenditures are directly the result of actual examination and exceed funds budgeted for examinations. Before the division or a licensing board expends or encumbers an amount in excess of the funds budgeted for examinations, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the department of management shall determine that the examination expenses exceed the funds budgeted by the general assembly to the division or board and the division or board does not have other funds from which examination expenses can be paid. Upon approval of the department of management, the division or licensing board may expend and encumber funds for excess examination expenses. The amounts necessary to fund the excess examination expenses shall be collected as fees from additional examination applicants and shall be treated as repayment receipts as defined in section 8.2.

86 Acts, ch 1245, §1105; 91 Acts, ch 268, §306; 92 Acts, ch 1163, §34; 2007 Acts, ch 10, §19; 2007 Acts, ch 218, §192; 2018 Acts, ch 1041, §127; 2019 Acts, ch 85, §58

135.11B Appointment of certain executive directors.

1. The director shall appoint and supervise a full-time executive director for each of the following boards:

a. The board of medicine.

b. The board of nursing.

c. The dental board.

d. The board of pharmacy.

2. Each board listed in subsection 1 shall advise the director in evaluating potential candidates for the position of executive director, consult with the director in the hiring of the executive director, and review and advise the director on the performance of the executive director in the discharge of the executive director's duties.

3. Each board listed in subsection 1 shall retain sole discretion and authority to execute

the core functions of the board including but not limited to policymaking, advocating for and against legislation, rulemaking, licensing, licensee investigations, licensee disciplinary proceedings, and oversight of professional health programs. The director's supervision of the executive director shall not interfere with the board's discretion and authority in executing the core functions of the board.

2019 Acts, ch 85, §59
Referred to in §135.11A, 147.80, 152.2, 153.33, 153.33B

135.12 Statutory board, commission, committee, or council of committee — teleconference option.

Any statutorily established board, commission, committee, or council established under the purview of the department shall provide for a teleconference option for board, commission, committee, or council members to participate in official meetings.

2019 Acts, ch 85, §80
Former §135.12 repealed by 2017 Acts, ch 174, §99

135.13 Reserved.

135.14 State public health dental director — duties.

1. The position of state public health dental director is established within the department.
2. The dental director shall perform all of the following duties:

a. Plan and direct all work activities of the statewide public health dental program.

b. Develop comprehensive dental initiatives for prevention activities.

c. Evaluate the effectiveness of the statewide public health dental program and of program personnel.

d. Manage the oral and health delivery systems bureau including direction, supervision, and fiscal management of bureau staff.

e. Other related work as required.

2007 Acts, ch 159, §13; 2021 Acts, ch 76, §28
Subsection 2, paragraph d amended

135.15 Oral and health delivery systems bureau established — responsibilities.

An oral and health delivery systems bureau is established within the division of health promotion and chronic disease prevention of the department. The bureau shall be responsible for all of the following:

1. Providing population-based oral health services, including public health training, improvement of dental support systems for families, technical assistance, awareness-building activities, and educational services, at the state and local level to assist Iowans in maintaining optimal oral health throughout all stages of life.
2. Performing infrastructure building and enabling services through the administration of state and federal grant programs targeting access improvement, prevention, and local oral health programs utilizing maternal and child health programs, Medicaid, and other new or existing programs.
3. Leveraging federal, state, and local resources for programs under the purview of the bureau.
4. Facilitating ongoing strategic planning and application of evidence-based research in oral health care policy development that improves oral health care access and the overall oral health of all Iowans.
5. Developing and implementing an ongoing oral health surveillance system for the evaluation and monitoring of the oral health status of children and other underserved populations.
6. Facilitating the provision of oral health services through dental homes. For the purposes of this section, *"dental home"* means a network of individualized care based on risk

assessment, which includes oral health education, dental screenings, preventive services, diagnostic services, treatment services, and emergency services.

2007 Acts, ch 159, §14; 2017 Acts, ch 148, §4; 2018 Acts, ch 1165, §110; 2021 Acts, ch 76, §29

Referred to in §135.39E
Unnumbered paragraph 1 amended

135.16 Special supplemental nutrition program for women, infants, and children — methamphetamine education.

As a component of the federal funding received by the department as the administering agency for the special supplemental nutrition program for women, infants, and children, from the United States department of agriculture, food and nutrition service, the department shall incorporate a methamphetamine education program into its nutrition and health-related education services. The department shall be responsible for the development of the education program to be delivered, and for the selection of qualified contract agencies to deliver the instruction under the program.

99 Acts, ch 195, §8; 2021 Acts, ch 76, §30

Section amended

135.16A Vendors participating in federal nutrition program — egg sales.

1. As used in this section, unless the context otherwise requires:

a. "Conventional eggs" means eggs other than specialty eggs.

b. "Eggs" means shell eggs that are graded as "AA", "A", or "B" pursuant to 7 C.F.R. pt. 56, subpt. A, and that are sold at retail in commercial markets.

c. "Federal nutrition program" means the special supplemental nutrition program for women, infants, and children as provided in 42 U.S.C. §1786 et seq.

d. "Grocery store" means a food establishment as defined in section 137F.1 licensed by the department of inspections and appeals pursuant to section 137F.4, to sell food or food products to customers intended for preparation or consumption off premises.

e. "Specialty eggs" means eggs produced by domesticated chickens, and sold at retail in commercial markets if the chickens producing such eggs are advertised as being housed in any of the following environments:

(1) Cage-free.

(2) Free-range.

(3) Enriched colony cage.

2. *a.* The department of inspections and appeals shall assist the Iowa department of public health in adopting rules necessary to implement and administer this section.

b. If necessary to implement, administer, and enforce this section, the Iowa department of public health, in cooperation with the department of agriculture and land stewardship, shall submit a request to the United States department of agriculture for a waiver or other exception from regulations as deemed feasible by the Iowa department of public health. The Iowa department of public health shall regularly report the status of such request to the legislative services agency.

3. A grocery store that is a vendor participating in a federal nutrition program and offering specialty eggs for retail sale shall maintain an inventory of conventional eggs for retail sale sufficient to meet federal and state requirements for participation in the federal nutrition program.

4. This section does not require a grocery store to do any of the following:

a. Stock or sell specialty eggs.

b. Stock or sell eggs, if the grocery store elects not to stock or sell conventional eggs for retail sale as part of its normal business.

c. Comply with the provisions of this section, if the grocery store's inventory of eggs for retail sale was limited to specialty eggs prior to January 1, 2018.

5. A violation of subsection 3 by a grocery store shall not be construed to disqualify a

grocery store from participating in a federal nutrition program unless otherwise authorized by the United States department of agriculture.

2018 Acts, ch 1025, §1; 2018 Acts, ch 1172, §19; 2021 Acts, ch 76, §31
Section amended

135.17 Dental screening of children.

1. *a.* Except as provided in paragraphs *"c"* and *"d"*, the parent or guardian of a child enrolled in elementary school shall provide evidence to the school district or accredited nonpublic elementary school in which the child is enrolled of the child having, no earlier than three years of age but no later than four months after enrollment, at a minimum, a dental screening performed by a licensed physician, a licensed nurse, a licensed physician assistant, or a licensed dental hygienist or dentist. Except as provided in paragraphs *"c"* and *"d"*, the parent or guardian of a child enrolled in high school shall provide evidence to the school district or accredited nonpublic high school in which the child is enrolled of the child having, at a minimum, a dental screening performed no earlier than one year prior to enrollment and not later than four months after enrollment by a licensed dental hygienist or dentist. A school district or accredited nonpublic school shall provide access to a process to complete the screenings described in this paragraph as appropriate.

b. A person authorized to perform a dental screening required by this section shall record that the screening was completed, and such additional information required by the department, on uniform forms developed by the department in cooperation with the department of education. The form shall include a space for the person to summarize any condition that may indicate a need for special services.

c. The department shall specify the procedures that constitute a dental screening and authorize a waiver signed by a licensed physician, nurse, physician assistant, dental hygienist, or dentist for a person who is unduly burdened by the screening requirement.

d. The dental screening requirement shall not apply to a person who submits an affidavit signed by the person or, if the person is a minor, the person's parent or legal guardian, stating that the dental screening conflicts with a genuine and sincere religious belief.

2. Each public and nonpublic school shall, in collaboration with the department, do the following:

a. Ensure that the parent or guardian of a student enrolled in the school has complied with the requirements of subsection 1.

b. Provide, if a student has not had a dental screening performed in accordance with subsection 1, the parent or guardian of the student with community dental screening referral resources, including contact information for the i-smile coordinator, department, or dental society.

3. By May 31 annually, each local board shall furnish the department with evidence that each student enrolled in any public or nonpublic school within the local board's jurisdiction has met the dental screening requirement in this section.

4. The department shall adopt rules to administer this section.

2007 Acts, ch 146, §1, 2; 2008 Acts, ch 1020, §1 – 3; 2009 Acts, ch 41, §39; 2009 Acts, ch 133, §31; 2010 Acts, ch 1088, §2, 3
Dental clinics, see §280.7

135.18 Conflicting statutes.

Provisions of this chapter in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

[C73, 75, 77, 79, 81, §135.18]
2004 Acts, ch 1086, §33

135.19 Viral hepatitis program — awareness, vaccinations, and testing.

1. If sufficient funds are appropriated by the general assembly, the department shall establish and administer a viral hepatitis program. The goal of the program shall be to distribute information to citizens of this state who are at an increased risk for exposure to viral hepatitis regarding the higher incidence of hepatitis C exposure and infection

among these populations, the dangers presented by the disease, and contacts for additional information and referrals. The program shall also make available hepatitis A and hepatitis B vaccinations, and hepatitis C testing.

2. The department shall establish by rule a list of individuals by category who are at increased risk for viral hepatitis exposure. The list shall be consistent with recommendations developed by the centers for disease control and prevention of the United States department of health and human services, and shall be developed in consultation with the Iowa viral hepatitis task force and the Iowa department of veterans affairs. The department shall also establish by rule what information is to be distributed and the form and manner of distribution. The rules shall also establish a vaccination and testing program, to be coordinated by the department through local health departments and clinics and other appropriate locations.

2006 Acts, ch 1045, §1; 2009 Acts, ch 182, §88; 2021 Acts, ch 76, §32
Subsection 2 amended

135.20 Hepatitis C awareness program — veterans — vaccinations. Repealed by 2009 Acts, ch 182, §89.

135.21 Pay toilets.

No person shall make a charge or require any special device, key or slug for the use of a toilet located in a room provided for use of the public. Violation of this section is a simple misdemeanor.

[C24, 27, 31, 35, 39, §**2839;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §170.34; C77, §732.25; C79, 81, §135.21]

135.22 Central registry for brain or spinal cord injuries.

1. As used in this section:

a. "*Brain injury*" means clinically evident damage to the brain resulting directly or indirectly from trauma, infection, anoxia, vascular lesions, or tumor of the brain, not primarily related to a degenerative disease or aging process, which temporarily or permanently impairs a person's physical, cognitive, or behavioral functions, and is diagnosed by a physician. The diagnoses of clinically evident damage to the brain used for a diagnosis of brain injury shall be the same as specified by rule for eligibility for the home and community-based services waiver for persons with brain injury under the medical assistance program.

b. "*Spinal cord injury*" means the occurrence of an acute traumatic lesion of neural elements in the spinal cord including the spinal cord and cauda equina, resulting in temporary or permanent sensory deficit, motor deficit, or bladder or bowel dysfunction.

2. The director shall establish and maintain a central registry of persons with brain or spinal cord injuries in order to facilitate prevention strategies and the provision of appropriate rehabilitative services to the persons by the department and other state agencies. Hospitals shall report patients who are admitted with a brain or spinal cord injury and their diagnoses to the director no later than forty-five days after the close of a quarter in which the patient was discharged. The report shall contain the name, age, and residence of the person, the date, type, and cause of the brain or spinal cord injury, and additional information as the director requires, except that where available, hospitals shall report the Glasgow coma scale. The director shall consult with health care providers concerning the availability of additional relevant information. The department shall maintain the confidentiality of all information which would identify any person named in a report. However, the identifying information may be released for bona fide research purposes if the confidentiality of the identifying information is maintained by the researchers, or the identifying information may be released by the person with the brain or spinal cord injury or by the person's guardian or, if the person is a minor, by the person's parent or guardian.

89 Acts, ch 320, §10; 92 Acts, ch 1237, §6; 94 Acts, ch 1068, §3; 99 Acts, ch 141, §3; 2012 Acts, ch 1120, §66
Referred to in §135.22A, 225C.23, 335.25, 414.22

135.22A Advisory council on brain injuries.

1. For purposes of this section, unless the context otherwise requires:

a. *"Brain injury"* means a brain injury as defined in section 135.22.

b. *"Council"* means the advisory council on brain injuries.

2. The advisory council on brain injuries is established. The following persons or their designees shall serve as ex officio, nonvoting members of the council:

a. The director of public health.

b. The director of human services and any division administrators of the department of human services so assigned by the director.

c. The director of the department of education.

d. The chief of the special education bureau of the department of education.

e. The administrator of the division of vocational rehabilitation services of the department of education.

f. The director of the department for the blind.

3. The council shall be composed of a minimum of nine members appointed by the governor in addition to the ex officio members, and the governor may appoint additional members. Insofar as practicable, the council shall include persons with brain injuries; family members of persons with brain injuries; representatives of industry, labor, business, and agriculture; representatives of federal, state, and local government; and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations. Members shall be appointed representing every geographic and employment area of the state and shall include members of both sexes. A simple majority of the members appointed by the governor shall constitute a quorum.

4. Members of the council appointed by the governor shall be appointed for terms of two years. Vacancies on the council shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed.

5. The voting members of the council shall appoint a chairperson and a vice chairperson and other officers as the council deems necessary. The officers shall serve until their successors are appointed and qualified. Members of the council shall receive actual expenses for their services. Members may also be eligible to receive compensation as provided in section 7E.6. The council shall adopt rules pursuant to chapter 17A.

6. The council shall do all of the following:

a. Promote meetings and programs for the discussion of methods to reduce the debilitating effects of brain injuries, and disseminate information in cooperation with any other department, agency, or entity on the prevention, evaluation, care, treatment, and rehabilitation of persons affected by brain injuries.

b. Study and review current prevention, evaluation, care, treatment, and rehabilitation technologies and recommend appropriate preparation, training, retraining, and distribution of personnel and resources in the provision of services to persons with brain injuries through private and public residential facilities, day programs, and other specialized services.

c. Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs, and other specialized services for persons with brain injuries in this state.

d. Make recommendations to the governor for developing and administering a state plan to provide services for persons with brain injuries.

e. Meet at least quarterly.

7. The department is designated as Iowa's lead agency for brain injury. For the purposes of this section, the designation of lead agency authorizes the department to perform or oversee the performance of those functions specified in subsection 6, paragraphs *"a"* through *"c"*. The council is assigned to the department for administrative purposes. The director shall be responsible for budgeting, program coordination, and related management functions.

8. The council may receive gifts, grants, or donations made for any of the purposes of its

programs and disburse and administer them in accordance with their terms and under the direction of the director.

92 Acts, ch 1237, §7; 94 Acts, ch 1068, §4; 94 Acts, ch 1109, §2; 97 Acts, ch 203, §13; 99 Acts, ch 141, §4; 2000 Acts, ch 1058, §15; 2005 Acts, ch 89, §4; 2006 Acts, ch 1184, §77; 2013 Acts, ch 124, §2

Referred to in §135.22B
Recognition of "brain injury" as a disability, §225C.23

135.22B Brain injury services program.

1. *Definitions.* For the purposes of this section:

a. "Brain injury services waiver" means the state's medical assistance home and community-based services waiver for persons with brain injury implemented under chapter 249A.

b. "Program administrator" means the division of the department designated to administer the brain injury services program in accordance with subsection 2.

2. *Program created.*

a. A brain injury services program is created and shall be administered by a division of the Iowa department of public health in cooperation with counties and the department of human services.

b. The division of the department assigned to administer the advisory council on brain injuries under section 135.22A shall be the program administrator. The division duties shall include but are not limited to serving as the fiscal agent and contract administrator for the program and providing program oversight.

c. The division shall consult with the advisory council on brain injuries, established pursuant to section 135.22A, regarding the program and shall report to the council concerning the program at least quarterly. The council shall make recommendations to the department concerning the program's operation.

3. *Purpose.* The purpose of the brain injury services program is to provide services, service funding, or other support for persons with a brain injury under the cost-share program component or other components established pursuant to this section. Implementation of the cost-share component or any other component of the program is subject to the funding made available for the program.

4. *General requirements — cost-share component.* The cost-share component of the brain injury services program shall be directed to persons who have been determined to be ineligible for the brain injury services waiver or persons who are eligible for the waiver but funding was not authorized or available to provide waiver eligibility for the persons. The cost-share component is subject to general requirements which shall include but are not limited to all of the following:

a. Services offered are consistent with the services offered through the brain injury services waiver.

b. Each service consumer has a service plan developed prior to service implementation and the service plan is reviewed and updated at least quarterly.

c. All other funding sources for which the service consumer is eligible are utilized to the greatest extent possible. The funding sources potentially available include but are not limited to community resources and public and private benefit programs.

d. The maximum monthly cost of the services provided shall be based on the maximum monthly amount authorized for the brain injury services waiver.

e. Assistance under the cost-share component shall be made available to a designated number of service consumers who are eligible, as determined from the funding available for the cost-share component, on a first-come, first-served basis.

f. Nothing in this section shall be construed or is intended as, or shall imply, a grant of entitlement to services to persons who are eligible for participation in the cost-share component based upon the eligibility provisions adopted consistent with the requirements of this section. Any obligation to provide services pursuant to this section is limited to the extent of the funds appropriated or provided for the cost-share component.

5. *Cost-share component eligibility.* An individual must meet all of the following

requirements in order to be eligible for the cost-share component of the brain injury services program:

a. The individual is age one month through sixty-four years.

b. The individual has a diagnosis of brain injury that meets the diagnosis eligibility criteria for the brain injury services waiver.

c. The individual is a resident of this state and either a United States citizen or a qualified alien as defined in 8 U.S.C. §1641.

d. The individual meets the cost-share component's financial eligibility requirements and is willing to pay a cost-share for the cost-share component.

e. The individual does not receive services or funding under any type of medical assistance home and community-based services waiver.

6. *Cost-share requirements.*

a. The cost-share component's financial eligibility requirements shall be established in administrative rule. In establishing the requirements, the department shall consider the eligibility and cost-share requirements used for the hawk-i program under chapter 514I.

b. An individual's cost-share responsibility for services under the cost-share component shall be determined on a sliding scale based upon the individual's family income. An individual's cost-share shall be assessed as a copayment, which shall not exceed thirty percent of the cost payable for the service.

c. The service provider shall bill the department for the portion of the cost payable for the service that is not covered by the individual's copayment responsibility.

7. *Application process.*

a. The application materials for services under the cost-share component of the brain injury services program shall use the application form and other materials of the brain injury services waiver. In order to apply for the brain injury services program, the applicant must authorize the department of human services to provide the applicant's waiver application materials to the brain injury services program. The application materials provided shall include but are not limited to the waiver application and any denial letter, financial assessment, and functional assessment regarding the person.

b. If a functional assessment for the waiver has not been completed due to a person's financial ineligibility for the waiver, the brain injury services program may provide for a functional assessment to determine the person's needs by reimbursing the department of human services for the assessment.

c. The program administrator shall file copies of the individual's application and needs assessment with the program resource facilitator assigned to the individual's geographic area.

d. The department's program administrator shall make a final determination as to whether program funding will be authorized under the cost-share component.

8. *Service providers and reimbursement.* All of the following requirements apply to service providers and reimbursement rates payable for services under the cost-share component:

a. A service provider must either be certified to provide services under the brain injury services waiver or have a contract with a county to provide services and will become certified to provide services under such waiver within a reasonable period of time specified in rule.

b. The reimbursement rate payable for the cost of a service provided under the cost-share component is the rate payable under the medical assistance program. However, if the service provided does not have a medical assistance program reimbursement rate, the rate shall be the amount payable under the county contract.

9. *Resource facilitation.* The program shall utilize resource facilitators to facilitate program services. The resource facilitator shall be available to provide ongoing support for individuals with brain injury in coping with the issues of living with a brain injury and in assisting such individuals in transitioning back to employment and living in the community. The resource facilitator is intended to provide a linkage to existing services and increase the capacity of the state's providers of services to persons with brain injury by doing all of the following:

a. Providing brain injury-specific information, support, and resources.

b. Enhancing the usage of support commonly available to an individual with brain

injury from the community, family, and personal contacts and linking such individuals to appropriate services and community resources.

c. Training service providers to provide appropriate brain injury services.

d. Accessing, securing, and maximizing the private and public funding available to support an individual with a brain injury.

2006 Acts, ch 1114, §1; 2007 Acts, ch 126, §35; 2008 Acts, ch 1058, §3; 2008 Acts, ch 1187, §106 – 108

135.23 Reserved.

135.24 Volunteer health care provider program established — immunity from civil liability.

1. The director shall establish within the department a program to provide to eligible hospitals, clinics, free clinics, field dental clinics, specialty health care provider offices, or other health care facilities, health care referral programs, or charitable organizations, free medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, and emergency medical care services given on a voluntary basis by health care providers. A participating health care provider shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, free clinics, field dental clinics, specialty health care provider offices, or other health care facilities, health care referral programs, or charitable organizations.

2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer health care provider program which shall include the following:

a. Procedures for registration of health care providers deemed qualified by the board of medicine, the board of physician assistants, the dental board, the board of nursing, the board of chiropractic, the board of psychology, the board of social work, the board of behavioral science, the board of pharmacy, the board of optometry, the board of podiatry, the board of physical and occupational therapy, the board of respiratory care and polysomnography, and the Iowa department of public health, as applicable.

b. Procedures for registration of free clinics, field dental clinics, and specialty health care provider offices.

c. Criteria for and identification of hospitals, clinics, free clinics, field dental clinics, specialty health care provider offices, or other health care facilities, health care referral programs, or charitable organizations, eligible to participate in the provision of free medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational therapy, respiratory therapy, or emergency medical care services through the volunteer health care provider program. A free clinic, a field dental clinic, a specialty health care provider office, a health care facility, a health care referral program, a charitable organization, or a health care provider participating in the program shall not bill or charge a patient for any health care provider service provided under the volunteer health care provider program.

d. Identification of the services to be provided under the program. The services provided may include but shall not be limited to obstetrical and gynecological medical services, psychiatric services provided by a physician licensed under chapter 148, dental services provided under chapter 153, or other services provided under chapter 147A, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 154, 154B, 154C, 154D, 154F, or 155A.

3. A health care provider providing free care under this section shall be considered an employee of the state under chapter 669, shall be afforded protection as an employee of the state under section 669.21, and shall not be subject to payment of claims arising out of the free care provided under this section through the health care provider's own professional liability insurance coverage, provided that the health care provider has done all of the following:

a. Registered with the department pursuant to subsection 1.

b. Provided medical, dental, chiropractic, pharmaceutical, nursing, optometric, psychological, social work, behavioral science, podiatric, physical therapy, occupational

therapy, respiratory therapy, or emergency medical care services through a hospital, clinic, free clinic, field dental clinic, specialty health care provider office, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.

4. A free clinic providing free care under this section shall be considered a state agency solely for the purposes of this section and chapter 669 and shall be afforded protection under chapter 669 as a state agency for all claims arising from the provision of free care by a health care provider registered under subsection 3 who is providing services at the free clinic in accordance with this section or from the provision of free care by a health care provider who is covered by adequate medical malpractice insurance as determined by the department, if the free clinic has registered with the department pursuant to subsection 1.

5. A field dental clinic providing free care under this section shall be considered a state agency solely for the purposes of this section and chapter 669 and shall be afforded protection under chapter 669 as a state agency for all claims arising from the provision of free care by a health care provider registered under subsection 3 who is providing services at the field dental clinic in accordance with this section or from the provision of free care by a health care provider who is covered by adequate medical malpractice insurance, as determined by the department, if the field dental clinic has registered with the department pursuant to subsection 1.

6. A specialty health care provider office providing free care under this section shall be considered a state agency solely for the purposes of this section and chapter 669 and shall be afforded protection under chapter 669 as a state agency for all claims arising from the provision of free care by a health care provider registered under subsection 3 who is providing services at the specialty health care provider office in accordance with this section or from the provision of free care by a health care provider who is covered by adequate medical malpractice insurance, as determined by the department, if the specialty health care provider office has registered with the department pursuant to subsection 1.

7. For the purposes of this section:

a. "*Charitable organization*" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code.

b. "*Field dental clinic*" means a dental clinic temporarily or periodically erected at a location utilizing mobile dental equipment, instruments, or supplies, as necessary, to provide dental services.

c. "*Free clinic*" means a facility, other than a hospital or health care provider's office which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and which has as its sole purpose the provision of health care services without charge to individuals who are otherwise unable to pay for the services.

d. "*Health care provider*" means a physician licensed under chapter 148; a chiropractor licensed under chapter 151; a physical therapist licensed pursuant to chapter 148A; an occupational therapist licensed pursuant to chapter 148B; a podiatrist licensed pursuant to chapter 149; a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C; a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E; a respiratory therapist licensed pursuant to chapter 152B; a dentist, dental hygienist, or dental assistant registered or licensed to practice under chapter 153; an optometrist licensed pursuant to chapter 154; a psychologist licensed pursuant to chapter 154B; a social worker licensed pursuant to chapter 154C; a mental health counselor, marital and family therapist, behavior analyst, or assistant behavior analyst licensed pursuant to chapter 154D; a speech pathologist or audiologist licensed pursuant to chapter 154F; a pharmacist licensed pursuant to chapter 155A; or an emergency medical care provider certified pursuant to chapter 147A.

e. "*Specialty health care provider office*" means the private office or clinic of an individual specialty health care provider or group of specialty health care providers, but does not include a field dental clinic, a free clinic, or a hospital.

93 Acts, ch 65, §1; 95 Acts, ch 121, §1; 98 Acts, ch 1027, §1 – 6; 2001 Acts, ch 176, §31; 2002 Acts, ch 1108, §8; 2003 Acts, ch 89, §1; 2005 Acts, ch 118, §1 – 6; 2007 Acts, ch 10, §20; 2007 Acts, ch 95, §1; 2007 Acts, ch 159, §18; 2007 Acts, ch 218, §101, 193; 2008 Acts, ch 1088, §84,

85; 2009 Acts, ch 118, §43; 2009 Acts, ch 133, §32; 2015 Acts, ch 70, §1; 2018 Acts, ch 1106, §1, 14; 2019 Acts, ch 85, §66
Referred to in §135.24A, 135M.2

135.24A Free clinics — volunteer record check.

1. For purposes of this section, "*free clinic*" means a free clinic as defined in section 135.24 that is also a network of free clinics in this state that offers operational and collaborative opportunities to free clinics.

2. Persons who are potential volunteers or volunteers in a free clinic in a position having direct individual contact with patients of the free clinic shall be subject to criminal history and child and dependent adult abuse record checks in accordance with this section. The free clinic shall request that the department of public safety perform the criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state and may request these checks in other states.

3. A free clinic subject to this section shall establish an evaluation process to determine whether a crime of founded child or dependent adult abuse warrants prohibition of the person's participation as a volunteer in the free clinic. The evaluation process shall not be less stringent than the evaluation process performed by the department of human services and shall be approved by the department of human services.

2018 Acts, ch 1104, §1, 5
Referred to in §235A.15, 235B.6

135.25 Emergency medical services fund.

An emergency medical services fund is created in the state treasury under the control of the department. The fund includes, but is not limited to, amounts appropriated by the general assembly, amounts transferred pursuant to section 602.8108, subsection 4, and other moneys available from federal or private sources which are to be used for purposes of this section. Funds remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain in the emergency medical services fund, notwithstanding section 8.33. The fund is established to assist counties by matching, on a dollar-for-dollar basis, moneys spent by a county for the acquisition of equipment for the provision of emergency medical services and by providing grants to counties for education and training in the delivery of emergency medical services, as provided in this section and section 422D.6. A county seeking matching funds under this section shall apply to the emergency medical services division of the department. The department shall adopt rules concerning the application and awarding process for the matching funds and the criteria for the allocation of moneys in the fund if the moneys are insufficient to meet the emergency medical services needs of the counties. Moneys allocated by the department to a county for emergency medical services purposes may be used for equipment or training and education as determined by the board of supervisors pursuant to section 422D.6.

93 Acts, ch 58, §1; 2000 Acts, ch 1043, §1; 2020 Acts, ch 1074, §49, 93
Referred to in §144.45A, 147A.6, 147A.23, 321.34, 602.8108

135.26 Automated external defibrillator grant program. Repealed by 2017 Acts, ch 148, §24.

135.27 Iowa healthy communities initiative — grant program.

1. *Program goals.* The department shall establish a grant program to energize local communities to transform the existing culture into a culture that promotes healthy lifestyles and leads collectively, community by community, to a healthier state. The grant program shall expand an existing healthy communities initiative to assist local boards of health, in collaboration with existing community resources, to build community capacity in addressing the prevention of chronic disease that results from risk factors including overweight and obesity conditions.

2. *Distribution of grants.* The department shall distribute the grants on a competitive basis and shall support the grantee communities in planning and developing wellness strategies and establishing methodologies to sustain the strategies. Grant criteria shall

be consistent with the existing statewide initiative between the department and the department's partners that promotes increased opportunities for physical activity and healthy eating for Iowans of all ages, or its successor, and the statewide comprehensive plan developed by the existing statewide initiative to increase physical activity, improve nutrition, and promote healthy behaviors. Grantees shall demonstrate an ability to maximize local, state, and federal resources effectively and efficiently.

3. *Departmental support.* The department shall provide support to grantees including capacity-building strategies, technical assistance, consultation, and ongoing evaluation.

4. *Eligibility.* Local boards of health representing a coalition of health care providers and community and private organizations are eligible to submit applications.

2006 Acts, ch 1006, §1, 2; 2008 Acts, ch 1188, §60

135.27A Governor's council on physical fitness and nutrition. Repealed by 2011 Acts, ch 129, §94, 156.

135.28 State substitute medical decision-making board. Repealed by 2010 Acts, ch 1031, §399.

135.29 Local substitute medical decision-making board. Repealed by 2017 Acts, ch 148, §24.

SUBCHAPTER II

MISCELLANEOUS PROVISIONS

135.30 Protective eyeglasses — safety provisions. Repealed by 2009 Acts, ch 56, §12.

135.30A Breast-feeding in public places.

Notwithstanding any other provision of law to the contrary, a woman may breast-feed the woman's own child in any public place where the woman's presence is otherwise authorized.

2000 Acts, ch 1140, §21

135.31 Location of boards — rulemaking.

The offices for the board of medicine, the board of pharmacy, the board of nursing, and the dental board shall be located within the department of public health. The individual boards shall have policymaking and rulemaking authority.

86 Acts, ch 1245, §1107; 2005 Acts, ch 3, §30; 2007 Acts, ch 10, §21; 2007 Acts, ch 218, §194

135.32 Publication and distribution. Repealed by 2012 Acts, ch 1113, §19.

135.33 Refusal of board to enforce rules.

If any local board shall fail to enforce the rules of the state department or carry out its lawful directions, the department may enforce the same within the territorial jurisdiction of such local board, and for that purpose it may exercise all of the powers given by statute to the local board, and may employ the necessary assistants to carry out its lawful directions.

[C97, §2572; S13, §2569-a, 2572; C24, 27, 31, 35, 39, §**2212;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.33]

Powers of local board, chapter 137

135.34 Expenses for enforcing rules.

All expenses incurred by the state department in determining whether its rules are enforced by a local board, and in enforcing the same when a local board has failed to do so, shall be paid in the same manner as the expenses of enforcing such rules when enforced by the local board.

[S13, §2572; C24, 27, 31, 35, 39, §**2213;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.34]

135.35 Duty of peace officers.

All peace officers of the state when called upon by the department shall enforce its rules and execute the lawful orders of the department within their respective jurisdictions.

[C97, §2572; S13, §2572; C24, 27, 31, 35, 39, §**2214;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.35]

135.36 Interference with health officer — penalties.

Any person resisting or interfering with the department, its employees, or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

[C24, 27, 31, 35, 39, §**2215;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.36]

135.37 Tattooing — permit requirement — penalty.

1. A person shall not own, control and lease, act as an agent for, conduct, manage, or operate an establishment to practice the art of tattooing or engage in the practice of tattooing without first applying for and receiving a permit from the Iowa department of public health.

2. A minor shall not obtain a tattoo and a person shall not provide a tattoo to a minor. For the purposes of this section, "*minor*" means an unmarried person who is under the age of eighteen years.

3. A person who fails to meet the requirements of subsection 1 or a person providing a tattoo to a minor is guilty of a serious misdemeanor.

4. The Iowa department of public health shall:

a. Adopt rules pursuant to chapter 17A and establish and collect all fees necessary to administer this section. The provisions of chapter 17A, including licensing provisions, judicial review, and appeal, shall apply to this chapter.

b. Establish minimum safety and sanitation criteria for the operation of tattooing establishments.

5. If the Iowa department of public health determines that a provision of this section has been or is being violated, the department may order that a tattooing establishment not be operated until the necessary corrective action has been taken. If the establishment continues to be operated in violation of the order of the department, the department may request that the county attorney or the attorney general make an application in the name of the state to the district court of the county in which the violations have occurred for an order to enjoin the violations. This remedy is in addition to any other legal remedy available to the department.

6. As necessary to avoid duplication and promote coordination of public health inspection and enforcement activities, the department may enter into agreements with local boards of health to provide for inspection of tattooing establishments and enforcement activities in accordance with the rules and criteria implemented under this section.

89 Acts, ch 154, §1; 2008 Acts, ch 1058, §4; 2009 Acts, ch 133, §33

Referred to in §157.3A

135.37A Natural hair braiding.

A person shall register with the department in order to perform a commercial service involving natural hair braiding. For purposes of this section, "*natural hair braiding*" means a method of natural hair care consisting of braiding, locking, twisting, weaving, cornrowing, or otherwise physically manipulating hair without the use of chemicals to alter the hair's physical characteristics that incorporates both traditional and modern styling techniques.

2016 Acts, ch 1138, §12

135.38 Penalty.

Any person who knowingly violates any provision of this chapter, or of the rules of the department, or any lawful order, written or oral, of the department or of its officers, or authorized agents, shall be guilty of a simple misdemeanor.

[C73, §419; C97, §2573; S13, §2575-a6; C24, 27, 31, 35, 39, §**2217;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.38]

Referred to in §135.39E

135.39 Federal aid.

The state department of public health is hereby authorized to accept financial aid from the government of the United States for the purpose of assisting in carrying on public health or substance abuse responsibility in the state of Iowa.

[C31, 35, §2217-c1; C39, §**2217.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135.39]

86 Acts, ch 1245, §1108

135.39A Gifts and grants fund — appropriation.

The department is authorized to accept gifts, grants, or allotments of funds from any source to be used for programs authorized by this chapter or any other chapter which the department is responsible for administering. A public health gifts and grants fund is created as a separate fund in the state treasury under the control of the department. The fund shall consist of gift or grant moneys obtained from any source, including the federal government. The moneys collected under this section and deposited in the fund are appropriated to the department for the public health purposes specified in the gift or grant. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose. Notwithstanding section 8.33, moneys in the public health gifts and grants fund at the end of each fiscal year shall not revert to any other fund but shall remain in the public health gifts and grants fund for expenditure for subsequent fiscal years.

2004 Acts, ch 1168, §1

135.39B Early childhood immunizations — content.

1. Beginning January 1, 2006, early childhood immunizations administered in this state shall not contain more than trace amounts of mercury.

2. For the purposes of this section:

a. "Early childhood immunizations" means immunizations administered to children under eight years of age, unless otherwise provided in this section.

b. "Trace amounts" means trace amounts as defined by the United States food and drug administration.

3. The prohibition under this section shall not apply to early childhood immunizations for influenza or in times of emergency or epidemic as determined by the director of public health. If an emergency or epidemic is determined to exist by the director of public health under this subsection, the director of public health shall notify the state board of health, the governor, and the legislative council, and shall notify the public upon request.

2004 Acts, ch 1159, §1

135.39C Elderly wellness services — payor of last resort.

The department shall implement elderly wellness services in a manner that ensures that the services provided are not payable by a third-party source.

2005 Acts, ch 175, §76

135.39D Vision screening.

1. The parent or guardian of a child to be enrolled in a public or accredited nonpublic elementary school shall ensure that the child is screened for vision impairment at least once before enrollment in kindergarten and again before enrollment in grade three. The parent or guardian of the child shall ensure that evidence of the vision screening is provided to the school district or accredited nonpublic school in which the child is enrolled. Evidence of the vision screening may be provided either directly from the parent or guardian or from a vision screening provider referred to in subsection 2, and may be provided in either written or electronic form.

2. The requirement for vision screening may be satisfied by any of the following:

a. A vision screening or comprehensive eye examination by a licensed ophthalmologist or licensed optometrist.

b. A vision screening conducted at a pediatrician's or family practice physician's office, a free clinic, a child care center, a local public health department, a public or accredited

nonpublic school, or a community-based organization, or by an advanced registered nurse practitioner or physician assistant.

c. An online vision screening, which may be conducted by a child's parent or guardian.

d. A photoscreening vision screening, including a vision screening by Iowa kidsight.

3. All vision screening methods pursuant to subsection 2, including emerging vision screening technologies, shall be age-appropriate and shall be approved by the department in consultation with leading vision organizations in the state, licensed ophthalmologists, and licensed optometrists.

4. A person who performs a vision screening required pursuant to this section shall report the results of the vision screening to the department. The department may collect and maintain such reports through the statewide immunization registry or a private contractor.

5. Each public and accredited nonpublic elementary school shall, in collaboration with the department, do the following:

a. Provide the parents or guardians of students with vision screening referral resources.

b. Arrange for evidence of vision screenings provided pursuant to subsection 1 to be forwarded to the department.

6. A child shall not be prohibited from attending school based upon the failure of a parent or guardian to ensure that the child has received the vision screening required by this section.

7. If a vision screening required pursuant to this section identifies potential vision impairment in a child, the person who performed the vision screening shall, if the person is not a licensed ophthalmologist or licensed optometrist, refer the child to a licensed ophthalmologist or licensed optometrist for a comprehensive eye examination.

8. The department shall establish procedures to contact parents or guardians of children identified as having potential vision impairment based on the results of a vision screening required pursuant to subsection 1 or a comprehensive eye examination required pursuant to subsection 7 in order to provide information on obtaining necessary vision correction.

9. The department may share information with licensed health care providers, agencies, and other persons involved with vision screenings, eye examinations, follow-up services, and intervention services as necessary to administer this section. The department shall adopt rules to protect the confidentiality of the individuals involved.

10. The vision screening requirement shall not apply if the vision screening conflicts with a parent's or guardian's genuine and sincere religious belief.

11. A person who acts in good faith in complying with this section shall not be civilly or criminally liable for reporting the information required to be reported by this section.

12. The department shall adopt rules necessary to administer this section.

2013 Acts, ch 76, §1
See also §280.7A

135.39E Fluoridation in public water supply — notice of discontinuance.

1. At least ninety days prior to taking any action to permanently discontinue fluoridation in its water supply, an owner or operator of a public water supply system, as defined in section 455B.171, shall provide notice to the oral and health delivery systems bureau established in section 135.15 and the public water supply system's customers.

2. In order to provide notice to its customers, the owner or operator of the public water supply system shall place a notice on each customer's water bill or provide notice in a way that is reasonably calculated so that all customers will receive the notice.

3. Section 135.38 does not apply to violations of this section.

2021 Acts, ch 63, §1
NEW section

SUBCHAPTER III

MORBIDITY AND MORTALITY STUDY

135.40 Collection and distribution of information.

1. Any person, hospital, sanatorium, nursing or rest home, or other organization may

provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to the department, the Iowa medical society or any of its allied medical societies, the Iowa osteopathic medical association, any in-hospital staff committee, or the Iowa healthcare collaborative, to be used in the course of any study for the purpose of reducing morbidity or mortality, and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization that has acted reasonably and in good faith, by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

2. For the purposes of this section, and section 135.41, the *"Iowa healthcare collaborative"* means an organization which is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code and which is established to provide direction to promote quality, safety, and value improvement collaborative efforts by hospitals and physicians.

[C66, 71, 73, 75, 77, 79, 81, §135.40]
2006 Acts, ch 1128, §1

135.41 Publication.

The department, the Iowa medical society or any of its allied medical societies, the Iowa osteopathic medical association, any in-hospital staff committee, or the Iowa healthcare collaborative shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances. A violation of this section shall constitute a simple misdemeanor.

[C66, 71, 73, 75, 77, 79, 81, §135.41]
2006 Acts, ch 1128, §2
Referred to in §135.40

135.42 Unlawful use.

All information, interviews, reports, statements, memoranda, or other data furnished in accordance with this subchapter and any findings or conclusions resulting from such studies shall not be used or offered or received in evidence in any legal proceedings of any kind or character, but nothing contained in this subchapter shall be construed as affecting the admissibility as evidence of the primary medical or hospital records pertaining to the patient or of any other writing, record or reproduction thereof not contemplated by this subchapter.

[C66, 71, 73, 75, 77, 79, 81, §135.42]
2019 Acts, ch 24, §104; 2020 Acts, ch 1063, §59

SUBCHAPTER IV

IOWA CHILD DEATH REVIEW TEAM

135.43 Iowa child death review team established — duties.

1. An Iowa child death review team is established as part of the office of the state medical examiner. The office of the state medical examiner shall provide staffing and administrative support to the team.

2. The membership of the review team is subject to the provisions of sections 69.16 and 69.16A, relating to political affiliation and gender balance. Review team members who are not designated by another appointing authority shall be appointed by the state medical examiner. Membership terms shall be for three years. A membership vacancy shall be filled in the same manner as the original appointment. The review team shall elect a chairperson and other officers as deemed necessary by the review team. The review team shall meet upon the call of the state medical examiner or as determined by the review team. The review team shall include the following:

a. The state medical examiner or the state medical examiner's designee.

b. A certified or licensed professional who is knowledgeable concerning sudden infant death syndrome.

c. A pediatrician who is knowledgeable concerning deaths of children.

d. A family practice physician who is knowledgeable concerning deaths of children.

e. One mental health professional who is knowledgeable concerning deaths of children.

f. One social worker who is knowledgeable concerning deaths of children.

g. A certified or licensed professional who is knowledgeable concerning domestic violence.

h. A professional who is knowledgeable concerning substance abuse.

i. A local law enforcement official.

j. A county attorney.

k. An emergency room nurse who is knowledgeable concerning the deaths of children.

l. A perinatal expert.

m. A representative of the health insurance industry.

n. One other member who is appointed at large.

3. The review team shall perform the following duties:

a. Collect, review, and analyze child death certificates and child death data, including patient records or other pertinent confidential information concerning the deaths of children under age eighteen, and other information as the review team deems appropriate for use in preparing an annual report to the governor and the general assembly concerning the causes and manner of child deaths. The report shall include analysis of factual information obtained through review and recommendations regarding prevention of child deaths.

b. Recommend to the governor and the general assembly interventions to prevent deaths of children based on an analysis of the cause and manner of such deaths.

c. Recommend to the agencies represented on the review team changes which may prevent child deaths.

d. Except as authorized by this section, maintain the confidentiality of any patient records or other confidential information reviewed.

e. Recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the team.

f. If the sharing of information is necessary to assist in or initiate a child death investigation or criminal prosecution and the office or agency receiving the information does not otherwise have access to the information, share information possessed by the review team with the office of the attorney general, a county attorney's office, or an appropriate law enforcement agency. The office or agency receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

g. In order to assist a division of the department in performing the division's duties, if the division does not otherwise have access to the information, share information possessed by the review team. The division receiving the information shall maintain the confidentiality of the information in accordance with this section. Unauthorized release or disclosure of the information received is subject to penalty as provided in this section.

4. The review team shall develop protocols for a child fatality review committee, to be appointed by the state medical examiner on an ad hoc basis, to immediately review the child abuse assessments which involve the fatality of a child under age eighteen. The state medical examiner shall appoint a medical examiner, a pediatrician, and a person involved with law enforcement to the committee.

a. The purpose of the review shall be to determine whether the department of human services and others involved with the case of child abuse responded appropriately. The protocols shall provide for the committee to consult with any multidisciplinary team, as defined in section 235A.13, that is operating in the area in which the fatality occurred.

b. The committee shall have access to patient records and other pertinent confidential

information and, subject to the restrictions in this subsection, may redisseminate the confidential information in the committee's report.

c. Upon completion of the review, the committee shall issue a report which shall include findings concerning the case and recommendations for changes to prevent child fatalities when similar circumstances exist. The report shall include but is not limited to the following information, subject to the restrictions listed in paragraph "*d*":

(1) The dates, outcomes, and results of any actions taken by the department of human services and others in regard to each report and allegation of child abuse involving the child who died.

(2) The results of any review of the case performed by a multidisciplinary team, or by any other public entity that reviewed the case.

(3) Confirmation of receipt by the department of human services of any report of child abuse involving the child, including confirmation as to whether or not any assessment involving the child was performed in accordance with section 232.71B, the results of any assessment, a description of the most recent assessment and the services offered to the family, the services rendered to the family, and the basis for the department's decisions concerning the case.

d. Prior to issuing the report, the committee shall consult with the county attorney responsible for prosecution of the alleged perpetrator of the child fatality. The committee's report shall include child abuse information associated with the case and the child, but is subject to the restrictions applicable to the department of human services for release of information concerning a child fatality or near fatality in accordance with section 235A.15, subsection 9.

e. Following the completion of the trial of any alleged perpetrator of the child fatality and the appeal period for the granting of a new trial, the committee shall issue a supplemental report containing the information that was withheld, in accordance with paragraph "*d*", so as not to jeopardize the prosecution or the rights of the alleged perpetrator to a fair trial as described in section 235A.15, subsection 9, paragraphs "*e*" and "*f*".

f. The report and any supplemental report shall be submitted to the governor and general assembly.

g. If deemed appropriate by the committee, at any point in the review the committee may recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions that may prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the committee.

5. *a.* The following individuals shall designate a liaison to assist the review team in fulfilling its responsibilities:

(1) The director of public health.

(2) The director of human services.

(3) The commissioner of public safety.

(4) The attorney general.

(5) The director of transportation.

(6) The director of the department of education.

b. In addition, the chairperson of the review team shall designate a liaison from the public at large to assist the review team in fulfilling its responsibilities.

6. The review team may establish subcommittees to which the team may delegate some or all of the team's responsibilities under subsection 3.

7. *a.* The state medical examiner, the Iowa department of public health, and the department of human services shall adopt rules providing for disclosure of information which is confidential under chapter 22 or any other provision of state law, to the review team for purposes of performing its child death and child abuse review responsibilities.

b. A person in possession or control of medical, investigative, assessment, or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the office of the state medical examiner upon the request of the office, to be used only in the administration and for the duties of the Iowa child death review team. Except as provided for a report on a child fatality by an ad hoc child fatality

review committee under subsection 4, information and records produced under this section which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department or the office of the state medical examiner as required under and in compliance with this section.

8. Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity. The state medical examiner shall adopt rules pursuant to chapter 17A to administer this subsection. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers under this section.

9. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

95 Acts, ch 147, §2; 97 Acts, ch 159, §3, 4; 2000 Acts, ch 1051, §1; 2000 Acts, ch 1137, §1 – 3, 14; 2002 Acts, ch 1119, §129, 130; 2005 Acts, ch 6, §1 – 3; 2005 Acts, ch 179, §118; 2007 Acts, ch 159, §19, 20; 2009 Acts, ch 182, §108 – 111; 2010 Acts, ch 1069, §14; 2019 Acts, ch 85, §82; 2021 Acts, ch 76, §33, 34

Referred to in §216A.133, 691.6
Legislative findings and purpose; 95 Acts, ch 147, §1
Subsection 2, paragraph n amended
Subsection 4, paragraph c, subparagraph (3) amended

135.44 Reserved.

SUBCHAPTER V

RENAL DISEASES

135.45 through 135.48 Repealed by 2005 Acts, ch 89, §39.

135.49 through 135.60 Reserved.

SUBCHAPTER VI

HEALTH FACILITIES COUNCIL

Referred to in §249K.2

135.61 Definitions.

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

1. *"Affected persons"* means, with respect to an application for a certificate of need:

a. The person submitting the application.

b. Consumers who would be served by the new institutional health service proposed in the application.

c. Each institutional health facility or health maintenance organization which is located in the geographic area which would appropriately be served by the new institutional health service proposed in the application. The appropriate geographic service area of each institutional health facility or health maintenance organization shall be determined on a uniform basis in accordance with criteria established in rules adopted by the department.

d. Each institutional health facility or health maintenance organization which, prior to receipt of the application by the department, has formally indicated to the department pursuant to this subchapter an intent to furnish in the future institutional health services similar to the new institutional health service proposed in the application.

e. Any other person designated as an affected person by rules of the department.

f. Any payer or third-party payer for health services.

2. *"Birth center"* means a facility or institution, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur following a normal, uncomplicated, low-risk pregnancy.

3. *"Consumer"* means any individual whose occupation is other than health services, who has no fiduciary obligation to an institutional health facility, health maintenance organization or other facility primarily engaged in delivery of services provided by persons in health service occupations, and who has no material financial interest in the providing of any health services.

4. *"Council"* means the state health facilities council established by this subchapter.

5. *"Department"* means the Iowa department of public health.

6. *"Develop"*, when used in connection with health services, means to undertake those activities which on their completion will result in the offer of a new institutional health service or the incurring of a financial obligation in relation to the offering of such a service.

7. *"Director"* means the director of public health, or the director's designee.

8. *"Financial reporting"* means reporting by which hospitals and health care facilities shall respectively record their revenues, expenses, other income, other outlays, assets and liabilities, and units of services.

9. *"Health care facility"* means health care facility as defined in section 135C.1.

10. *"Health care provider"* means a person licensed or certified under chapter 147, 148, 148A, 148C, 149, 151, 152, 153, 154, 154B, 154F, or 155A to provide in this state professional health care service to an individual during that individual's medical care, treatment, or confinement.

11. *"Health maintenance organization"* means health maintenance organization as defined in section 514B.1, subsection 6.

12. *"Health services"* means clinically related diagnostic, curative, or rehabilitative services, and includes alcoholism, drug abuse, and mental health services.

13. *"Hospital"* means hospital as defined in section 135B.1, subsection 3.

14. *"Institutional health facility"* means any of the following, without regard to whether the facilities referred to are publicly or privately owned or are organized for profit or not or whether the facilities are part of or sponsored by a health maintenance organization:

a. A hospital.

b. A health care facility.

c. An organized outpatient health facility.

d. An outpatient surgical facility.

e. A community mental health facility.

f. A birth center.

15. *"Institutional health service"* means any health service furnished in or through institutional health facilities or health maintenance organizations, including mobile health services.

16. *"Mobile health service"* means equipment used to provide a health service that can be transported from one delivery site to another.

17. *"Modernization"* means the alteration, repair, remodeling, replacement or renovation of existing buildings or of the equipment previously installed therein, or both.

18. *"New institutional health service"* or *"changed institutional health service"* means any of the following:

a. The construction, development or other establishment of a new institutional health facility regardless of ownership.

b. Relocation of an institutional health facility.

c. Any capital expenditure, lease, or donation by or on behalf of an institutional health facility in excess of one million five hundred thousand dollars within a twelve-month period.

d. A permanent change in the bed capacity, as determined by the department, of an institutional health facility. For purposes of this paragraph, a change is permanent if it is intended to be effective for one year or more.

e. Any expenditure in excess of five hundred thousand dollars by or on behalf of an institutional health facility for health services which are or will be offered in or through an

institutional health facility at a specific time but which were not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to that time.

f. The deletion of one or more health services, previously offered on a regular basis by an institutional health facility or health maintenance organization or the relocation of one or more health services from one physical facility to another.

g. Any acquisition by or on behalf of a health care provider or a group of health care providers of any piece of replacement equipment with a value in excess of one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

h. Any acquisition by or on behalf of a health care provider or group of health care providers of any piece of equipment with a value in excess of one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by a health care provider or group of health care providers.

i. Any acquisition by or on behalf of an institutional health facility or a health maintenance organization of any piece of replacement equipment with a value in excess of one million five hundred thousand dollars, whether acquired by purchase, lease, or donation.

j. Any acquisition by or on behalf of an institutional health facility or health maintenance organization of any piece of equipment with a value in excess of one million five hundred thousand dollars, whether acquired by purchase, lease, or donation, which results in the offering or development of a health service not previously provided. A mobile service provided on a contract basis is not considered to have been previously provided by an institutional health facility.

k. Any air transportation service for transportation of patients or medical personnel offered through an institutional health facility at a specific time but which was not offered on a regular basis in or through that institutional health facility within the twelve-month period prior to the specific time.

l. Any mobile health service with a value in excess of one million five hundred thousand dollars.

m. Any of the following:

(1) Cardiac catheterization service.

(2) Open heart surgical service.

(3) Organ transplantation service.

(4) Radiation therapy service applying ionizing radiation for the treatment of malignant disease using megavoltage external beam equipment.

19. *"Offer"*, when used in connection with health services, means that an institutional health facility, health maintenance organization, health care provider, or group of health care providers holds itself out as capable of providing, or as having the means to provide, specified health services.

20. *"Organized outpatient health facility"* means a facility, not part of a hospital, organized and operated to provide health care to noninstitutionalized and nonhomebound persons on an outpatient basis; it does not include private offices or clinics of individual physicians, dentists or other practitioners, or groups of practitioners, who are health care providers.

21. *"Outpatient surgical facility"* means a facility which as its primary function provides, through an organized medical staff and on an outpatient basis to patients who are generally ambulatory, surgical procedures not ordinarily performed in a private physician's office, but not requiring twenty-four hour hospitalization, and which is neither a part of a hospital nor the private office of a health care provider who there engages in the lawful practice of surgery. *"Outpatient surgical facility"* includes a facility certified or seeking certification as an ambulatory surgical center, under the federal Medicare program or under the medical assistance program established pursuant to chapter 249A.

22. *"Technologically innovative equipment"* means equipment potentially useful for diagnostic or therapeutic purposes which introduces new technology in the diagnosis or

treatment of disease, the usefulness of which is not well enough established to permit a specific plan of need to be developed for the state.

[C79, 81, §135.61; 82 Acts, ch 1194, §1, 2]

87 Acts, ch 215, §39; 91 Acts, ch 225, §1; 97 Acts, ch 93, §1, 2; 2002 Acts, ch 1162, §77; 2008 Acts, ch 1088, §86; 2019 Acts, ch 24, §104

Referred to in §135.63, 135.131, 135P.1, 505.27, 708.3A

135.62 Department to administer subchapter — health facilities council established — appointments — powers and duties.

1. This subchapter shall be administered by the department. The director shall employ or cause to be employed the necessary persons to discharge the duties imposed on the department by this subchapter.

2. There is established a state health facilities council consisting of five persons appointed by the governor. The council shall be within the department for administrative and budgetary purposes.

a. Qualifications. The members of the council shall be chosen so that the council as a whole is broadly representative of various geographical areas of the state and no more than three of its members are affiliated with the same political party. Each council member shall be a person who has demonstrated by prior activities an informed concern for the planning and delivery of health services. A member of the council and any spouse of a member shall not, during the time that member is serving on the council, do either of the following:

(1) Be a health care provider nor be otherwise directly or indirectly engaged in the delivery of health care services nor have a material financial interest in the providing or delivery of health services.

(2) Serve as a member of any board or other policymaking or advisory body of an institutional health facility, a health maintenance organization, or any health or hospital insurer.

b. Appointments. Terms of council members shall be six years, beginning and ending as provided in section 69.19. A member shall be appointed in each odd-numbered year to succeed each member whose term expires in that year. Vacancies shall be filled by the governor for the balance of the unexpired term. Each appointment to the council is subject to confirmation by the senate. A council member is ineligible for appointment to a second consecutive term, unless first appointed to an unexpired term of three years or less.

c. Chairperson. The governor shall designate one of the council members as chairperson. That designation may be changed not later than July 1 of any odd-numbered year, effective on the date of the organizational meeting held in that year under paragraph *"d"*.

d. Meetings. The council shall hold an organizational meeting in July of each odd-numbered year, or as soon thereafter as the new appointee or appointees are confirmed and have qualified. Other meetings shall be held as necessary to enable the council to expeditiously discharge its duties. Meeting dates shall be set upon adjournment or by call of the chairperson upon five days' notice to the other members.

e. Duties. The council shall do all of the following:

(1) Make the final decision, as required by section 135.69, with respect to each application for a certificate of need accepted by the department.

(2) Determine and adopt such policies as are authorized by law and are deemed necessary to the efficient discharge of its duties under this subchapter.

(3) Have authority to direct staff personnel of the department assigned to conduct formal or summary reviews of applications for certificates of need.

(4) Advise and counsel with the director concerning the provisions of this subchapter and the policies and procedures adopted by the department pursuant to this subchapter.

(5) Review and approve, prior to promulgation, all rules adopted by the department under this subchapter.

[C79, 81, §135.62]

86 Acts, ch 1245, §1109; 88 Acts, ch 1277, §26; 90 Acts, ch 1256, §30; 91 Acts, ch 225, §2, 3; 97 Acts, ch 93, §3; 2009 Acts, ch 41, §40; 2019 Acts, ch 24, §104; 2019 Acts, ch 85, §83

Confirmation, see §2.32

135.63 Certificate of need required — exclusions.

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need, pursuant to this subchapter. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this subchapter. The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with an intellectual disability or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

2. This subchapter shall not be construed to augment, limit, contravene, or repeal in any manner any other statute of this state which may authorize or relate to licensure, regulation, supervision, or control of, nor to be applicable to:

a. Private offices and private clinics of an individual physician, dentist, or other practitioner or group of health care providers, except as provided by section 135.61, subsection 18, paragraphs "*g*", "*h*", and "*m*", and section 135.61, subsections 20 and 21.

b. Dispensaries and first aid stations, located within schools, businesses, or industrial establishments, which are maintained solely for the use of students or employees of those establishments and which do not contain inpatient or resident beds that are customarily occupied by the same individual for more than twenty-four consecutive hours.

c. Establishments such as motels, hotels, and boarding houses which provide medical, nursing personnel, and other health related services as an incident to their primary business or function.

d. The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

e. A health maintenance organization or combination of health maintenance organizations or an institutional health facility controlled directly or indirectly by a health maintenance organization or combination of health maintenance organizations, except when the health maintenance organization or combination of health maintenance organizations does any of the following:

(1) Constructs, develops, renovates, relocates, or otherwise establishes an institutional health facility.

(2) Acquires major medical equipment as provided by section 135.61, subsection 18, paragraphs "*i*" and "*j*".

f. A residential care facility, as defined in section 135C.1, including a residential care facility for persons with an intellectual disability, notwithstanding any provision in this subchapter to the contrary.

g. (1) A reduction in bed capacity of an institutional health facility, notwithstanding any provision in this subchapter to the contrary, if all of the following conditions exist:

(a) The institutional health facility reports to the department the number and type of beds reduced on a form prescribed by the department at least thirty days before the reduction. In the case of a health care facility, the new bed total must be consistent with the number of licensed beds at the facility. In the case of a hospital, the number of beds must be consistent with bed totals reported to the department of inspections and appeals for purposes of licensure and certification.

(b) The institutional health facility reports the new bed total on its next annual report to the department.

(2) If these conditions are not met, the institutional health facility is subject to review as a "new institutional health service" or "changed institutional health service" under section 135.61, subsection 18, paragraph *"d"*, and subject to sanctions under section 135.73. If the institutional health facility reestablishes the deleted beds at a later time, review as a "new institutional health service" or "changed institutional health service" is required pursuant to section 135.61, subsection 18, paragraph *"d"*.

h. (1) The deletion of one or more health services, previously offered on a regular basis by an institutional health facility or health maintenance organization, notwithstanding any provision of this subchapter to the contrary, if all of the following conditions exist:

(a) The institutional health facility or health maintenance organization reports to the department the deletion of the service or services at least thirty days before the deletion on a form prescribed by the department.

(b) The institutional health facility or health maintenance organization reports the deletion of the service or services on its next annual report to the department.

(2) If these conditions are not met, the institutional health facility or health maintenance organization is subject to review as a "new institutional health service" or "changed institutional health service" under section 135.61, subsection 18, paragraph *"f"*, and subject to sanctions under section 135.73.

(3) If the institutional health facility or health maintenance organization reestablishes the deleted service or services at a later time, review as a "new institutional health service" or "changed institutional health service" may be required pursuant to section 135.61, subsection 18.

i. A residential program exempt from licensing as a health care facility under chapter 135C in accordance with section 135C.6, subsection 8.

j. The construction, modification, or replacement of nonpatient care services, including parking facilities, heating, ventilation and air conditioning systems, computers, telephone systems, medical office buildings, and other projects of a similar nature, notwithstanding any provision in this subchapter to the contrary.

k. (1) The redistribution of beds by a hospital within the acute care category of bed usage, notwithstanding any provision in this subchapter to the contrary, if all of the following conditions exist:

(a) The hospital reports to the department the number and type of beds to be redistributed on a form prescribed by the department at least thirty days before the redistribution.

(b) The hospital reports the new distribution of beds on its next annual report to the department.

(2) If these conditions are not met, the redistribution of beds by the hospital is subject to review as a new institutional health service or changed institutional health service pursuant to section 135.61, subsection 18, paragraph *"d"*, and is subject to sanctions under section 135.73.

l. The replacement or modernization of any institutional health facility if the replacement or modernization does not add new health services or additional bed capacity for existing health services, notwithstanding any provision in this subchapter to the contrary. With respect to a nursing facility, *"replacement"* means establishing a new facility within the same county as the prior facility to be closed. With reference to a hospital, *"replacement"* means establishing a new hospital that demonstrates compliance with all of the following criteria through evidence submitted to the department:

(1) Is designated as a critical access hospital pursuant to 42 U.S.C. §1395i-4.

(2) Serves at least seventy-five percent of the same service area that was served by the prior hospital to be closed and replaced by the new hospital.

(3) Provides at least seventy-five percent of the same services that were provided by the prior hospital to be closed and replaced by the new hospital.

(4) Is staffed by at least seventy-five percent of the same staff, including medical staff, contracted staff, and employees, as constituted the staff of the prior hospital to be closed and replaced by the new hospital.

m. Hemodialysis services provided by a hospital or freestanding facility, notwithstanding any provision in this subchapter to the contrary.

n. Hospice services provided by a hospital, notwithstanding any provision in this subchapter to the contrary.

o. The change in ownership, licensure, organizational structure, or designation of the type of institutional health facility if the health services offered by the successor institutional health facility are unchanged. This exclusion is applicable only if the institutional health facility consents to the change in ownership, licensure, organizational structure, or designation of the type of institutional health facility and ceases offering the health services simultaneously with the initiation of the offering of health services by the successor institutional health facility.

p. The conversion of an existing number of beds by an intermediate care facility for persons with an intellectual disability to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased number of beds, notwithstanding any provision in this subchapter to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with an intellectual disability reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with an intellectual disability reports the conversion of beds on its next annual report to the department.

3. This subchapter shall not be construed to be applicable to a health care facility operated by and for the exclusive use of members of a religious order, which does not admit more than two individuals to the facility from the general public, and which was in operation prior to July 1, 1986. However, this subchapter is applicable to such a facility if the facility is involved in the offering or developing of a new or changed institutional health service on or after July 1, 1986.

4. A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with an intellectual disability unless both of the following conditions are met:

a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with an intellectual disability in the state, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.

b. A letter of support for the application is provided by the county board of supervisors, or the board's designee, in the county in which the beds would be located.

[C79, 81, §135.63; 82 Acts, ch 1194, §3]

86 Acts, ch 1150, §1; 86 Acts, ch 1245, §1110; 91 Acts, ch 225, §4; 92 Acts, ch 1043, §1; 92 Acts, ch 1206, §1; 95 Acts, ch 120, §1; 96 Acts, ch 1129, §113; 97 Acts, ch 93, §4 – 8; 2002 Acts, ch 1120, §10; 2006 Acts, ch 1184, §78; 2008 Acts, ch 1191, §47; 2009 Acts, ch 184, §38; 2012 Acts, ch 1019, §7 – 10; 2019 Acts, ch 24, §104

Referred to in §135.66, 135B.5A, 135C.2, 231C.3

135.64 Criteria for evaluation of applications.

1. In determining whether a certificate of need shall be issued, the department and council shall consider the following:

a. The contribution of the proposed institutional health service in meeting the needs of the medically underserved, including persons in rural areas, low-income persons, racial and

ethnic minorities, persons with disabilities, and the elderly, as well as the extent to which medically underserved residents in the applicant's service area are likely to have access to the proposed institutional health service.

b. The relationship of the proposed institutional health services to the long-range development plan, if any, of the person providing or proposing the services.

c. The need of the population served or to be served by the proposed institutional health services for those services.

d. The distance, convenience, cost of transportation, and accessibility to health services for persons who live outside metropolitan areas.

e. The availability of alternative, less costly, or more effective methods of providing the proposed institutional health services.

f. The immediate and long-term financial feasibility of the proposal presented in the application, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the new institutional health service.

g. The relationship of the proposed institutional health services to the existing health care system of the area in which those services are proposed to be provided.

h. The appropriate and efficient use or prospective use of the proposed institutional health service, and of any existing similar services, including but not limited to a consideration of the capacity of the sponsor's facility to provide the proposed service, and possible sharing or cooperative arrangements among existing facilities and providers.

i. The availability of resources, including, but not limited to, health care providers, management personnel, and funds for capital and operating needs, to provide the proposed institutional health services and the possible alternative uses of those resources to provide other health services.

j. The appropriate and nondiscriminatory utilization of existing and available health care providers. Where both allopathic and osteopathic institutional health services exist, each application shall be considered in light of the availability and utilization of both allopathic and osteopathic facilities and services in order to protect the freedom of choice of consumers and health care providers.

k. The relationship, including the organizational relationship, of the proposed institutional health services to ancillary or support services.

l. Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the immediate geographic area in which the entities are located, which entities may include but are not limited to medical and other health professional schools, multidisciplinary clinics, and specialty centers.

m. The special needs and circumstances of health maintenance organizations.

n. The special needs and circumstances of biomedical and behavioral research projects designed to meet a national need and for which local conditions offer special advantages.

o. The impact of relocation of an institutional health facility or health maintenance organization on other institutional health facilities or health maintenance organizations and on the needs of the population to be served, or which was previously served, or both.

p. In the case of a construction project, the costs and methods of the proposed construction and the probable impact of the proposed construction project on total health care costs.

q. In the case of a proposal for the addition of beds to a health care facility, the consistency of the proposed addition with the plans of other agencies of this state responsible for provision and financing of long-term care services, including home health services.

r. The recommendations of staff personnel of the department assigned to the area of certificate of need, concerning the application, if requested by the council.

2. In addition to the findings required with respect to any of the criteria listed in subsection 1 of this section, the council shall grant a certificate of need for a new institutional health service or changed institutional health service only if it finds in writing, on the basis of data submitted to it by the department, that:

a. Less costly, more efficient, or more appropriate alternatives to the proposed institutional health service are not available and the development of such alternatives is not practicable;

b. Any existing facilities providing institutional health services similar to those proposed are being used in an appropriate and efficient manner;

c. In the case of new construction, alternatives including but not limited to modernization or sharing arrangements have been considered and have been implemented to the maximum extent practicable;

d. Patients will experience serious problems in obtaining care of the type which will be furnished by the proposed new institutional health service or changed institutional health service, in the absence of that proposed new service.

3. In the evaluation of applications for certificates of need submitted by the university of Iowa hospitals and clinics, the unique features of that institution relating to statewide tertiary health care, health science education, and clinical research shall be given due consideration. Further, in administering this subchapter, the unique capacity of university hospitals for the evaluation of technologically innovative equipment and other new health services shall be utilized.

[C79, 81, §135.64]

91 Acts, ch 225, §5; 92 Acts, ch 1043, §2; 96 Acts, ch 1129, §113; 2002 Acts, ch 1120, §11; 2014 Acts, ch 1026, §29; 2019 Acts, ch 24, §104

Referred to in §135.65, 135.66, 135.72

135.65 Letter of intent to precede application — review and comment.

1. Before applying for a certificate of need, the sponsor of a proposed new institutional health service or changed institutional health service shall submit to the department a letter of intent to offer or develop a service requiring a certificate of need. The letter shall be submitted as soon as possible after initiation of the applicant's planning process, and in any case not less than thirty days before applying for a certificate of need and before substantial expenditures to offer or develop the service are made. The letter shall include a brief description of the proposed new or changed service, its location, and its estimated cost.

2. Upon request of the sponsor of the proposed new or changed service, the department shall make a preliminary review of the letter for the purpose of informing the sponsor of the project of any factors which may appear likely to result in denial of a certificate of need, based on the criteria for evaluation of applications in section 135.64. A comment by the department under this section shall not constitute a final decision.

[C79, 81, §135.65]

91 Acts, ch 225, §6; 97 Acts, ch 93, §9

Referred to in §135.67

135.66 Procedure upon receipt of application — public notification.

1. Within fifteen business days after receipt of an application for a certificate of need, the department shall examine the application for form and completeness and accept or reject it. An application shall be rejected only if it fails to provide all information required by the department pursuant to section 135.63, subsection 1. The department shall promptly return to the applicant any rejected application, with an explanation of the reasons for its rejection.

2. Upon acceptance of an application for a certificate of need, the department shall promptly undertake to notify all affected persons in writing that formal review of the application has been initiated. Notification to those affected persons who are consumers or third-party payers or other payers for health services may be provided by distribution of the pertinent information to the news media.

3. Each application accepted by the department shall be formally reviewed for the purpose of furnishing to the council the information necessary to enable it to determine whether or not to grant the certificate of need. A formal review shall consist at a minimum of the following steps:

a. Evaluation of the application against the criteria specified in section 135.64.

b. A public hearing on the application, to be held prior to completion of the evaluation required by paragraph "*a*", shall be conducted by the council.

4. When a hearing is to be held pursuant to subsection 3, paragraph "*b*", the department shall give at least ten days' notice of the time and place of the hearing. At the hearing,

any affected person or that person's designated representative shall have the opportunity to present testimony.

[C79, 81, §135.66]

91 Acts, ch 225, §7

Referred to in §135.70

135.67 Summary review procedure.

1. The department may waive the letter of intent procedures prescribed by section 135.65 and substitute a summary review procedure, which shall be established by rules of the department, when it accepts an application for a certificate of need for a project which meets any of the criteria in paragraphs *"a"* through *"e"*:

a. A project which is limited to repair or replacement of a facility or equipment damaged or destroyed by a disaster, and which will not expand the facility nor increase the services provided beyond the level existing prior to the disaster.

b. A project necessary to enable the facility or service to achieve or maintain compliance with federal, state, or other appropriate licensing, certification, or safety requirements.

c. A project which will not change the existing bed capacity of the applicant's facility or service, as determined by the department, by more than ten percent or ten beds, whichever is less, over a two-year period.

d. A project the total cost of which will not exceed one hundred fifty thousand dollars.

e. Any other project for which the applicant proposes and the department agrees to summary review.

2. The department's decision to disallow a summary review shall be binding upon the applicant.

[C79, 81, §135.67]

91 Acts, ch 225, §8 – 10; 2009 Acts, ch 41, §191

Referred to in §135.72

135.68 Status reports on review in progress.

While formal review of an application for a certificate of need is in progress, the department shall upon request inform any affected person of the status of the review, any findings which have been made in the course of the review, and any other appropriate information concerning the review.

[C79, 81, §135.68]

135.69 Council to make final decision.

1. The department shall complete its formal review of the application within ninety days after acceptance of the application, except as otherwise provided by section 135.72, subsection 4. Upon completion of the formal review, the council shall approve or deny the application. The council shall issue written findings stating the basis for its decision on the application, and the department shall send copies of the council's decision and the written findings supporting the decision to the applicant and to any other person who so requests.

2. Failure by the council to issue a written decision on an application for a certificate of need within the time required by this section shall constitute denial of and final administrative action on the application.

[C79, 81, §135.69]

91 Acts, ch 225, §11; 2018 Acts, ch 1041, §127

Referred to in §135.62, 135.70, 135.72

135.70 Appeal of certificate of need decisions.

The council's decision on an application for certificate of need, when announced pursuant to section 135.69, is a final decision. Any dissatisfied party who is an affected person with respect to the application, and who participated or sought unsuccessfully to participate in the formal review procedure prescribed by section 135.66, may request a rehearing in accordance with chapter 17A and rules of the department. If a rehearing is not requested or an affected party remains dissatisfied after the request for rehearing, an appeal may be taken in the

manner provided by chapter 17A. Notwithstanding the Iowa administrative procedure Act, chapter 17A, a request for rehearing is not required, prior to appeal under section 17A.19.

[C79, 81, §135.70]

91 Acts, ch 225, §12

135.71 Period for which certificate is valid — extension or revocation.

1. A certificate of need shall be valid for a maximum of one year from the date of issuance. Upon the expiration of the certificate, or at any earlier time while the certificate is valid the holder thereof shall provide the department such information on the development of the project covered by the certificate as the department may request. The council shall determine at the end of the certification period whether sufficient progress is being made on the development of the project. The certificate of need may be extended by the council for additional periods of time as are reasonably necessary to expeditiously complete the project, but may be revoked by the council at the end of the first or any subsequent certification period for insufficient progress in developing the project.

2. Upon expiration of certificate of need, and prior to extension thereof, any affected person shall have the right to submit to the department information which may be relevant to the question of granting an extension. The department may call a public hearing for this purpose.

[C79, 81, §135.71]

97 Acts, ch 93, §10; 2018 Acts, ch 1041, §127

135.72 Authority to adopt rules.

The department shall adopt, with approval of the council, such administrative rules as are necessary to enable it to implement this subchapter. These rules shall include:

1. Additional procedures and criteria for review of applications for certificates of need.

2. Uniform procedures for variations in application of criteria specified by section 135.64 for use in formal review of applications for certificates of need, when such variations are appropriate to the purpose of a particular review or to the type of institutional health service proposed in the application being reviewed.

3. Uniform procedures for summary reviews conducted under section 135.67.

4. Criteria for determining when it is not feasible to complete formal review of an application for a certificate of need within the time limits specified in section 135.69. The rules adopted under this subsection shall include criteria for determining whether an application proposes introduction of technologically innovative equipment, and if so, procedures to be followed in reviewing the application. However, a rule adopted under this subsection shall not permit a deferral of more than sixty days beyond the time when a decision is required under section 135.69, unless both the applicant and the department agree to a longer deferment.

[C79, 81, §135.72]

91 Acts, ch 225, §13; 2019 Acts, ch 24, §104

Referred to in §135.69

135.73 Sanctions.

1. Any party constructing a new institutional health facility or an addition to or renovation of an existing institutional health facility without first obtaining a certificate of need or, in the case of a mobile health service, ascertaining that the mobile health service has received certificate of need approval, as required by this subchapter, shall be denied licensure or change of licensure by the appropriate responsible licensing agency of this state.

2. A party violating this subchapter shall be subject to penalties in accordance with this section. The department shall adopt rules setting forth the violations by classification, the criteria for the classification of any violation not listed, and procedures for implementing this subsection.

a. A class I violation is one in which a party offers a new institutional health service or changed institutional health service modernization or acquisition without review and approval by the council. A party in violation is subject to a penalty of three hundred

dollars for each day of a class I violation. The department may seek injunctive relief which shall include restraining the commission or continuance of an act which would violate the provisions of this paragraph. Notice and opportunity to be heard shall be provided to a party pursuant to rule of civil procedure 1.1507 and contested case procedures in accordance with chapter 17A. The department may reduce, alter, or waive a penalty upon the party showing good faith compliance with the department's request to immediately cease and desist from conduct in violation of this section.

b. A class II violation is one in which a party violates the terms or provisions of an approved application. The department may seek injunctive relief which shall include restraining the commission or continuance of or abating or eliminating an act which would violate the provisions of this subsection. Notice and opportunity to be heard shall be provided to a party pursuant to rule of civil procedure 1.1507 and contested case procedures in accordance with chapter 17A. The department may reduce, alter, or waive a penalty upon the party showing good faith compliance with the department's request to immediately cease and desist from conduct in violation of this section. A class II violation shall be abated or eliminated within a stated period of time determined by the department and specified by the department in writing. The period of time may be modified by the department for good cause shown. A party in violation may be subject to a penalty of five hundred dollars for each day of a class II violation.

3. Notwithstanding any other sanction imposed pursuant to this section, a party offering or developing any new institutional health service or changed institutional health service without first obtaining a certificate of need as required by this subchapter may be temporarily or permanently restrained from doing so by any court of competent jurisdiction in any action brought by the state, any of its political subdivisions, or any other interested person.

4. The sanctions provided by this section are in addition to, and not in lieu of, any penalty prescribed by law for the acts against which these sanctions are invoked.

[C79, 81, §135.73]

91 Acts, ch 225, §14; 2019 Acts, ch 24, §104

Referred to in §135.63

135.74 Uniform financial reporting.

1. The department, after study and in consultation with any advisory committees which may be established pursuant to law, shall promulgate by rule pursuant to chapter 17A uniform methods of financial reporting, including such allocation methods as may be prescribed, by which hospitals and health care facilities shall respectively record their revenues, expenses, other income, other outlays, assets and liabilities, and units of service, according to functional activity center. These uniform methods of financial reporting shall not preclude a hospital or health care facility from using any accounting methods for its own purposes provided these accounting methods can be reconciled to the uniform methods of financial reporting prescribed by the department and can be audited for validity and completeness. Each hospital and each health care facility shall adopt the appropriate system for its fiscal year, effective upon such date as the department shall direct.

2. In establishing uniform methods of financial reporting, the department shall consider all of the following:

a. The existing systems of accounting and reporting currently utilized by hospitals and health care facilities.

b. Differences among hospitals and health care facilities, respectively, according to size, financial structure, methods of payment for services, and scope, type and method of providing services.

c. Other pertinent distinguishing factors.

3. The department shall, where appropriate, provide for modification, consistent with the purposes of this subchapter, of reporting requirements to correctly reflect the differences among hospitals and among health care facilities referred to in subsection 2, and to avoid otherwise unduly burdensome costs in meeting the requirements of uniform methods of financial reporting.

4. The uniform financial reporting methods, where appropriate, shall be structured so

as to establish and differentiate costs incurred for patient-related services rendered by hospitals and health care facilities, as distinguished from those incurred in the course of educational, research and other nonpatient-related activities including but not limited to charitable activities of these hospitals and health care facilities.

[C79, 81, §135.74]

2013 Acts, ch 30, §27; 2019 Acts, ch 24, §104; 2020 Acts, ch 1063, §60

Referred to in §135.78, 135.79

135.75 Annual reports by hospitals, health care facilities.

1. Each hospital and each health care facility shall annually, after the close of its fiscal year, file all of the following with the department:

a. A balance sheet detailing the assets, liabilities and net worth of the hospital or health care facility.

b. A statement of its income and expenses.

c. Such other reports of the costs incurred in rendering services as the department may prescribe.

2. Where more than one licensed hospital or health care facility is operated by the reporting organization, the information required by this section shall be reported separately for each licensed hospital or health care facility. The department shall require preparation of specified financial reports by a certified public accountant, and may require attestation of responsible officials of the reporting hospital or health care facility that the reports submitted are to the best of their knowledge and belief prepared in accordance with the prescribed methods of reporting. The department shall have the right to inspect the books, audits and records of any hospital or health care facility as reasonably necessary to verify reports submitted pursuant to this subchapter.

3. In obtaining the reports required by this section, the department and other state agencies shall coordinate their reporting requirements.

4. All reports filed under this section, except privileged medical information, shall be open to public inspection.

[C79, 81, §135.75]

2013 Acts, ch 30, §28; 2019 Acts, ch 24, §104

Referred to in §135.78, 135.79

135.76 Analyses and studies by department.

1. The department shall from time to time undertake analyses and studies relating to hospital and health care facility costs and to the financial status of hospitals or health care facilities, or both, which are subject to the provisions of this subchapter. It shall further require the filing of information concerning the total financial needs of each individual hospital or health care facility and the resources currently or prospectively available to meet these needs, including the effect of proposals made by health systems agencies. The department shall also prepare and file such summaries and compilations or other supplementary reports based on the information filed with it as will, in its judgment, advance the purposes of this subchapter.

2. The analyses and studies required by this section shall be conducted with the objective of providing a basis for determining whether or not regulation of hospital and health care facility rates and charges by the state of Iowa is necessary to protect the health or welfare of the people of the state.

3. In conducting its analyses and studies, the department should determine whether:

a. The rates charged and costs incurred by hospitals and health care facilities are reasonably related to the services offered by those respective groups of institutions.

b. Aggregate rates of hospitals and of health care facilities are reasonably related to the aggregate costs incurred by those respective groups of institutions.

c. Rates are set equitably among all purchasers or classes of purchasers of hospital and of health care facility services.

d. The rates for particular services, supplies or materials established by hospitals and by

health care facilities are reasonable. Determination of reasonableness of rates shall include consideration of a fair rate of return to proprietary hospitals and health care facilities.

4. All data gathered and compiled and all reports prepared under this section, except privileged medical information, shall be open to public inspection.

[C79, 81, §135.76]

2019 Acts, ch 24, §104

Referred to in §135.78, 135.79, 135.83

135.77 Report to governor and legislature. Repealed by 97 Acts, ch 203, §18.

135.78 Data to be compiled.

The department shall compile all relevant financial and utilization data in order to have available the statistical information necessary to properly monitor hospital and health care facility charges and costs. Such data shall include necessary operating expenses, appropriate expenses incurred for rendering services to patients who cannot or do not pay, all properly incurred interest charges, and reasonable depreciation expenses based on the expected useful life of the property and equipment involved. The department shall also obtain from each hospital and health care facility a current rate schedule as well as any subsequent amendments or modifications of that schedule as it may require. In collection of the data required by this section and sections 135.74 through 135.76, the department and other state agencies shall coordinate their reporting requirements.

[C79, 81, §135.78]

2002 Acts, ch 1119, §14; 2003 Acts, ch 108, §34

Referred to in §135.79, 135.83

135.79 Civil penalty.

Any hospital or health care facility which fails to file with the department the financial reports required by sections 135.74, 135.75, 135.76, and 135.78 is subject to a civil penalty of not to exceed five hundred dollars for each offense.

[C79, 81, §135.79]

2021 Acts, ch 80, §67

Section amended

135.80 through 135.82 Reserved.

135.83 Contracts for assistance with analyses, studies, and data.

In furtherance of the department's responsibilities under sections 135.76 and 135.78, the director may contract with the Iowa hospital association and third-party payers, the Iowa health care facilities association and third-party payers, or leading age Iowa and third-party payers for the establishment of pilot programs dealing with prospective rate review in hospitals or health care facilities, or both. Such contract shall be subject to the approval of the executive council and shall provide for an equitable representation of health care providers, third-party payers, and health care consumers in the determination of criteria for rate review. No third-party payer shall be excluded from positive financial incentives based upon volume of gross patient revenues. No state or federal funds appropriated or available to the department shall be used for any such pilot program.

[C79, 81, §135.83]

98 Acts, ch 1100, §13; 2001 Acts, ch 74, §2; 2002 Acts, ch 1050, §16; 2013 Acts, ch 30, §29

135.84 through 135.89 Reserved.

SUBCHAPTER VII

RESERVED

135.90 through 135.99 Reserved.

SUBCHAPTER VIII

LEAD ABATEMENT PROGRAM

135.100 Definitions.

For the purposes of this subchapter, unless the context otherwise requires:

1. *"Department"* means the Iowa department of public health.
2. *"Local board"* means the local board of health.

87 Acts, ch 55, §1; 2019 Acts, ch 24, §104

135.101 Childhood lead poisoning prevention program.

There is established a childhood lead poisoning prevention program within the Iowa department of public health. The department shall implement and review programs necessary to eliminate potentially dangerous toxic lead levels in children in Iowa in a year for which funds are appropriated to the department for this purpose.

87 Acts, ch 55, §2; 99 Acts, ch 141, §5

135.102 Rules.

The department shall adopt rules, pursuant to chapter 17A, regarding the:

1. Implementation of the grant program pursuant to section 135.103.
2. Maintenance of laboratory facilities for the childhood lead poisoning prevention program.
3. Maximum blood lead levels in children living in targeted rental dwelling units.
4. Standards and program requirements of the grant program pursuant to section 135.103.
5. Prioritization of proposed childhood lead poisoning prevention programs, based on the geographic areas known with children identified with elevated blood lead level resulting from surveys completed by the department.
6. Model regulations for lead hazard remediation to be used in instances in which a child is confirmed as lead poisoned. The department shall make the model regulations available to local boards of health and shall promote the adoption of the regulations at the local level, in cities and counties implementing lead hazard remediation programs. Nothing in this subsection shall be construed as requiring the adoption of the model regulations.
7. Implementation of a requirement that children receive a blood lead test prior to the age of six and before enrolling in any elementary school in Iowa in accordance with section 135.105D.

87 Acts, ch 55, §3; 99 Acts, ch 141, §6; 2001 Acts, ch 182, §9; 2007 Acts, ch 79, §1
Referred to in §135.105D

135.103 Grant program.

The department shall implement a childhood lead poisoning prevention grant program which provides federal, state, or other funds to local boards of health or cities for the program after standards and requirements for the local program are developed. The department may also use federal, state, or other funds provided for the childhood lead poisoning prevention grant program to purchase environmental and blood testing services from a public health laboratory.

87 Acts, ch 55, §4; 91 Acts, ch 268, §307; 99 Acts, ch 141, §7; 2004 Acts, ch 1168, §2
Referred to in §135.102, 135.105

135.104 Requirements.

The program by a local board of health or city receiving funding for an approved childhood lead poisoning prevention grant program shall include:

1. A public education program about lead poisoning and dangers of lead poisoning to children.
2. An effective outreach effort to ensure availability of services in the predicted geographic area.
3. A screening program for children, with emphasis on children less than six years of age.
4. Access to laboratory services for lead analysis.

5. A program of referral of identified children for assessment and treatment.
6. An environmental assessment of suspect dwelling units.
7. Surveillance to ensure correction of the identified hazardous settings.
8. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

87 Acts, ch 55, §5; 99 Acts, ch 141, §8, 9; 2002 Acts, ch 1108, §9; 2004 Acts, ch 1168, §3

135.105 Department duties.

The department shall:

1. Coordinate the childhood lead poisoning prevention program with the department of natural resources, the university of Iowa poison control program, the mobile and regional child health specialty clinics, and any agency or program known for a direct interest in lead levels in the environment.
2. Survey geographic areas not included in the grant program pursuant to section 135.103 periodically to determine prioritization of such areas for future grant programs.

87 Acts, ch 55, §6; 99 Acts, ch 141, §10; 2012 Acts, ch 1023, §24

135.105A Lead inspector, lead abater, and lead-safe renovator training and certification program established — civil penalty.

1. The department shall establish a program for the training and certification of lead inspectors, lead abaters, and lead-safe renovators. The department shall maintain a listing, available to the public and to city and county health departments, of lead inspector, lead abater, and lead-safe renovator training programs that have been approved by the department, and of lead inspectors, lead abaters, and lead-safe renovators who have successfully completed the training program and have been certified by the department. A person may be certified as a lead inspector, a lead abater, or a lead-safe renovator, or may be certified to provide two or more of such services. However, a person who holds more than one such certification shall not provide inspection service and also provide abatement service or renovation service at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site.
2. A person who owns real property which includes a residential dwelling and who performs lead inspection, lead abatement, or renovation of the residential dwelling is not required to obtain certification to perform these measures, unless the residential dwelling is occupied by a person other than the owner or a member of the owner's immediate family while the measures are being performed. However, the department shall encourage property owners who are not required to be certified to complete the applicable training course to ensure the use of appropriate and safe lead inspection, lead abatement, or lead-safe renovation procedures.
3. Except as otherwise provided in this section, a person shall not perform lead abatement or lead inspections, and shall not perform renovations on target housing or a child-occupied facility, unless the person has completed a training program approved by the department and has obtained certification pursuant to this section. All lead abatement and lead inspections; and lead inspector, lead abater, and lead-safe renovation training programs; and renovations on target housing or a child-occupied facility, shall be performed and conducted in accordance with work practice standards established by the department. A person shall not conduct a training program for lead inspectors, lead abaters, or lead-safe renovators unless the program has been submitted to and approved by the department.
4. A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense.
5. The department shall adopt rules regarding minimum requirements for lead inspector, lead abater, and lead-safe renovator training programs, certification, work practice standards, and suspension and revocation requirements, and shall implement the training and certification programs. Rules adopted pursuant to this subsection shall comply with chapter 272C. The department shall seek federal funding and shall establish fees in amounts sufficient to defray the cost of the programs. The fees shall be used for any of the department's duties under this subchapter, including but not limited to the costs of

full-time equivalent positions for program services and investigations. Fees received shall be considered repayment receipts as defined in section 8.2.

96 Acts, ch 1161, §1, 4; 97 Acts, ch 159, §5; 98 Acts, ch 1100, §14; 2004 Acts, ch 1167, §2; 2009 Acts, ch 37, §1; 2010 Acts, ch 1192, §49, 73; 2019 Acts, ch 24, §104; 2020 Acts, ch 1103, §10, 31

Referred to in §135.105C
For definitions, see §135.105C(2)

135.105B Voluntary guidelines — health and environmental measures — confirmed cases of lead poisoning.

1. The department may develop voluntary guidelines which may be used to develop and administer local programs to address the health and environmental needs of children who are confirmed as lead poisoned.

2. The voluntary guidelines may be based upon existing local ordinances that address the medical case management of children's health needs and the mitigation of the environmental factors which contributed to the lead poisoning.

3. Following development of the voluntary guidelines, cities or counties may elect to utilize the guidelines in developing and administering local programs through city or county health departments on a city, county, or multicounty basis or may request that the state develop and administer the local program. However, cities and counties are not required to develop and administer local programs based upon the guidelines.

96 Acts, ch 1161, §2, 4

135.105C Renovation, remodeling, and repainting — lead hazard notification process established.

1. *a.* A person who performs renovation, remodeling, or repainting services for target housing or a child-occupied facility for compensation shall provide an approved lead hazard information pamphlet to the owner and occupant of the housing or facility prior to commencing the services. The department shall adopt rules to implement the renovation, remodeling, and repainting lead hazard notification process under this section.

b. The rules shall include but are not limited to an authorization that the lead hazard notification to parents or guardians of the children attending a child-occupied facility may be completed by posting an informational sign and a copy of the approved lead hazard information pamphlet. The rules shall also address requirements for notification of parents or guardians of the children visiting a child-occupied facility when the facility is vacant for an extended period of time.

2. For the purpose of this section and section 135.105A, unless the context otherwise requires:

a. (1) "*Child-occupied facility*" means a building, or portion of a building, constructed prior to 1978, that is described by all of the following:

(a) The building is visited on a regular basis by the same child, who is less than six years of age, on at least two different days within any week. For purposes of this paragraph "*a*", a week is a Sunday through Saturday period.

(b) Each day's visit by the child lasts at least three hours, and the combined annual visits total at least sixty hours.

(2) A child-occupied facility may include but is not limited to a child care center, preschool, or kindergarten classroom. A child-occupied facility also includes common areas that are routinely used by children who are less than six years of age, such as restrooms and cafeterias, and the exterior walls and adjoining space of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under the age of six years.

b. "*Target housing*" means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities and housing that does not contain a bedroom, unless at least one child, under six years of age, resides or is expected to reside in the housing.

3. A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense.

97 Acts, ch 159, §6, 24; 2000 Acts, ch 1140, §22; 2001 Acts, ch 58, §4; 2009 Acts, ch 37, §2

135.105D Blood lead testing — provider education — payor of last resort.

1. For purposes of this section:

a. "Blood lead testing" means taking a capillary or venous sample of blood and sending it to a laboratory to determine the level of lead in the blood.

b. "Capillary" means a blood sample taken from the finger or heel for lead analysis.

c. "Health care provider" means a physician who is licensed under chapter 148, or a person who is licensed as a physician assistant under chapter 148C or as an advanced registered nurse practitioner.

d. "Venous" means a blood sample taken from a vein in the arm for lead analysis.

2. *a.* A parent or guardian of a child under the age of two is strongly encouraged to have the child tested for elevated blood lead levels by the age of two. Except as provided in paragraph *"b"* and subsection 4, a parent or guardian shall provide evidence to the school district elementary attendance center or the accredited nonpublic elementary school in which the parent's or guardian's child is enrolled that the child was tested for elevated blood lead levels by the age of six according to recommendations provided by the department.

b. The board of directors of each school district and the authorities in charge of each nonpublic school shall, in collaboration with the department, do the following:

(1) Ensure that the parent or guardian of a student enrolled in the school has complied with the requirements of paragraph *"a"*.

(2) Provide, if the parent or guardian cannot provide evidence that the child received a blood lead test in accordance with paragraph *"a"*, the parent or guardian with community blood lead testing program information, including contact information for the department.

c. Notwithstanding any other provision to the contrary, nothing in this section shall subject a parent, guardian, or legal custodian of a child of compulsory attendance age to any penalties under chapter 299.

3. The board of directors of each school district and the authorities in charge of each nonpublic school shall furnish the department, in the format specified by the department, within sixty days after the start of the school calendar, a list of the children enrolled in kindergarten. The department shall notify the school districts and nonpublic schools of the children who have not met the blood lead testing requirements set forth in this section and shall work with the school districts, nonpublic schools, and the local childhood lead poisoning prevention programs to assure that these children are tested as required by this section.

4. The department may waive the requirements of subsection 2 if the department determines that a child is of very low risk for elevated blood lead levels, or if the child's parent or legal guardian submits an affidavit, signed by the parent or legal guardian, stating that the blood lead testing conflicts with a genuine and sincere religious belief.

5. The department shall provide rules adopted pursuant to section 135.102, subsection 7, to local school boards and the authorities in charge of nonpublic schools.

6. The department shall work with health care provider associations to educate health care providers regarding requirements for testing children who are enrolled in certain federally funded programs and regarding department recommendations for testing other children for lead poisoning.

7. The department shall implement blood lead testing for children under six years of age who are not eligible for the testing services to be paid by a third-party source. The department shall contract with one or more public health laboratories to provide blood lead analysis for such children. The department shall establish by rule the procedures for health care providers to submit samples to the contracted public health laboratories for analysis. The department shall also establish by rule a method to reimburse health care providers for drawing blood samples from such children and the dollar amount that the department will reimburse health care providers for the service. The department shall also establish by rule a method to reimburse health care providers for analyzing blood lead samples using a portable

blood lead testing instrument and the dollar amount that the department will reimburse health care providers for the service. Payment for blood lead analysis and drawing blood samples shall be limited to the amount appropriated for the program in a fiscal year.

2006 Acts, ch 1184, §79; 2007 Acts, ch 79, §2, 3; 2007 Acts, ch 215, §88; 2008 Acts, ch 1020, §4 – 6; 2008 Acts, ch 1088, §87

Referred to in §135.102, 299.4
Nurse licensure, see chapter 152

SUBCHAPTER IX

HEALTHY FAMILIES PROGRAM

135.106 Healthy families programs — HOPES-HFI program.

1. The Iowa department of public health shall establish a healthy opportunities for parents to experience success (HOPES) – healthy families Iowa (HFI) program to provide services to families and children during the prenatal through preschool years. The program shall be designed to do all of the following:

a. Promote optimal child health and development.

b. Improve family coping skills and functioning.

c. Promote positive parenting skills and intrafamilial interaction.

d. Prevent child abuse and neglect and infant mortality and morbidity.

2. The HOPES-HFI program shall be developed by the Iowa department of public health, and may be implemented, in whole or in part, by contracting with a nonprofit child abuse prevention organization, local nonprofit certified home health program or other local nonprofit organizations, and shall include, but is not limited to, all of the following components:

a. Identification of barriers to positive birth outcomes, encouragement of collaboration and cooperation among providers of health care, social and human services, and other services to pregnant women and infants, and encouragement of pregnant women and women of childbearing age to seek health care and other services which promote positive birth outcomes.

b. Provision of community-based home-visiting family support to pregnant women and new parents who are identified through a standardized screening process to be at high risk for problems with successfully parenting their child.

c. Provision by family support workers of individual guidance, information, and access to health care and other services through care coordination and community outreach, including transportation.

d. Provision of systematic screening, prenatally or upon the birth of a child, to identify high-risk families.

e. Interviewing by a HOPES-HFI program worker or hospital social worker of families identified as high risk and encouragement of acceptance of family support services.

f. Provision of services including, but not limited to, home visits, support services, and instruction in child care and development.

g. Individualization of the intensity and scope of services based upon the family's needs, goals, and level of risk.

h. Assistance by a family support worker to participating families in creating a link to a "medical home" in order to promote preventive health care.

i. Evaluation and reporting on the program, including an evaluation of the program's success in reducing participants' risk factors and provision of services and recommendations for changes in or expansion of the program.

j. Provision of continuous follow-up contact with a family served by the program until identified children reach age three or age four in cases of continued high need or until the family attains its individualized goals for health, functioning, and self-sufficiency.

k. Provision or employment of family support workers who have experience as a parent, knowledge of health care services, social and human services, or related community services and have participated in a structured training program.

l. Provision of a training program that meets established standards for the education of family support workers. The structured training program shall include at a minimum the fundamentals of child health and development, dynamics of child abuse and neglect, and principles of effective parenting and parenting education.

m. Provision of crisis child care through utilization of existing child care services to participants in the program.

n. Program criteria shall include a required match of one dollar provided by the organization contracting to deliver services for each two dollars provided by the state grant. This requirement shall not restrict the department from providing unmatched grant funds to communities to plan new or expanded programs for HOPES-HFI. The department shall establish a limit on the amount of administrative costs that can be supported with state funds.

o. Involvement with the community assessment and planning process in the community served by HOPES-HFI programs to enhance collaboration and integration of family support programs.

p. Collaboration, to the greatest extent possible, with other family support programs funded or operated by the state.

q. Utilization of private party, third party, and medical assistance for reimbursement to defray the costs of services provided by the program to the extent possible.

3. It is the intent of the general assembly to provide communities with the discretion and authority to redesign existing local programs and services targeted at and assisting families expecting babies and families with children who are newborn through five years of age. The Iowa department of public health, department of human services, department of education, and other state agencies and programs, as appropriate, shall provide technical assistance and support to communities desiring to redesign their local programs and shall facilitate the consolidation of existing state funding appropriated and made available to the community for family support services. Funds which are consolidated in accordance with this subsection shall be used to support the redesigned service delivery system. In redesigning services, communities are encouraged to implement a single uniform family risk assessment mechanism and shall demonstrate the potential for improved outcomes for children and families. Requests by local communities for the redesigning of services shall be submitted to the Iowa department of public health, department of human services, and department of education, and are subject to the approval of the early childhood Iowa state board in consultation with the departments, based on the practices utilized with early childhood Iowa areas under chapter 256I.

4. It is the intent of the general assembly that priority for family support funding be given to approaches using evidence-based or promising models for family support.

92 Acts, 2nd Ex, ch 1001, §419; 97 Acts, ch 138, §1; 98 Acts, ch 1206, §10; 2004 Acts, ch 1086, §35; 2006 Acts, ch 1157, §15; 2010 Acts, ch 1031, §290; 2011 Acts, ch 129, §84, 156; 2016 Acts, ch 1113, §1

Referred to in §232.69, 256I.13

SUBCHAPTER X

RURAL HEALTH AND PRIMARY CARE

135.107 Center for rural health and primary care established — duties.

1. The center for rural health and primary care is established within the department.

2. The center for rural health and primary care shall do all of the following:

a. Provide technical planning assistance to rural communities and counties exploring innovative means of delivering rural health services through community health services assessment, planning, and implementation, including but not limited to hospital conversions, cooperative agreements among hospitals, physician and health practitioner support, recruitment and retention of primary health care providers, public health services, emergency medical services, medical assistance facilities, rural health care clinics, and alternative means which may be included in the long-term community health services

assessment and developmental plan. The center for rural health and primary care shall encourage collaborative efforts of the local boards of health, hospital governing boards, and other public and private entities located in rural communities to adopt a long-term community health services assessment and developmental plan pursuant to rules adopted by the department and perform the duties required of the Iowa department of public health in section 135B.33.

b. Provide technical assistance to assist rural communities in improving Medicare reimbursements through the establishment of rural health clinics, defined pursuant to 42 U.S.C. §1395x, and distinct part skilled nursing facility beds.

c. Coordinate services to provide research for the following items:

(1) Examination of the prevalence of rural occupational health injuries in the state.

(2) Assessment of training and continuing education available through local hospitals and others relating to diagnosis and treatment of diseases associated with rural occupational health hazards.

(3) Determination of continuing education support necessary for rural health practitioners to diagnose and treat illnesses caused by exposure to rural occupational health hazards.

(4) Determination of the types of actions that can help prevent agricultural accidents.

(5) Surveillance and reporting of disabilities suffered by persons engaged in agriculture resulting from diseases or injuries, including identifying the amount and severity of agricultural-related injuries and diseases in the state, identifying causal factors associated with agricultural-related injuries and diseases, and indicating the effectiveness of intervention programs designed to reduce injuries and diseases.

d. Cooperate with the center for agricultural health and safety established under section 262.78, the center for health effects of environmental contamination established under section 263.17, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

e. Administer grants for farm safety education efforts directed to rural families for the purpose of preventing farm-related injuries to children.

3. The center for rural health and primary care shall establish a primary care provider recruitment and retention endeavor, to be known as PRIMECARRE. The endeavor shall include a health care workforce and community support grant program and a primary care provider loan repayment program. The endeavor shall be developed and implemented in a manner to promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. The focus of the endeavor shall be to promote and assist local efforts in developing health care provider recruitment and retention programs. The center for rural health and primary care may enter into an agreement with the college student aid commission for the administration of the center's grant and loan repayment programs.

a. Health care workforce and community support grant program.

(1) The center for rural health and primary care shall adopt rules establishing flexible application processes based upon the department's strategic plan to be used by the center to establish a grant assistance program as provided in this paragraph "*a*", and establishing the criteria to be used in evaluating the applications. Selection criteria shall include a method for prioritizing grant applications based on illustrated efforts to meet the health care provider needs of the locality and surrounding area. Such assistance may be in the form of a forgivable loan, grant, or other nonfinancial assistance as deemed appropriate by the center. An application submitted may contain a commitment of matching funds for the grant assistance. Application may be made for assistance by a single community or group of communities or in response to programs recommended in the strategic plan to address health workforce shortages.

(2) Grants awarded under the program shall be awarded to rural, underserved areas or special populations as identified by the department's strategic plan or evidence-based documentation.

b. Primary care provider loan repayment program.

(1) A primary care provider loan repayment program is established to increase the

number of health professionals practicing primary care in federally designated health professional shortage areas of the state. Under the program, loan repayment may be made to a recipient for educational expenses incurred while completing an accredited health education program directly related to obtaining credentials necessary to practice the recipient's health profession.

(2) The center for rural health and primary care shall adopt rules relating to the establishment and administration of the primary care provider loan repayment program. Rules adopted pursuant to this paragraph shall provide, at a minimum, for all of the following:

(a) Determination of eligibility requirements and qualifications of an applicant to receive loan repayment under the program, including but not limited to years of obligated service, clinical practice requirements, and residency requirements. One year of obligated service shall be provided by the applicant in exchange for each year of loan repayment, unless federal requirements otherwise require. Loan repayment under the program shall not be approved for a health provider whose license or certification is restricted by a medical regulatory authority of any jurisdiction of the United States, other nations, or territories.

(b) Identification of federally designated health professional shortage areas of the state and prioritization of such areas according to need.

(c) Determination of the amount and duration of the loan repayment an applicant may receive, giving consideration to the availability of funds under the program, and the applicant's outstanding educational loans and professional credentials.

(d) Determination of the conditions of loan repayment applicable to an applicant.

(e) Enforcement of the state's rights under a loan repayment program contract, including the commencement of any court action.

(f) Cancellation of a loan repayment program contract for reasonable cause unless federal requirements otherwise require.

(g) Participation in federal programs supporting repayment of loans of health care providers and acceptance of gifts, grants, and other aid or amounts from any person, association, foundation, trust, corporation, governmental agency, or other entity for the purposes of the program.

(h) Upon availability of state funds, determination of eligibility criteria and qualifications for participating communities and applicants not located in federally designated shortage areas.

(i) Other rules as necessary.

4. *a.* Eligibility under any of the programs established under the primary care provider recruitment and retention endeavor shall be based upon a community health services assessment completed under subsection 2, paragraph *"a"*. Participation in a community health services assessment process shall be documented by the community or region.

b. Assistance under this subsection shall not be granted until such time as the community or region making application has completed a community health services assessment and adopted a long-term community health services assessment and developmental plan. In addition to any other requirements, an applicant's plan shall include, to the extent possible, a clear commitment to informing high school students of the health care opportunities which may be available to such students.

c. The center for rural health and primary care shall seek additional assistance and resources from other state departments and agencies, federal agencies and grant programs, private organizations, and any other person, as appropriate. The center is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purpose of this subsection. All federal grants to and the federal receipts of the center are appropriated for the purpose set forth in such federal grants or receipts. Funds appropriated by the general assembly to the center for implementation of this subsection shall first be used for securing any available federal funds requiring a state match, with remaining funds being used for the health care workforce and community support grant program.

d. The center for rural health and primary care may, to further the purposes of this subsection, provide financial assistance in the form of grants to support the effort of a

community which is clearly part of the community's long-term community health services assessment and developmental plan. Efforts for which such grants may be awarded include but are not limited to the procurement of clinical equipment, clinical facilities, and telecommunications facilities, and the support of locum tenens arrangements and primary care provider mentor programs.

89 Acts, ch 304, §702; 90 Acts, ch 1207, §1, 2; 90 Acts, ch 1223, §18
C93, §135.13
94 Acts, ch 1168, §2
C95, §135.107
95 Acts, ch 67, §10; 96 Acts, ch 1128, §2, 3; 97 Acts, ch 23, §14; 97 Acts, ch 203, §14; 98 Acts, ch 1100, §15; 2000 Acts, ch 1058, §16, 17; 2000 Acts, ch 1140, §23 – 25; 2000 Acts, ch 1223, §20, 21; 2005 Acts, ch 89, §5; 2009 Acts, ch 41, §41; 2010 Acts, ch 1031, §396; 2010 Acts, ch 1061, §26; 2017 Acts, ch 148, §13 – 15; 2019 Acts, ch 85, §70
Referred to in §262.78, 263.17
Legislative findings; 94 Acts, ch 1168, §1

SUBCHAPTER XI

DOMESTIC ABUSE DEATH REVIEW TEAM

135.108 Definitions.

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

1. *"Department"* means the Iowa department of public health.
2. *"Director"* means the director of public health.
3. *"Domestic abuse death"* means a homicide or suicide that involves or is a result of an assault as defined in section 708.1 and to which any of the following circumstances apply to the parties involved:

a. The alleged or convicted perpetrator is related to the decedent as spouse, separated spouse, or former spouse.

b. The alleged or convicted perpetrator resided with the decedent at the time of the assault that resulted in the homicide or suicide.

c. The alleged or convicted perpetrator and the decedent resided together in the past but did not reside together at the time of the assault that resulted in the homicide or suicide.

d. The alleged or convicted perpetrator and decedent are parents of the same minor child, whether they were married or lived together at any time.

e. The alleged or convicted perpetrator was in an ongoing personal relationship with the decedent.

f. The alleged or convicted perpetrator was arrested for or convicted of stalking or harassing the decedent, or an order or court-approved agreement was entered against the perpetrator under chapter 232, 236, 598, or 915 to restrict contact by the perpetrator with the decedent.

g. The decedent was related by blood or affinity to an individual who lived in the same household with or was in the workplace or proximity of the decedent, and that individual was threatened with assault by the perpetrator.

4. *"Team"* means the domestic abuse death review team established in section 135.109.

2000 Acts, ch 1136, §1; 2019 Acts, ch 24, §104
Referred to in §135.112

135.109 Iowa domestic abuse death review team membership.

1. An Iowa domestic abuse death review team is established as an independent agency of state government.
2. The department shall provide staffing and administrative support to the team.
3. The team shall include the following members:

a. The state medical examiner or the state medical examiner's designee.

b. A licensed physician or nurse who is knowledgeable concerning domestic abuse injuries and deaths, including suicides.

c. A licensed mental health professional who is knowledgeable concerning domestic abuse.

d. A representative or designee of the Iowa coalition against domestic violence.

e. A certified or licensed professional who is knowledgeable concerning substance abuse.

f. A law enforcement official who is knowledgeable concerning domestic abuse.

g. A law enforcement investigator experienced in domestic abuse investigation.

h. An attorney experienced in prosecuting domestic abuse cases.

i. A judicial officer appointed by the chief justice of the supreme court.

j. A clerk of the district court appointed by the chief justice of the supreme court.

k. An employee or subcontractor of the department of corrections who is a trained batterers' education program facilitator.

l. An attorney licensed in this state who provides criminal defense assistance or child custody representation, and who has experience in dissolution of marriage proceedings.

m. Both a female and a male victim of domestic abuse.

n. A family member of a decedent whose death resulted from domestic abuse.

4. The following individuals shall each designate a liaison to assist the team in fulfilling the team's duties:

a. The attorney general.

b. The director of the Iowa department of corrections.

c. The director of public health.

d. The director of human services.

e. The commissioner of public safety.

f. The administrator of the bureau of vital records of the Iowa department of public health.

g. The director of the department of education.

h. The state court administrator.

i. The director of the department of human rights.

j. The director of the state law enforcement academy.

5. *a.* The director of public health, in consultation with the attorney general, shall appoint review team members who are not designated by another appointing authority.

b. A membership vacancy shall be filled in the same manner as the original appointment.

c. The membership of the review team is subject to the provisions of sections 69.16 and 69.16A, relating to political affiliation and gender balance.

d. A member of the team may be reappointed to serve additional terms on the team, subject to the provisions of chapter 69.

6. Membership terms shall be three-year staggered terms.

7. Members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties.

8. Team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, decision, or determination undertaken or performed, or recommendation made as a team member or agent provided that the team members or agents acted reasonably and in good faith and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or unreasonableness or lack of good faith in an action brought against team members involving the performance of their duties and powers.

2000 Acts, ch 1136, §2; 2006 Acts, ch 1184, §80, 81
Referred to in §135.108, 135.112, 216A.133

135.110 Iowa domestic abuse death review team powers and duties.

1. The review team shall perform the following duties:

a. Prepare a biennial report for the governor, supreme court, attorney general, and the general assembly concerning the following subjects:

(1) The causes and manner of domestic abuse deaths, including an analysis of factual information obtained through review of domestic abuse death certificates and domestic abuse death data, including patient records and other pertinent confidential and public information concerning domestic abuse deaths.

(2) The contributing factors of domestic abuse deaths.

(3) Recommendations regarding the prevention of future domestic abuse deaths, including actions to be taken by communities, based on an analysis of these contributing factors.

b. Advise and consult the agencies represented on the team and other state agencies regarding program and regulatory changes that may prevent domestic abuse deaths.

c. Develop protocols for domestic abuse death investigations and team review.

2. In performing duties pursuant to subsection 1, the review team shall review the relationship between the decedent victim and the alleged or convicted perpetrator from the point where the abuse allegedly began, until the domestic abuse death occurred, and shall review all relevant documents pertaining to the relationship between the parties, including but not limited to protective orders and dissolution, custody, and support agreements and related court records, in order to ascertain whether a correlation exists between certain events in the relationship and any escalation of abuse, and whether patterns can be established regarding such events in relation to domestic abuse deaths in general. The review team shall consider such conclusions in making recommendations pursuant to subsection 1.

3. The team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by a majority of the team.

4. The team shall annually elect a chairperson and other officers as deemed necessary by the team.

5. The team may establish committees or panels to whom the team may assign some or all of the team's responsibilities.

6. Members of the team who are currently practicing attorneys or current employees of the judicial branch of state government shall not participate in the following:

a. An investigation by the team that involves a case in which the team member is presently involved in the member's professional capacity.

b. Development of protocols by the team for domestic abuse death investigations and team review.

c. Development of regulatory changes related to domestic abuse deaths.

2000 Acts, ch 1136, §3; 2000 Acts, ch 1232, §48; 2002 Acts, ch 1119, §131; 2006 Acts, ch 1184, §82

Referred to in §135.112

135.111 Confidentiality of domestic abuse death records.

1. A person in possession or control of medical, investigative, or other information pertaining to a domestic abuse death and related incidents and events preceding the domestic abuse death, shall allow for the inspection and review of written or photographic information related to the death, whether the information is confidential or public in nature, by the department upon the request of the department and the team, to be used only in the administration and for the official duties of the team. Information and records produced under this section that are confidential under the law of this state or under federal law, or because of any legally recognized privilege, and information or records received from the confidential records, remain confidential under this section.

2. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

3. A person who releases or discloses confidential data, records, or any other type of information in violation of this section is guilty of a serious misdemeanor.

2000 Acts, ch 1136, §4

Referred to in §135.112

135.112 Rulemaking.

The department shall adopt rules pursuant to chapter 17A relating to the administration of the domestic abuse death review team and sections 135.108 through 135.111.

2000 Acts, ch 1136, §5

135.113 through 135.117 Reserved.

SUBCHAPTER XII

CHILD PROTECTION —
CHILD PROTECTION CENTER GRANTS
— SHAKEN BABY SYNDROME PREVENTION

135.118 Child protection center grant program.

1. A child protection center grant program is established in the Iowa department of public health in accordance with this section. The director of public health shall establish requirements for the grant program and shall award grants. A grant may be used for establishment of a new center or for support of an existing center.

2. The eligibility requirements for a child protection center grant shall include but are not limited to all of the following:

a. A grantee must meet or be in the process of meeting the standards established by the national children's alliance for children's advocacy centers.

b. A grantee must have in place an interagency memorandum of understanding regarding participation in the operation of the center and for coordinating the activities of the government entities that respond to cases of child abuse in order to facilitate the appropriate disposition of child abuse cases through the juvenile and criminal justice systems. Agencies participating under the memorandum must include the following that are operating in the area served by the grantee:

(1) Department of human services county offices assigned to child protection.

(2) County and municipal law enforcement agencies.

(3) Office of the county attorney.

(4) Other government agencies involved with child abuse assessments or service provision.

c. The interagency memorandum must provide for a cooperative team approach to responding to child abuse, reducing the number of interviews required of a victim of child abuse, and establishing an approach that emphasizes the best interest of the child and that provides investigation, assessment, and rehabilitative services.

d. As necessary to address serious cases of child abuse such as those involving sexual abuse, serious physical abuse, and substance abuse, a grantee must be able to involve or consult with persons from various professional disciplines who have training and expertise in addressing special types of child abuse. These persons may include but are not limited to physicians and other health care professionals, mental health professionals, social workers, child protection workers, attorneys, juvenile court officers, public health workers, child development experts, child educators, and child advocates.

3. The director shall create a committee to consider grant proposals and to make grant recommendations to the director. The committee membership may include but is not limited to representatives of the following: departments of human services, justice, and public health, Iowa medical society, Iowa hospital association, Iowa nurses association, and an association representing social workers.

4. Implementation of the grant program is subject to the availability of funding for the grant program.

2001 Acts, ch 166, §1

135.119 Shaken baby syndrome prevention program.

1. For the purposes of this section:

a. *"Birth center"* and *"birthing hospital"* mean the same as defined in section 135.131.

b. *"Child care provider"* means the same as a child care facility, as defined in section 237A.1, that is providing child care to a child who is newborn through age three.

c. *"Family support program"* means a program offering instruction and support for families in which home visitation is the primary service delivery mechanism.

d. *"Parent"* means the same as *"custodian"*, *"guardian"*, or *"parent"*, as defined in section 232.2, of a child who is newborn through age three.

e. *"Person responsible for the care of a child"* means the same as defined in section 232.68, except that it is limited to persons responsible for the care of a child who is newborn through age three.

f. *"Shaken baby syndrome"* means the collection of signs and symptoms resulting from the vigorous shaking of a child who is three years of age or younger. Shaken baby syndrome may result in bleeding inside the child's head and may cause one or more of the following conditions: irreversible brain damage; blindness, retinal hemorrhage, or eye damage; cerebral palsy; hearing loss; spinal cord injury, including paralysis; seizures; learning disability; central nervous system injury; closed head injury; rib fracture; subdural hematoma; or death. Shaken baby syndrome also includes the symptoms included in the diagnosis code for shaken infant syndrome utilized by Iowa hospitals.

2. *a.* The department shall establish a statewide shaken baby syndrome prevention program to educate parents and persons responsible for the care of a child about the dangers to children three years of age or younger caused by shaken baby syndrome and to discuss ways to reduce the syndrome's risks. The program plan shall allow for voluntary participation by parents and persons responsible for the care of a child.

b. The program plan shall describe strategies for preventing shaken baby syndrome by providing education and support to parents and persons responsible for the care of a child and shall identify multimedia resources, written materials, and other resources that can assist in providing the education and support.

c. The department shall consult with experts with experience in child abuse prevention, child health, and parent education in developing the program plan.

d. The program plan shall incorporate a multiyear, collaborative approach for implementation of the plan. The plan shall address how to involve those who regularly work with parents and persons responsible for the care of a child, including but not limited to child abuse prevention programs, child care resource and referral programs, child care providers, family support programs, programs receiving funding through the early childhood Iowa initiative, public and private schools, health care providers, local health departments, birth centers, and birthing hospitals.

e. The program plan shall identify the methodology to be used for improving the tracking of shaken baby syndrome incidents and for evaluating the effectiveness of the plan's education and support efforts.

f. The program plan shall describe how program results will be reported.

g. The program plan may provide for implementation of the program through a contract with a private agency or organization experienced in furnishing the services set forth in the program plan.

3. The department shall implement the program plan to the extent of the amount appropriated or made available for the program for a fiscal year.

2009 Acts, ch 7, §1; 2010 Acts, ch 1031, §291

SUBCHAPTER XIII

TAXATION OF ORGANIZED DELIVERY SYSTEMS

135.120 Taxation of organized delivery systems. Repealed by 2017 Acts, ch 148, §101.

135.121 through 135.129 Reserved.

SUBCHAPTER XIV

SUBSTANCE ABUSE TREATMENT FACILITY FOR PERSONS ON PROBATION

135.130 Substance abuse treatment facility for persons on probation. Repealed by 2017 Acts, ch 148, §24.

SUBCHAPTER XV

NEWBORN AND INFANT HEARING SCREENING

135.131 Universal newborn and infant hearing screening.

1. For the purposes of this section, unless the context otherwise requires:

a. *"Birth center"* means birth center as defined in section 135.61.

b. *"Birthing hospital"* means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

2. All newborns and infants born in this state shall be screened for hearing loss in accordance with this section. The person required to perform the screening shall use at least one of the following procedures:

a. Automated or diagnostic auditory brainstem response.

b. Otoacoustic emissions.

c. Any other technology approved by the department.

3. *a.* A birthing hospital shall screen every newborn delivered in the hospital for hearing loss prior to discharge of the newborn from the birthing hospital. A birthing hospital that transfers a newborn for acute care prior to completion of the hearing screening shall notify the receiving facility of the status of the hearing screening. The receiving facility shall be responsible for completion of the newborn hearing screening.

b. The birthing hospital or other facility completing the hearing screening under this subsection shall report the results of the screening to the parent or guardian of the newborn and to the department in a manner prescribed by rule of the department. The birthing hospital or other facility shall also report the results of the hearing screening to the primary care provider of the newborn or infant upon discharge from the birthing hospital or other facility. If the newborn or infant was not tested prior to discharge, the birthing hospital or other facility shall report the status of the hearing screening to the primary care provider of the newborn or infant.

4. A birth center shall refer the newborn to a licensed audiologist, physician, or hospital for screening for hearing loss prior to discharge of the newborn from the birth center. The hearing screening shall be completed within thirty days following discharge of the newborn. The person completing the hearing screening shall report the results of the screening to the parent or guardian of the newborn and to the department in a manner prescribed by rule of the department. Such person shall also report the results of the screening to the primary care provider of the newborn.

5. If a newborn is delivered in a location other than a birthing hospital or a birth center, the physician or other health care professional who undertakes the pediatric care of the newborn or infant shall ensure that the hearing screening is performed within three months of the date of the newborn's or infant's birth. The physician or other health care professional shall report the results of the hearing screening to the parent or guardian of the newborn or infant, to the primary care provider of the newborn or infant, and to the department in a manner prescribed by rule of the department.

6. A birthing hospital, birth center, physician, or other health care professional required to report information under subsection 3, 4, or 5 shall report all of the following information to the department relating to a newborn's or infant's hearing screening, as applicable:

a. The name, address, and telephone number, if available, of the mother of the newborn or infant.

b. The primary care provider at the time of the newborn's or infant's discharge from the birthing hospital or birth center.

c. The results of the hearing screening.

d. Any rescreenings and the diagnostic audiological assessment procedures used.

e. Any known risk indicators for hearing loss of the newborn or infant.

f. Other information specified in rules adopted by the department.

7. The department may share information with agencies and persons involved with newborn and infant hearing screenings, follow-up, and intervention services, including the local birth-to-three coordinator or similar agency, the local area education agency, and local health care providers. The department shall adopt rules to protect the confidentiality of the individuals involved.

8. An audiologist who provides services addressed by this section shall conduct diagnostic audiological assessments of newborns and infants in accordance with standards specified in rules adopted by the department. The audiologist shall report all of the following information to the department relating to a newborn's or infant's hearing, follow-up, diagnostic audiological assessment, and intervention services, as applicable:

a. The name, address, and telephone number, if available, of the mother of the newborn or infant.

b. The results of the hearing screening and any rescreenings, including the diagnostic audiological assessment procedures used.

c. The nature of any follow-up or other intervention services provided to the newborn or infant.

d. Any known risk indicators for hearing loss of the newborn or infant.

e. Other information specified in rules adopted by the department.

9. *a.* If the results of the newborn hearing screening performed under this section demonstrate that the newborn has hearing loss, the birthing hospital, birth center, physician, or other health care professional required to ensure that the hearing screening is performed on the newborn under this section, shall do all of the following:

(1) Test the newborn or ensure that the newborn is tested for congenital cytomegalovirus before the newborn is twenty-one days of age.

(2) Provide information to the parent of the newborn including information regarding the birth defects caused by congenital cytomegalovirus and early intervention and treatment resources and services available for children diagnosed with congenital cytomegalovirus.

b. This subsection shall not apply if the parent objects to the testing. If a parent objects to the testing, the birthing hospital, birth center, physician, or other health care professional required to test or to ensure that the newborn is tested for congenital cytomegalovirus under this subsection shall obtain a written refusal from the parent, shall document the refusal in the newborn's or infant's medical record, and shall report the refusal to the department in the manner prescribed by rule of the department.

10. This section shall not apply if the parent objects to the screening. If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional required to report information under subsection 3, 4, or 5 to the department shall obtain a written refusal from the parent, shall document the refusal in the newborn's or infant's medical record, and shall report the refusal to the department in the manner prescribed by rule of the department.

11. A person who acts in good faith in complying with this section shall not be civilly or criminally liable for reporting the information required to be reported by this section.

2003 Acts, ch 102, §1; 2009 Acts, ch 37, §3; 2017 Acts, ch 77, §2

Referred to in §135.119, 135B.18A

SUBCHAPTER XVI

INTERAGENCY PHARMACEUTICALS BULK PURCHASING COUNCIL

135.132 Interagency pharmaceuticals bulk purchasing council. Repealed by 2017 Acts, ch 148, §26.

135.133 through 135.139 Reserved.

SUBCHAPTER XVII

DISASTER PREPAREDNESS

135.140 Definitions.

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

1. *"Bioterrorism"* means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism.
2. *"Department"* means the Iowa department of public health.
3. *"Director"* means the director of public health or the director's designee.
4. *"Disaster"* means disaster as defined in section 29C.2.
5. *"Division"* means the division of acute disease prevention and emergency response of the department.
6. *"Public health disaster"* means a state of disaster emergency proclaimed by the governor in consultation with the department pursuant to section 29C.6 for a disaster which specifically involves an imminent threat of an illness or health condition that meets any of the following conditions of paragraphs *"a"* and *"b"*:

a. Is reasonably believed to be caused by any of the following:

(1) Bioterrorism or other act of terrorism.

(2) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin.

(3) A chemical attack or accidental release.

(4) An intentional or accidental release of radioactive material.

(5) A nuclear or radiological attack or accident.

(6) A natural occurrence or incident, including but not limited to fire, flood, storm, drought, earthquake, tornado, or windstorm.

(7) A man-made occurrence or incident, including but not limited to an attack, spill, or explosion.

b. Poses a high probability of any of the following:

(1) A large number of deaths in the affected population.

(2) A large number of serious or long-term disabilities in the affected population.

(3) Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of the affected population.

(4) Short-term or long-term physical or behavioral health consequences to a large number of the affected population.

7. *"Public health response team"* means a team of professionals, including licensed health care providers, nonmedical professionals skilled and trained in disaster or emergency response, and public health practitioners, which is sponsored by a hospital or other entity and approved by the department to provide disaster assistance in the event of a disaster or threatened disaster.

2003 Acts, ch 33, §1, 11; 2003 Acts, ch 179, §64; 2005 Acts, ch 89, §6, 7; 2006 Acts, ch 1184, §83; 2009 Acts, ch 37, §4, 5; 2019 Acts, ch 24, §104

Referred to in §29C.6, 135M.1, 135M.3, 135M.4, 137.116, 139A.2

135.141 Division of acute disease prevention and emergency response — establishment — duties of department.

1. A division of acute disease prevention and emergency response is established within the department. The division shall coordinate the administration of this subchapter with other administrative divisions of the department and with federal, state, and local agencies and officials.

2. The department shall do all of the following:

a. Coordinate with the department of homeland security and emergency management the administration of emergency planning matters which involve the public health, including development, administration, and execution of the public health components of the comprehensive emergency plan and emergency management program pursuant to section 29C.8.

b. Coordinate with federal, state, and local agencies and officials, and private agencies, organizations, companies, and persons, the administration of emergency planning, response, and recovery matters that involve the public health.

c. If a public health disaster exists, or if there is reasonable cause to believe that a public health disaster is imminent, conduct a risk assessment of any present or potential danger to the public health from chemical, radiological, or other potentially dangerous agents.

d. For the purpose of paragraph *"c"*, an employee or agent of the department may enter into and examine any premises containing potentially dangerous agents with the consent of the owner or person in charge of the premises or, if the owner or person in charge of the premises refuses admittance, with an administrative search warrant obtained under section 808.14. Based on findings of the risk assessment and examination of the premises, the director may order reasonable safeguards or take any other action reasonably necessary to protect the public health pursuant to rules adopted to administer this subsection.

e. Coordinate the location, procurement, storage, transportation, maintenance, and distribution of medical supplies, drugs, antidotes, and vaccines to prepare for or in response to a public health disaster, including receiving, distributing, and administering items from the strategic national stockpile program of the centers for disease control and prevention of the United States department of health and human services.

f. Conduct or coordinate public information activities regarding emergency and disaster planning, response, and recovery matters that involve the public health.

g. Apply for and accept grants, gifts, or other funds to be used for programs authorized by this subchapter.

h. Establish and coordinate other programs or activities as necessary for the prevention, detection, management, and containment of public health disasters, and for the recovery from such disasters.

i. Adopt rules pursuant to chapter 17A for the administration of this subchapter including rules adopted in cooperation with the Iowa pharmacy association and the Iowa hospital association for the development of a surveillance system to monitor supplies of drugs, antidotes, and vaccines to assist in detecting a potential public health disaster. Prior to adoption, the rules shall be approved by the state board of health and the director of the department of homeland security and emergency management.

2003 Acts, ch 33, §2, 11; 2003 Acts, ch 179, §157; 2005 Acts, ch 89, §8; 2009 Acts, ch 37, §6; 2009 Acts, ch 41, §42; 2012 Acts, ch 1021, §45; 2013 Acts, ch 29, §45; 2017 Acts, ch 148, §21, 22; 2019 Acts, ch 24, §99, 100

135.142 Health care supplies.

1. The department may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies as deemed advisable in the interest of preparing for or controlling a public health disaster.

2. If a public health disaster exists or there is reasonable cause to believe that a public health disaster is imminent and if the public health disaster or belief that a public health disaster is imminent results in a statewide or regional shortage or threatened shortage of any product described under subsection 1, whether or not such product has been purchased by the department, the department may control, restrict, and regulate by rationing and using quotas,

prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of this state. The department shall collaborate with persons who have control of the products when reasonably possible.

3. In making rationing or other supply and distribution decisions, the department shall give preference to health care providers, disaster response personnel, and mortuary staff.

4. During a public health disaster, the department may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the public health disaster, and may take immediate possession of these pharmaceutical agents and supplies. If a public health disaster affects more than one state, this section shall not be construed to allow the department to obtain antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing the fair and equitable distribution of these pharmaceutical and medical supplies among affected states. The department shall collaborate with affected states and persons when reasonably possible.

5. The state shall pay just compensation to the owner of any product lawfully taken or appropriated by the department for the department's temporary or permanent use in accordance with this section. The amount of compensation shall be limited to the costs incurred by the owner to procure the item.

2003 Acts, ch 33, §3, 11; 2004 Acts, ch 1086, §34

135.143 Public health response teams.

1. The department shall approve public health response teams to supplement and support disrupted or overburdened local medical and public health personnel, hospitals, and resources. Assistance shall be rendered under the following circumstances:

a. At or near the site of a disaster or threatened disaster by providing direct medical care to victims or providing other support services.

b. If local medical or public health personnel or hospitals request the assistance of a public health response team to provide direct medical care to victims or to provide other support services in relation to any of the following incidents:

(1) During an incident resulting from a novel or previously controlled or eradicated infectious agent, disease, or biological toxin.

(2) After a chemical attack or accidental chemical release.

(3) After an intentional or accidental release of radioactive material.

(4) In response to a nuclear or radiological attack or accident.

(5) Where an incident poses a high probability of a large number of deaths or long-term disabilities in the affected population.

(6) During or after a natural occurrence or incident, including but not limited to fire, flood, storm, drought, earthquake, tornado, or windstorm.

(7) During or after a man-made occurrence or incident, including but not limited to an attack, spill, or explosion.

2. The department shall provide by rule a process for registration and approval of public health response team members and sponsor entities and shall authorize specific public health response teams, which may include but are not limited to disaster assistance teams and environmental health response teams. The department may expedite the registration and approval process during a disaster, threatened disaster, or other incident described in subsection 1.

3. A member of a public health response team acting pursuant to this subchapter shall be considered an employee of the state under section 29C.21 and chapter 669, shall be afforded protection as an employee of the state under section 669.21, and shall be considered an employee of the state for purposes of workers' compensation, disability, and death benefits, provided that the member has done all of the following:

a. Registered with and received approval to serve on a public health response team from the department.

b. Provided direct medical care or other support services during a disaster, threatened

disaster, or other incident described in subsection 1; or participated in a training exercise to prepare for a disaster or other incident described in subsection 1.

4. The department shall provide the department of administrative services with a list of individuals who have registered with and received approval from the department to serve on a public health response team. The department shall update the list on a quarterly basis, or as necessary for the department of administrative services to determine eligibility for coverage.

5. Upon notification of a compensable loss, the department of administrative services shall seek authorization from the executive council to pay as an expense from the appropriations addressed in section 7D.29 those costs associated with covered workers' compensation benefits.

2003 Acts, ch 33, §4, 11; 2003 Acts, ch 145, §286; 2005 Acts, ch 89, §9; 2009 Acts, ch 37, §7, 8; 2011 Acts, ch 131, §25, 158; 2019 Acts, ch 24, §101

Referred to in §29C.20

135.144 Additional duties of the department related to a public health disaster.

If a public health disaster exists, the department, in conjunction with the governor, may do any of the following:

1. Decontaminate or cause to be decontaminated, to the extent reasonable and necessary to address the public health disaster, any facility or material if there is cause to believe the contaminated facility or material may endanger the public health.

2. Adopt and enforce measures to provide for the identification and safe disposal of human remains, including performance of postmortem examinations, transportation, embalming, burial, cremation, interment, disinterment, and other disposal of human remains. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or the deceased person's family shall be considered when disposing of any human remains.

3. Take reasonable measures as necessary to prevent the transmission of infectious disease and to ensure that all cases of communicable disease are properly identified, controlled, and treated.

4. Take reasonable measures as necessary to ensure that all cases of chemical, biological, and radiological contamination are properly identified, controlled, and treated.

5. Order physical examinations and tests and collect specimens as necessary for the diagnosis or treatment of individuals, to be performed by any qualified person authorized to do so by the department. An examination or test shall not be performed or ordered if the examination or test is reasonably likely to lead to serious harm to the affected individual. The department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this subchapter, any individual whose refusal of medical examination or testing results in uncertainty regarding whether the individual has been exposed to or is infected with a communicable or potentially communicable disease or otherwise poses a danger to public health.

6. Vaccinate or order that individuals be vaccinated against an infectious disease and to prevent the spread of communicable or potentially communicable disease. Vaccinations shall be administered by any qualified person authorized to do so by the department. The vaccination shall not be provided or ordered if it is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this subchapter, any person who is unable or unwilling to undergo vaccination pursuant to this subsection.

7. Treat or order that individuals exposed to or infected with disease receive treatment or prophylaxis. Treatment or prophylaxis shall be administered by any qualified person authorized to do so by the department. Treatment or prophylaxis shall not be provided or ordered if the treatment or prophylaxis is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of communicable or potentially communicable disease, the department may isolate or quarantine, pursuant to chapter 139A and the rules implementing chapter 139A and this subchapter, any individual who is unable or unwilling to undergo treatment or prophylaxis pursuant to this section.

8. Isolate or quarantine individuals or groups of individuals pursuant to chapter 139A and the rules implementing chapter 139A and this subchapter.

9. Inform the public when a public health disaster has been declared or terminated, about protective measures to take during the disaster, and about actions being taken to control the disaster.

10. Accept grants and loans from the federal government pursuant to section 29C.6 or available provisions of federal law.

11. If a public health disaster or other public health emergency situation exists which poses an imminent threat to the public health, safety, and welfare, the department, in conjunction with the governor, may provide financial assistance, from funds appropriated to the department that are not otherwise encumbered, to political subdivisions as needed to alleviate the disaster or the emergency. If the department does not have sufficient unencumbered funds, the governor may request the executive council to authorize the payment of up to one million dollars as an expense from the appropriations addressed in section 7D.29 to alleviate the disaster or the emergency. If additional financial assistance is required in excess of one million dollars, approval by the legislative council is also required.

12. Temporarily reassign department employees for purposes of response and recovery efforts, to the extent such employees consent to the reassignments.

13. Order, in conjunction with the department of education, temporary closure of any public school or nonpublic school, as defined in section 280.2, to prevent or control the transmission of a communicable disease as defined in section 139A.2.

2003 Acts, ch 33, §5, 11; 2003 Acts, ch 179, §65; 2004 Acts, ch 1097, §1; 2005 Acts, ch 19, §32; 2009 Acts, ch 37, §9; 2010 Acts, ch 1088, §1; 2011 Acts, ch 131, §26, 158; 2019 Acts, ch 24, §102

135.145 Information sharing.

1. When the department of public safety or other federal, state, or local law enforcement agency learns of a case of a disease or health condition, unusual cluster, or a suspicious event that may be the cause of a public health disaster, the department or agency shall immediately notify the department, the director of the department of homeland security and emergency management, the department of agriculture and land stewardship, and the department of natural resources as appropriate.

2. When the department learns of a case of a disease or health condition, an unusual cluster, or a suspicious event that may be the cause of a public health disaster, the department shall immediately notify the department of public safety, the department of homeland security and emergency management, and other appropriate federal, state, and local agencies and officials.

3. Sharing of information on diseases, health conditions, unusual clusters, or suspicious events between the department and public safety authorities and other governmental agencies shall be restricted to sharing of only the information necessary for the prevention, control, and investigation of a public health disaster.

4. Release of information pursuant to this section shall be consistent with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

2003 Acts, ch 33, §6, 11; 2003 Acts, ch 179, §157; 2006 Acts, ch 1079, §1; 2013 Acts, ch 29, §46

Communicable and infectious diseases and poisonings, see chapter 139A

135.146 First responder vaccination program.

1. In the event that federal funding is received for administering vaccinations for first responders, the department shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations. For purposes of this section, "*first responder*" means state and local law enforcement personnel, fire department personnel, and emergency medical personnel who will be deployed to sites of bioterrorism attacks, terrorist attacks, catastrophic or natural disasters, and other disasters. The vaccinations shall include, but not be limited to, vaccinations for hepatitis B, diphtheria, tetanus, influenza, and other vaccinations when recommended by the United States public

health service and in accordance with federal emergency management agency policy. Immune globulin will be made available when necessary.

2. Participation in the vaccination program shall be voluntary, except for first responders who are classified as having occupational exposure to blood-borne pathogens as defined by the occupational safety and health administration standard contained in 29 C.F.R. §1910.1030. First responders who are so classified shall be required to receive the vaccinations as described in subsection 1. A first responder shall be exempt from this requirement, however, when a written statement from a licensed physician is presented indicating that a vaccine is medically contraindicated for that person or the first responder signs a written statement that the administration of a vaccination conflicts with religious tenets.

3. The department shall establish first responder notification procedures regarding the existence of the program by rule, and shall develop, and distribute to first responders, educational materials on methods of preventing exposure to infectious diseases. In administering the program, the department may contract with county and local health departments, not-for-profit home health care agencies, hospitals, physicians, and military unit clinics.

2004 Acts, ch 1012, §1, 2; 2005 Acts, ch 3, §31

135.147 Immunity for emergency aid — exceptions.

1. A person, corporation, or other legal entity, or an employee or agent of such person, corporation, or entity, who, during a public health disaster, in good faith and at the request of or under the direction of the department or the department of public defense renders emergency care or assistance to a victim of the public health disaster shall not be liable for civil damages for causing the death of or injury to a person, or for damage to property, unless such acts or omissions constitute recklessness.

2. The immunities provided in this section shall not apply to any person, corporation, or other legal entity, or an employee or agent of such person, corporation, or entity, whose act or omission caused in whole or in part the public health disaster and who would otherwise be liable therefor.

2007 Acts, ch 159, §21

135.148 and 135.149 Reserved.

SUBCHAPTER XVIII

GAMBLING TREATMENT PROGRAM

135.150 Gambling treatment program — standards and licensing.

1. *a.* The department shall operate a gambling treatment program to provide programs which may include but are not limited to outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, crisis call access, education and preventive services, and financial management and credit counseling services.

b. A person shall not maintain or conduct a gambling treatment program funded through the department unless the person has obtained a license for the program from the department. The department shall adopt rules to establish standards for the licensing and operation of gambling treatment programs under this section. The rules shall specify, but are not limited to specifying, the qualifications for persons providing gambling treatment services, standards for the organization and administration of gambling treatment programs, and a mechanism to monitor compliance with this section and the rules adopted under this section.

2. The department shall report annually to the general assembly's standing committees on government oversight regarding the operation of the gambling treatment program. The

report shall include but is not limited to information on the moneys expended and grants awarded for operation of the gambling treatment program.

2004 Acts, ch 1136, §55; 2005 Acts, ch 175, §77; 2009 Acts, ch 182, §106; 2010 Acts, ch 1069, §15; 2017 Acts, ch 148, §3

135.151 Reserved.

SUBCHAPTER XIX

OBSTETRICAL AND NEWBORN INDIGENT PATIENT CARE PROGRAM

135.152 Statewide obstetrical and newborn indigent patient care program. Repealed by 2017 Acts, ch 148, §24.

SUBCHAPTER XX

COLLABORATIVE SAFETY NET PROVIDER NETWORK

135.153 Iowa collaborative safety net provider network established. Repealed by 2019 Acts, ch 85, §68.

135.153A Safety net provider recruitment and retention initiatives program — repeal. Repealed by its own terms; 2015 Acts, ch 30, §211.

SUBCHAPTER XXI

IOWA HEALTH INFORMATION NETWORK

135.154 through 135.156F Repealed by 2015 Acts, ch 73, §8, 9. See chapter 135D.

SUBCHAPTER XXII

PATIENT-CENTERED HEALTH

135.157 Definitions. Repealed by 2017 Acts, ch 148, §11.

135.158 Medical home purposes — characteristics. Repealed by 2017 Acts, ch 148, §11.

135.159 Patient-centered health advisory council. Repealed by 2019 Acts, ch 85, §75.

SUBCHAPTER XXIII

PREVENTION AND CHRONIC CARE MANAGEMENT

135.160 Definitions. Repealed by 2012 Acts, ch 1021, §120.

135.161 Prevention and chronic care management initiative — advisory council. Repealed by 2011 Acts, ch 129, §81, 82.

135.162 Clinicians advisory panel. Repealed by 2011 Acts, ch 63, §35.

SUBCHAPTER XXIV

HEALTH CARE ACCESS

135.163 Health care access.

The department shall coordinate public and private efforts to develop and maintain an appropriate health care delivery infrastructure and a stable, well-qualified, diverse, and sustainable health care workforce in this state. The health care delivery infrastructure and the health care workforce shall address the broad spectrum of health care needs of Iowans throughout their lifespan. The department shall, at a minimum, do all of the following:

1. Develop a strategic plan for health care delivery infrastructure and health care workforce resources in this state.

2. Provide for the continuous collection of data to provide a basis for health care strategic planning and health care policymaking.

3. Make recommendations regarding the health care delivery infrastructure and the health care workforce that assist in monitoring current needs, predicting future trends, and informing policymaking.

2008 Acts, ch 1188, §57; 2017 Acts, ch 148, §16

Referred to in §84A.11, 135.175

135.164 Strategic plan. Repealed by 2017 Acts, ch 148, §19.

SUBCHAPTER XXV

HEALTH DATA

135.165 Health care transparency — reporting requirements — hospitals and nursing facilities. Repealed by 2012 Acts, ch 1113, §24.

135.166 Health data — collection and use — collection from hospitals.

1. *a.* The department of public health shall enter into a memorandum of understanding with the contractor selected through a request for proposals process to act as the department's intermediary in collecting, maintaining, and disseminating hospital inpatient, outpatient, and ambulatory data, as initially authorized in 1996 Iowa Acts, ch. 1212, §5, subsection 1, paragraph "*a*", subparagraph (4), and 641 IAC 177.3.

b. The memorandum of understanding shall include but is not limited to provisions that address the duties of the department and the contractor regarding the collection, reporting, disclosure, storage, and confidentiality of the data.

2. Unless otherwise authorized or required by state or federal law, data collected under this section shall not include the social security number of the individual subject of the data.

2009 Acts, ch 118, §57; 2014 Acts, ch 1026, §143; 2017 Acts, ch 148, §104; 2019 Acts, ch 85, §96

135.167 through 135.170 Reserved.

SUBCHAPTER XXVI

ALZHEIMER'S DISEASE
SERVICE NEEDS

135.171 Alzheimer's disease service needs.

1. The department shall regularly analyze Iowa's population by county and age to determine the existing service utilization and future service needs of persons with Alzheimer's disease and similar forms of irreversible dementia. The analysis shall also

address the availability of existing caregiver services for such needs and the appropriate service level for the future.

2. The department shall modify its community needs assessment activities to include questions to identify and quantify the numbers of persons with Alzheimer's disease and similar forms of irreversible dementia at the community level.

3. The department shall collect data on the numbers of persons demonstrating combative behavior related to Alzheimer's disease and similar forms of irreversible dementia. The department shall also collect data on the number of physicians and geropsychiatric units available in the state to provide treatment and services to such persons. Health care facilities that serve such persons shall provide information to the department for the purposes of the data collection required by this subsection.

4. The department's implementation of the requirements of this section shall be limited to the extent of the funding appropriated or otherwise made available for the requirements.

2008 Acts, ch 1140, §1
See also §231.62

135.172 Reserved.

SUBCHAPTER XXVII

STATE CHILD CARE ADVISORY COMMITTEE

135.173 Early childhood Iowa council. Repealed by 2010 Acts, ch 1031, §308.

135.173A Child care advisory committee.

1. The early childhood stakeholders alliance shall establish a state child care advisory committee as part of the stakeholders alliance. The advisory committee shall advise and make recommendations to the governor, general assembly, department of human services, and other state agencies concerning child care.

2. The membership of the advisory committee shall consist of a broad spectrum of parents and other persons from across the state with an interest in or involvement with child care.

3. Except as otherwise provided, the voting members of the advisory committee shall be appointed by the stakeholders alliance from a list of names submitted by a nominating committee to consist of one member of the advisory committee, one member of the department of human services' child care staff, three consumers of child care, and one member of a professional child care organization. Two names shall be submitted for each appointment. The voting members shall be appointed for terms of three years.

4. The voting membership of the advisory committee shall be appointed in a manner so as to provide equitable representation of persons with an interest in child care and shall include all of the following:

a. Two parents of children served by a registered child development home.
b. Two parents of children served by a licensed center.
c. Two not-for-profit child care providers.
d. Two for-profit child care providers.
e. One child care home provider.
f. Three child development home providers.
g. One child care resource and referral service grantee.
h. One nongovernmental child advocacy group representative.
i. One designee of the department of human services.
j. One designee of the Iowa department of public health.
k. One designee of the department of education.
l. One head start program provider.
m. One person who is a business owner or executive officer from nominees submitted by the Iowa chamber of commerce executives.
n. One designee of the early childhood Iowa office of the department of management.
o. One person who is a member of the Iowa afterschool alliance.

p. One person who is part of a local program implementing the statewide preschool program for four-year-old children under chapter 256C.

q. One person who represents the early childhood stakeholders alliance.

5. In addition to the voting members of the advisory committee, the membership shall include four legislators as ex officio, nonvoting members. The four legislators shall be appointed one each by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives for terms as provided in section 69.16B.

6. In fulfilling the advisory committee's role, the committee shall do all of the following:

a. Consult with the department of human services and make recommendations concerning policy issues relating to child care.

b. Advise the department of human services concerning services relating to child care, including but not limited to any of the following:

(1) Resource and referral services.

(2) Provider training.

(3) Quality improvement.

(4) Public-private partnerships.

(5) Standards review and development.

(6) The federal child care and development block grant, state funding, grants, and other funding sources for child care.

c. Assist the department of human services in developing an implementation plan to provide seamless service to recipients of public assistance, which includes child care services. For the purposes of this subsection, *"seamless service"* means coordination, where possible, of the federal and state requirements which apply to child care.

d. Advise and provide technical services to the director of the department of education or the director's designee relating to prekindergarten, kindergarten, and before and after school programming and facilities.

e. Make recommendations concerning child care expansion programs that meet the needs of children attending a core education program by providing child care before and after the core program hours and during times when the core program does not operate.

f. Make recommendations for improving collaborations between the child care programs involving the department of human services and programs supporting the education and development of young children including but not limited to the federal head start program; the statewide preschool program for four-year-old children; and the early childhood, at-risk, and other early education programs administered by the department of education.

g. Make recommendations for eliminating duplication and otherwise improving the eligibility determination processes used for the state child care assistance program and other programs supporting low-income families, including but not limited to the federal head start, early head start, and even start programs; the early childhood, at-risk, and preschool programs administered by the department of education; the family and self-sufficiency grant program; and the family investment program.

h. Make recommendations as to the most effective and efficient means of managing the state and federal funding available for the state child care assistance program.

i. Review program data from the department of human services and other departments concerning child care as deemed to be necessary by the advisory committee, although a department shall not provide personally identifiable data or information.

j. Advise and assist the early childhood stakeholders alliance in developing the strategic plan required pursuant to section 256I.4, subsection 4.

7. The department of human services shall provide information to the advisory committee semiannually on all of the following:

a. Federal, state, local, and private revenues and expenditures for child care including but not limited to updates on the current and future status of the revenues and expenditures.

b. Financial information and data relating to regulation of child care by the department of human services and the usage of the state child care assistance program.

c. Utilization and availability data relating to child care regulation, quantity, and quality from consumer and provider perspectives.

d. Statistical and demographic data regarding child care providers and the families utilizing child care.

e. Statistical data regarding the processing time for issuing notices of decision to state child care assistance applicants and for issuing payments to child care providers.

8. The advisory committee shall coordinate with the early childhood stakeholders alliance its reporting annually in December to the governor and general assembly concerning the status of child care in the state, providing findings, and making recommendations. The annual report may be personally presented to the general assembly's standing committees on human resources by a representative of the advisory committee.

2010 Acts, ch 1031, §354, 361; 2015 Acts, ch 30, §55 – 57; 2021 Acts, ch 76, §35
Referred to in §237A.1, 256.9
Subsection 4, paragraph n amended

135.174 Lead agency and other state agencies. Repealed by 2010 Acts, ch 1031, §308.

SUBCHAPTER XXVIII

HEALTH CARE WORKFORCE SUPPORT INITIATIVE AND FUND

135.175 Health care workforce support initiative — workforce shortage fund — accounts.

1. *a.* A health care workforce support initiative is established to provide for the coordination and support of various efforts to address the health care workforce shortage in this state. This initiative shall include the medical residency training state matching grants program created in section 135.176, the nurse residency state matching grants program created in section 135.178, and the fulfilling Iowa's need for dentists matching grant program created in section 135.179.

b. A health care workforce shortage fund is created in the state treasury as a separate fund under the control of the department, in cooperation with the entities identified in this section as having control over the accounts within the fund. The fund and the accounts within the fund shall be controlled and managed in a manner consistent with the principles specified and the strategic plan developed pursuant to section 135.163.

2. The fund and the accounts within the fund shall consist of moneys appropriated from the general fund of the state for the purposes of the fund or the accounts within the fund; moneys received from the federal government for the purposes of addressing the health care workforce shortage; contributions, grants, and other moneys from communities and health care employers; and moneys from any other public or private source available.

3. The department and any entity identified in this section as having control over any of the accounts within the fund, may receive contributions, grants, and in-kind contributions to support the purposes of the fund and the accounts within the fund. Not more than five percent of the moneys allocated to any account within the fund may be used for administrative costs.

4. The fund and the accounts within the fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the fund and the accounts within the fund shall not be considered revenue of the state, but rather shall be moneys of the fund or the accounts. The moneys in the fund and the accounts within the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund and the accounts within the fund.

5. The fund shall consist of the following accounts:

a. The medical residency training account. The medical residency training account shall be under the control of the department and the moneys in the account shall be used for the purposes of the medical residency training state matching grants program as specified in section 135.176. Moneys in the account shall consist of moneys appropriated or allocated for deposit in or received by the fund or the account and specifically dedicated to the medical

residency training state matching grants program or account for the purposes of such account.

b. The nurse residency state matching grants program account. The nurse residency state matching grants program account shall be under the control of the department and the moneys in the account shall be used for the purposes of the nurse residency state matching grants program as specified in section 135.178. Moneys in the account shall consist of moneys appropriated or allocated for deposit in or received by the fund or the account and specifically dedicated to the nurse residency state matching grants program account for the purposes of such account.

c. The health care workforce shortage national initiatives account. The health care workforce shortage national initiatives account shall be under the control of the state entity identified for receipt of the federal funds by the federal government entity through which the federal funding is available for a specified health care workforce shortage initiative. Moneys in the account shall consist of moneys appropriated or allocated for deposit in or received by the fund or the account and specifically dedicated to health care workforce shortage national initiatives or the account and for a specified health care workforce shortage initiative.

d. The fulfilling Iowa's need for dentists matching grant program account. The fulfilling Iowa's need for dentists matching grant program account shall be under the control of the department and the moneys in the account shall be used for the purposes of the fulfilling Iowa's need for dentists matching grant program as specified in section 135.179. Moneys in the account shall consist of moneys appropriated or allocated for deposit in the account or received by the fund or the account and specifically dedicated to the fulfilling Iowa's need for dentists matching grant program account for the purposes of such account.

6. *a.* Moneys in the fund and the accounts in the fund shall only be appropriated in a manner consistent with the principles specified and the strategic plan developed pursuant to section 135.163 to support the medical residency training state matching grants program, the nurse residency state matching grants program, the fulfilling Iowa's need for dentists matching grant program, and to provide funding for state health care workforce shortage programs as provided in this section.

b. State programs that may receive funding from the fund and the accounts in the fund, if specifically designated for the purpose of drawing down federal funding, are the primary care recruitment and retention endeavor (PRIMECARRE), the Iowa affiliate of the national rural recruitment and retention network, the oral and health delivery systems bureau of the department, the primary care office and shortage designation program, and the state office of rural health, administered through the oral and health delivery systems bureau of the department of public health; any entity identified by the federal government entity through which federal funding for a specified health care workforce shortage initiative is received; and a program developed in accordance with the strategic plan developed by the department of public health in accordance with section 135.163.

c. Any federal funding received for the purposes of addressing state health care workforce shortages shall be deposited in the health care workforce shortage national initiatives account, unless otherwise specified by the source of the funds, and shall be used as required by the source of the funds. If use of the federal funding is not designated, the funds shall be used in accordance with the strategic plan developed by the department of public health in accordance with section 135.163, or to address workforce shortages as otherwise designated by the department of public health. Other sources of funding shall be deposited in the fund or account and used as specified by the source of the funding.

7. No more than five percent of the moneys in any of the accounts within the fund shall be used for administrative purposes, unless otherwise provided by the appropriation, allocation, or source of the funds.

8. The department, in cooperation with the entities identified in this section as having control over any of the accounts within the fund, shall submit an annual report to the governor and the general assembly regarding the status of the health care workforce support

initiative, including the balance remaining in and appropriations from the health care workforce shortage fund and the accounts within the fund.

2015 Acts, ch 30, §212, 218, 219; 2016 Acts, ch 1073, §55, 56, 187, 189; 2017 Acts, ch 148, §17, 18; 2018 Acts, ch 1165, §111 – 113

Referred to in §135.176, 135.178, 135.179, 249M.4

SUBCHAPTER XXIX

HEALTH CARE WORKFORCE SUPPORT

135.176 Medical residency training state matching grants program.

1. The department shall establish a medical residency training state matching grants program to provide matching state funding to sponsors of accredited graduate medical education residency programs in this state to establish, expand, or support medical residency training programs. Funding for the program may be provided through the health care workforce shortage fund or the medical residency training account created in section 135.175. For the purposes of this section, unless the context otherwise requires, *"accredited"* means a graduate medical education program approved by the accreditation council for graduate medical education or the American osteopathic association. The grant funds may be used to support medical residency programs through any of the following:

a. The establishment of new or alternative campus accredited medical residency training programs. For the purposes of this paragraph, *"new or alternative campus accredited medical residency training program"* means a program that is accredited by a recognized entity approved for such purpose by the accreditation council for graduate medical education or the American osteopathic association with the exception that a new medical residency training program that, by reason of an insufficient period of operation is not eligible for accreditation on or before the date of submission of an application for a grant, may be deemed accredited if the accreditation council for graduate medical education or the American osteopathic association finds, after consultation with the appropriate accreditation entity, that there is reasonable assurance that the program will meet the accreditation standards of the entity prior to the date of graduation of the initial class in the program.

b. The provision of new residency positions within existing accredited medical residency or fellowship training programs.

c. The funding of residency positions which are in excess of the federal residency cap. For the purposes of this paragraph, *"in excess of the federal residency cap"* means a residency position for which no federal Medicare funding is available because the residency position is a position beyond the cap for residency positions established by the federal Balanced Budget Act of 1997, Pub. L. No. 105-33.

d. For the period beginning July 1, 2021, and ending June 30, 2026, the payment by the sponsor of medical residency program liability costs subject to provision by the sponsor of dollar-for-dollar matching funds used for payment of such costs. This paragraph shall not apply to medical residency programs to which chapter 669 applies.

2. The department shall adopt rules pursuant to chapter 17A to provide for all of the following:

a. Eligibility requirements for and qualifications of a sponsor of an accredited graduate medical education residency program to receive a grant. The requirements and qualifications shall include but are not limited to all of the following:

(1) A sponsor shall demonstrate that funds have been budgeted and will be expended by the sponsor in the amount required to provide matching funds for each residency position proposed in the request for state matching funds.

(2) A sponsor shall demonstrate, through objective evidence as prescribed by rule of the department, a need for such residency program in the state.

b. The application process for the grant.

c. Criteria for preference in awarding of the grants, including preference in the residency specialty and preference for candidates who are residents of Iowa, attended and earned an

undergraduate degree from an Iowa college or university, or attended and earned a medical degree from a medical school in Iowa.

d. Determination of the amount of a grant. The total amount of a grant awarded to a sponsor proposing the establishment of a new or alternative campus accredited medical residency training program as defined in subsection 1, paragraph *"a"*, shall be limited to no more than one hundred percent of the amount the sponsor has budgeted as demonstrated under paragraph *"a"*. The total amount of a grant awarded to a sponsor proposing the provision of a new residency position within an existing accredited medical residency or fellowship training program as specified in subsection 1, paragraph *"b"*, or the funding of residency positions which are in excess of the federal residency cap as defined in subsection 1, paragraph *"c"*, shall be limited to no more than twenty-five percent of the amount that the sponsor has budgeted for each residency position sponsored for the purpose of the residency program.

e. The maximum award of grant funds to a particular individual sponsor per year. An individual sponsor that establishes a new or alternative campus accredited medical residency training program as defined in subsection 1, paragraph *"a"*, shall not receive more than fifty percent of the state matching funds available each year to support the program. An individual sponsor proposing the provision of a new residency position within an existing accredited medical residency or fellowship training program as specified in subsection 1, paragraph *"b"*, the funding of residency positions which are in excess of the federal residency cap as defined in subsection 1, paragraph *"c"*, or the funding of the payment by the sponsor of medical residency program liability costs subject to provision by the sponsor of dollar-for-dollar matching funds used for payment of such costs as specified in subsection 1, paragraph *"d"*, shall not receive more than twenty-five percent of the state matching funds available each year to support the program.

f. Use of the funds awarded. Funds may be used to pay the costs of establishing, expanding, or supporting an accredited graduate medical education program as specified in this section, including but not limited to the costs associated with residency stipends and physician faculty stipends. For the period beginning July 1, 2021, and ending June 30, 2026, use of the funds awarded may include payment by the sponsor of medical residency program liability costs in accordance with subsection 1, paragraph *"d"*, and subject to provision by the sponsor of dollar-for-dollar matching funds used for payment of such costs.

g. A requirement that the residency program offer persons to whom a primary care residency position is awarded, the opportunity to participate in a rural rotation to expose the resident to the rural areas of the state. For the purposes of this paragraph, *"primary care"* shall include psychiatry, obstetrics, gynecology, family medicine, internal medicine, and emergency medicine.

2015 Acts, ch 30, §213, 218, 219; 2015 Acts, ch 57, §18 – 21; 2016 Acts, ch 1073, §57; 2019 Acts, ch 55, §1, 2; 2020 Acts, ch 1082, §1; 2021 Acts, ch 182, §63, 64

Referred to in §135.175
Subsection 1, NEW paragraph d
Subsection 2, paragraphs e and f amended

135.177 Physician assistant mental health fellowship program — repeal. Repealed by its own terms; 2015 Acts, ch 30, §214.

135.178 Nurse residency state matching grants program.

The department shall establish a nurse residency state matching grants program to provide matching state funding to sponsors of nurse residency programs in this state to establish, expand, or support nurse residency programs that meet standards adopted by rule of the department. Funding for the program may be provided through the health care workforce shortage fund or the nurse residency state matching grants program account created in section 135.175. The department, in cooperation with the Iowa board of nursing, the department of education, Iowa institutions of higher education with board of nursing-approved programs to educate nurses, and the Iowa nurses association, shall adopt rules pursuant to chapter 17A to establish minimum standards for nurse residency programs to be eligible for a matching grant that address all of the following:

1. Eligibility requirements for and qualifications of a sponsor of a nurse residency program to receive a grant, including that the program includes both rural and urban components.
2. The application process for the grant.
3. Criteria for preference in awarding of the grants.
4. Determination of the amount of a grant.
5. Use of the funds awarded. Funds may be used to pay the costs of establishing, expanding, or supporting a nurse residency program as specified in this section, including but not limited to the costs associated with residency stipends and nursing faculty stipends.

2015 Acts, ch 30, §215, 218, 219; 2016 Acts, ch 1139, §76, 78, 79
Referred to in §135.175

135.179 Fulfilling Iowa's need for dentists.

1. The department, in cooperation with a dental nonprofit health service corporation, shall create the fulfilling Iowa's need for dentists matching grant program.
2. Funding for the program may be provided through the health care workforce shortage fund or the fulfilling Iowa's need for dentists matching grant program account created in section 135.175. The purpose of the program is to establish, expand, or support the placement of dentists in dental or rural shortage areas across the state by providing education loan repayments.
3. The department shall contract with a dental nonprofit health service corporation to implement and administer the program. The dental nonprofit health service corporation shall provide loan repayments to dentists who practice in a dental or rural shortage area as defined by the department.

2014 Acts, ch 1106, §10
Referred to in §135.175

SUBCHAPTER XXX

MENTAL HEALTH PROFESSIONAL SHORTAGE AREA PROGRAM

135.180 Mental health professional shortage area program. Repealed by 2017 Acts, ch 148, §19.

SUBCHAPTER XXXI

BEHAVIOR ANALYST AND ASSISTANT BEHAVIOR ANALYST GRANTS PROGRAM

135.181 Board-certified behavior analyst and board-certified assistant behavior analyst grants program — fund.

1. The department shall establish a board-certified behavior analyst and board-certified assistant behavior analyst grants program to provide grants to Iowa resident and nonresident applicants who have been accepted for admission or are attending a university, community college, or an accredited private institution, within or outside the state of Iowa, are enrolled in a program that is accredited and meets coursework requirements to prepare the applicant to be eligible for board certification as a behavior analyst or assistant behavior analyst, and demonstrate financial need.
2. The department, in cooperation with the department of education, shall adopt rules pursuant to chapter 17A to establish minimum standards for applicants to be eligible for a grant that address all of the following:

a. Eligibility requirements for and qualifications of an applicant to receive a grant. The applicant shall agree to practice in the state of Iowa for a period of time, not to exceed four years, as specified in the contract entered into between the applicant and the department at the time the grant is awarded. In addition, the applicant shall agree, as specified in the contract, that during the contract period, the applicant will assist in supervising an individual

working toward board certification as a behavior analyst or assistant behavior analyst or to consult with schools and service providers that provide services and supports to individuals with autism.

b. The application process for the grant.

c. Criteria for preference in awarding of the grants. Priority in the awarding of a grant shall be given to applicants who are residents of Iowa.

d. Determination of the amount of a grant. The amount of funding awarded to each applicant shall be based on the applicant's enrollment status, the number of applicants, and the total amount of available funds. The total amount of funds awarded to an individual applicant shall not exceed fifty percent of the total costs attributable to program tuition and fees, annually.

e. Use of the funds awarded. Funds awarded may be used to offset the costs attributable to tuition and fees for the accredited behavior analyst or assistant behavior analyst program.

3. *a.* A board-certified behavior analyst and board-certified assistant behavior analyst grants program fund is created in the state treasury as a separate fund under the control of the department. The fund shall consist of moneys appropriated from the general fund of the state for the purposes of the fund and moneys from any other public or private source available.

b. The department may receive contributions, grants, and in-kind contributions to support the purposes of the fund. Not more than five percent of the moneys in the fund may be used annually for administrative costs.

c. The fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the fund shall not be considered revenue of the state, but rather shall be moneys of the fund. Moneys within the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

d. The moneys in the fund are appropriated to the department and shall be used to provide grants to individuals who meet the criteria established under this section.

4. The department shall submit a report to the governor and the general assembly no later than January 1, annually, that includes but is not limited to all of the following:

a. The number of applications received for the immediately preceding fiscal year.

b. The number of applications approved and the total amount of funding awarded in grants in the immediately preceding fiscal year.

c. The cost of administering the program in the immediately preceding fiscal year.

d. Recommendations for any changes to the program.

2015 Acts, ch 137, §68, 162, 163; 2016 Acts, ch 1139, §57, 58

135.182 through 135.184 Reserved.

SUBCHAPTER XXXII

EPINEPHRINE AUTO-INJECTOR SUPPLY

135.185 Epinephrine auto-injector supply.

1. For purposes of this section, unless the context otherwise requires:

a. *"Epinephrine auto-injector"* means the same as provided in section 280.16.

b. *"Facility"* means a food establishment as defined in section 137F.1, a carnival as defined in section 88A.1, a recreational camp, a youth sports facility, or a sports arena.

c. *"Licensed health care professional"* means the same as provided in section 280.16.

d. *"Personnel authorized to administer epinephrine"* means an employee or agent of a facility who is trained and authorized to administer an epinephrine auto-injector.

2. Notwithstanding any other provision of law to the contrary, a licensed health care

professional may prescribe epinephrine auto-injectors in the name of a facility to be maintained for use as provided in this section.

3. A facility may obtain a prescription for epinephrine auto-injectors and maintain a supply of such auto-injectors in a secure location at each location where a member of the public may be present for use as provided in this section. A facility that obtains such a prescription shall replace epinephrine auto-injectors in the supply upon use or expiration. Personnel authorized to administer epinephrine may possess and administer epinephrine auto-injectors from the supply as provided in this section.

4. Personnel authorized to administer epinephrine may provide or administer an epinephrine auto-injector from the facility's supply to an individual present at the facility if such personnel reasonably and in good faith believe the individual is having an anaphylactic reaction.

5. The following persons, provided they have acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an epinephrine auto-injector as provided in this section:

a. Any personnel authorized to administer epinephrine who provide, administer, or assist in the administration of an epinephrine auto-injector to an individual present at the facility who such personnel believe to be having an anaphylactic reaction.

b. The owner or operator of the facility.

c. The prescriber of the epinephrine auto-injector.

6. The department of public health, the board of medicine, the board of nursing, and the board of pharmacy shall adopt rules pursuant to chapter 17A to implement and administer this section, including but not limited to standards and procedures for the prescription, distribution, storage, replacement, and administration of epinephrine auto-injectors, and for training and authorization to be required for personnel authorized to administer epinephrine.

2015 Acts, ch 68, §1; 2016 Acts, ch 1073, §58

Referred to in §155A.27

135.186 through 135.189 Reserved.

SUBCHAPTER XXXIII

POSSESSION AND ADMINISTRATION OF OPIOID ANTAGONISTS

135.190 Possession and administration of opioid antagonists — immunity.

1. For purposes of this section, unless the context otherwise requires:

a. "Licensed health care professional" means the same as defined in section 280.16.

b. "Opioid antagonist" means the same as defined in section 147A.1.

c. "Opioid-related overdose" means the same as defined in section 147A.1.

d. "Person in a position to assist" means a family member, friend, caregiver, health care provider, employee of a substance abuse treatment facility, or other person who may be in a place to render aid to a person at risk of experiencing an opioid-related overdose.

2. *a.* Notwithstanding any other provision of law to the contrary, a licensed health care professional may prescribe an opioid antagonist to a person in a position to assist.

b. (1) Notwithstanding any other provision of law to the contrary, a pharmacist licensed under chapter 155A may, by standing order or through collaborative agreement, dispense, furnish, or otherwise provide an opioid antagonist to a person in a position to assist.

(2) A pharmacist who dispenses, furnishes, or otherwise provides an opioid antagonist pursuant to a valid prescription, standing order, or collaborative agreement shall provide instruction to the recipient in accordance with any protocols and instructions developed by the department under this section.

3. A person in a position to assist may possess and provide or administer an opioid antagonist to an individual if the person in a position to assist reasonably and in good faith believes that such individual is experiencing an opioid-related overdose.

4. A person in a position to assist or a prescriber of an opioid antagonist who has acted

reasonably and in good faith shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an opioid antagonist as provided in this section.

5. The department may adopt rules pursuant to chapter 17A to implement and administer this section.

2016 Acts, ch 1061, §1; 2016 Acts, ch 1139, §68 – 70, 72 – 75
Referred to in §155A.27

SUBCHAPTER XXXIV

STROKE CARE — REPORTING AND DATABASE

135.191 Stroke care — continuous quality improvement.

1. A nationally certified comprehensive stroke center or a nationally certified primary stroke center operating in the state shall report to the statewide stroke database data consistent with nationally recognized guidelines on the treatment of individuals with confirmed cases of stroke within the state. If a nationally certified comprehensive stroke center or nationally certified primary stroke center does not comply with this subsection by reporting data consistent with nationally recognized guidelines, the department may request a review of the certification of the comprehensive stroke center or the primary stroke center by the certifying entity.

2. The department, in partnership with the university of Iowa college of public health, department of epidemiology, shall do all of the following:

a. Maintain or utilize a statewide stroke database that compiles information and statistics on stroke care which aligns with nationally recognized stroke consensus metrics.

b. Utilize the get with the guidelines-stroke data set platform or a data tool with equivalent data measures and with confidentiality standards consistent with federal and state law and other health information and data collection, storage, and sharing requirements of the department.

c. Partner with national voluntary health organizations and stroke advocacy organizations that plan for achieving stroke care quality improvement to avoid duplication and redundancy.

d. Encourage nationally certified acute stroke-ready hospitals and emergency medical services agencies to report data consistent with nationally recognized guidelines on the treatment of individuals with confirmed cases of stroke within the state.

2017 Acts, ch 26, §1
Implementation of section contingent upon utilization of existing resources by the department of public health and shall not require appropriation of additional funding; 2017 Acts, ch 26, §2

SUBCHAPTER XXXV

RECIPIENTS OF ANATOMICAL GIFTS — PROTECTIONS

135.192 Protections of certain prospective recipients of anatomical gifts.

1. A hospital, physician, or other person shall not determine the ultimate recipient of an anatomical gift based upon a potential recipient's disability, except to the extent that the disability has been found by a physician, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

2. Subsection 1 shall apply to each part of the anatomical gift process including all of the following:

a. The referral from a primary care provider to a specialist.

b. The referral from a specialist to a transplant center.

c. The evaluation of the patient for the transplant by the transplant hospital.

d. The consideration of the patient for placement on the list of potential transplant recipients pursuant to 42 C.F.R. §121.7.

3. A person with a disability shall not be required to demonstrate postoperative independent living abilities in order to be placed on the list of potential transplant recipients

pursuant to 42 C.F.R. §121.7 if there is evidence that the person will have sufficient, compensatory support and assistance.

4. A court shall accord priority on its calendar and handle expeditiously any action brought to seek any remedy authorized by law for purposes of enforcing compliance with this section.

5. This section shall not be deemed to require referrals or recommendations for, or the performance of, a medically inappropriate transplant of a part.

6. As used in this section:

a. "Anatomical gift" means the same as defined in section 142C.2.

b. "Disability" means the same as defined in the federal Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

2020 Acts, ch 1101, §1

CHAPTER 135A

PUBLIC HEALTH MODERNIZATION ACT

Legislative findings and intent; purpose;
2009 Acts, ch 182, §114, 126

135A.1	Short title.	135A.8	Governmental public health system fund.
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135A.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Public Health Modernization Act"*.

2009 Acts, ch 182, §115, 126

135A.2 Definitions.

As used in this chapter, unless the context otherwise requires, the following definitions apply:

1. *"Academic institution"* means an institution of higher education in the state which grants degrees in public health or another health-related field and is accredited by a nationally recognized accrediting agency as determined by the United States secretary of education. For purposes of this definition, *"accredited"* means a certification of the quality of an institution of higher education.

2. *"Department"* means the department of public health.

3. *"Designated local public health agency"* means an entity that is either governed by or contractually responsible to a local board of health and designated by the local board.

4. *"Governmental public health system"* means local boards of health, the state board of health, designated local public health agencies, the state hygienic laboratory, and the department.

5. *"Local board of health"* means the same as defined in section 137.102.

6. *"Organizational capacity"* means the governmental public health infrastructure that must be in place in order to deliver public health services.

7. *"Public health system"* means all public, private, and voluntary entities that contribute to the delivery of public health services within a jurisdiction.

2009 Acts, ch 182, §116, 126; 2016 Acts, ch 1026, §1; 2017 Acts, ch 148, §25; 2019 Acts, ch 85, §72

135A.3 Governmental public health system — lead agency.

1. The department is designated as the lead agency in this state to administer this chapter.

2. Such administration shall include evaluation of and quality improvement measures for the governmental public health system.

2009 Acts, ch 182, §117, 126; 2016 Acts, ch 1026, §2

135A.4 Governmental public health advisory council — legislative intent. Repealed by 2019 Acts, ch 85, §74.

135A.5 through 135A.7 Repealed by 2016 Acts, ch 1026, §6.

135A.8 Governmental public health system fund.

1. The department is responsible for the funding of the administrative costs for implementation of this chapter. A governmental public health system fund is created as a separate fund in the state treasury under the control of the department. The fund shall consist of moneys obtained from any source, including the federal government, unless otherwise prohibited by law or the entity providing the funding. Moneys deposited in the fund are appropriated to the department for the public health purposes specified in this chapter. Moneys in the fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Notwithstanding section 8.33, moneys in the governmental public health system fund at the end of the fiscal year shall not revert to any other fund but shall remain in the fund for subsequent fiscal years.

2. The fund is established to assist local boards of health and the department with the provision of governmental public health system organizational capacity and public health service delivery and to achieve and maintain voluntary accreditation. At least seventy percent of the funds shall be made available to local boards of health and up to thirty percent of the funds may be utilized by the department.

3. Moneys in the fund may be allocated by the department to a local board of health for organizational capacity and service delivery. Such allocation may be made on a matching, dollar-for-dollar basis for the acquisition of equipment, or by providing grants to achieve and maintain voluntary accreditation.

4. A local board of health seeking matching funds or grants under this section shall apply to the department. The state board of health shall adopt rules concerning the application and award process for the allocation of moneys in the fund and shall establish the criteria for the allocation of moneys in the fund if the moneys are insufficient to meet the needs of local boards of health.

2009 Acts, ch 182, §122, 126; 2016 Acts, ch 1026, §4

135A.9 Rules.

The state board of health shall adopt rules pursuant to chapter 17A to implement this chapter which shall include but are not limited to the following:

1. The application and award process for governmental public health system fund moneys.

2. Rules otherwise necessary to implement the chapter.

2009 Acts, ch 182, §123, 126; 2010 Acts, ch 1061, §29; 2016 Acts, ch 1026, §5; 2019 Acts, ch 85, §73

135A.10 Prohibited acts — fraudulently claiming accreditation — civil penalty. Repealed by 2016 Acts, ch 1026, §6.

135A.11 Implementation.

The department shall implement this chapter only to the extent that funding is available.

2009 Acts, ch 182, §125, 126

CHAPTER 135B

LICENSURE AND REGULATION OF HOSPITALS

Referred to in §8D.2, 8D.3, 8D.13, 10A.104, 21.5, 27.1, 97B.52A, 105.11, 125.2, 125.13, 125.43A, 135.131, 135C.5, 135H.6, 142C.2, 144A.7A, 144E.4, 147.138, 147A.21, 148G.3, 157.13, 225C.19A, 231B.16, 231C.17, 231D.16, 235A.15, 235B.6, 235E.2, 237.1, 237.4, 237A.1, 237C.1, 249L.2, 249M.2, 252A.2, 257.11, 257.41, 282.27, 331.382, 423.3, 455B.133, 476B.1, 505.8, 505.27, 514C.13, 519.1, 519A.2, 582.1, 614.1, 622.31, 686D.2, 714H.4

Abortion liability exculpation, chapter 146
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SUBCHAPTER I

GENERAL PROVISIONS

135B.1 Definitions.

As used in this chapter:

1. *"Department"* means the department of inspections and appeals.

2. *"Governmental unit"* means the state, or any county, municipality, or other political subdivision or any department, division, board or other agency of any of the foregoing.

3. *"Hospital"* means a place which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding twenty-four hours of two or more nonrelated individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding twenty-four hours of

obstetrical or other medical or nursing care for two or more nonrelated individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding twenty-four hours of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanatoriums or other related institutions within the meaning of this chapter. Provided, however, nothing in this chapter shall apply to hotels or other similar places that furnish only food and lodging, or either, to their guests or to a freestanding hospice facility which operates a hospice program in accordance with 42 C.F.R. §418. *"Hospital"* shall include, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to Pub. L. No. 79-725, 60 Stat. 1040, approved August 13, 1946.

4. *"Person"* means any individual, firm, partnership, corporation, company, association, or joint stock association; and includes any trustee, receiver, assignee or other similar representative thereof.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.1]

90 Acts, ch 1107, §1; 90 Acts, ch 1204, §2; 2006 Acts, ch 1010, §52

Referred to in §135.61, 135C.33, 135D.2, 139A.2, 142D.2, 144A.2, 144C.2, 144D.1, 144F.1, 147.136A, 152B.4, 233.1, 235E.1, 427.1(14)(a)

135B.2 Purpose.

The purpose of this chapter is to provide for the development, establishment and enforcement of basic standards for the care and treatment of individuals in hospitals and for the construction, maintenance and operation of such hospitals, which, in the light of existing knowledge, will promote safe and adequate treatment of such individuals in hospitals, in the interest of the health, welfare and safety of the public.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.2]

135B.3 Licensure.

No person or governmental unit, acting severally or jointly with any other person or governmental unit shall establish, conduct or maintain a hospital in this state without a license.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.3]

135B.4 Application for license.

Licenses shall be obtained from the department. Applications shall be upon forms and shall contain information as the department may reasonably require, which may include affirmative evidence of ability to comply with reasonable standards and rules prescribed under this chapter. Each application for license shall be accompanied by the license fee, which shall be refunded to the applicant if the license is denied and which shall be deposited into the state treasury and credited to the general fund if the license is issued. Hospitals having fifty beds or less shall pay an initial license fee of fifteen dollars; hospitals of more than fifty beds and not more than one hundred beds shall pay an initial license fee of twenty-five dollars; all other hospitals shall pay an initial license fee of fifty dollars.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.4]

90 Acts, ch 1204, §3

135B.5 Issuance and renewal of license.

1. Upon receipt of an application for license and the license fee, the department shall issue a license if the applicant and hospital facilities comply with this chapter, chapter 135, and the rules of the department. Each licensee shall receive annual reapproval upon payment of five hundred dollars and upon filing of an application form which is available from the department. The annual licensure fee shall be dedicated to support and provide educational programs on regulatory issues for hospitals licensed under this chapter. Licenses shall be either general or restricted in form. Each license shall be issued only for the premises and persons or governmental units named in the application and is not transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by rule of the department.

2. The provisions of this section shall not in any way affect, change, deny, or nullify any

rights set forth in or arising from the provisions of this chapter and particularly section 135B.7, arising before or after December 31, 1960.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.5]

90 Acts, ch 1204, §4; 2008 Acts, ch 1191, §48; 2018 Acts, ch 1062, §1; 2020 Acts, ch 1062, §24; 2020 Acts, ch 1103, §37, 51

135B.5A Conversion of a hospital.

A conversion of a long-term acute care hospital, rehabilitation hospital, or psychiatric hospital as defined by federal regulations to a general hospital or to a specialty hospital of a different type is a permanent change in bed capacity and shall require a certificate of need pursuant to section 135.63.

2018 Acts, ch 1062, §2

135B.6 Denial, suspension, or revocation of license — hearings and review.

1. The department may deny, suspend, or revoke a license in any case where it finds that there has been a substantial failure to comply with this chapter or the rules or minimum standards adopted pursuant to this chapter.

2. A denial, suspension, or revocation shall be effected by mailing to the applicant or licensee by certified mail, or by personal service of, a notice setting forth the particular reasons for the action. A denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or licensee, within the thirty-day period gives written notice to the department requesting a hearing, in which case the notice is suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department. At any time at or prior to hearing, the department may rescind the notice of denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of a hearing or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified, or set aside by the department. A copy of the decision, setting forth the finding of facts and the particular reasons for the decision shall be sent by certified mail, or served personally upon, the applicant or licensee.

3. The procedure governing hearings authorized by this section shall be in accordance with rules adopted by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135B.14. A copy or copies of the transcript may be obtained by an interested party on payment of the cost of preparing the copy or copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by rule.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.6]

90 Acts, ch 1204, §5; 2017 Acts, ch 54, §76

135B.7 Rules and enforcement.

1. *a.* The department, with the approval of the state board of health, shall adopt rules setting out the standards for the different types of hospitals to be licensed under this chapter. The department shall enforce the rules.

b. Rules or standards shall not be adopted or enforced which would have the effect of denying a license to a hospital or other institution required to be licensed, solely by reason of the school or system of practice employed or permitted to be employed by physicians in the hospital, if the school or system of practice is recognized by the laws of this state.

2. *a.* The rules shall state that a hospital shall not deny clinical privileges to physicians and surgeons, podiatric physicians, osteopathic physicians and surgeons, dentists, certified health service providers in psychology, physician assistants, or advanced registered nurse practitioners licensed under chapter 148, 148C, 149, 152, or 153, or section 154B.7, solely by reason of the license held by the practitioner or solely by reason of the school or institution in which the practitioner received medical schooling or postgraduate training if the medical schooling or postgraduate training was accredited by an organization recognized by the

council on higher education accreditation or an accrediting group recognized by the United States department of education.

b. A hospital may establish procedures for interaction between a patient and a practitioner. The rules shall not prohibit a hospital from limiting, restricting, or revoking clinical privileges of a practitioner for violation of hospital rules, regulations, or procedures established under this paragraph, when applied in good faith and in a nondiscriminatory manner.

c. This subsection shall not require a hospital to expand the hospital's current scope of service delivery solely to offer the services of a class of providers not currently providing services at the hospital. This section shall not be construed to require a hospital to establish rules which are inconsistent with the scope of practice established for licensure of practitioners to whom this subsection applies.

d. This section shall not be construed to authorize the denial of clinical privileges to a practitioner or class of practitioners solely because a hospital has as employees of the hospital identically licensed practitioners providing the same or similar services.

3. The rules shall require that a hospital establish and implement written criteria for the granting of clinical privileges. The written criteria shall include but are not limited to consideration of all of the following:

a. The ability of an applicant for privileges to provide patient care services independently and appropriately in the hospital.

b. The license held by the applicant to practice.

c. The training, experience, and competence of the applicant.

d. The relationship between the applicant's request for the granting of privileges and the hospital's current scope of patient care services, as well as the hospital's determination of the necessity to grant privileges to a practitioner authorized to provide comprehensive, appropriate, and cost-effective services.

4. The department shall also adopt rules requiring hospitals to establish and implement protocols for responding to the needs of patients who are victims of domestic abuse, as defined in section 236.2.

5. The department shall also adopt rules requiring hospitals to establish and implement protocols for responding to the needs of patients who are victims of elder abuse, as defined in section 235F.1.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.7]

83 Acts, ch 101, §16; 85 Acts, ch 169, §1; 90 Acts, ch 1093, §1; 90 Acts, ch 1204, §6; 91 Acts, ch 218, §3; 93 Acts, ch 108, §1; 96 Acts, ch 1034, §68; 99 Acts, ch 42, §1; 2008 Acts, ch 1088, §88; 2009 Acts, ch 41, §45; 2014 Acts, ch 1107, §10; 2016 Acts, ch 1011, §35; 2020 Acts, ch 1103, §38, 51

Referred to in §135B.5

135B.7A Procedures — orders.

The department shall adopt rules that require hospitals to establish procedures for authentication of all verbal orders by a practitioner within a period not to exceed thirty days following a patient's discharge.

2001 Acts, ch 93, §1; 2007 Acts, ch 93, §1

135B.8 Effective date of rules.

Any hospital which is in operation at the time of promulgation of any applicable rules or minimum standards under this chapter shall be given a reasonable time, not to exceed one year from the date of such promulgation, within which to comply with such rules and minimum standards.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.8]

135B.9 Inspections and qualifications for hospital inspectors — protection and advocacy agency investigations.

1. The department shall make or cause to be made inspections as it deems necessary in

order to determine compliance with applicable rules. Hospital inspectors shall meet the following qualifications:

a. Be free of conflicts of interest. A hospital inspector shall not participate in an inspection or complaint investigation of a hospital in which the inspector or a member of the inspector's immediate family works or has worked within the last two years. For purposes of this paragraph, "*immediate family member*" means a spouse; natural or adoptive parent, child, or sibling; or stepparent, stepchild, or stepsibling.

b. Complete a yearly conflict of interest disclosure statement.

c. Biennially, complete a minimum of ten hours of continuing education pertaining to hospital operations including but not limited to quality and process improvement standards, trauma system standards, and regulatory requirements.

2. In the state resource centers and state mental health institutes operated by the department of human services, the designated protection and advocacy agency as provided in section 135C.2, subsection 4, shall have the authority to investigate all complaints of abuse and neglect of persons with developmental disabilities or mental illnesses if the complaints are reported to the protection and advocacy agency or if there is probable cause to believe that the abuse has occurred. Such authority shall include the examination of all records pertaining to the care provided to the residents and contact or interview with any resident, employee, or any other person who might have knowledge about the operation of the institution.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.9]

88 Acts, ch 1249, §1; 90 Acts, ch 1204, §7; 95 Acts, ch 51, §1; 2000 Acts, ch 1112, §51; 2010 Acts, ch 1177, §1

Referred to in §135C.37

135B.10 Hospital licensing board. Repealed by 2020 Acts, ch 1103, §45, 51.

135B.11 Functions of hospital licensing board — compensation. Repealed by 2020 Acts, ch 1103, §45, 51.

135B.12 Confidentiality.

The department's final findings or the final survey findings of the joint commission on the accreditation of health care organizations or the American osteopathic association with respect to compliance by a hospital with requirements for licensing or accreditation shall be made available to the public in a readily available form and place. Other information relating to a hospital obtained by the department which does not constitute the department's findings from an inspection of the hospital or the final survey findings of the joint commission on the accreditation of health care organizations or the American osteopathic association shall not be made available to the public, except in proceedings involving the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall remain confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees or agents involved in the investigation of the complaint.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.12]

88 Acts, ch 1249, §2; 90 Acts, ch 1204, §10; 91 Acts, ch 107, §2

135B.13 Annual report of department.

The department shall prepare and publish an annual report of its activities under this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.13]

90 Acts, ch 1204, §11

135B.14 Judicial review.

Judicial review of the action of the department may be sought in accordance with chapter 17A. Notwithstanding the terms of chapter 17A, the Iowa administrative procedure Act, petitions for judicial review may be filed in the district court of the county in which the

hospital is located or to be located, and the status quo of the petitioner or licensee shall be preserved pending final disposition of the matter in the courts.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.14]

90 Acts, ch 1204, §12

Referred to in §135B.6

135B.15 Penalties.

Any person establishing, conducting, managing, or operating any hospital without a license shall be guilty of a serious misdemeanor, and each day of continuing violation after conviction shall be considered a separate offense.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.15]

135B.16 Injunction.

Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.16]

135B.17 Construction.

1. This chapter is in addition to and not in conflict with chapter 235.

2. Provisions of this chapter in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.17]

83 Acts, ch 101, §17; 2004 Acts, ch 1086, §36

135B.18 County care facilities exempted.

The provisions of this chapter shall not apply to county care facilities established pursuant to chapter 347B and managed by the county board of supervisors.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.18]

135B.18A Universal newborn and infant hearing screening.

Beginning January 1, 2004, a birthing hospital as defined in section 135.131 shall comply with section 135.131 relating to universal newborn and infant hearing screening.

2003 Acts, ch 102, §2

SUBCHAPTER II

PATHOLOGY AND RADIOLOGY SERVICES IN HOSPITALS

135B.19 Title of subchapter.

This subchapter may be cited as the *"Pathology and Radiology Services in Hospitals Law"*.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.19]

2011 Acts, ch 34, §36; 2017 Acts, ch 54, §76

135B.20 Definitions.

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

1. *"Doctor"* shall mean any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

2. *"Employees"* as used in section 135B.24, and *"employment"* as used in section 135B.25, shall include and pertain to members of the religious order operating the hospital even though the relationship of employer and employee does not exist between such members and the hospital.

3. *"Hospital"* shall mean all hospitals licensed under this chapter.

4. *"Joint conference committee"* shall mean the joint conference committee as required by

the joint commission on accreditation of health care organizations or, in a hospital having no such committee, a similar committee, an equal number of which shall be members of the medical staff selected by the staff and an equal number of which shall be selected by the governing board of the hospital.

5. *"Technician"* shall mean technologist as well.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.20]

98 Acts, ch 1100, §16; 2008 Acts, ch 1088, §141; 2009 Acts, ch 133, §35; 2017 Acts, ch 54, §76; 2018 Acts, ch 1026, §47

135B.21 Functions of hospital.

The ownership, maintenance, and operation of the laboratory and X ray facilities under this subchapter are proper functions of a hospital.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.21]

2017 Acts, ch 54, §76; 2018 Acts, ch 1041, §43

135B.22 Character of services.

Pathology and radiology services performed in hospitals are the product of the joint contribution of hospitals, doctors and technicians but these services constitute medical services which must be performed by or under the direction and supervision of a doctor, and no hospital shall have the right, directly or indirectly, to direct, control or interfere with the professional medical acts and duties of the doctor in charge of the pathology or radiology facilities or of the technicians under the doctor's supervision. Nothing herein contained shall affect the rights of third parties as a result of negligence in the operation or maintenance of the aforesaid pathology and radiology facilities.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.22]

135B.23 Agreement with doctor.

Each hospital shall arrange for such services and for the direction and supervision of its pathology or radiology department by entering into either an oral or written agreement with a doctor who is a member of or acceptable to the hospital medical staff. Such doctor may or may not be a specialist. The department may be supervised and directed by a qualified member of the staff and specific services may be referred to a specialist, or the specialist may also direct and supervise the department as may be desired. Any contract so entered into shall be in accordance with the provisions of this subchapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.23]

2017 Acts, ch 54, §76

135B.24 Employees.

Unless the department is leased or unless the hospital and doctor mutually agree otherwise, technicians and other personnel, not including doctors, shall be employees of the hospital, subject to the rules of the hospital applicable to employees generally, but under the direction and supervision of the doctor in charge of the department as set forth elsewhere in this subchapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.24]

2017 Acts, ch 54, §76

Referred to in §135B.20

135B.25 Hiring and dismissal of technicians.

The doctor and hospital shall mutually agree upon the employment of any technicians necessary for the proper operation of said department and no technicians shall be dismissed from said employment without the mutual consent of the parties, provided, however, that in the event the hospital and doctor are unable mutually to agree upon the hiring or discharge or disciplining of any employee of said department, the matter shall be promptly submitted to the joint conference committee for final determination.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.25]

Referred to in §135B.20

135B.26 Compensation.

The contract between the hospital and doctor in charge of the laboratory or X ray facilities may contain any provision for compensation of each upon which they mutually agree. The contract may create the relationship of employer and employee between the hospital and the radiologist or pathologist. A percentage arrangement or a relationship of employer and employee between the hospital and the radiologist or pathologist is not unprofessional conduct on the part of the doctor or in violation of the statutes of this state upon the part of the hospital.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.26]

83 Acts, ch 27, §8

Referred to in §514B.32

135B.27 Admission agreement.

The hospital admission agreement signed by the patient or the patient's legal representative shall contain the following statement:

> Pathology and radiology services are medical services performed or supervised by doctors, and the personnel and facilities are or may be furnished by the hospital for said services. Charges for such services are or may be collected, however, by the hospital on behalf of said doctors pursuant to an agreement between said doctors and the hospital, and from said charges I consent that an agreed sum will be retained by the hospital in accordance with an existing agreement between the doctor and the hospital.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.27]

135B.28 Hospital bill.

1. The hospital bill shall properly include the charges for pathology and radiology services as long as the name of the doctor is stated and it fairly appears that the charge is for medical services.

2. The hospital bill shall also contain a statement substantially in the following form:

> The pathology and radiology charges are for medical services rendered by or under the direction of the doctor listed above and are collected by the hospital on behalf of the doctor, from which charges an agreed sum will be retained by the hospital in accordance with an existing agreement to which retention you consented at the time of your admission to the hospital.

3. Upon the effective date of regulations which may be adopted by the United States department of health and human services prohibiting combined billing by hospitals and hospital-based physicians under Tit. XVIII of the federal Social Security Act, the charges for all pathology and radiology services in a hospital, may upon the mutual agreement of the hospital, physician, and third-party payer, be billed separately, the hospital component of the charges being included in the hospital bill and the doctor component being billed by the doctor.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.28]

83 Acts, ch 27, §9; 2009 Acts, ch 41, §46

135B.29 Fees.

All fees to be charged by the doctors for pathology and radiology services shall be mutually agreed upon by the hospital and the doctor. In the event dispute shall arise between the parties the matter shall be submitted to the joint conference committee for final determination.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.29]

135B.30 Radiology and pathology fees.

Fees for radiology and pathology services must be paid for as medical and not hospital services. In all cases where payment is to be made by a corporation organized pursuant to

chapter 514, payment for radiology and pathology services shall be made by a medical service corporation and not by a hospital service corporation.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.30]

135B.31 Exceptions.

This subchapter is not intended and shall not affect in any way the obligation of public hospitals under chapter 347 or municipal hospitals to provide medical care or treatment to patients of certain entitlement, nor the operation by the state of mental or other hospitals authorized by law. This subchapter shall not in any way affect or limit the practice of dentistry or the practice of oral surgery by a dentist.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.31]

87 Acts, ch 233, §427; 2005 Acts, ch 167, §44, 66; 2017 Acts, ch 54, §76

135B.32 Construction.

Nothing in this subchapter shall deprive any hospital of its tax exempt or nonprofit status.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135B.32]

2018 Acts, ch 1026, §48

SUBCHAPTER III

TECHNICAL PLANNING ASSISTANCE

135B.33 Technical assistance — plan — grants.

1. Subject to availability of funds, the Iowa department of public health shall provide technical planning assistance to local boards of health and hospital governing boards to ensure access to hospital services in rural areas. The department shall encourage the local boards of health and hospital governing boards to adopt a long-term community health services and developmental plan including the following:

a. An analysis of demographic trends in the health facility services area, affecting health facility and health-facility-related health care utilizations.

b. A review of inpatient services currently provided, by type of service and the frequency of provision of that service, and the cost-effectiveness of that service.

c. An analysis of resources available in proximate health facilities and services that might be provided through alternative arrangements with such health facilities.

d. An analysis of cooperative arrangements that could be developed with other health facilities in the area that could assist those health facilities in the provision of services.

e. An analysis of community health needs, including long-term care, nursing facility care, pediatric and maternity services, and the health facilities' potential role in facilitating the provision of services to meet these needs.

f. An analysis of alternative uses for existing health facility space and real property, including use for community health-related and human service-related purposes.

g. An analysis of mechanisms to meet indigent patient care needs and the responsibilities for the care of indigent patients.

h. An analysis of the existing tax levying of the health facilities for patient care, on a per capita basis and per hospital patient basis, and projections on future needs for tax levying to continue for the provision of care.

2. Providers may cooperatively coordinate to develop one long-term community health services and developmental plan for a geographic area, provided the plan addresses the issues enumerated in this section.

3. The health facilities may seek technical assistance or apply for matching grant funds for the plan development. The department shall require compliance with subsection 1, paragraphs *"a"* through *"h"*, when the facility applies for matching grant funds.

86 Acts, ch 1200, §2; 90 Acts, ch 1039, §1; 2009 Acts, ch 41, §192

Referred to in §135.107

SUBCHAPTER IV

EMPLOYEE RECORD CHECKS

135B.34 Hospital employees — criminal history and abuse record checks — penalty.

1. *a.* Prior to employment of a person in a hospital, the hospital shall do one of the following:

(1) Request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state.

(2) Access the single contact repository to perform the required record checks.

b. (1) If a hospital accesses the single contact repository to perform the required record checks pursuant to paragraph *"a"*, the hospital may utilize a third-party vendor to perform a comprehensive preliminary background check and provisionally employ a person being considered for employment pending completion of the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, subject to all of the following:

(a) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, but the crime does not constitute a felony as defined in section 701.7 and is not a crime specified pursuant to chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712, or pursuant to section 726.3, 726.7, or 726.8.

(b) If the comprehensive preliminary background check determines the person being considered for employment does not have a record of founded child abuse or dependent adult abuse or if an exception pursuant to subsection 4 is applicable to the person.

(c) If the hospital has requested an evaluation in accordance with subsection 2, paragraph "*a*", to determine whether the crime warrants prohibition of the person's employment in the hospital.

(2) The provisional employment under this paragraph *"b"* may continue until such time as the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, are completed.

c. A hospital shall inform all persons prior to employment regarding the performance of the record checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. A hospital shall include the following inquiry in an application for employment:

> Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?

2. *a.* If it is determined that a person being considered for employment in a hospital has committed a crime, the department of public safety shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the hospital.

b. (1) If a person being considered for employment, other than employment involving the operation of a motor vehicle, has been convicted of a crime listed in subparagraph (2) but does not have a record of founded child or dependent adult abuse and the hospital has requested an evaluation in accordance with paragraph *"a"* to determine whether the crime warrants prohibition of the person's employment, the hospital may employ the person for not more than sixty calendar days pending completion of the evaluation.

(2) Subparagraph (1) applies to a crime that is a simple misdemeanor offense under section 123.47, and to a crime that is a first offense of operating a motor vehicle while intoxicated under section 321J.2, subsection 1.

c. If a department of human services child or dependent adult abuse record check shows that the person has a record of founded child or dependent adult abuse, the department of human services shall notify the hospital that upon the request of the hospital the department

of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of the person's employment in the hospital.

d. An evaluation performed under this subsection shall be performed in accordance with procedures adopted for this purpose by the department of human services.

e. (1) If a person owns or operates more than one hospital, and an employee of one of such hospitals is transferred to another such hospital without a lapse in employment, the hospital is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

(2) If the ownership of a hospital is transferred, at the time of transfer the record checks required by this section shall be performed for each employee for whom there is no documentation that such record checks have been performed. The hospital may continue to employ such employee pending the performance of the record checks and any related evaluation.

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. If the department of human services performs an evaluation for the purposes of this section, the department of human services has final authority in determining whether prohibition of the person's employment is warranted.

4. *a.* Except as provided in subsection 1, paragraph *"b"*, subsection 2, and paragraph *"b"* of this subsection, a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a hospital licensed under this chapter unless an evaluation has been performed by the department of human services.

b. A person with a criminal or abuse record who is or was employed by a hospital licensed under this chapter and is hired by another hospital shall be subject to the criminal history and abuse record checks required pursuant to subsection 1. However, if an evaluation was previously performed by the department of human services concerning the person's criminal or abuse record and it was determined that the record did not warrant prohibition of the person's employment and the latest record checks do not indicate a crime was committed or founded abuse record was entered subsequent to that evaluation, the person may commence employment with the other hospital in accordance with the department of human services' evaluation and an exemption from the requirements in paragraph *"a"* for reevaluation of the latest record checks is authorized. Otherwise, the requirements of paragraph *"a"* remain applicable to the person's employment. Authorization of an exemption under this paragraph *"b"* from requirements for reevaluation of the latest record checks by the department of human services is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department of human services shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this lettered paragraph *"b"* may be authorized, the subsequent employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

5. *a.* If a person employed by a hospital that is subject to this section is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the hospital

of such information within forty-eight hours of the criminal conviction or entry of the record of founded child or dependent adult abuse. The hospital shall act to verify the information within seven calendar days of notification. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the hospital to determine whether or not the person's employment is continued. The hospital may continue to employ the person pending the performance of an evaluation by the department of human services to determine whether prohibition of the person's employment is warranted. A person who is required by this subsection to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor.

b. If a hospital receives credible information, as determined by the hospital, that a person employed by the hospital has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment from a person other than the employee and the employee has not informed the hospital of such information within the period required under paragraph *"a"*, the hospital shall act to verify the credible information within seven calendar days of receipt of the credible information. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the hospital to determine whether or not the person's employment is continued.

c. The hospital may notify the county attorney for the county where the hospital is located of any violation or failure by an employee to notify the hospital of a criminal conviction or entry of an abuse record within the period required under paragraph *"a"*.

6. A hospital licensed in this state may access the single contact repository established by the department pursuant to section 135C.33 as necessary for the hospital to perform record checks of persons employed or being considered for employment by the hospital.

7. For the purposes of this section, *"comprehensive preliminary background check"* means the same as defined in section 135C.1.

2002 Acts, ch 1034, §1; 2008 Acts, ch 1187, §111; 2013 Acts, ch 21, §1, 2, 6, 7; 2014 Acts, ch 1026, §31; 2014 Acts, ch 1040, §1, 2; 2020 Acts, ch 1029, §1 – 3; 2021 Acts, ch 80, §68

Department of inspections and appeals to post list of third-party vendors eligible to conduct comprehensive preliminary background checks; 2020 Acts, ch 1029, §7

Subsection 7 amended

SUBCHAPTER V

PEDIATRIC CONGENITAL HEART SURGERY — DATA REPORTING — EDUCATION

135B.35 Pediatric congenital heart surgery — public reporting of data — patient education.

A hospital licensed under this chapter that provides pediatric congenital heart surgery shall do all of the following:

1. Participate in a qualified clinical data registry for thoracic surgery by providing all pediatric congenital heart surgery data required and consenting to public reporting of the data shared.

2. Provide information regarding how to access the national information provided in the qualified clinical data registry for thoracic surgery during an educational consultation with a parent or legal guardian of a pediatric patient for whom a congenital heart surgery procedure is recommended.

2019 Acts, ch 78, §1

CHAPTER 135C

HEALTH CARE FACILITIES

Referred to in §10A.104, 105.11, 135.63, 135G.4, 135H.6, 157.13, 225C.4, 225C.19A, 227.4, 229.21, 229.43, 230.32, 231B.16, 231C.17, 231D.16, 235E.2, 237.1, 237.4, 249.3, 249A.12, 249A.16, 257.11, 257.41, 331.382, 335.25, 414.22, 422.9, 423.3, 455B.505, 483A.24, 505.27, 514H.1, 519A.2, 622.31, 686D.2, 714H.4

Cost-related systems, §249.12
Case-mix, non-case mix, and special population nursing facility reimbursement methodology; 2017 Acts, ch 174, §31, 70; 2019 Acts, ch 85, §31; 2020 Acts, ch 1121, §1, 41; 2021 Acts, ch 182, §31, 39

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SUBCHAPTER I

GENERAL PROVISIONS

135C.1 Definitions.

1. *"Adult day services"* means adult day services as defined in section 231D.1 that are provided in a licensed health care facility.

2. *"Certified volunteer long-term care ombudsman"* means a volunteer long-term care ombudsman certified pursuant to section 231.45.

3. *"Comprehensive preliminary background check"* includes a criminal history check of all states in which the applicant has worked or resided over the seven-year period immediately prior to submitting an application for employment that is conducted by a third-party vendor.

4. *"Department"* means the department of inspections and appeals.

5. *"Direction"* means authoritative policy or procedural guidance for the accomplishment of a function or activity.

6. *"Director"* means the director of the department of inspections and appeals, or the director's designee.

7. *"Governmental unit"* means the state, or any county, municipality, or other political subdivision or any department, division, board or other agency of any of the foregoing.

8. *"Health care facility"* or *"facility"* means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with an intellectual disability.

9. *"House physician"* means a physician who has entered into a two-party contract with a health care facility to provide services in that facility.

10. *"Intermediate care facility for persons with an intellectual disability"* means an institution or distinct part of an institution with a primary purpose to provide health or rehabilitative services to three or more individuals, who primarily have an intellectual disability or a related condition and who are not related to the administrator or owner within the third degree of consanguinity, and which meets the requirements of this chapter and federal standards for intermediate care facilities for persons with an intellectual disability established pursuant to the federal Social Security Act, §1905(c)(d), as codified in 42 U.S.C. §1396d, which are contained in 42 C.F.R. pt. 483, subpt. D, §410 – 480.

11. *"Intermediate care facility for persons with mental illness"* means an institution, place, building, or agency designed to provide accommodation, board, and nursing care for a period exceeding twenty-four consecutive hours to three or more individuals, who primarily have mental illness and who are not related to the administrator or owner within the third degree of consanguinity.

12. *"Licensee"* means the holder of a license issued for the operation of a facility, pursuant to this chapter.

13. *"Mental illness"* means a substantial disorder of thought or mood which significantly impairs judgment, behavior, or the capacity to recognize reality or the ability to cope with the ordinary demands of life.

14. *"Nursing care"* means those services which can be provided only under the direction of a registered nurse or a licensed practical nurse.

15. *"Nursing facility"* means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services, including rehabilitative services, but which is not engaged primarily in providing treatment or care for mental illness or an intellectual disability, for a period exceeding twenty-four consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

16. *"Office of long-term care ombudsman"* means the office of long-term care ombudsman established pursuant to section 231.42.

17. *"Person"* means any individual, firm, partnership, corporation, company, association or joint stock association; and includes trustee, receiver, assignee or other similar representative thereof.

18. *"Physician"* has the meaning assigned that term by section 135.1, subsection 4.

19. *"Rehabilitative services"* means services to encourage and assist restoration of optimum mental and physical capabilities of the individual resident of a health care facility.

20. *"Residential care facility"* means any institution, place, building, or agency providing for a period exceeding twenty-four consecutive hours accommodation, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis or who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis if home and community-based services, other than nursing care, as defined by this chapter and departmental rule, are provided. For the purposes of this definition, the home and community-based services to be provided are limited to the type included under the medical assistance program provided pursuant to chapter 249A, are subject to cost limitations established by the department of human services under the medical assistance program, and except as otherwise provided by the department of inspections and appeals with the concurrence of the department of human services, are limited in capacity to the number of licensed residential care facilities and the number of licensed residential care facility beds in the state as of December 1, 2003.

21. *"Resident"* means an individual admitted to a health care facility in the manner prescribed by section 135C.23.

22. *"Respite care services"* means an organized program of temporary supportive care provided for twenty-four hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person.

23. *"Social services"* means services relating to the psychological and social needs of the individual in adjusting to living in a health care facility, and minimizing stress arising from that circumstance.

24. *"State long-term care ombudsman"* means the state long-term care ombudsman appointed pursuant to section 231.42.

25. *"Supervision"* means direct oversight and inspection of the act of accomplishing a function or activity.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.1]

87 Acts, ch 194, §1; 90 Acts, ch 1039, §2 – 5; 94 Acts, ch 1151, §1; 96 Acts, ch 1129, §24; 2001 Acts, ch 64, §2; 2003 Acts, ch 165, §18; 2004 Acts, ch 1085, §1, 11; 2012 Acts, ch 1019, §11; 2013 Acts, ch 18, §5; 2013 Acts, ch 90, §26; 2020 Acts, ch 1029, §4

Referred to in §80.5, 100.1, 100.35, 124.501, 135.61, 135.63, 135B.34, 135C.6, 135M.2, 139A.2, 142D.2, 144C.2, 144D.1, 144F.1, 147.136A, 148A.3, 152.1, 152.5A, 231.4, 232.69, 233.1, 235E.1, 237A.5, 237C.1, 249.3, 249A.3, 249A.18A, 249A.21, 249A.30A, 249K.2, 249L.2, 347.14, 347.26, 419.1, 427.1(14)(a), 427.9, 441.21, 514D.5, 692A.114, 692A.115, 726.7

135C.2 Purpose — rules — special classifications — protection and advocacy agency.

1. The purpose of this chapter is to promote and encourage adequate and safe care and housing for individuals who are aged or who, regardless of age, are infirm, convalescent, or mentally or physically dependent, by both public and private agencies by providing for the adoption and enforcement of rules and standards:

a. For the housing, care, and treatment of individuals in health care facilities, and

b. For the location, construction, maintenance, renovation, and sanitary operation of such health care facilities which will promote safe and adequate care of individuals in such homes so as to further the health, welfare, and safety of such individuals.

2. Rules and standards prescribed, promulgated, and enforced under this chapter shall not be arbitrary, unreasonable, or confiscatory and the department or agency prescribing, promulgating, or enforcing such rules or standards shall have the burden of proof to establish that such rules or standards meet such requirements and are consistent with the economic problems and conditions involved in the care and housing of persons in health care facilities.

3. *a.* The department shall establish by administrative rule the following special classifications:

(1) Within the residential care facility category, a special license classification for residential facilities intended to serve persons with mental illness.

(2) Within the nursing facility category, a special license classification for nursing facilities which designate and dedicate the facility or a special unit within the facility to provide care for persons who suffer from chronic confusion or a dementing illness. A nursing facility which designates and dedicates the facility or a special unit within the facility for the care of persons who suffer from chronic confusion or a dementing illness shall be specially licensed. For the purposes of this subsection, *"designate"* means to identify by a distinctive title or label and *"dedicate"* means to set apart for a definite use or purpose and to promote that purpose.

b. The department may also establish by administrative rule special classifications within the residential care facility, intermediate care facility for persons with mental illness, intermediate care facility for persons with an intellectual disability, or nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition. The rules may grant special variances or considerations to facilities licensed within the special classification.

c. The rules adopted for intermediate care facilities for persons with an intellectual disability shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with an intellectual disability established pursuant to the federal Social Security Act, §1905(c)(d), as codified in 42 U.S.C. §1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with an intellectual disability to be licensed, the state fire marshal must certify to the department that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies or residential board and care occupancies of the life safety code of the national fire protection association, 2000 edition. The department shall adopt additional rules for intermediate care facilities for persons with an intellectual disability pursuant to section 135C.14, subsection 8.

d. Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for persons with an intellectual disability, the department shall consider the federal interpretive guidelines issued by the federal centers for Medicare and Medicaid services when interpreting the department's rules for intermediate care facilities for persons with an intellectual disability. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

4. The protection and advocacy agency designated in the state, under Pub. L. No. 98-527, the Developmental Disabilities Act of 1984, Pub. L. No. 99-319, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and Pub. L. No. 100-146, the federal Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, is recognized as an agency legally authorized and constituted to ensure the implementation of the purposes of this chapter for populations under its authority and in the manner designated by Pub. L. No. 98-527, Pub. L. No. 99-319, and Pub. L. No. 100-146 and in the assurances of the governor of the state.

5. The department shall establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with an intellectual disability, chronic mental illness, a developmental disability, or brain injury, as described under section 225C.26, and which contain five or fewer residents. A facility within the special classification established pursuant to this subsection is exempt from the requirements of section 135.63. The department shall adopt rules which are consistent with rules previously developed for the waiver demonstration project pursuant to 1986 Iowa Acts, ch. 1246, §206, and which include all of the following provisions:

a. A facility provider under the special classification must comply with rules adopted by the department for the special classification. However, a facility provider which has been accredited by the council on quality and leadership shall be deemed to be in compliance with the rules adopted by the department.

b. A facility must be located in an area zoned for single or multiple-family housing or in an unincorporated area and must be constructed in compliance with applicable local requirements and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. Local requirements shall not be more restrictive than the rules adopted for the special classification by the state fire marshal and the state building code requirements for single or multiple-family housing, under section 103A.7.

c. Facility provider plans for the facility's accessibility to residents must be in place.

d. A written plan must be in place which documents that a facility meets the needs of the facility's residents pursuant to individual program plans developed according to age appropriate and least restrictive program requirements.

e. A written plan must be in place which documents that a facility's residents have reasonable access to employment or employment-related training, education, generic community resources, and integrated opportunities to promote interaction with the community.

f. The facilities licensed under this subsection shall be eligible for funding utilized by other licensed residential care facilities for persons with an intellectual disability, or licensed residential care facilities for persons with mental illness, including but not limited to funding under or from the federal social services block grant, the state supplementary assistance program, state mental health and developmental disabilities services funds, and county funding provisions.

6. *a.* This chapter shall not apply to adult day services provided in a health care facility. However, adult day services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

b. The level of care certification provisions pursuant to sections 135C.3 and 135C.4, the license application and fee provisions pursuant to section 135C.7, and the involuntary discharge provisions pursuant to section 135C.14, subsection 8, shall not apply to respite care services provided in a health care facility. However, respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

c. The department shall adopt rules to implement this subsection.

7. The rules adopted by the department regarding nursing facilities shall provide that a nursing facility may choose to be inspected either by the department or by the joint commission on accreditation of health care organizations. The rules regarding acceptance of inspection by the joint commission on accreditation of health care organizations shall include recognition, in lieu of inspection by the department, of comparable inspections and inspection findings of the joint commission on accreditation of health care organizations, if the department is provided with copies of all requested materials relating to the inspection process.

[C50, 54, §135C.5; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.2]

85 Acts, ch 114, §1; 87 Acts, ch 234, §426; 88 Acts, ch 1249, §3; 89 Acts, ch 115, §1; 89 Acts, ch 269, §1; 90 Acts, ch 1039, §6; 90 Acts, ch 1267, §27; 91 Acts, ch 267, §139; 92 Acts, ch 1241, §48; 94 Acts, ch 1151, §2, 3; 94 Acts, ch 1170, §7, 22; 95 Acts, ch 67, §11; 96 Acts, ch 1053, §1; 96 Acts, ch 1129, §25, 26, 113; 98 Acts, ch 1119, §12; 99 Acts, ch 141, §11; 2001 Acts, ch 64, §3; 2002 Acts, ch 1050, §17; 2003 Acts, ch 44, §114; 2003 Acts, ch 101, §1, 4; 2012 Acts, ch 1019, §12 – 14; 2013 Acts, ch 30, §32; 2014 Acts, ch 1026, §143

Referred to in §135B.9, 135C.37, 135C.38, 155.1, 235A.15, 235B.6, 235F.6

Rules requiring special license classification for facility or unit designated and dedicated to caring for persons with chronic confusion or a dementing illness; applicability; existing facilities; 90 Acts, ch 1016, §1

Subsection 7 is effective contingent upon passage of federal legislation; see 96 Acts, ch 1053, §3

135C.3 Nature of care.

1. A licensed nursing facility shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed nurse. Medical and nursing services must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the nursing facility must be based

on a physician's written order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing. The nursing facility is not required to admit an individual through court order, referral, or other means without the express prior approval of the administrator of the nursing facility.

2. A licensed intermediate care facility for persons with mental illness shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed registered nurse, who has had at least two years of recent experience in a chronic or acute psychiatric setting. Medical and nursing service must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the intermediate care facility for persons with mental illness must be based on a physician's written order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.3]

90 Acts, ch 1039, §7; 96 Acts, ch 1129, §113; 2012 Acts, ch 1079, §3

Referred to in §135C.2, 347B.6

135C.4 Residential care facilities.

1. Each facility licensed as a residential care facility shall provide an organized continuous twenty-four-hour program of care commensurate with the needs of the residents of the home and under the immediate direction of a person approved and certified by the department whose combined training and supervised experience is such as to ensure adequate and competent care.

2. All admissions to residential care facilities shall be based on an order written by a physician certifying that the individual being admitted does not require nursing services or that the individual's need for nursing services can be avoided if home and community-based services, other than nursing care, as defined by this chapter and departmental rule, are provided.

3. For the purposes of this section, the home and community-based services to be provided shall be limited to the type included under the medical assistance program provided pursuant to chapter 249A, shall be subject to cost limitations established by the department of human services under the medical assistance program, and except as otherwise provided by the department of inspections and appeals with the concurrence of the department of human services, shall be limited in capacity to the number of licensed residential care facilities and the number of licensed residential care facility beds in the state as of December 1, 2003.

4. A residential care facility is not required to admit an individual through court order, referral, or other means without the express prior approval of the administrator of the residential care facility.

[C50, 54, §135C.9; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.4]

2004 Acts, ch 1085, §2, 11; 2012 Acts, ch 1079, §4

Referred to in §135C.2, 347B.6

135C.5 Limitations on use.

Another business or activity serving persons other than the residents of a health care facility may be operated or provided in a designated part of the physical structure of the health care facility if the other business or activity meets the requirements of applicable state and federal laws, administrative rules, and federal regulations. The department shall not limit the ability of a health care facility to operate or provide another business or activity in the designated part of the facility if the business or activity does not interfere with the use of the facility by the residents or with the services provided to the residents, and is not disturbing to the residents. In denying the ability of a health care facility to operate or provide another business or activity under this section, the burden of proof shall be on the department to demonstrate that the other business or activity substantially interferes with the use of the facility by the residents or the services provided to the residents, or is disturbing to the residents. The

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

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.5]

91 Acts, ch 241, §1; 2005 Acts, ch 126, §1

135C.6 License required — exemptions.

1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate a health care facility in this state without a license for the facility. A supported community living service, as defined in section 225C.21, is not required to be licensed under this chapter, but is subject to approval under section 225C.21 in order to receive public funding.

2. A health care facility suitable for separation and operation with distinct parts may, where otherwise qualified in all respects, be issued multiple licenses authorizing various parts of such facilities to be operated as health care facilities of different license categories.

3. No change in a health care facility, its operation, program, or services, of a degree or character affecting continuing licensure shall be made without prior approval thereof by the department. The department may by rule specify the types of changes which shall not be made without its prior approval.

4. No department, agency, or officer of this state or of any of its political subdivisions shall pay or approve for payment from public funds any amount or amounts to a health care facility under any program of state aid in connection with services provided or to be provided an actual or prospective resident in a health care facility, unless the facility has a current license issued by the department and meets such other requirements as may be in effect pursuant to law.

5. No health care facility established and operated in compliance with law prior to January 1, 1976, shall be required to change its corporate or business name by reason of the definitions prescribed in section 135C.1, provided that no health care facility shall at any time represent or hold out to the public or to any individual that it is licensed as, or provides the services of, a health care facility of a type offering a higher grade of care than such health care facility is licensed to provide. Any health care facility which, by virtue of this section, operates under a name not accurately descriptive of the type of license which it holds shall clearly indicate in any printed advertisement, letterhead, or similar material, the type of license or licenses which it has in fact been issued. No health care facility established or renamed after January 1, 1976, shall use any name indicating that it holds a different type of license than it has been issued.

6. A health care facility operated by and for the exclusive use of members of a religious order, which does not admit more than two individuals to the facility from the general public, may be operated without obtaining a license under this chapter and shall not be deemed to be licensed by the state.

7. A freestanding hospice facility which operates a hospice program in accordance with 42 C.F.R. §418 may be operated without obtaining a license under this chapter and shall not be deemed to be licensed by the state.

8. The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with an intellectual disability or other medical assistance program under chapter 249A. In approving a residential program under this paragraph, the department of human services shall consider

the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with an intellectual disability.

b. Not more than forty residential care facilities for persons with an intellectual disability that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with an intellectual disability. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph *"a"* except that the program shall not serve more than five individuals.

c. A residential program approved by the department of human services pursuant to this paragraph *"c"* to receive moneys appropriated to the department of human services under provisions of a federally approved home and community-based services habilitation or waiver program may provide care to not more than five individuals. The department shall approve a residential program under this paragraph that complies with all of the following conditions:

(1) Approval of the program will not result in an overconcentration of such programs in an area.

(2) The county in which the residential program is located submits to the department of human services a letter of support for approval of the program.

(3) The county in which the residential program is located provides to the department of human services verification in writing that the program is needed to address one or more of the following:

(a) The quantity of services currently available in the county is insufficient to meet the need.

(b) The quantity of affordable rental housing in the county is insufficient.

(c) Implementation of the program will cause a reduction in the size or quantity of larger congregate programs.

9. Contingent upon the department of human services receiving federal approval, a residential program which serves not more than eight individuals and is licensed as an intermediate care facility for persons with an intellectual disability may surrender the facility license and continue to operate under a federally approved medical assistance home and community-based services waiver for persons with an intellectual disability, if the department of human services has approved a plan submitted by the residential program.

10. Notwithstanding section 135C.9, nursing facilities which are accredited by the joint commission on accreditation of health care organizations shall be licensed without inspection by the department, if the nursing facility has chosen to be inspected by the joint commission on accreditation of health care organizations in lieu of inspection by the department.

[C50, 54, §135C.2; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.6]

85 Acts, ch 141, §2; 86 Acts, ch 1245, §1113; 90 Acts, ch 1107, §2; 92 Acts, ch 1043, §3; 96 Acts, ch 1053, §2; 97 Acts, ch 169, §18, 26; 98 Acts, ch 1181, §11, 14; 99 Acts, ch 160, §17; 2002 Acts, ch 1120, §1; 2003 Acts, ch 101, §2, 4; 2010 Acts, ch 1031, §390; 2012 Acts, ch 1019, §15, 16; 2012 Acts, ch 1138, §49; 2013 Acts, ch 23, §1; 2013 Acts, ch 30, §33

Referred to in §135.63, 135C.9

Subsection 10 is effective contingent upon passage of federal legislation; see 96 Acts, ch 1053, §3

135C.7 Application — fees.

1. Licenses shall be obtained from the department. Applications shall be upon such forms and shall include such information as the department may reasonably require, which may include affirmative evidence of compliance with such other statutes and local ordinances as may be applicable. Each application for license shall be accompanied by the annual license fee prescribed by this section, subject to refund to the applicant if the license is denied, which fee shall be paid over into the state treasury and credited to the general fund if the license is issued. There shall be an annual license fee based upon the bed capacity of the health care facility, as follows:

a. Ten beds or less, twenty dollars.

b. More than ten and not more than twenty-five beds, forty dollars.

c. More than twenty-five and not more than seventy-five beds, sixty dollars.

d. More than seventy-five and not more than one hundred fifty beds, eighty dollars.

e. More than one hundred fifty beds, one hundred dollars.

2. In addition to the license fees listed in this section, there shall be an annual assessment assessed to each licensee in an amount to cover the cost of independent reviewers provided pursuant to section 135C.42. The department shall, in consultation with licensees, establish the assessment amount by rule based on the award of a request for proposals. The assessment shall be retained by the department as a repayment receipt as defined in section 8.2 and used for the purpose of paying the cost of the independent reviewers.

[C50, 54, §135C.3, 135C.4; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.7]

2013 Acts, ch 140, §16

Referred to in §135C.2, 135C.8

135C.8 Scope of license.

Licenses for health care facilities shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the department, obtained prior to the purchase of the facility involved. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by regulation of the department. Such licenses, unless sooner suspended or revoked, shall expire one year after the date of issuance and shall be renewed annually upon an application by the licensee. Applications for such renewal shall be made in writing to the department, accompanied by the required fee, at least thirty days prior to the expiration of such license in accordance with regulations promulgated by the department. Health care facilities which have allowed their licenses to lapse through failure to make timely application for renewal of their licenses shall pay an additional fee of twenty-five percent of the annual license fee prescribed in section 135C.7.

[C50, 54, §135C.5; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.8]

Referred to in §135C.30

135C.9 Inspection before issuance — notice of deficiencies.

1. The department shall not issue a health care facility license to any applicant until:

a. The department has ascertained that the staff and equipment of the facility is adequate to provide the care and services required of a health care facility of the category for which the license is sought. Prior to the review and approval of plans and specifications for any new facility and the initial licensing under a new licensee, a resume of the programs and services to be furnished and of the means available to the applicant for providing the same and for meeting requirements for staffing, equipment, and operation of the health care facility, with particular reference to the professional requirements for services to be rendered, shall be submitted in writing to the department for review and approval. The resume shall be reviewed by the department within ten working days and returned to the applicant. The resume shall, upon the department's request, be revised as appropriate by the facility from time to time after issuance of a license.

b. The facility has been inspected by the state fire marshal or a deputy appointed by the fire marshal for that purpose, who may be a member of a municipal fire department, and the department has received either a certificate of compliance or a provisional certificate of compliance by the facility with the fire hazard and fire safety rules and standards of the department as promulgated by the fire marshal and, where applicable, the fire safety standards required for participation in programs authorized by either Tit. XVIII or Tit. XIX of the United States Social Security Act, codified at 42 U.S.C. §1395 – 1395ll and 1396 – 1396g. The certificate or provisional certificate shall be signed by the fire marshal or the fire marshal's deputy who made the inspection. If the state fire marshal or a deputy finds a deficiency upon inspection, the notice to the facility shall be provided in a timely manner and shall specifically describe the nature of the deficiency, identifying the Code section or subsection or the rule or standard violated. The notice shall also specify the time allowed

for correction of the deficiency, at the end of which time the fire marshal or a deputy shall perform a follow-up inspection.

2. The rules and standards promulgated by the fire marshal pursuant to subsection 1, paragraph *"b"* of this section shall be substantially in keeping with the latest generally recognized safety criteria for the facilities covered, of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima facie evidence. The rules and standards promulgated by the fire marshal shall be promulgated in consultation with the department and shall, to the greatest extent possible, be consistent with rules adopted by the department under this chapter.

3. The state fire marshal or the fire marshal's deputy may issue successive provisional certificates of compliance for periods of one year each to a facility which is in substantial compliance with the applicable fire hazard and fire safety rules and standards, upon satisfactory evidence of an intent, in good faith, by the owner or operator of the facility to correct the deficiencies noted upon inspection within a reasonable period of time as determined by the state fire marshal or the fire marshal's deputy. Renewal of a provisional certificate shall be based on a showing of substantial progress in eliminating deficiencies noted upon the last previous inspection of the facility without the appearance of additional deficiencies other than those arising from changes in the fire hazard and fire safety rules, regulations and standards which have occurred since the last previous inspection, except that substantial progress toward achievement of a good faith intent by the owner or operator to replace the entire facility within a reasonable period of time, as determined by the state fire marshal or the fire marshal's deputy, may be accepted as a showing of substantial progress in eliminating deficiencies, for the purposes of this section.

4. If a facility subject to licensure under this chapter, a facility exempt from licensure under this chapter pursuant to section 135C.6, or a family home under section 335.25 or 414.22, has been issued a certificate of compliance or a provisional certificate of compliance under subsection 1 or 3, or has otherwise been approved as complying with a rule or standard by the state or a deputy fire marshal or a local building department as defined in section 103A.3, the state or deputy fire marshal or local building department which issued the certificate, provisional certificate, or approval shall not apply additional requirements for compliance with the rule or standard unless the rule or standard is revised in accordance with chapter 17A or with local regulatory procedure following issuance of the certificate, provisional certificate, or approval.

[C50, 54, §135C.6; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.9]

97 Acts, ch 169, §19; 2001 Acts, ch 30, §1, 2; 2010 Acts, ch 1061, §180; 2015 Acts, ch 29, §24

Referred to in §135C.6, 135C.16

135C.10 Denial, suspension, or revocation.

The department shall have the authority to deny, suspend, or revoke a license in any case where the department finds that there has been repeated failure on the part of the facility to comply with the provisions of this chapter or the rules or minimum standards promulgated hereunder, or for any of the following reasons:

1. Cruelty or indifference to health care facility residents.

2. Appropriation or conversion of the property of a health care facility resident without the resident's written consent or the written consent of the resident's legal guardian.

3. Permitting, aiding, or abetting the commission of any illegal act in the health care facility.

4. Inability or failure to operate and conduct the health care facility in accordance with the requirements of this chapter and the minimum standards and rules issued pursuant thereto.

5. Obtaining or attempting to obtain or retain a license by fraudulent means, misrepresentation, or by submitting false information.

6. Habitual intoxication or addiction to the use of drugs by the applicant, manager or supervisor of the health care facility.

7. Securing the devise or bequest of the property of a resident of a health care facility by undue influence.

8. Willful failure or neglect to maintain a continuing in-service education and training program for all personnel employed in the facility.

9. In the case of an application for a new or newly acquired facility, continuing or repeated failure of the licensee to operate any previously licensed facility or facilities in compliance with the provisions of this chapter, the rules adopted pursuant to this chapter, or equivalent provisions that the facility is subject to in this state or any other state.

10. In the case of a license applicant or existing licensee which is an entity other than an individual, the department may deny, suspend, or revoke a license if any individual, who is in a position of control or is an officer of the entity, engages in any act or omission proscribed by this section.

11. Intentionally preventing or interfering with or attempting to prevent or interfere in any way with the performance by any duly authorized representative of the department of the lawful enforcement of this chapter or of the rules adopted pursuant to this chapter. As used in this subsection, *"lawful enforcement"* includes but is not limited to the following:

a. Contacting or interviewing any resident of a health care facility in private at any reasonable hour and without advance notice.

b. Examining any relevant books or records of a health care facility unless otherwise protected from disclosure by operation of law.

c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to this chapter.

[C50, 54, §135C.6; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.10]
90 Acts, ch 1204, §13; 2014 Acts, ch 1040, §3, 4; 2015 Acts, ch 80, §1
Referred to in §135C.12

135C.11 Notice — hearings.

1. The denial, suspension, or revocation of a license shall be effected by delivering to the applicant or licensee by certified mail or by personal service of a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or licensee, within such thirty-day period, shall give written notice to the department requesting a hearing, in which case the notice shall be deemed to be suspended. If a hearing has been requested, the applicant or licensee shall be given an opportunity for a prompt and fair hearing before the department. At any time at or prior to the hearing the department may rescind the notice of the denial, suspension, or revocation upon being satisfied that the reasons for the denial, suspension, or revocation have been or will be removed. On the basis of any such hearing, or upon default of the applicant or licensee, the determination involved in the notice may be affirmed, modified, or set aside by the department. A copy of such decision shall be sent by certified mail, or served personally upon the applicant or licensee. The applicant or licensee may seek judicial review pursuant to section 135C.13.

2. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135C.13. Copies of the transcript may be obtained by an interested party upon payment of the cost of preparing the copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the department's rules. The director may, after advising a representative of the office of long-term care ombudsman, either proceed in accordance with section 135C.30, or remove all residents and suspend the license or licenses of any health care facility, prior to a hearing, when the director finds that the health or safety of residents of the health care facility requires such action on an emergency basis.

[C50, 54, §135C.6; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.11]
99 Acts, ch 129, §1; 2013 Acts, ch 18, §6; 2014 Acts, ch 1040, §5
Referred to in §135C.30

135C.12 Conditional operation.

If the department has the authority under section 135C.10 to deny, suspend or revoke a license, the department or director may, as an alternative to those actions:

1. Apply to the district court of the county in which the licensee's health care facility is located for appointment by the court of a receiver for the facility pursuant to section 135C.30.

2. Conditionally issue or continue a license dependent upon the performance by the licensee of reasonable conditions within a reasonable period of time as set by the department so as to permit the licensee to commence or continue the operation of the health care facility pending full compliance with this chapter or the regulations or minimum standards promulgated under this chapter. If the licensee does not make diligent efforts to comply with the conditions prescribed, the department may, under the proceedings prescribed by this chapter, suspend or revoke the license. No health care facility shall be operated on a conditional license for more than one year.

3. The department, in evaluating corrections of deficiencies in a facility in receivership or operating on a conditional license, may determine what is satisfactory compliance, provided that in so doing it shall employ established criteria which shall be uniformly applied to all facilities of the same license category.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.12]

Referred to in §135C.30

For legislative intent regarding imposition of a conditional license if failure of full compliance will result in single class I citation that is not an immediate jeopardy; see 99 Acts, ch 199, §10

135C.13 Judicial review.

Judicial review of any action of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of chapter 17A, petitions for judicial review may be filed in the district court of the county where the facility or proposed facility is located, and pending final disposition of the matter the status quo of the applicant or licensee shall be preserved except when the director, after advising a representative of the office of long-term care ombudsman, determines that the health, safety, or welfare of the residents of the facility is in immediate danger, in which case the director may order the immediate removal of such residents.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.13]

99 Acts, ch 129, §2; 2003 Acts, ch 44, §114; 2013 Acts, ch 18, §7; 2014 Acts, ch 1040, §6

Referred to in §135C.11

135C.14 Rules.

The department shall, in accordance with chapter 17A and with the approval of the state board of health, adopt and enforce rules setting minimum standards for health care facilities. In so doing, the department, with the approval of the state board of health, may adopt by reference, with or without amendment, nationally recognized standards and rules, which shall be specified by title and edition, date of publication, or similar information. The rules and standards required by this section shall be formulated in consultation with the director of human services or the director's designee, with the state fire marshal, and with affected industry, professional, and consumer groups, and shall be designed to further the accomplishment of the purposes of this chapter and shall relate to:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions, which shall ensure the health, safety and comfort of residents and protection from fire hazards. The rules of the department relating to protection from fire hazards and fire safety shall be promulgated by the state fire marshal in consultation with the department, and shall be in keeping with the latest generally recognized safety criteria for the facilities covered of which the applicable criteria recommended and published from time to time by the national fire protection association are prima facie evidence. To the greatest extent possible, the rules promulgated by the state fire marshal shall be consistent with the rules adopted by the department under this chapter.

2. Number and qualifications of all personnel, including management and nursing personnel, having responsibility for any part of the care provided to residents.

3. All sanitary conditions within the facility and its surroundings including water supply,

sewage disposal, food handling, and general hygiene, which shall ensure the health and comfort of residents.

4. Diet related to the needs of each resident and based on good nutritional practice and on recommendations which may be made by the physician attending the resident.

5. Equipment essential to the health and welfare of the resident.

6. Requirements that a minimum number of registered or licensed practical nurses and nurses' aides, relative to the number of residents admitted, be employed by each licensed facility. Staff-to-resident ratios established under this subsection need not be the same for facilities holding different types of licenses, nor for facilities holding the same type of license if there are significant differences in the needs of residents which the respective facilities are serving or intend to serve.

7. Social services and rehabilitative services provided for the residents.

8. Facility policies and procedures regarding the treatment, care, and rights of residents. The rules shall apply the federal resident's rights contained in the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, and the regulations adopted pursuant to the Act and contained in 42 C.F.R. §483.10, 483.12, 483.13, and 483.15, as amended to February 2, 1989, to all health care facilities as defined in this chapter and shall include procedures for implementing and enforcing the federal rules. The department shall also adopt rules relating to the following:

a. The transfer of residents to other rooms within a facility.

b. The involuntary discharge or transfer of residents from a facility including provisions for notice and agency hearings and for the development of a patient discharge or transfer plan and for providing counseling services to a patient being discharged or transferred.

c. The required holding of a bed for a resident under designated circumstances upon payment of a prescribed charge for the bed.

d. The notification of the office of long-term care ombudsman by the department of all complaints relating to health care facilities and the involvement of the office of long-term care ombudsman in resolution of the complaints.

e. For the recoupment of funds or property to residents when the resident's personal funds or property have been used without the resident's written consent or the written consent of the resident's guardian.

f. The involuntary discharge of a resident of the Iowa veterans home including provisions for notice and agency hearings, the development of a resident discharge plan, and for providing counseling services to a resident being discharged. As used in this paragraph "*f*", "*collaborative care plan*" and "*interdisciplinary resident care committee*" mean as defined in section 35D.15, subsection 2. The rules shall provide that a resident shall be involuntarily discharged for any of the following reasons:

(1) (a) The resident has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the resident's conditional or provisional agreement entered into at the time of admission, and all of the following conditions are met:

(i) The resident has been provided sufficient notice of any changes in the resident's collaborative care plan.

(ii) The resident has been notified of the resident's commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

(A) Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

(B) By having been placed on probation by the Iowa veterans home for a second offense.

(b) Notwithstanding the resident's meeting the criteria for discharge under this subparagraph (1), if the resident has demonstrated progress toward the goals established in the resident's collaborative care plan, the interdisciplinary resident care committee and the commandant may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, a resident may be immediately discharged under this subparagraph (1) if the resident's actions or behavior jeopardizes the life or safety of other residents or staff.

(2) (a) The resident refuses to utilize the resources available to address issues identified in the resident's collaborative care plan, and all of the following conditions are met:

(i) The resident has been provided sufficient notice of any changes in the resident's collaborative care plan.

(ii) The resident has been notified of the resident's commission of three offenses and the resident has been placed on probation by the Iowa veterans home for a second offense.

(b) Notwithstanding the resident's meeting the criteria for discharge under this subparagraph (2), if the resident has demonstrated progress toward the goals established in the resident's collaborative care plan, the interdisciplinary resident care committee and the commandant may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the resident may be immediately discharged under this subparagraph (2) if the resident's actions or behavior jeopardizes the life or safety of other residents or staff.

(3) The resident's medical or life skills needs have been met to the extent possible through the services provided by the Iowa veterans home and the resident no longer requires a residential or nursing level of care, as determined by the interdisciplinary resident care committee.

(4) The resident requires a level of licensed care not provided at the Iowa veterans home.

[C50, 54, §135C.5; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.14; 81 Acts, ch 60, §1]

83 Acts, ch 96, §157, 159; 83 Acts, ch 101, §18; 89 Acts, ch 241, §1, 2; 90 Acts, ch 1204, §14; 99 Acts, ch 129, §3; 2001 Acts, ch 30, §3, 4; 2009 Acts, ch 62, §2; 2013 Acts, ch 18, §8; 2014 Acts, ch 1040, §7

Referred to in §35D.15, 135C.2, 135C.36

135C.15 Time to comply.

1. Any health care facility which is in operation at the time of adoption or promulgation of any applicable rules or minimum standards under this chapter shall be given reasonable time from the date of such promulgation to comply with such rules and minimum standards as provided for by the department. The director may grant successive thirty-day extensions of the time for compliance where evidence of a good faith attempt to achieve compliance is furnished, if the extensions will not place in undue jeopardy the residents of the facility to which the extensions are granted.

2. Renovation of an existing health care facility, not already in compliance with all applicable standards, shall be permitted only if the fixtures and equipment to be installed and the services to be provided in the renovated portion of the facility will conform substantially to current operational standards. Construction of an addition to an existing health care facility shall be permitted only if the design of the structure, the fixtures and equipment to be installed, and the services to be provided in the addition will conform substantially to current construction and operational standards.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.15]

135C.16 Inspections.

1. In addition to the inspections required by sections 135C.9 and 135C.38, the department shall make or cause to be made such further unannounced inspections as it deems necessary to adequately enforce this chapter. At least one general unannounced inspection shall be conducted for each health care facility within a thirty-month period. The inspector shall show identification to the person in charge of the facility and state that an inspection is to be made before beginning the inspection. An employee of the department who gives unauthorized advance notice of an inspection made or planned to be made under this subsection or section 135C.38 shall be disciplined as determined by the director, except that if the employee is employed pursuant to the merit system provisions of chapter 8A, subchapter IV, the discipline shall not exceed the discipline authorized pursuant to that subchapter.

2. *a.* The department shall prescribe by rule that any licensee or applicant for license desiring to make specific types of physical or functional alterations or additions to its facility or to construct new facilities shall, before commencing the alteration or additions or new construction, submit plans and specifications to the department for preliminary inspection and approval or recommendations with respect to compliance with the department's rules and standards.

b. When the plans and specifications have been properly approved by the department or other appropriate state agency, for a period of at least five years from completion of the construction or alteration, the facility or the portion of the facility constructed or altered in accord with the plans and specifications shall not be considered deficient or ineligible for licensing by reason of failure to meet any rule or standard established subsequent to approval of the plans and specifications.

c. When construction or alteration of a facility or portion of a facility has been completed in accord with plans and specifications submitted as required by this subsection and properly approved by the department or other appropriate state agency, and it is discovered that the facility or portion of a facility is not in compliance with a requirement of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, and the deficiency was apparent from the plans and specifications submitted but was not noted or objected to by the department or other appropriate state agency, the department or agency responsible for the oversight shall either waive the requirement or reimburse the licensee or applicant for any costs which are necessary to bring the new or reconstructed facility or portion of a facility into compliance with the requirement and which the licensee or applicant would not have incurred if the facility or portion of the facility had been constructed in compliance with the requirements of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted.

d. If within two years from the completion of the construction or alteration of the facility or portion thereof, a department or agency of the state orders that the new or reconstructed facility or portion thereof be brought into compliance with the requirements of this chapter or the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, the state shall have a claim for damages to the extent of any reimbursement paid to the licensee or applicant against any person who designed the facility or portion thereof for negligence in the preparation of the plans and specifications therefor, subject to all defenses based upon the negligence of the state in reviewing and approving those plans and specifications, but not thereafter.

e. The provisions of this subsection shall not apply where the deficiency presents a clear and present danger to the safety of the residents of the facility.

3. An authorized representative of the department may enter any licensed health care facility without a warrant, and may examine all records pertaining to the care provided residents of the facility. An authorized representative of the department may contact or interview any resident, employee, or any other person who might have knowledge about the operation of a health care facility. An authorized representative of the department of human services shall have the same right with respect to any facility where one or more residents are cared for entirely or partially at public expense, and an authorized representative of the designated protection and advocacy agency shall have the same right with respect to any facility where one or more residents have developmental disabilities or mental illnesses, and the state fire marshal or a deputy appointed pursuant to section 135C.9, subsection 1, paragraph *"b"*, shall have the same right of entry into any facility and the right to inspect any records pertinent to fire safety practices and conditions within that facility, and an authorized representative of the office of long-term care ombudsman shall have the same right with respect to any nursing facility or residential care facility. If any such authorized representative has probable cause to believe that any institution, building, or agency not licensed as a health care facility is in fact a health care facility as defined by this chapter, and upon producing identification that the individual is an authorized representative is denied entry thereto for the purpose of making an inspection, the authorized representative may, with the assistance of the county attorney of the county in which the purported health care facility is located, apply to the district court for an order requiring the owner or occupant

to permit entry and inspection of the premises to determine whether there have been any violations of this chapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.16; 82 Acts, ch 1065, §1]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1227, §1; 87 Acts, ch 234, §427; 90 Acts, ch 1204, §15; 92 Acts, ch 1242, §26; 2000 Acts, ch 1180, §1; 2003 Acts, ch 145, §187; 2009 Acts, ch 41, §47; 2014 Acts, ch 1040, §8

135C.16A Inspectors — conflicts of interest.

1. Any of the following circumstances disqualifies an inspector from inspecting a particular health care facility under this chapter:

a. The inspector currently works or, within the past two years, has worked as an employee or employment agency staff at the health care facility, or as an officer, consultant, or agent for the health care facility to be inspected.

b. The inspector has any financial interest or any ownership interest in the facility. For purposes of this paragraph, indirect ownership, such as through a broad-based mutual fund, does not constitute financial or ownership interest.

c. The inspector has an immediate family member who has a relationship with the facility as described in paragraph *"a"* or *"b"*.

d. The inspector has an immediate family member who currently resides in the facility.

2. For purposes of this section, *"immediate family member"* means the same as set forth in 42 C.F.R. §488.301, and includes a husband or wife; natural or adoptive parent, child, or sibling; stepparent, stepchild, or stepsibling; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; or grandparent or grandchild.

2009 Acts, ch 156, §1

135C.17 Duties of other departments.

It shall be the duty of the department of human services, state fire marshal, office of long-term care ombudsman, and the officers and agents of other state and local governmental units, and the designated protection and advocacy agency to assist the department in carrying out the provisions of this chapter, insofar as the functions of these respective offices and departments are concerned with the health, welfare, and safety of any resident of any health care facility. It shall be the duty of the department to cooperate with the protection and advocacy agency and the office of long-term care ombudsman by responding to all reasonable requests for assistance and information as required by federal law and this chapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.17]

83 Acts, ch 96, §157, 159; 87 Acts, ch 234, §428; 2014 Acts, ch 1040, §9

Referred to in §135C.21

135C.18 Employees.

The department may employ, pursuant to chapter 8A, subchapter IV, such assistants and inspectors as may be necessary to administer and enforce the provisions of this chapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.18]

2003 Acts, ch 145, §188

135C.19 Public disclosure of inspection findings — posting of citations.

1. Following an inspection of a health care facility by the department pursuant to this chapter, the department's final findings with respect to compliance by the facility with requirements for licensing shall be made available to the public in a readily available form and place. Other information relating to a health care facility obtained by the department which does not constitute the department's findings from an inspection of the facility shall not be made available to the public except in proceedings involving the citation of a facility for a violation under section 135C.40, or the denial, suspension, or revocation of a license under this chapter. The name of a person who files a complaint with the department shall be confidential.

2. *a.* A citation for a class I or class II violation which is issued to a health care facility and

which has become final, or a copy of the citation, shall be prominently posted as prescribed in rules, until the violation is corrected to the department's satisfaction. The citation or copy shall be posted in a place in plain view of the residents of the facility cited, persons visiting the residents, and persons inquiring about placement in the facility.

b. A copy of each citation required to be posted by this subsection shall be sent by the department to the department of human services, to the designated protection and advocacy agency if the facility has one or more residents with developmental disabilities or mental illness, and to the office of long-term care ombudsman if the facility is a nursing facility or residential care facility.

3. If the facility cited subsequently advises the department of human services that the violation has been corrected to the satisfaction of the department of inspections and appeals, the department of human services shall maintain this advisory in the same file with the copy of the citation. The department of human services shall not disseminate to the public any information regarding citations issued by the department of inspections and appeals, but shall forward or refer inquiries to the department of inspections and appeals.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.19]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1227, §2; 87 Acts, ch 234, §429; 90 Acts, ch 1039, §8; 90 Acts, ch 1204, §16, 17; 2009 Acts, ch 41, §263; 2014 Acts, ch 1040, §10

Referred to in §135C.40

135C.20 Information distributed.

The department shall prepare, publish and send to licensed health care facilities an annual report of its activities and operations under this chapter and such other bulletins containing fundamental health principles and data as may be deemed essential to assure proper operation of health care facilities, and publish for public distribution copies of the laws, standards and rules pertaining to their operation.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.20]

135C.20A Report cards — facility inspections — complaint procedures — availability to public — electronic access.

1. The department shall develop and utilize a report card system for the recording of the findings of any inspection of a health care facility. The report card shall include but is not limited to a summary of the findings of the inspection, any violation found, any enforcement action taken including any citations issued and penalties assessed, any actions taken to correct violations or deficiencies, and the nature and status of any action taken with respect to any uncorrected violation for which a citation was issued.

2. The report card form shall be developed by the department in cooperation with representatives of the department on aging, the state long-term care ombudsman, representatives of certified volunteer long-term care ombudsmen, representatives of protection and advocacy entities, consumers, and other interested persons.

3. The department shall make any completed report cards electronically accessible to the public, on a monthly basis, and shall compile the report cards on an annual basis and make the compilation electronically accessible to the public. The annual compilation shall also be available at the office of the department at the seat of government and shall be available to the public by mail, upon request and at the department's expense.

4. In addition to the monthly and annual compilations, the department shall provide compilations of the report cards on a cumulative basis. The cumulative compilation shall reflect the report cards of health care facilities during the four-year period prior to the production of the cumulative compilation. The cumulative compilation shall be applicable to a particular health care facility as a four-year report card history of that facility becomes available. The cumulative compilation shall be available to the public in the same manner as the annual compilation.

98 Acts, ch 1141, §1; 99 Acts, ch 129, §4; 2009 Acts, ch 23, §9; 2013 Acts, ch 18, §9

Referred to in §135C.20B

135C.20B Governor's award — quality care.

1. A governor's award for quality care is established, to be awarded annually by the

governor to a health care facility in the state which demonstrates provision of the highest quality care to residents.

2. The department shall adopt rules establishing the criteria to determine quality care. In developing the criteria, the department shall consult with the members of Iowa partners for resident care and shall also consider all of the following:

a. The report cards completed pursuant to section 135C.20A.

b. Any unique services provided by a facility to its residents to improve the quality of care in the facility.

c. Any information submitted by residents with regard to the quality of care of the facility.

d. Whether the facility accepts residents for whom costs of care are paid under chapter 249A.

99 Acts, ch 132, §1; 2013 Acts, ch 18, §10

135C.21 Penalties.

1. Any person establishing, conducting, managing, or operating any health care facility without a license shall be guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. Any such person establishing, conducting, managing or operating any health care facility without a license may be by any court of competent jurisdiction temporarily or permanently restrained therefrom in any action brought by the state.

2. Any person who prevents or interferes with or attempts to impede in any way any duly authorized representative of the department or of any of the agencies referred to in section 135C.17 in the lawful enforcement of this chapter or of the rules adopted pursuant to it is guilty of a simple misdemeanor. As used in this subsection, lawful enforcement includes but is not limited to:

a. Contacting or interviewing any resident of a health care facility in private at any reasonable hour and without advance notice.

b. Examining any relevant books or records of a health care facility.

c. Preserving evidence of any violation of this chapter or of the rules adopted pursuant to it.

[C50, 54, §135C.7; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.21]

135C.22 Applicable to governmental units.

The provisions of this chapter shall be applicable to institutions operated by or under the control of the department of human services, the state board of regents, or any other governmental unit.

[C50, 54, §135C.8; C58, 62, 66, 71, 73, 75, 77, 79, 81, §135C.22]

83 Acts, ch 96, §157, 159

135C.23 Express requirements for admission or residence.

No individual shall be admitted to or permitted to remain in a health care facility as a resident, except in accordance with the requirements of this section.

1. Each resident shall be covered by a contract executed at the time of admission or prior thereto by the resident, or the resident's legal representative, and the health care facility, except as otherwise provided by subsection 5 with respect to residents admitted at public expense to a county care facility operated under chapter 347B. Each party to the contract shall be entitled to a duplicate original thereof, and the health care facility shall keep on file all contracts which it has with residents and shall not destroy or otherwise dispose of any such contract for at least one year after its expiration. Each such contract shall expressly set forth:

a. The terms of the contract.

b. The services and accommodations to be provided by the health care facility and the rates or charges therefor.

c. Specific descriptions of any duties and obligations of the parties in addition to those required by operation of law.

d. Any other matters deemed appropriate by the parties to the contract. No contract or any provision thereof shall be drawn or construed so as to relieve any health care facility of any requirement or obligation imposed upon it by this chapter or any standards or rules in force pursuant to this chapter, nor contain any disclaimer of responsibility for injury to the resident, or to relatives or other persons visiting the resident, which occurs on the premises of the facility or, with respect to injury to the resident, which occurs while the resident is under the supervision of any employee of the facility whether on or off the premises of the facility.

2. *a.* A health care facility shall not knowingly admit or retain a resident:

(1) Who is dangerous to the resident or other residents.

(2) Who is in an acute stage of alcoholism, drug addiction, or mental illness.

(3) Whose condition or conduct is such that the resident would be unduly disturbing to other residents.

(4) Who is in need of medical procedures, as determined by a physician, or services which cannot be or are not being carried out in the facility.

b. This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for persons with mental illness, intermediate care facility for persons with an intellectual disability, nursing facility, or county care facility when the intermediate care facility for persons with mental illness, intermediate care facility for persons with an intellectual disability, nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for persons with mental illness, intermediate care facility for persons with an intellectual disability, nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for persons with mental illness, intermediate care facility for persons with an intellectual disability, nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and disability services commission created in section 225C.5, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for persons with mental illness, intermediate care facilities for persons with an intellectual disability, nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

c. The denial of admission of a person to a health care facility shall not be based upon the patient's condition, which is the existence of a specific disease in the patient, but the decision to accept or deny admission of a patient with a specific disease shall be based solely upon the ability of the health care facility to provide the level of care required by the patient.

3. Except in emergencies, a resident who is not essentially capable of managing the resident's own affairs shall not be transferred out of a health care facility or discharged for any reason without prior notification to the next of kin, legal representative, or agency acting on the resident's behalf. When such next of kin, legal representative, or agency cannot be reached or refuses to cooperate, proper arrangements shall be made by the facility for the welfare of the resident before the resident's transfer or discharge.

4. No owner, administrator, employee, or representative of a health care facility shall pay any commission, bonus, or gratuity in any form whatsoever, directly or indirectly, to any person for residents referred to such facility, nor accept any commission, bonus, or gratuity in any form whatsoever, directly or indirectly, for professional or other services or supplies purchased by the facility or by any resident, or by any third party on behalf of any resident, of the facility.

5. Each county which maintains a county care facility under chapter 347B shall develop a statement in lieu of, and setting forth substantially the same items as, the contracts required of other health care facilities by subsection 1. The statement must be approved by the county

board of supervisors and by the department. When so approved, the statement shall be considered in force with respect to each resident of the county care facility.

[C71, 73, 75, 77, 79, 81, §135C.23]

83 Acts, ch 76, §1; 87 Acts, ch 190, §1; 88 Acts, ch 1234, §9; 90 Acts, ch 1039, §9; 94 Acts, ch 1170, §23; 96 Acts, ch 1129, §113; 2004 Acts, ch 1090, §1; 2009 Acts, ch 41, §263; 2010 Acts, ch 1031, §389; 2012 Acts, ch 1019, §17

Referred to in §135C.1, 229.21, 331.382, 335.25, 347B.9, 414.22

135C.24 Personal property or affairs of patients or residents.

The admission of a resident to a health care facility and the resident's presence therein shall not in and of itself confer on such facility, its owner, administrator, employees, or representatives any authority to manage, use, or dispose of any property of the resident, nor any authority or responsibility for the personal affairs of the resident, except as may be necessary for the safety and orderly management of the facility and as required by this section.

1. No health care facility, and no owner, administrator, employee or representative thereof shall act as guardian, trustee or conservator for any resident of such facility, or any of such resident's property, unless such resident is related to the person acting as guardian within the third degree of consanguinity.

2. A health care facility shall provide for the safekeeping of personal effects, funds and other property of its residents, provided that whenever necessary for the protection of valuables or in order to avoid unreasonable responsibility therefor, the facility may require that they be excluded or removed from the premises of the facility and kept at some place not subject to the control of the facility.

3. A health care facility shall keep complete and accurate records of all funds and other effects and property of its residents received by it for safekeeping.

4. Any funds or other property belonging to or due a resident, or expendable for the resident's account, which are received by a health care facility shall be trust funds, shall be kept separate from the funds and property of the facility and of its other residents, or specifically credited to such resident, and shall be used or otherwise expended only for the account of the resident. Upon request the facility shall furnish the resident, the guardian, trustee or conservator, if any, for any resident, or any governmental unit or private charitable agency contributing funds or other property on account of any resident, a complete and certified statement of all funds or other property to which this subsection applies detailing the amounts and items received, together with their sources and disposition.

5. The provisions of this section notwithstanding, upon the verified petition of the county board of supervisors the district court may appoint the administrator of a county care facility as conservator or guardian, or both, of a resident of such county care facility, in accordance with the provisions of chapter 633. Such administrator shall serve as conservator or guardian, or both, without fee. The county attorney shall serve as attorney for the administrator in such conservatorship or guardianship, or both, without fee. The administrator may establish either separate or common bank accounts for cash funds of such resident wards.

[C71, 73, 75, 77, 79, 81, §135C.24]

Referred to in §331.382, 331.756(25)

135C.25 Resident advocate committee appointments — duties — disclosure — liability. Repealed by 2013 Acts, ch 18, §34.

135C.26 Director notified of casualties.

The director shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing major injury or death, and any fire or natural or other disaster occurring in a health care facility.

[C71, 73, 75, 77, 79, 81, §135C.26]

135C.27 Federal funds to implement program.

If the department's services are necessary in order to assist another governmental unit to implement a federal program, the department may accept in compensation for such services

federal funds initially available from the federal government to such other governmental unit for such purpose. Any governmental unit is authorized to transfer to the department for such services any federal funds available to such governmental unit, in accordance with applicable federal laws and regulations.

[C71, 73, 75, 77, 79, 81, §135C.27]

135C.28 Conflicting statutes.

Provisions of this chapter in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

[C73, 75, 77, 79, 81, §135C.28]

2004 Acts, ch 1086, §37

135C.29 License list to county commissioner of elections.

To facilitate the implementation of section 53.8, subsection 3 and section 53.22, the director shall provide to each county commissioner of elections at least annually a list of each licensed health care facility in that county. The list shall include the street address or location, and the mailing address if it is other than the street address or location, of each facility.

[C77, 79, 81, §135C.29]

Referred to in §53.8

135C.30 Operation of facility under receivership.

When so authorized by section 135C.11, subsection 2, or section 135C.12, subsection 1, the director may file a verified application in the district court of the county where a health care facility licensed under this chapter is located, requesting that an individual nominated by the director be appointed as receiver for the facility with responsibility to bring the operation and condition of the facility into conformity with this chapter and the rules or minimum standards promulgated under this chapter.

1. The court shall expeditiously hold a hearing on the application, at which the director shall present evidence in support of the application. The licensee against whose facility the petition is filed may also present evidence, and both parties may subpoena witnesses. The court may appoint a receiver for the health care facility in advance of the hearing if the director's verified application states that an emergency exists which presents an imminent danger of resultant death or physical harm to the residents of the facility. If the licensee against whose facility the receivership petition is filed informs the court at or before the time set for the hearing that the licensee does not object to the application, the court shall waive the hearing and at once appoint a receiver for the facility.

2. The court, on the basis of the verified application and evidence presented at the hearing, may order the facility placed under receivership, and if so ordered, the court shall direct either that the receiver assume the duties of administrator of the health care facility or that the receiver supervise the facility's administrator in conducting the day-to-day business of the facility. The receiver shall be empowered to control the facility's financial resources and to apply its revenues as the receiver deems necessary to the operation of the facility in compliance with this chapter and the rules or minimum standards promulgated under this chapter, but shall be accountable to the court for management of the facility's financial resources.

3. A receivership established under this section may be terminated by the district court which established it, after a hearing upon an application for termination. The application may be filed:

a. Jointly by the receiver and the current licensee of the health care facility which is in receivership, stating that the deficiencies in the operation, maintenance or other circumstances which were the grounds for establishment of the receivership have been corrected and that there are reasonable grounds to believe that the facility will be operated in compliance with this chapter and the rules or minimum standards promulgated under this chapter.

b. By the current licensee of the facility, alleging that termination of the receivership is

merited for the reasons set forth in paragraph *"a"* of this subsection, but that the receiver has declined to join in the petition for termination of the receivership.

c. By the receiver, stating that all residents of the facility have been relocated elsewhere and that there are reasonable grounds to believe it will not be feasible to again operate the facility on a sound financial basis and in compliance with this chapter and the rules or minimum standards promulgated under this chapter, and asking that the court approve surrender of the facility's license to the department and subsequent return of control of the facility's premises to the owners of the premises.

4. *a.* Payment of the expenses of a receivership established under this section is the responsibility of the facility for which the receiver is appointed, unless the court directs otherwise. The expenses include but are not limited to:

(1) Salary of the receiver.

(2) Expenses incurred by the facility for the continuing care of the residents of the facility.

(3) Expenses incurred by the facility for the maintenance of buildings and grounds of the facility.

(4) Expenses incurred by the facility in the ordinary course of business, such as employees' salaries and accounts payable.

b. The receiver is not personally liable for the expenses of the facility during the receivership. The receiver is an employee of the state as defined in section 669.2, subsection 4, only for the purpose of defending a claim filed against the receiver. Chapter 669 applies to all suits filed against the receiver.

5. This section does not:

a. Preclude the sale or lease of a health care facility, and the transfer or assignment of the facility's license in the manner prescribed by section 135C.8, while the facility is in receivership, provided these actions are not taken without approval of the receiver.

b. Affect the civil or criminal liability of the licensee of the facility placed in receivership, for any acts or omissions of the licensee which occurred before the receiver was appointed.

[C81, §135C.30]

84 Acts, ch 1136, §1; 91 Acts, ch 107, §3; 2009 Acts, ch 41, §263

Referred to in §135C.11, 135C.12

135C.31 Discharge of Medicaid patients.

A resident of a health care facility shall not be discharged solely because the cost of the resident's care is being paid under chapter 249A or because the resident's source of payment is changing from private support to payment under chapter 249A.

[81 Acts, ch 60, §2]

Referred to in §135C.36

135C.31A Assessment of residents — program eligibility — prescription drug coverage.

1. A health care facility shall assist the Iowa department of veterans affairs in identifying, upon admission of a resident, the resident's eligibility for benefits through the United States department of veterans affairs. The department of inspections and appeals, in cooperation with the department of human services, shall adopt rules to administer this section, including a provision that ensures that if a resident is eligible for benefits through the United States department of veterans affairs or other third-party payor, the payor of last resort for reimbursement to the health care facility is the medical assistance program. The rules shall also require the health care facility to request information from a resident or resident's personal representative regarding the resident's veteran status and to report to the Iowa department of veterans affairs only the names of residents identified as potential veterans along with the names of their spouses and any dependents. Information reported by the health care facility shall be verified by the Iowa department of veterans affairs. This section shall not apply to the admission of an individual to a state mental health institute for acute psychiatric care or to the admission of an individual to the Iowa veterans home.

2. *a.* If a resident is identified, upon admission to a health care facility, as eligible for benefits through the United States department of veterans affairs pursuant to subsection 1 or through other means, the health care facility shall allow the resident to access any

prescription drug benefit included in such benefits for which the resident is also eligible. The health care facility shall also assist the Iowa department of veterans affairs in identifying individuals residing in such health care facilities on July 1, 2009, who are eligible for the prescription drug benefit.

b. The department of inspections and appeals, the department of veterans affairs, and the department of human services shall identify any barriers to residents in accessing such prescription drug benefits and shall assist health care facilities in adjusting their procedures for medication administration to comply with this subsection.

2003 Acts, ch 112, §2; 2003 Acts, ch 179, §160; 2004 Acts, ch 1175, §226; 2005 Acts, ch 115, §28, 40; 2006 Acts, ch 1109, §1; 2009 Acts, ch 63, §1

135C.32 Hospice services covered by Medicare.

The requirement that the care of a resident of a health care facility must be provided under the immediate direction of either the facility or the resident's personal physician does not apply if all of the following conditions are met:

1. The resident is terminally ill.
2. The resident has elected to receive hospice services under the federal Medicare program from a Medicare certified hospice program.
3. The health care facility and the Medicare certified hospice program have entered into a written agreement under which the hospice program takes full responsibility for the professional management of the resident's hospice care and the facility agrees to provide room and board to the resident.

88 Acts, ch 1037, §1

135C.33 Employees and certified nurse aide trainees — child or dependent adult abuse information and criminal record check options — evaluations — application to other providers — penalty.

1. *a.* For the purposes of this section, the term *"crime"* does not include offenses under chapter 321 classified as a simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction.

b. Prior to employment of a person in a facility or with a provider as specified in subsection 5, the facility or provider shall do one of the following:

(1) Request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state.

(2) Access the single contact repository to perform the required record checks.

c. (1) If a facility or a provider as specified in subsection 5 accesses the single contact repository to perform the required record checks pursuant to paragraph *"b"*, the facility or provider may utilize a third-party vendor to perform a comprehensive preliminary background check and provisionally employ a person being considered for employment pending completion of the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, subject to all of the following:

(a) If the comprehensive preliminary background check determines that the person being considered for employment has been convicted of a crime, but the crime does not constitute a felony as defined in section 701.7 and is not a crime specified pursuant to chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712, or pursuant to section 726.3, 726.7, or 726.8.

(b) If the comprehensive preliminary background check determines the person being considered for employment does not have a record of founded child abuse or dependent adult abuse or if an exception pursuant to subsection 4 is applicable to the person.

(c) If the facility or provider has requested an evaluation in accordance with subsection 2, paragraph *"a"*, to determine whether the crime warrants prohibition of the person's employment in the facility or with the provider.

(2) The provisional employment under this paragraph *"c"* may continue until such time as the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, are completed.

d. A facility or provider shall inform all persons prior to employment regarding the performance of the record checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. A facility or provider shall include the following inquiry in an application for employment:

> Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under chapter 321 or equivalent provisions, in this state or any other state?

2. *a.* If it is determined that a person being considered for employment in a facility or with a provider has been convicted of a crime under a law of any state, the department of public safety shall notify the facility or provider that upon the request of the facility or provider the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the facility or with the provider.

b. (1) If a person being considered for employment, other than employment involving the operation of a motor vehicle, has been convicted of a crime listed in subparagraph (2) but does not have a record of founded child or dependent adult abuse and the facility or provider has requested an evaluation in accordance with paragraph "*a*" to determine whether the crime warrants prohibition of the person's employment, the facility or provider may employ the person for not more than sixty calendar days pending completion of the evaluation.

(2) Subparagraph (1) applies to a crime that is a simple misdemeanor offense under section 123.47, and to a crime that is a first offense of operating a motor vehicle while intoxicated under section 321J.2, subsection 1.

c. If a department of human services child or dependent adult abuse record check shows that such person has a record of founded child or dependent adult abuse, the department of human services shall notify the facility or provider that upon the request of the facility or provider the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the facility or with the provider.

d. An evaluation performed under this subsection shall be performed in accordance with procedures adopted for this purpose by the department of human services.

e. (1) If a person owns or operates more than one facility or a provider owns or operates more than one location, and an employee of one of such facilities or provider locations is transferred to another such facility or provider location without a lapse in employment, the facility or provider is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

(2) If the ownership of a facility or provider is transferred, at the time of transfer the record checks required by this section shall be performed for each employee for whom there is no documentation that such record checks have been performed. The facility or provider may continue to employ such employee pending the performance of the record checks and any related evaluation.

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. If the department of human services performs an evaluation for the purposes of this section, the department of human services has final authority in determining whether prohibition of the person's employment is warranted.

4. *a.* Except as provided in subsection 1, paragraph "*c*", subsection 2, and paragraph "*b*" of this subsection, a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a facility or with a provider unless an evaluation has been performed by the department of human services.

b. A person with a criminal or abuse record who is or was employed by a facility or provider and is hired by another facility or provider shall be subject to the criminal history and abuse record checks required pursuant to subsection 1. However, if an evaluation was previously performed by the department of human services concerning the person's criminal or abuse record and it was determined that the record did not warrant prohibition of the person's employment and the latest record checks do not indicate a crime was committed or founded abuse record was entered subsequent to that evaluation, the person may commence employment with the other facility or provider in accordance with the department of human services' evaluation and an exemption from the requirements in paragraph *"a"* for reevaluation of the latest record checks is authorized. Otherwise, the requirements of paragraph *"a"* remain applicable to the person's employment. Authorization of an exemption under this paragraph *"b"* from requirements for reevaluation of the latest record checks by the department of human services is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department of human services shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this paragraph *"b"* may be authorized, the subsequent employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

5. *a.* This section shall also apply to prospective employees of all of the following, if the provider is regulated by the state or receives any state or federal funding:

(1) An employee of a homemaker-home health aide, home care aide, adult day services, or other provider of in-home services if the employee provides direct services to consumers.

(2) An employee of a hospice, if the employee provides direct services to consumers.

(3) An employee who provides direct services to consumers under a federal home and community-based services waiver.

(4) An employee of an elder group home certified under chapter 231B, if the employee provides direct services to consumers.

(5) An employee of an assisted living program certified under chapter 231C, if the employee provides direct services to consumers.

b. In substantial conformance with the provisions of this section, including the provision authorizing provisional employment following completion of a comprehensive preliminary background check, prior to the employment of such an employee, the provider shall request the performance of the criminal and child and dependent adult abuse record checks. The provider shall inform the prospective employee and obtain the prospective employee's signed acknowledgment. The department of human services shall perform the evaluation of any criminal record or founded child or dependent adult abuse record and shall make the determination of whether a prospective employee of a provider shall not be employed by the provider.

6. *a.* This section shall also apply to an employee of a temporary staffing agency that provides staffing for a facility, service, program, or other provider regulated by this section if the employee provides direct services to consumers.

b. In substantial conformance with the provisions of this section, including the provision authorizing provisional employment following completion of a comprehensive preliminary background check, prior to the employment of such an employee, the temporary staffing agency shall request the performance of the criminal and child and dependent adult abuse record checks. The temporary staffing agency shall inform the prospective employee and obtain the prospective employee's signed acknowledgment. The department of human services shall perform the evaluation of any criminal record or founded child or dependent

adult abuse record and shall make the determination of whether a prospective employee of a temporary staffing agency shall not be employed by the assisted living program as defined in section 231C.2, the Medicare certified home health agency, or the facility, service, program, or other provider regulated by this section.

c. If a person employed by a temporary staffing agency that is subject to this section is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the temporary staffing agency within forty-eight hours and the temporary staffing agency shall inform the facility, service, program, or other provider within two hours.

d. If a temporary staffing agency fails to comply with the requirements of this section, the temporary staffing agency shall be liable to the facility, service, program, or other provider for any actual damages, including civil penalties, and reasonable attorney fees.

e. This section shall not apply to employees employed by a temporary staffing agency for a position that does not provide direct services to consumers.

7. *a.* The department of inspections and appeals, in conjunction with other departments and agencies of state government involved with criminal history and abuse registry information, shall establish a single contact repository for facilities and other providers to have electronic access to data to perform background checks for purposes of employment, as required of the facilities and other providers under this section.

b. The department may access the single contact repository for any of the following purposes:

(1) To verify data transferred from the department's nurse aide registry to the repository.

(2) To conduct record checks of applicants for employment with the department.

8. *a.* If a person employed by a facility, service, or program employer that is subject to this section is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within forty-eight hours of the criminal conviction or entry of the record of founded child or dependent adult abuse. The employer shall act to verify the information within seven calendar days of notification. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the employer to determine whether or not the person's employment is continued. The employer may continue to employ the person pending the performance of an evaluation by the department of human services to determine whether prohibition of the person's employment is warranted. A person who is required by this subsection to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor.

b. If a facility, service, or program employer receives credible information, as determined by the employer, that a person employed by the employer has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment from a person other than the employee and the employee has not informed the employer of such information within the period required under paragraph *"a"*, the employer shall act to verify the credible information within seven calendar days of receipt of the credible information. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied to determine whether or not the person's employment is continued.

c. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under paragraph *"a"*.

9. *a.* For the purposes of this subsection, unless the context otherwise requires:

(1) *"Certified nurse aide training program"* means a program approved in accordance with the rules for such programs adopted by the department of human services for the training of persons seeking to be a certified nurse aide for employment in any of the facilities or programs this section applies to or in a hospital, as defined in section 135B.1.

(2) *"Student"* means a person applying for, enrolled in, or returning to a certified nurse aide training program.

b. (1) Prior to a student beginning or returning to a certified nurse aide training program, the program shall do one of the following:

(a) Request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks, in this state, of the student.

(b) Access the single contact repository to perform the required record checks.

(2) If a program accesses the single contact repository to perform the required record checks pursuant to subparagraph (1), the program may utilize a third-party vendor to perform a comprehensive preliminary background check to allow a person to provisionally participate in the clinical component of the certified nurse aide training program pending completion of the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, subject to all of the following:

(a) If the comprehensive preliminary background check determines that the person being considered for provisional participation has been convicted of a crime but the crime does not constitute a felony as defined in section 701.7 and is not a crime specified pursuant to chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712, or pursuant to section 726.3, 726.7, or 726.8.

(b) If the comprehensive preliminary background check determines the person being considered for provisional participation does not have a record of founded child abuse or dependent adult abuse or if an exception pursuant to subsection 4 is applicable to the person.

(c) If the program has requested an evaluation in accordance with subsection 2, paragraph *"a"*, to determine whether the crime warrants prohibition of the person's provisional participation.

(d) The provisional participation under this subparagraph (2) may continue until such time as the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, are completed.

c. If a student has a criminal record or a record of founded child or dependent adult abuse, the student shall not be involved in a clinical education component of the certified nurse aide training program involving children or dependent adults unless an evaluation has been performed by the department of human services. Upon request of the certified nurse aide training program, the department of human services shall perform an evaluation to determine whether the record warrants prohibition of the student's involvement in a clinical education component of the certified nurse aide training program involving children or dependent adults. The evaluation shall be performed in accordance with the criteria specified in subsection 3, and the department of human services shall report the results of the evaluation to the certified nurse aide training program. The department of human services has final authority in determining whether prohibition of the student's involvement in the clinical education component is warranted.

d. (1) If a student's clinical education component of the training program involves children or dependent adults but does not involve operation of a motor vehicle, and the student has been convicted of a crime listed in subparagraph (2), but does not have a record of founded child or dependent adult abuse, and the training program has requested an evaluation in accordance with paragraph "*c*" to determine whether the crime warrants prohibition of the student's involvement in such clinical education component, the training program may allow the student's participation in the component for not more than sixty days pending completion of the evaluation.

(2) Subparagraph (1) applies to a crime that is a simple misdemeanor offense under section 123.47, and to a crime that is a first offense of operating a motor vehicle while intoxicated under section 321J.2, subsection 1.

e. (1) If a student is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the record checks and any evaluation have been performed, the student shall inform the certified nurse aide training program of such information within forty-eight hours of the criminal conviction or entry of the record of founded child or dependent adult abuse. The program shall act to verify the information within seven calendar days of notification. If the information is verified, the requirements of paragraph "*c*" shall be applied by the program to determine whether or not the student's involvement in a clinical education component may continue. The program may allow

the student involvement to continue pending the performance of an evaluation by the department of human services. A student who is required by this subparagraph to inform the program of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor.

(2) If a program receives credible information, as determined by the program, that a student has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after the record checks and any evaluation have been performed, from a person other than the student and the student has not informed the program of such information within the period required under subparagraph (1), the program shall act to verify the credible information within seven calendar days of receipt of the credible information. If the information is verified, the requirements of paragraph "*c*" shall be applied to determine whether or not the student's involvement in a clinical education component may continue.

(3) The program may notify the county attorney for the county where the program is located of any violation or failure by a student to notify the program of a criminal conviction or entry of an abuse record within the period required under subparagraph (1).

f. If a certified nurse aide training program is conducted by a health care facility and a student of that program subsequently accepts and begins employment with the facility within thirty days of completing the program, the criminal history and abuse registry checks of the student performed pursuant to this subsection shall be deemed to fulfill the requirements for such checks prior to employment pursuant to subsection 1.

94 Acts, ch 1130, §12; 97 Acts, ch 42, §1; 98 Acts, ch 1141, §2; 98 Acts, ch 1223, §20, 21; 99 Acts, ch 96, §11; 99 Acts, ch 114, §5; 2001 Acts, ch 8, §1; 2001 Acts, ch 20, §2, 3; 2001 Acts, ch 64, §4; 2002 Acts, ch 1050, §18; 2003 Acts, ch 166, §2; 2006 Acts, ch 1069, §1; 2008 Acts, ch 1187, §112; 2009 Acts, ch 133, §36; 2010 Acts, ch 1012, §1, 2; 2012 Acts, ch 1074, §1; 2013 Acts, ch 21, §3, 4, 6, 7; 2014 Acts, ch 1040, §11 – 14; 2015 Acts, ch 30, §58; 2017 Acts, ch 58, §1; 2020 Acts, ch 1029, §5

Referred to in §135B.34, 135C.36, 152.5A, 231B.2, 231C.3, 231D.14, 235A.15, 235A.16, 235B.6, 235B.7, 237A.5, 633.564

Legislative intent; 98 Acts, ch 1217, §36

Department of inspections and appeals to post list of third-party vendors eligible to conduct comprehensive preliminary background checks; 2020 Acts, ch 1029, §7

135C.34 Medication aide — certification.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow a person who is certified as a medication aide in another state to become certified in this state upon completion and passage of both the certified nurse aide and certified medication aide challenge examinations, without additional requirements for certification, including but not limited to, required employment in this state prior to certification. The department shall adopt rules pursuant to chapter 17A to administer this section.

94 Acts, ch 1036, §1

135C.35 Training of inspectors.

1. Subject to the availability of funding, all nursing facility inspectors shall receive twelve hours of annual continuing education in gerontology, wound care, dementia, falls, or a combination of these subjects.

2. An inspector shall not be personally liable for financing the training required under subsection 1.

3. The department shall consult with the collective bargaining representative of the inspector in regard to the training required under this section.

2009 Acts, ch 156, §2

SUBCHAPTER II

VIOLATIONS

135C.36 Violations classified — penalties.

Every violation by a health care facility of any provision of this chapter or of the rules adopted pursuant to it shall be classified by the department in accordance with this section. The department shall adopt and may from time to time modify, in accordance with chapter 17A, rules setting forth so far as feasible the specific violations included in each classification and stating criteria for the classification of any violation not so listed.

1. A class I violation is one which presents an imminent danger or a substantial probability of resultant death or physical harm to the residents of the facility in which the violation occurs. A physical condition or one or more practices in a facility may constitute a class I violation. A class I violation shall be abated or eliminated immediately unless the department determines that a stated period of time, specified in the citation issued under section 135C.40, is required to correct the violation. A licensee is subject to a penalty of not less than two thousand nor more than ten thousand dollars for each class I violation for which the licensee's facility is cited.

2. A class II violation is one which has a direct or immediate relationship to the health, safety, or security of residents of a health care facility, but which presents no imminent danger nor substantial probability of death or physical harm to them. A physical condition or one or more practices within a facility, including either physical abuse of any resident or failure to treat any resident with consideration, respect, and full recognition of the resident's dignity and individuality, in violation of a specific rule adopted by the department, may constitute a class II violation. A violation of section 135C.14, subsection 8, or section 135C.31 and rules adopted under those sections shall be at least a class II violation and may be a class I violation. A class II violation shall be corrected within a stated period of time determined by the department and specified in the citation issued under section 135C.40. The stated period of time specified in the citation may subsequently be modified by the department for good cause shown. A licensee is subject to a penalty of not less than one hundred nor more than five hundred dollars for each class II violation for which the licensee's facility is cited; however the director may, upon written request of the facility, waive the penalty if the violation is corrected within the time specified in the citation. The department shall adopt rules in accordance with chapter 17A establishing criteria for the granting or denial of a waiver request.

3. A class III violation is any violation of this chapter or of the rules adopted pursuant to it which violation is not classified in the department's rules nor classifiable under the criteria stated in those rules as a class I or a class II violation. A licensee shall not be subject to a penalty for a class III violation, except as provided by section 135C.40, subsection 1, for failure to correct the violation within a reasonable time specified by the department in the notice of the violation.

4. Any state penalty, including a fine or citation, issued following a state licensure and federal certification survey or investigation shall be dismissed if the corresponding federal deficiency is dismissed or removed. Any state penalty, including a fine or citation, shall be retained or reinstated if the federal deficiency is retained or reinstated.

5. If a facility self-identifies a deficient practice prior to an on-site visit inspection, there has been no complaint filed with the department related to that specific deficient practice, and the facility corrects such practice prior to an inspection, no citation shall be issued or fine assessed pursuant to subsection 2 or 3 except for those penalties arising pursuant to section 135C.33; 481 IAC 57.12(2)(d), 481 IAC 57.12(3), 481 IAC 57.15(5), 481 IAC 57.25(1), 481 IAC 57.39, 481 IAC 58.11(3), 481 IAC 58.14(5), 481 IAC 58.19(2)(a), 481 IAC 58.19(2)(h), 481 IAC 58.28(1)(a), 481 IAC 58.43, 481 IAC 62.9(5), 481 IAC 62.15(1)(a), 481 IAC 62.19(2)(c), 481 IAC 62.19(7), 481 IAC 62.23(23)-(25), 481 IAC 63.11(2)(d), 481 IAC 63.11(3), 481 IAC 63.23(1)(a), 481 IAC 63.37, 481 IAC 64.4(9), 481 IAC 64.33, 481 IAC 64.34, 481 IAC 65.9(5), 481 IAC 65.15, or 481 IAC 65.25(3)-(5), or the successor to any of such rules; or 42 C.F.R.

§483.420(d), 42 C.F.R. §483.460(c)(4), or 42 C.F.R. §483.470(j), or the successor to any of such federal regulations.

[C77, 79, 81, §135C.36; 81 Acts, ch 60, §3]

86 Acts, ch 1168, §1; 2009 Acts, ch 156, §3, 4; 2015 Acts, ch 29, §25; 2015 Acts, ch 80, §2

Referred to in §135C.40, 135C.41, 135C.44, 135C.44A, 249A.57

135C.37 Complaints alleging violations — confidentiality.

A person may request an inspection of a health care facility by filing with the department, certified volunteer long-term care ombudsman, or the office of long-term care ombudsman, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with a certified volunteer long-term care ombudsman or the office of long-term care ombudsman shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of the inspection. The name of the person who files a complaint with the department, certified volunteer long-term care ombudsman, or the office of long-term care ombudsman shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

[C77, 79, 81, §135C.37]

84 Acts, ch 1227, §3; 85 Acts, ch 186, §2; 89 Acts, ch 241, §3; 89 Acts, ch 321, §28; 91 Acts, ch 107, §4; 99 Acts, ch 129, §6; 2005 Acts, ch 45, §1; 2010 Acts, ch 1062, §1; 2013 Acts, ch 18, §11

Referred to in §135C.38, 135C.40, 135C.46, 135C.48

135C.38 Inspections upon complaints.

1. *a.* Upon receipt of a complaint made in accordance with section 135C.37, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, the department shall make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint within the time period determined pursuant to the following guidelines, which period shall commence on the date of receipt of the complaint:

(1) For nursing facilities, an on-site inspection shall be initiated as follows:

(a) Within two working days for a complaint determined by the department to be an alleged immediate jeopardy situation.

(b) Within ten working days for a complaint determined by the department to be an alleged high-level, nonimmediate jeopardy situation.

(c) Within forty-five calendar days for a complaint determined by the department to be an alleged nonimmediate jeopardy situation, other than a high-level situation.

(2) For all other types of health care facilities, an on-site inspection shall be initiated as follows:

(a) Within two working days for a complaint determined by the department to be an alleged immediate jeopardy situation.

(b) Within twenty working days for a complaint determined by the department to be an alleged high-level, nonimmediate jeopardy situation.

(c) Within forty-five calendar days for a complaint determined by the department to be an alleged nonimmediate jeopardy situation, other than a high-level situation.

b. The complaint investigation shall include, at a minimum, an interview with the complainant, the alleged perpetrator, and the victim of the alleged violation, if the victim is able to communicate, if the complainant, alleged perpetrator, or victim is identifiable, and if the complainant, alleged perpetrator, or victim is available. Additionally, witnesses who have knowledge of facts related to the complaint shall be interviewed, if identifiable and available. The names of witnesses may be obtained from the complainant or the victim. The

files of the facility may be reviewed to ascertain the names of staff persons on duty at the time relevant to the complaint. The department shall apply a preponderance of the evidence standard in determining whether or not a complaint is substantiated. For the purposes of this subsection, *"a preponderance of the evidence standard"* means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true. *"A preponderance of the evidence standard"* does not require that the investigator personally witnessed the alleged violation.

c. The department may refer to a representative of the office of long-term care ombudsman any complaint received by the department regarding a facility, for initial evaluation and appropriate action by the office of long-term care ombudsman.

2. *a.* The complainant shall be promptly informed of the result of any action taken by the department or the office of long-term care ombudsman in the matter. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness.

b. Upon conclusion of the investigation, the department shall notify the complainant of the results. The notification shall include a statement of the factual findings as determined by the investigator, the statutory or regulatory provisions alleged to have been violated, and a summary of the reasons for which the complaint was or was not substantiated.

c. The department shall mail the notification to the complainant without charge. Upon the request of the complainant, the department shall mail to the complainant, without charge, a copy of the most recent final findings regarding compliance with licensing requirements by the facility against which the complaint was filed.

d. A person who is dissatisfied with any aspect of the department's handling of the complaint may contact the office of long-term care ombudsman, or may contact the protection and advocacy agency designated pursuant to section 135C.2 if the complaint relates to a resident with a developmental disability or a mental illness.

3. An inspection made pursuant to a complaint filed under section 135C.37 need not be limited to the matter or matters included in the complaint. However, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection or unless in the course of the complaint investigation a violation is evident to the inspector. Upon arrival at the facility to be inspected, the inspector shall show identification to the person in charge of the facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department or a representative of the office of long-term care ombudsman, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of any resident of the facility to be inspected would otherwise be violated. The protection and dignity of the resident shall be given first priority by the inspector and others.

[C77, 79, 81, §135C.38]

87 Acts, ch 234, §430; 89 Acts, ch 241, §4; 91 Acts, ch 107, §5, 6; 99 Acts, ch 129, §7, 8; 2000 Acts, ch 1180, §2; 2007 Acts, ch 93, §2; 2010 Acts, ch 1062, §2; 2013 Acts, ch 18, §12 – 14; 2014 Acts, ch 1040, §15 – 18

Referred to in §135C.16, 135C.39

135C.39 No advance notice of inspection — exception.

No advance notice of an on-site inspection made pursuant to section 135C.38 shall be given the health care facility or the licensee thereof unless previously and specifically authorized in writing by the director or required by federal law. The person in charge of the facility shall be informed of the substance of the complaint at the commencement of the on-site inspection.

[C77, 79, 81, §135C.39]

89 Acts, ch 241, §5; 90 Acts, ch 1039, §10

Administrative penalty; see §135C.45A

135C.40 Citations when violations found — penalties — exception.

1. If the director determines, based on the findings of an inspection or investigation of a health care facility, that the facility is in violation of this chapter or rules adopted under this chapter, the director within five working days after making the determination, may issue a written citation to the facility. The citation shall be served upon the facility personally, by electronic mail, or by certified mail, except that a citation for a class III violation may be sent by ordinary mail. Each citation shall specifically describe the nature of the violation, identifying the Code section or subsection or the rule or standard violated, and the classification of the violation under section 135C.36. Where appropriate, the citation shall also state the period of time allowed for correction of the violation, which shall in each case be the shortest period of time the department deems feasible. Failure to correct a violation within the time specified, unless the licensee shows that the failure was due to circumstances beyond the licensee's control, shall subject the facility to a further penalty of fifty dollars for each day that the violation continues after the time specified for correction.

a. If a facility licensed under this chapter is subject to or will be subject to denial of payment including payment for Medicare or medical assistance under chapter 249A, or denial of payment for all new admissions pursuant to 42 C.F.R. §488.417, and submits a plan of correction relating to a statement of deficiencies or a response to a citation issued under rules adopted by the department and the department elects to conduct an on-site revisit inspection, the department shall commence the revisit inspection within the shortest time feasible of the date that the plan of correction is received, or the date specified within the plan of correction alleging compliance, whichever is later.

b. If the department recommends the issuance of federal remedies pursuant to 42 C.F.R. §488.406(a)(2) or (a)(3), relating to an inspection conducted by the department, the department shall issue the statement of deficiencies within twenty-four hours of the date that the centers for Medicare and Medicaid services of the United States department of health and human services was notified of the recommendation for the imposition of remedies.

c. The facility shall be provided an exit interview at the conclusion of an inspection and the facility representative shall be informed of all issues and areas of concern related to the deficient practices. The department may conduct the exit interview either in person or by telephone, and a second exit interview shall be provided if any additional issues or areas of concern are identified. The facility shall be provided two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. When a citation is served upon or mailed to a health care facility under subsection 1 and the licensee of the facility is not actually involved in the daily operation of the facility, a copy of the citation shall be mailed to the licensee. If the licensee is a corporation, a copy of the citation shall be sent to the corporation's office of record. If the citation was issued pursuant to an inspection resulting from a complaint filed under section 135C.37, a copy of the citation shall be sent to the complainant at the earliest time permitted by section 135C.19, subsection 1.

3. No health care facility shall be cited for any violation caused by any practitioner licensed pursuant to chapter 148 if that practitioner is not the licensee of and is not otherwise financially interested in the facility and the licensee or the facility presents evidence that reasonable care and diligence have been exercised in notifying the practitioner of the practitioner's duty to the patients in the facility.

[C77, 79, 81, §135C.40; 81 Acts, ch 61, §1]

84 Acts, ch 1227, §4; 2008 Acts, ch 1088, §89; 2009 Acts, ch 156, §5

Referred to in §135C.19, 135C.36, 135C.41, 135C.46

135C.40A Issuance of final findings.

The department shall issue the final findings of an inspection or investigation of a health care facility within ten working days after completion of the on-site inspection or investigation. The final findings shall be served upon the facility personally, by electronic mail, or by certified mail.

2009 Acts, ch 156, §6

Referred to in §135C.46

135C.41 Licensee's response to citation.

Within twenty business days after service of a citation under section 135C.40, a facility shall do one of the following:

1. If the facility does not desire to contest the citation, take one of the following actions:

a. Remit to the department the amount specified by the department pursuant to section 135C.36 as a penalty for each class I violation cited, and for each class II violation unless the citation specifically waives the penalty, which funds shall be paid by the department into the state treasury and credited to the general fund.

b. In the case of a class II violation for which the penalty has been waived in accordance with the standards prescribed in section 135C.36, subsection 2, or a class III violation, send to the department a written response acknowledging that the citation has been received and stating that the violation will be corrected within the specific period of time allowed by the citation.

2. If the facility desires to contest the citation, notify the director that the facility desires to contest the citation and do either of the following:

a. Request an informal conference with an independent reviewer pursuant to section 135C.42. Upon the conclusion of an informal conference, in the case of an affirmed or modified citation, the facility may request a contested case hearing in writing within five days after receipt of the written explanation of the independent reviewer.

b. Request a contested case hearing in the manner provided by chapter 17A for contested cases. The formal hearing shall be conducted in accordance with chapter 17A and rules adopted by the department.

[C77, 79, 81, §135C.41]

2009 Acts, ch 156, §7; 2010 Acts, ch 1069, §16; 2013 Acts, ch 26, §1, 7; 2014 Acts, ch 1092, §31; 2015 Acts, ch 80, §3

Referred to in §135C.42, 135C.43A, 135C.46

135C.42 Informal conference on contested citation.

1. The director shall provide an independent reviewer to hold an informal conference with the facility within ten working days after receipt of a request made under section 135C.41, subsection 2, paragraph "*a*". At the conclusion of the conference the independent reviewer may affirm or may modify or dismiss the citation. The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the director, and to the facility. If the facility does not desire to further contest an affirmed or modified citation, it shall comply with section 135C.41, subsection 1, within five working days after receipt of the written explanation of the independent reviewer.

2. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

3. An informal conference, as required in this section, shall be held concurrently with any informal dispute resolution held pursuant to 42 C.F.R. §488.331 for those health care facilities certified under Medicare or the medical assistance program.

[C77, 79, 81, §135C.42]

2013 Acts, ch 26, §2, 7; 2015 Acts, ch 80, §4; 2016 Acts, ch 1073, §59

Referred to in §135C.7, 135C.41, 135C.46

135C.43 Judicial review.

1. A facility which has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by chapter 17A.

2. Hearings on petitions for judicial review brought under this section shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other

cases except matters to which equal or superior precedence is specifically granted by law. The times for pleadings and for hearings in such actions shall be set by the judge of the court with the object of securing a decision in the matter at the earliest possible time.

[C77, 79, 81, §135C.43]

2009 Acts, ch 156, §8; 2010 Acts, ch 1069, §17; 2013 Acts, ch 26, §3, 7; 2015 Acts, ch 80, §5

135C.43A Reduction of penalty amount.

If a facility has been assessed a penalty, does not request a formal hearing pursuant to section 135C.41, subsection 2, paragraph *"b"*, or withdraws its request for a formal hearing within thirty days of the date that the penalty was assessed, and the penalty is paid within thirty days of the receipt of notice or service, the amount of the penalty shall be reduced by thirty-five percent. The citation which includes the civil penalty shall include a statement to this effect.

2009 Acts, ch 156, §9; 2015 Acts, ch 80, §6

135C.44 Treble fines for repeated violations.

The penalties authorized by section 135C.36 shall be trebled for a second or subsequent class I or class II violation occurring within any twelve-month period if a citation was issued for the same class I or class II violation occurring within that period and a penalty was assessed therefor.

[C77, 79, 81, §135C.44]

135C.44A Double fines for intentional violations.

The penalties authorized by section 135C.36 shall be doubled for each class I violation when the violation is due to an intentional act by the facility in violation of a provision of this chapter or a rule of the department.

2009 Acts, ch 156, §10

135C.45 Refund of penalty.

If at any time a contest or appeal of any citation issued a health care facility under this chapter results in an order or determination that a penalty previously paid to or collected by the department must be refunded to the facility, the refund shall be made from any money in the state general fund not otherwise appropriated.

[C77, 79, 81, §135C.45]

135C.45A Notification penalty.

A person who notifies, or causes to be notified, a health care facility, of the time and date on which a survey or on-site inspection of the facility is scheduled, is subject to an administrative penalty of not less than one thousand dollars and not more than two thousand dollars.

90 Acts, ch 1039, §11

135C.46 Retaliation by facility prohibited.

1. A facility shall not discriminate or retaliate in any way against a resident or an employee of the facility who has initiated or participated in any proceeding authorized by this chapter. A facility which violates this section is subject to a penalty of not less than two hundred fifty nor more than five thousand dollars, to be assessed and collected by the director in substantially the manner prescribed by sections 135C.40 through 135C.42 and paid into the state treasury to be credited to the general fund, or to immediate revocation of the facility's license.

2. Any attempt to expel from a health care facility a resident by whom or upon whose behalf a complaint has been submitted to the department under section 135C.37, within ninety days after the filing of the complaint or the conclusion of any proceeding resulting from the complaint, shall raise a rebuttable presumption that the action was taken by the licensee in retaliation for the filing of the complaint.

[C77, 79, 81, §135C.46]

2021 Acts, ch 80, §69

Subsection 1 amended

135C.47 Report listing licensees and citations. Repealed by 98 Acts, ch 1141, §3.

135C.48 Information about complaint procedure.
The department shall make a continuing effort to inform the general public of the appropriate procedure to be followed by any person who believes that a complaint against a health care facility is justified and should be made under section 135C.37.
[C77, 79, 81, §135C.48]

CHAPTER 135D
IOWA HEALTH INFORMATION NETWORK

135D.1 Short title.
135D.2 Definitions.
135D.3 Iowa health information network — findings and intent.
135D.4 Iowa health information network — principles — technical infrastructure requirements.
135D.5 Designated entity — administration and governance.
135D.6 Board of directors — composition — duties.
135D.7 Legal and policy — liability — confidentiality.

135D.1 Short title.
This chapter shall be known and may be cited as the *"Iowa Health Information Network Act"*.
2015 Acts, ch 73, §1, 9
Section is effective March 31, 2017; Code editor received notice from the Iowa department of public health that assumption of administration and governance of the Iowa health information network by the designated entity occurred on that date; 2015 Acts, ch 73, §9

135D.2 Definitions.
As used in this chapter, unless the context otherwise requires:
1. *"Board of directors"* or *"board"* means the entity that governs and administers the Iowa health information network.
2. *"Care coordination"* means the management of all aspects of a patient's care to improve health care quality.
3. *"Department"* means the department of public health.
4. *"Designated entity"* means the nonprofit corporation designated by the department through a competitive process as the entity responsible for administering and governing the Iowa health information network.
5. *"Exchange"* means the authorized electronic sharing of health information between health care professionals, payors, consumers, public health agencies, the designated entity, the department, and other authorized participants utilizing the Iowa health information network and Iowa health information network services.
6. *"Health care professional"* means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.
7. *"Health information"* means health information as defined in 45 C.F.R. §160.103 that is created or received by an authorized participant.
8. *"Health information technology"* means the application of information processing, involving both computer hardware and software, that deals with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication, decision making, quality, safety, and efficiency of clinical practice, and may include but is not limited to:
a. An electronic health record that electronically compiles and maintains health information that may be derived from multiple sources about the health status of an individual and may include a core subset of each care delivery organization's electronic medical record such as a continuity of care record or a continuity of care document, computerized physician order entry, electronic prescribing, or clinical decision support.

b. A personal health record through which an individual and any other person authorized by the individual can maintain and manage the individual's health information.

c. An electronic medical record that is used by health care professionals to electronically document, monitor, and manage health care delivery within a care delivery organization, is the legal record of the patient's encounter with the care delivery organization, and is owned by the care delivery organization.

d. A computerized provider order entry function that permits the electronic ordering of diagnostic and treatment services, including prescription drugs.

e. A decision support function to assist physicians and other health care providers in making clinical decisions by providing electronic alerts and reminders to improve compliance with best practices, promote regular screenings and other preventive practices, and facilitate diagnosis and treatments.

f. Tools to allow for the collection, analysis, and reporting of information or data on adverse events, the quality and efficiency of care, patient satisfaction, and other health care-related performance measures.

9. *"Health Insurance Portability and Accountability Act"* or *"HIPAA"* means the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder.

10. *"Hospital"* means a licensed hospital as defined in section 135B.1.

11. *"Interoperability"* means the ability of two or more systems or components to exchange information or data in an accurate, effective, secure, and consistent manner and to use the information or data that has been exchanged and includes but is not limited to:

a. The capacity to connect to a network for the purpose of exchanging information or data with other users.

b. The ability of a connected, authenticated user to demonstrate appropriate permissions to participate in the instant transaction over the network.

c. The capacity of a connected, authenticated user to access, transmit, receive, and exchange usable information with other users.

12. *"Iowa health information network"* or *"network"* means the statewide health information technology network that is the sole statewide network for Iowa pursuant to this chapter.

13. *"Iowa Medicaid enterprise"* means the centralized medical assistance program infrastructure, based on a business enterprise model, and designed to foster collaboration among all program stakeholders by focusing on quality, integrity, and consistency.

14. *"Participant"* means an authorized health care professional, payor, patient, health care organization, public health agency, or the department that has agreed to authorize, submit, access, or disclose health information through the Iowa health information network in accordance with this chapter and all applicable laws, rules, agreements, policies, and standards.

15. *"Patient"* means a person who has received or is receiving health services from a health care professional.

16. *"Payor"* means a person who makes payments for health services, including but not limited to an insurance company, self-insured employer, government program, individual, or other purchaser that makes such payments.

17. *"Protected health information"* means protected health information as defined in 45 C.F.R. §160.103 that is created or received by an authorized participant.

18. *"Public health activities"* means actions taken by a participant in its capacity as a public health authority under the Health Insurance Portability and Accountability Act or as required or permitted by other federal or state law.

19. *"Public health agency"* means an entity that is governed by or contractually responsible to a local board of health or the department to provide services focused on the health status of population groups and their environments.

20. *"Record locator service"* means the functionality of the Iowa health information network that queries data sources to locate and identify potential patient records.

2015 Acts, ch 73, §2, 9
Referred to in §125.37, 228.2, 249K.2
Section is effective March 31, 2017; Code editor received notice from the Iowa department of public health that assumption of administration and governance of the Iowa health information network by the designated entity occurred on that date; 2015 Acts, ch 73, §9

135D.3 Iowa health information network — findings and intent.

1. The general assembly finds all of the following:

a. Technology used to support health care-related functions is known as health information technology. Health information technology provides a mechanism to transform the delivery of health and medical care in Iowa and across the nation.

b. Health information technology is rapidly evolving to contribute to the goals of improving the experience of care, improving the health of populations, and reducing per capita costs of health care.

c. A health information network involves the secure electronic sharing of health information across the boundaries of individual practice and institutional health settings and with consumers. The broad use of health information technology and a health information network should improve health care quality and the overall health of the population, increase efficiencies in administrative health care, reduce unnecessary health care costs, and help prevent medical errors.

d. All health information technology efforts shall endeavor to represent the interests and meet the needs of consumers and the health care sector, protect the privacy of individuals and the confidentiality of individuals' information, promote best practices, and make information easily accessible to the members of the patient-centered care coordination team, including but not limited to patients, providers, and payors.

2. It is the intent of the general assembly that the Iowa health information network shall not constitute a health benefit network or a health insurance network.

2015 Acts, ch 73, §3, 9
Section is effective March 31, 2017; Code editor received notice from the Iowa department of public health that assumption of administration and governance of the Iowa health information network by the designated entity occurred on that date; 2015 Acts, ch 73, §9

135D.4 Iowa health information network — principles — technical infrastructure requirements.

1. The Iowa health information network shall be administered and governed by a designated entity using, at a minimum, the following principles:

a. Be patient-centered and market-driven.

b. Comply with established national standards.

c. Protect the privacy of consumers and the security and confidentiality of all health information.

d. Promote interoperability.

e. Increase the accuracy, completeness, and uniformity of data.

f. Preserve the choice of the patient to have the patient's health information available through the record locator service.

g. Provide education to the general public and provider communities on the value and benefits of health information technology.

2. Widespread adoption of health information technology is critical to a successful Iowa health information network and is best achieved when all of the following occur:

a. The network, through the designated entity complying with chapter 504 and reporting as required under this chapter, operates in an entrepreneurial and businesslike manner in which it is accountable to all participants utilizing the network's products and services.

b. The network provides a variety of services from which to choose in order to best fit the needs of the user.

c. The network is financed by all who benefit from the improved quality, efficiency, savings, and other benefits that result from use of health information technology.

d. The network is operated with integrity and freedom from political influence.

3. The Iowa health information network technical infrastructure shall provide a mechanism for all of the following:

a. The facilitation and support of the secure electronic exchange of health information between participants.

b. Participants without an electronic health records system to access health information from the Iowa health information network.

4. Nothing in this chapter shall be interpreted to impede or preclude the formation and operation of regional, population-specific, or local health information networks or the participation of such networks in the Iowa health information network.

2015 Acts, ch 73, §4, 9

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135D.5 Designated entity — administration and governance.

1. The Iowa health information network shall be administered and governed by a designated entity selected by the department through a competitive process. The designated entity shall be established as a nonprofit corporation organized under chapter 504. Unless otherwise provided in this chapter, the corporation is subject to the provisions of chapter 504. The designated entity shall be established for the purpose of administering and governing the statewide Iowa health information network.

2. The designated entity shall collaborate with the department, but the designated entity shall not be considered, in whole or in part, an agency, department, or administrative unit of the state.

a. The designated entity shall not be required to comply with any requirements that apply to a state agency, department, or administrative unit and shall not exercise any sovereign power of the state.

b. The designated entity does not have authority to pledge the credit of the state. The assets and liabilities of the designated entity shall be separate from the assets and liabilities of the state and the state shall not be liable for the debts or obligations of the designated entity. All debts and obligations of the designated entity shall be payable solely from the designated entity's funds. The state shall not guarantee any obligation of or have any obligation to the designated entity.

3. The articles of incorporation of the designated entity shall provide for its governance and its efficient management. In providing for its governance, the articles of the designated entity shall address the following:

a. A board of directors to govern the designated entity.

b. The appointment of a chief executive officer by the board to manage the designated entity's daily operations.

c. The delegation of such powers and responsibilities to the chief executive officer as may be necessary for the designated entity's efficient operation.

d. The employment of personnel necessary for the efficient performance of the duties assigned to the designated entity. All such personnel shall be considered employees of a private, nonprofit corporation and shall be exempt from the personnel requirements imposed on state agencies, departments, and administrative units.

e. The financial operations of the designated entity including the authority to receive and expend funds from public and private sources and to use its property, money, or other resources for the purpose of the designated entity.

2015 Acts, ch 73, §5, 9

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135D.6 Board of directors — composition — duties.

1. The designated entity shall be administered by a board of directors.

2. A single industry shall not be disproportionately represented as voting members of the board. The board shall include at least one member who is a consumer of health services and a majority of the voting members of the board shall be representative of participants in the Iowa health information network. The director of public health or the director's designee

and the director of the Iowa Medicaid enterprise or the director's designee shall act as voting members of the board. The commissioner of insurance shall act as an ex officio, nonvoting member of the board. Individuals serving in an ex officio, nonvoting capacity shall not be included in the total number of individuals authorized as members of the board.

3. The board of directors shall do all of the following:

a. Ensure that the designated entity enters into contracts with each state agency necessary for state reporting requirements.

b. Develop, implement, and enforce the following:

(1) A single patient identifier or alternative mechanism to share secure patient information that is utilized by all health care professionals.

(2) Standards, requirements, policies, and procedures for access to, use, secondary use, privacy, and security of health information exchanged through the Iowa health information network, consistent with applicable federal and state standards and laws.

c. Direct a public and private collaborative effort to promote the adoption and use of health information technology in the state to improve health care quality, increase patient safety, reduce health care costs, enhance public health, and empower individuals and health care professionals with comprehensive, real-time medical information to provide continuity of care and make the best health care decisions.

d. Educate the public and the health care sector about the value of health information technology in improving patient care, and methods to promote increased support and collaboration of state and local public health agencies, health care professionals, and consumers in health information technology initiatives.

e. Work to align interstate and intrastate interoperability standards in accordance with national health information exchange standards.

f. Provide an annual budget and fiscal report for the Iowa health information network to the governor, the department of public health, the department of management, the chairs and ranking members of the legislative government oversight standing committees, and the legislative services agency. The report shall also include information about the services provided through the network and information on the participant usage of the network.

2015 Acts, ch 73, §6, 9

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135D.7 Legal and policy — liability — confidentiality.

1. The board shall implement industry-accepted security standards, policies, and procedures to protect the transmission and receipt of protected health information exchanged through the Iowa health information network, which shall, at a minimum, comply with HIPAA and shall include all of the following:

a. A secure and traceable electronic audit system to document and monitor the sender and recipient of health information exchanged through the Iowa health information network.

b. A required standard participation agreement which defines the minimum privacy and security obligations of all participants using the Iowa health information network and services available through the Iowa health information network.

c. The opportunity for a patient to decline exchange of the patient's health information through the record locator service of the Iowa health information network.

(1) A patient shall not be denied care or treatment for declining to exchange the patient's health information, in whole or in part, through the network.

(2) The board shall provide the means and process by which a patient may decline participation. The means and process utilized shall minimize the burden on patients and health care professionals.

(3) Unless otherwise authorized by law or rule, a patient's decision to decline participation means that none of the patient's health information shall be accessible through the record locator service function of the Iowa health information network. A patient's decision to decline having health information shared through the record locator service function shall not limit a health care professional with whom the patient has or is considering a treatment

relationship from sharing health information concerning the patient through the secure messaging function of the Iowa health information network.

(4) A patient who declines participation in the Iowa health information network may later decide to have health information shared through the network. A patient who is participating in the network may later decline participation in the network.

2. A participant shall not be compelled by subpoena, court order, or other process of law to access health information through the Iowa health information network in order to gather records or information not created by the participant.

3. A participant exchanging health information and data through the Iowa health information network shall grant to other participants of the network a nonexclusive license to retrieve and use that information in accordance with applicable state and federal laws, and the policies and standards established by the board.

4. A health care professional who relies reasonably and in good faith upon any health information provided through the Iowa health information network in treatment of a patient who is the subject of the health information shall be immune from criminal or civil liability arising from the damages caused by such reasonable, good-faith reliance. Such immunity shall not apply to acts or omissions constituting negligence, recklessness, or intentional misconduct.

5. A participant who has disclosed health information through the Iowa health information network in compliance with applicable law and the standards, requirements, policies, procedures, and agreements of the network shall not be subject to criminal or civil liability for the use or disclosure of the health information by another participant.

6. The following records shall be confidential records pursuant to chapter 22, unless otherwise ordered by a court or consented to by the patient or by a person duly authorized to release such information:

a. The health information contained in, stored in, submitted to, transferred or exchanged by, or released from the Iowa health information network.

b. Any health information in the possession of the board due to its administration of the Iowa health information network.

7. Unless otherwise provided in this chapter, when sharing health information through the Iowa health information network or a private health information network maintained in this state that complies with the privacy and security requirements of this chapter for the purposes of patient treatment, payment or health care operations, as such terms are defined in HIPAA, or for the purposes of public health activities or care coordination, a participant authorized by the designated entity to use the record locator service is exempt from any other state law that is more restrictive than HIPAA that would otherwise prevent or hinder the exchange of patient information by the participant.

8. A patient aggrieved or adversely affected by the designated entity's failure to comply with subsection 1, paragraph "*c*", may bring a civil action for equitable relief as the court deems appropriate.

2015 Acts, ch 73, §7, 9

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CHAPTERS 135E and 135F

RESERVED

CHAPTER 135G

SUBACUTE MENTAL HEALTH CARE FACILITIES

Referred to in §225C.19A, 229.13, 229.14

Standards for subacute mental health services and for accreditation of community-based subacute mental health services providers; §225C.6

135G.1 Definitions.
135G.2 Purpose.
135G.3 Nature of care — seclusion room — admissions.
135G.4 Licensure.
135G.5 Application for license.
135G.6 Inspection — conditions for issuance.
135G.7 Denial, suspension, or revocation of license.
135G.8 Provisional license.
135G.9 Notice and hearings.
135G.10 Rules.
135G.11 Complaints alleging violations.
135G.12 Information confidential.
135G.13 Judicial review.
135G.14 Penalty.
135G.15 Injunction.

135G.1 Definitions.

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

1. *"Advanced registered nurse practitioner"* means a person currently licensed as a registered nurse under chapter 152 or 152E who is licensed by the board of nursing as an advanced registered nurse practitioner.

2. *"Department"* means the department of inspections and appeals.

3. *"Direction"* means authoritative policy or procedural guidance for the accomplishment of a function or an activity.

4. *"Licensee"* means the holder of a license issued to operate a subacute care facility for persons with serious and persistent mental illness.

5. *"Mental health professional"* means the same as defined in section 228.1.

6. *"Mental health services"* means services provided by a mental health professional operating within the scope of the professional's practice which address mental, emotional, medical, or behavioral problems.

7. *"Physician"* means a person licensed under chapter 148.

8. *"Physician assistant"* means a person licensed to practice under the supervision of a physician as authorized in chapters 147 and 148C.

9. *"Rehabilitative services"* means services to encourage and assist restoration of a resident's optimum mental and physical capabilities.

10. *"Resident"* means a person who is eighteen years of age or older and has been determined by a mental health professional to need subacute mental health services.

11. *"Subacute care facility for persons with serious and persistent mental illness"* or *"subacute care facility"* means an institution, place, building, or agency with restricted means of egress providing subacute mental health services for a period exceeding twenty-four consecutive hours to persons in need of the services.

12. *"Subacute mental health services"* means the same as defined in section 225C.6.

13. *"Supervision"* means direct oversight and inspection of the act of accomplishing a function or activity.

14. *"Treatment care plan"* means a plan of care and services designed to eliminate the need for acute care by improving the condition of a person with serious and persistent mental illness. Services must be based upon a diagnostic evaluation, which includes an examination of the medical, psychological, social, behavioral, and developmental aspects of the person's situation, reflecting the need for inpatient care.

2012 Acts, ch 1120, §40; 2015 Acts, ch 56, §2

135G.2 Purpose.

The purpose of this chapter is to provide for the development, establishment, and enforcement of basic standards for the operation, construction, and maintenance of a subacute care facility which will ensure the safe and adequate diagnosis, evaluation, and

treatment of persons with serious and persistent mental illness so that the persons are able to experience recovery and live successfully in the community.

2012 Acts, ch 1120, §41

135G.3 Nature of care — seclusion room — admissions.

1. A subacute care facility shall utilize a team of professionals to direct an organized program of diagnostic services, subacute mental health services, and rehabilitative services to meet the needs of residents in accordance with a treatment care plan developed for each resident under the supervision of a mental health professional. The goal of a treatment care plan is to transition residents to a less restrictive environment, including a home-based community setting. Social and rehabilitative services shall also be provided under the direction of a mental health professional.

2. The mental health professional providing supervision of the subacute care facility's treatment care plans shall evaluate the condition of each resident as medically necessary and shall be available to residents of the facility on an on-call basis at all other times. Additional evaluation and treatment may be provided by a mental health professional. The subacute care facility may employ a seclusion room meeting the conditions described in 42 C.F.R. §483.364(b) with approval of a licensed psychiatrist or by order of the resident's physician, a physician assistant, or an advanced registered nurse practitioner.

2012 Acts, ch 1120, §42; 2013 Acts, ch 19, §4, 6, 7

135G.4 Licensure.

1. A person shall not establish, operate, or maintain a subacute care facility unless the person obtains a license for the subacute care facility under this chapter.

2. An intermediate care facility for persons with mental illness licensed under chapter 135C may convert to a subacute care facility by submitting an application for a license in accordance with section 135G.5 accompanied by written notice to the department that the facility has employed a mental health professional and desires to make the conversion. An intermediate care facility for persons with mental illness applying for a license under this subsection remains subject to subsection 1 until a license is issued.

2012 Acts, ch 1120, §43; 2013 Acts, ch 19, §5 – 7

135G.5 Application for license.

An application for a license under this chapter shall be submitted on a form requesting information required by the department, which may include affirmative evidence of the applicant's ability to comply with the rules for standards adopted pursuant to this chapter. An application for a license shall be accompanied by the required license fee which shall be credited to the general fund of the state. The initial and annual license fee is twenty-five dollars.

2012 Acts, ch 1120, §44

Referred to in §135G.4

135G.6 Inspection — conditions for issuance.

The department shall issue a license to an applicant under this chapter if the department has ascertained that the applicant's facilities and staff are adequate to provide the care and services required of a subacute care facility.

2012 Acts, ch 1120, §45; 2015 Acts, ch 61, §1; 2018 Acts, ch 1056, §4

135G.7 Denial, suspension, or revocation of license.

The department may deny an application or suspend or revoke a license if the department finds that an applicant or licensee has failed or is unable to comply with this chapter or the rules establishing minimum standards pursuant to this chapter or if any of the following conditions apply:

1. It is shown that a resident is a victim of cruelty or neglect due to the acts or omissions of the licensee.

2. The licensee has permitted, aided, or abetted in the commission of an illegal act in the subacute care facility.

3. An applicant or licensee acted to obtain or to retain a license by fraudulent means, misrepresentation, or submitting false information.

4. The licensee has willfully failed or neglected to maintain a continuing in-service education and training program for persons employed by the subacute care facility.

5. The application involves a person who has failed to operate a subacute care facility in compliance with the provisions of this chapter.

2012 Acts, ch 1120, §46

135G.8 Provisional license.

The department may issue a provisional license, effective for not more than one year, to a licensee whose subacute care facility does not meet the requirements of this chapter if, prior to issuance of the license, the applicant submits written plans to achieve compliance with the applicable requirements and the plans are approved by the department. The plans shall specify the deadline for achieving compliance.

2012 Acts, ch 1120, §47

135G.9 Notice and hearings.

The procedure governing notice and hearing to deny an application or suspend or revoke a license shall be in accordance with rules adopted by the department pursuant to chapter 17A. A full and complete record shall be kept of the proceedings and of any testimony. The record need not be transcribed unless judicial review is sought. A copy or copies of a transcript may be obtained by an interested party upon payment of the cost of preparing the transcript or copies.

2012 Acts, ch 1120, §48

135G.10 Rules.

1. The department of inspections and appeals and the department of human services shall collaborate in establishing standards for licensing of subacute care facilities to achieve all of the following objectives:

a. Subacute mental health services are provided based on sound, proven clinical practice.

b. Subacute mental health services are established in a manner that allows the services to be included in the federal medical assistance state plan.

2. It is the intent of the general assembly that subacute mental health services be included in the Medicaid state plan adopted for the implementation of the federal Patient Protection and Affordable Care Act, benchmark plan.

3. The department of inspections and appeals, in consultation with the department of human services and affected professional groups, shall adopt and enforce rules setting out the standards for a subacute care facility and the rights of the residents admitted to a subacute care facility. The department of inspections and appeals and the department of human services shall coordinate the adoption of rules and the enforcement of the rules in order to prevent duplication of effort by the departments and of requirements of the licensee.

2012 Acts, ch 1120, §49

Responsibility of department of human services to adopt standards in coordination with department of inspections and appeals for facility-based and community-based, subacute mental health services; §225C.6

135G.11 Complaints alleging violations.

1. A person may request an inspection of a subacute care facility by filing with the department a complaint of an alleged violation of an applicable requirement of this chapter or a rule adopted pursuant to this chapter. The complaint shall state in a reasonably specific manner the basis of the complaint. A statement of the nature of the complaint shall be delivered to the subacute care facility involved at the time of or prior to the inspection.

2. Upon receipt of a complaint made in accordance with subsection 1, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a subacute care facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made

an on-site inspection of the subacute care facility which is the subject of the complaint. The department of inspections and appeals may refer to the department of human services any complaint received by the department of inspections and appeals if the complaint applies to rules adopted by the department of human services. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with a developmental disability or mental illness. In any case, the complainant shall be promptly informed of the result of any action taken by the department in the matter.

3. An inspection made pursuant to a complaint filed under subsection 1 need not be limited to the matter or matters referred to in the complaint; however, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the subacute care facility to be inspected, the inspector shall show identification to the person in charge of the subacute care facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of a resident of the subacute care facility to be inspected would be violated. The dignity of the resident shall be given first priority by the inspector and others.

2012 Acts, ch 1120, §50

135G.12 Information confidential.

1. The department's final findings regarding licensure shall be made available to the public in a readily available form and place. Other information relating to the subacute care facility is confidential and shall not be made available to the public except in proceedings involving licensure, a civil suit involving a resident, or an administrative action involving a resident.

2. The name of a person who files a complaint with the department shall remain confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to a person other than an employee of the department or an agent involved in the investigation of the complaint.

3. Information regarding a resident who has received or is receiving care shall not be disclosed directly or indirectly except as authorized under section 217.30.

2012 Acts, ch 1120, §51

135G.13 Judicial review.

Judicial review of the action of the department may be sought pursuant to the Iowa administrative procedure Act, chapter 17A. Notwithstanding chapter 17A, a petition for judicial review of the department's actions under this chapter may be filed in the district court of the county in which the related subacute care facility is located or is proposed to be located. The status of the petitioner or the licensee shall be preserved pending final disposition of the judicial review.

2012 Acts, ch 1120, §52

135G.14 Penalty.

A person who establishes, operates, or manages a subacute care facility without obtaining a license under this chapter commits a serious misdemeanor. Each day of continuing violation following conviction shall be considered a separate offense.

2012 Acts, ch 1120, §53

135G.15 Injunction.

Notwithstanding the existence or pursuit of another remedy, the department may maintain an action for injunction or other process to restrain or prevent the establishment, operation, or management of a subacute care facility without a license.

2012 Acts, ch 1120, §54

CHAPTER 135H

PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

Referred to in §10A.104, 225C.19A, 234.7, 235A.15, 237C.1, 257.11, 257.41, 282.27, 709.16

Cost-based reimbursement methodology, §249A.31

135H.1 Definitions.
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135H.14 Judicial review.
135H.15 Penalty.
135H.16 Injunction.

135H.1 Definitions.

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

1. *"Department"* means the department of inspections and appeals.

2. *"Direction"* means authoritative policy or procedural guidance for the accomplishment of a function or an activity.

3. *"Licensee"* means the holder of a license issued to operate a psychiatric medical institution for children.

4. *"Medical care plan"* means a plan of care and services designed to eliminate the need for inpatient care by improving the condition of a child. Services must be based upon a diagnostic evaluation, which includes an examination of the medical, psychological, social, behavioral, and developmental aspects of the child's situation, reflecting the need for inpatient care.

5. *"Mental health professional"* means an individual who has all of the following qualifications:

a. The individual holds at least a master's degree in a mental health field, including but not limited to, psychology, counseling and guidance, nursing, and social work, or the individual is a physician.

b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

c. The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

6. *"Nursing care"* means services which are provided under the direction of a physician or registered nurse.

7. *"Physician"* means a person licensed under chapter 148.

8. *"Psychiatric medical institution for children"* or *"psychiatric institution"* means an institution providing more than twenty-four hours of continuous care involving long-term psychiatric services to three or more children in residence for expected periods of fourteen or more days for diagnosis and evaluation or for expected periods of ninety days or more for treatment.

9. *"Psychiatric services"* means services provided under the direction of a physician which address mental, emotional, medical, or behavioral problems.

10. *"Rehabilitative services"* means services to encourage and assist restoration of a resident's optimum mental and physical capabilities.

11. *"Resident"* means a person who is less than twenty-one years of age and has been admitted by a physician to a psychiatric medical institution for children.

12. *"Supervision"* means direct oversight and inspection of the act of accomplishing a function or activity.

89 Acts, ch 283, §2; 94 Acts, ch 1120, §14, 15; 2008 Acts, ch 1088, §90

Referred to in §249A.30A

135H.2 Purpose.

The purpose of this chapter is to provide for the development, establishment, and enforcement of basic standards for the operation, construction, and maintenance of a psychiatric medical institution for children which will ensure the safe and adequate diagnosis and evaluation and treatment of the residents.

89 Acts, ch 283, §3

135H.3 Nature of care.

1. A psychiatric medical institution for children shall utilize a team of professionals to direct an organized program of diagnostic services, psychiatric services, nursing care, and rehabilitative services to meet the needs of residents in accordance with a medical care plan developed for each resident. The membership of the team of professionals may include but is not limited to an advanced registered nurse practitioner or a physician assistant. Social and rehabilitative services shall be provided under the direction of a qualified mental health professional.

2. If a child is diagnosed with a biologically based mental illness as defined in section 514C.22 and meets the medical assistance program criteria for admission to a psychiatric medical institution for children, the child shall be deemed to meet the acuity criteria for medically necessary inpatient benefits under a group policy, contract, or plan providing for third-party payment or prepayment of health, medical, and surgical coverage benefits issued by a carrier, as defined in section 513B.2, that is subject to section 514C.22. Such medically necessary benefits shall not be excluded or denied as care that is substantially custodial in nature under section 514C.22, subsection 8, paragraph *"b"*.

89 Acts, ch 283, §4; 2009 Acts, ch 179, §182; 2011 Acts, ch 121, §7; 2011 Acts, ch 131, §151, 153; 2017 Acts, ch 148, §29

135H.4 Licensure.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and either holds a license under section 237.3, subsection 2, paragraph *"a"*, as a comprehensive residential facility for children or holds a license under section 125.13, if the facility provides substance abuse treatment.

89 Acts, ch 283, §5; 93 Acts, ch 53, §6; 93 Acts, ch 172, §29; 93 Acts, ch 180, §79

135H.5 Application for license.

An application for a license under this chapter shall be submitted on a form requesting information required by the department, which may include affirmative evidence of the applicant's ability to comply with the rules for standards adopted pursuant to this chapter. An application for a license shall be accompanied by the required license fee which shall be credited to the general fund of the state. The initial and annual license fee is twenty-five dollars.

89 Acts, ch 283, §6

135H.6 Inspection — conditions for issuance.

1. The department shall issue a license to an applicant under this chapter if all the following conditions exist:

a. The department has ascertained that the applicant's medical facilities and staff are adequate to provide the care and services required of a psychiatric institution.

b. The proposed psychiatric institution is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the council on accreditation of services for families and children, or by any other recognized accrediting organization with comparable standards acceptable under federal regulation.

c. The applicant complies with applicable state rules and standards for a psychiatric institution adopted by the department in accordance with federal requirements under 42 C.F.R. §441.150 – 441.156.

d. The applicant has been awarded a certificate of need pursuant to chapter 135, unless exempt as provided in this section.

e. The department of human services has submitted written approval of the application based on the department of human services' determination of need. The department of human services shall identify the location and number of children in the state who require the services of a psychiatric medical institution for children. Approval of an application shall be based upon the location of the proposed psychiatric institution relative to the need for services identified by the department of human services and an analysis of the applicant's ability to provide services and support consistent with requirements under chapter 232, particularly regarding community-based treatment. If the proposed psychiatric institution is not freestanding from a facility licensed under chapter 135B or 135C, approval under this paragraph shall not be given unless the department of human services certifies that the proposed psychiatric institution is capable of providing a resident with a living environment similar to the living environment provided by a licensee which is freestanding from a facility licensed under chapter 135B or 135C.

f. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph *"a"*, as a comprehensive residential facility for children for three years or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under section 237.3, subsection 2, paragraph *"a"*, as a comprehensive residential facility for children.

g. If a child has an emotional, behavioral, or mental health disorder, the psychiatric institution does not require court proceedings to be initiated or that a child's parent, guardian, or custodian must terminate parental rights over or transfer legal custody of the child for the purpose of obtaining treatment from the psychiatric institution for the child. Relinquishment of a child's custody shall not be a condition of the child receiving services.

2. The department of human services shall not give approval to an application which would cause the total number of beds licensed under this chapter for services reimbursed by the medical assistance program under chapter 249A to exceed four hundred thirty beds.

3. In addition to the beds authorized under subsection 2, the department of human services may establish not more than thirty beds licensed under this chapter at the state mental health institute at Independence. The beds shall be exempt from the certificate of need requirement under subsection 1, paragraph *"d"*.

4. The department of human services may give approval to conversion of beds approved under subsection 2, to beds which are specialized to provide substance abuse treatment. However, the total number of beds approved under subsection 2 and this subsection shall not exceed four hundred thirty. Conversion of beds under this subsection shall not require a revision of the certificate of need issued for the psychiatric institution making the conversion. Beds for children who do not reside in this state and whose service costs are not paid by public funds in this state are not subject to the limitations on the number of beds and certificate of need requirements otherwise applicable under this section.

5. A psychiatric institution licensed prior to July 1, 1999, may exceed the number of beds authorized under subsection 2 if the excess beds are used to provide services funded from a source other than the medical assistance program under chapter 249A. Notwithstanding subsection 1, paragraphs *"d"* and *"e"*, and subsection 2, the provision of services using those excess beds does not require a certificate of need or a review by the department of human services.

89 Acts, ch 283, §7; 90 Acts, ch 1239, §1, 2; 93 Acts, ch 53, §7; 93 Acts, ch 172, §30; 93 Acts, ch 180, §80; 96 Acts, ch 1213, §32; 98 Acts, ch 1218, §66; 99 Acts, ch 51, §1, 2; 99 Acts, ch 98, §1; 2001 Acts, ch 191, §35; 2005 Acts, ch 117, §1; 2011 Acts, ch 121, §8; 2011 Acts, ch 131, §151, 153; 2018 Acts, ch 1026, §49

Referred to in §226.9B

135H.7 Personnel.

1. A person shall not be allowed to provide services in a psychiatric institution if the person has a disease which is transmissible to other persons through required contact in the

workplace, which presents a significant risk of infecting other persons, which presents a substantial possibility of harming other persons, or for which no reasonable accommodation can eliminate the risk of infecting other persons.

2. *a.* If a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a child or with access to a child when the child is alone, by a licensed psychiatric institution, or if a person will reside in a facility utilized by a licensee, and if the person has been convicted of a crime or has a record of founded child abuse, the department of human services and the licensee, for an employee of the licensee, shall perform an evaluation to determine whether the crime or founded child abuse warrants prohibition of licensure, employment, or residence in the facility. The department of human services shall conduct criminal and child abuse record checks in this state and may conduct these checks in other states. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

b. If the department of human services determines that a person has committed a crime or has a record of founded child abuse and is licensed, employed by a psychiatric institution licensed under this chapter, or resides in a licensed facility, the department shall notify the program that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

c. In an evaluation, the department of human services and the licensee for an employee of the licensee shall consider the nature and seriousness of the crime or founded child abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child abuse, the circumstances under which the crime or founded child abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child abuse again, and the number of crimes or founded child abuses committed by the person involved. The department may permit a person who is evaluated to be licensed, employed, or to reside, or to continue to be licensed, employed, or to reside in a licensed facility, if the person complies with the department's conditions relating to the person's licensure, employment, or residence, which may include completion of additional training. For an employee of a licensee, these conditional requirements shall be developed with the licensee. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted and in developing any conditional requirements under this paragraph.

3. If the department of human services determines that the person has committed a crime or has a record of founded child abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter to operate a psychiatric institution and shall not be employed by a psychiatric institution or reside in a facility licensed under this chapter.

4. In addition to the record checks required under subsection 2, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of subsections 2 and 3, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random dependent adult abuse record check conducted under this subsection.

5. Beginning July 1, 1994, a licensee shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

6. On or after July 1, 1994, a licensee shall include the following inquiry in an application for employment:

> Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?

89 Acts, ch 283, §8; 90 Acts, ch 1221, §2; 91 Acts, ch 138, §2; 92 Acts, ch 1163, §35; 94 Acts, ch 1130, §13

135H.8 Denial, suspension, or revocation of license.

The department may deny an application or suspend or revoke a license if the department finds that an applicant or licensee has failed or is unable to comply with this chapter or the rules establishing minimum standards pursuant to this chapter or if any of the following conditions apply:

1. It is shown that a resident is a victim of cruelty or neglect due to the acts or omissions of the licensee.
2. The licensee has permitted, aided, or abetted in the commission of an illegal act in the psychiatric institution.
3. An applicant or licensee acted to obtain or to retain a license by fraudulent means, misrepresentation, or submitting false information.
4. The licensee has willfully failed or neglected to maintain a continuing in-service education and training program for persons employed by the psychiatric institution.
5. The application involves a person who has failed to operate a psychiatric institution in compliance with the provisions of this chapter.

89 Acts, ch 283, §9

135H.8A Provisional license.

The department may issue a provisional license, effective for not more than one year, to a licensee whose psychiatric institution does not meet the requirements of this chapter, if, prior to issuance of the license, written plans to achieve compliance with the applicable requirements are submitted to and approved by the department. The plans shall specify the deadline for achieving compliance.

95 Acts, ch 51, §2

135H.9 Notice and hearings.

The procedure governing notice and hearing to deny an application or suspend or revoke a license shall be in accordance with rules adopted by the department pursuant to chapter 17A. A full and complete record shall be kept of the proceedings and of any testimony. The record need not be transcribed unless judicial review is sought. A copy or copies of a transcript may be obtained by an interested party upon payment of the cost of preparing the transcript or copies.

89 Acts, ch 283, §10

135H.10 Rules.

1. The department of inspections and appeals, in consultation with the department of human services and affected professional groups, shall adopt and enforce rules setting out the standards for a psychiatric medical institution for children and the rights of the residents admitted to a psychiatric institution. The department of inspections and appeals and the department of human services shall coordinate the adoption of rules and the enforcement of the rules in order to prevent duplication of effort by the departments and of requirements of the licensee.
2. This chapter shall not be construed as prohibiting the use of funds appropriated for foster care to provide payment to a psychiatric medical institution for children for the financial participation required of a child whose foster care placement is in a psychiatric medical institution for children. In accordance with established policies and procedures for foster care, the department of human services shall act to recover any such payment for financial participation, apply to be named payee for the child's unearned income, and recommend parental liability for the costs of a court-ordered foster care placement in a psychiatric medical institution.

89 Acts, ch 283, §11; 2001 Acts, ch 135, §30; 2012 Acts, ch 1133, §94

135H.11 Complaints alleging violations — confidentiality.

A person may request an inspection of a psychiatric medical institution for children by filing with the department a complaint of an alleged violation of an applicable requirement of this chapter or a rule adopted pursuant to this chapter. The complaint shall state in a reasonably

specific manner the basis of the complaint. A statement of the nature of the complaint shall be delivered to the psychiatric institution involved at the time of or prior to the inspection. The name of the person who files a complaint with the department shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

89 Acts, ch 283, §12
Referred to in §135H.12

135H.12 Inspections upon complaints.

1. Upon receipt of a complaint made in accordance with section 135H.11, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a psychiatric institution or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the psychiatric institution which is the subject of the complaint. The department of inspections and appeals may refer to the department of human services any complaint received by the department if the complaint applies to rules adopted by the department of human services. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness. In any case, the complainant shall be promptly informed of the result of any action taken by the department in the matter.

2. An inspection made pursuant to a complaint filed under section 135H.11 need not be limited to the matter or matters referred to in the complaint; however, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the psychiatric institution to be inspected, the inspector shall show identification to the person in charge of the psychiatric institution and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of a resident of the psychiatric institution to be inspected would be violated. The dignity of the resident shall be given first priority by the inspector and others.

89 Acts, ch 283, §13

135H.13 Information confidential.

1. The department's final findings and the survey findings of the joint commission on the accreditation of health care organizations regarding licensure or program accreditation shall be made available to the public in a readily available form and place. Other information relating to the psychiatric institution is confidential and shall not be made available to the public except in proceedings involving licensure, a civil suit involving a resident, or an administrative action involving a resident.

2. The name of a person who files a complaint with the department shall remain confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to a person other than an employee of the department or an agent involved in the investigation of the complaint.

3. Information regarding a resident who has received or is receiving care shall not be disclosed directly or indirectly except as authorized under section 217.30, 232.69, or 237.21.

89 Acts, ch 283, §14

135H.14 Judicial review.

Judicial review of the action of the department may be sought pursuant to the Iowa administrative procedure Act, chapter 17A. Notwithstanding the Iowa administrative procedure Act, chapter 17A, a petition for judicial review of the department's actions under this chapter may be filed in the district court of the county in which the related psychiatric

medical institution for children is located or is proposed to be located. The status of the petitioner or the licensee shall be preserved pending final disposition of the judicial review.

89 Acts, ch 283, §15; 2003 Acts, ch 44, §114

135H.15 Penalty.

A person who establishes, operates, or manages a psychiatric medical institution for children without obtaining a license under this chapter commits a serious misdemeanor. Each day of continuing violation following conviction shall be considered a separate offense.

89 Acts, ch 283, §16

135H.16 Injunction.

Notwithstanding the existence or pursuit of another remedy, the department may maintain an action for injunction or other process to restrain or prevent the establishment, operation, or management of a psychiatric medical institution for children without a license.

89 Acts, ch 283, §17

CHAPTER 135I

SWIMMING POOLS AND SPAS

Referred to in §89.4, 669.14, 670.4

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

135I.1	Definitions.	135I.4	Powers and duties.
135I.2	Applicability.	135I.5	Penalty.
135I.3	Registration required.	135I.6	Enforcement.

135I.1 Definitions.

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

1. *"Department"* means the Iowa department of public health.
2. *"Local board of health"* means a city, county, or district board of health as defined in section 137.102.
3. *"Spa"* means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use.
4. *"Swimming pool"* means an artificial basin and its appurtenances, either constructed or operated for swimming, wading, or diving, and includes a swimming pool, wading pool, waterslide, or associated bathhouse. *"Swimming pool"* does not include a decorative fountain which does not serve primarily as a wading or swimming pool and the drain of which fountain is not connected to any type of suction device for removing or recirculating the water.
5. *"Swimming pool or spa water heater"* means an appliance designed for heating nonpotable water stored at atmospheric pressure, such as water in a swimming pool, spa, hot tub, or for similar uses.

89 Acts, ch 291, §1; 91 Acts, ch 75, §1; 92 Acts, ch 1194, §1; 2001 Acts, ch 58, §5; 2010 Acts, ch 1036, §20

Referred to in §669.14, 670.4

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

135I.2 Applicability.

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including but not limited to facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use or to a swimming pool or spa operated by a homeowners' association representing seventy-two or fewer dwelling units if the

association's bylaws, which also apply to a rental agreement relative to any of the dwelling units, include an exemption from the requirements of this chapter, provide for inspection of the swimming pool or spa by an entity other than the department or local board of health, and assume any liability associated with operation of the swimming pool or spa. This chapter does not apply to a swimming pool or spa used exclusively for therapy under the direct supervision of qualified medical personnel. To avoid duplication and promote coordination of inspection activities, the department may enter into written agreements with a local board of health to provide for inspection and enforcement in accordance with this chapter.

89 Acts, ch 291, §2; 92 Acts, ch 1194, §2; 92 Acts, ch 1237, §8; 96 Acts, ch 1097, §1; 2001 Acts, ch 58, §6; 2008 Acts, ch 1058, §5

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

135I.3 Registration required.

A person shall not operate a swimming pool or spa without first having registered with the department. Registration shall be renewed annually.

89 Acts, ch 291, §3

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

135I.4 Powers and duties.

The department is responsible for registering and regulating the operation of swimming pools, spas, and, notwithstanding chapter 89, swimming pool or spa water heaters. The department shall conduct seminars and training sessions, and disseminate information regarding health practices, safety measures, and operating procedures required under this chapter. The department may:

1. Inspect, at the time of installation and periodically thereafter, all swimming pools and spas for the purpose of detecting and eliminating health or safety hazards.

2. Establish minimum safety and sanitation criteria for the operation and use of swimming pools and spas.

3. Establish minimum qualifications for swimming pool, spa, and waterslide operators and lifeguards. Swimming pools operated by apartments, condominiums, country clubs, neighborhoods, or manufactured home communities or mobile home parks are exempt from requirements regarding lifeguards.

4. Establish and collect fees to defray the cost of administering this chapter. It is the intent of the general assembly that fees collected under this chapter be used to defray the cost of administering this chapter. However, the portion of fees needed to defray the costs of a local board of health in implementing this chapter shall be established by the local board of health. A fee imposed for the inspection of a swimming pool or spa shall not be collected until the inspection has actually been performed.

5. Adopt rules in accordance with chapter 17A for the implementation and enforcement of this chapter and the establishment of fees.

6. Enter into agreements with a local board of health to implement the inspection and enforcement provisions of this chapter. The agreements shall provide that the fees established by the local board of health for inspection and enforcement shall be retained by the local board. However, inspection fees shall not be charged by the department for facilities which are inspected by third-party authorities. Third-party authorities shall be approved by the department. The department shall monitor and certify the inspection and enforcement programs of local boards of health and approved third-party authorities.

89 Acts, ch 291, §4; 92 Acts, ch 1194, §3; 92 Acts, ch 1237, §9; 2001 Acts, ch 153, §16; 2007 Acts, ch 159, §22

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

135I.5 Penalty.

A person who violates a provision of this chapter commits a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

89 Acts, ch 291, §5

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

135I.6 Enforcement.

If the department or a local board of health acting pursuant to agreement with the department determines that a provision of this chapter or a rule adopted pursuant to this chapter has been or is being violated, the department may withhold or revoke the registration of a swimming pool or spa, or the department or the local board of health may order that a facility or item of equipment not be used, until the necessary corrective action has been taken. The department or the local board of health may request the county attorney to bring appropriate legal proceedings to enforce this chapter, including an action to enjoin violations. The attorney general may also institute appropriate legal proceedings at the request of the department. This remedy is in addition to any other legal remedy available to the department or a local board of health.

89 Acts, ch 291, §6; 92 Acts, ch 1194, §4; 92 Acts, ch 1237, §10; 2007 Acts, ch 159, §23

For provisions relating to requirement that department of public health regulate certain residential swimming pools used for private swimming lessons, see 2015 Acts, ch 138, §97, 98

CHAPTER 135J

LICENSED HOSPICE PROGRAMS

Referred to in §10A.104, 135P.1, 714H.4

135J.1	Definitions.	135J.5	Denial, suspension, or revocation of licenses.
135J.2	Licenses — fees — criteria.	135J.6	Limitation, expiration, and renewal of licenses.
135J.3	Basic requirements.		
135J.4	Inspection.	135J.7	Rules.

135J.1 Definitions.

For the purposes of this chapter unless otherwise defined:

1. *"Core services"* means physician services, nursing services, medical social services, counseling services, and volunteer services. These core services, as well as others deemed necessary by the hospice in delivering safe and appropriate care to its case load, can be provided through either direct or indirect arrangement by the hospice.

2. *"Department"* means the department of inspections and appeals.

3. *"Hospice patient"* or *"patient"* means a diagnosed terminally ill person with an anticipated life expectancy of six months or less, as certified by the attending physician, who, alone or in conjunction with a unit of care as defined in subsection 8, has voluntarily requested and received admission into the hospice program. If the patient is unable to request admission, a family member may voluntarily request and receive admission on the patient's behalf.

4. *"Hospice patient's family"* means the immediate kin of the patient, including a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, child, or stepchild. Additional relatives or individuals with significant personal ties to the hospice patient may be included in the hospice patient's family.

5. *"Hospice program"* means a centrally coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative care and supportive medical and other health services to terminally ill patients and their families. A licensed hospice program shall utilize a medically directed interdisciplinary team and provide care to meet the physical, emotional, social, spiritual, and other special needs which are experienced during the final stages of illness,

dying, and bereavement. Hospice care shall be available twenty-four hours a day, seven days a week.

6. *"Interdisciplinary team"* means the hospice patient and the hospice patient's family, the attending physician, and all of the following individuals trained to serve with a licensed hospice program:

a. A licensed physician pursuant to chapter 148.

b. A licensed registered nurse pursuant to chapter 152.

c. An individual with at least a baccalaureate degree in the field of social work providing medical-social services.

d. Trained hospice volunteers.

e. As deemed appropriate by the hospice, providers of special services including but not limited to a spiritual counselor, a pharmacist, or professionals in the fields of mental health may be included on the interdisciplinary team.

7. *"Palliative care"* means care directed at managing symptoms experienced by the hospice patient, as well as addressing related needs of the patient and family as they experience the stress of the dying process. The intent of palliative care is to enhance the quality of life for the hospice patient and family unit, and is not treatment directed at cure of the terminal illness.

8. *"Unit of care"* means the patient and the patient's family within a hospice program.

9. *"Volunteer services"* means the services provided by individuals who have successfully completed a training program developed by a licensed hospice program.

84 Acts, ch 1284, §2
C85, §135.90
90 Acts, ch 1204, §66
C91, §135J.1
2005 Acts, ch 3, §32; 2008 Acts, ch 1088, §91; 2009 Acts, ch 133, §196
Referred to in §144C.2, 144D.1, 331.802, 441.21

135J.2 Licenses — fees — criteria.

1. A person or governmental unit, acting severally or jointly with any other person may establish, conduct, or maintain a hospice program in this state and receive a license from the department after meeting the requirements of this chapter. The application shall be on a form prescribed by the department and shall require information the department deems necessary. Nothing in this chapter shall prohibit a person or governmental unit from establishing, conducting, or maintaining a hospice program without a license. Each application for license shall be accompanied by a nonrefundable biennial license fee determined by the department.

2. The hospice program shall meet the criteria pursuant to section 135J.3 before a license is issued. The department of inspections and appeals is responsible to provide the necessary personnel to inspect the hospice program, the home care and inpatient care provided and the hospital or facility used by the hospice to determine if the hospice complies with necessary standards before a license is issued. Hospices that are certified as Medicare hospice providers by the department of inspections and appeals or are accredited as hospices by the joint commission on the accreditation of health care organizations, shall be licensed without inspection by the department of inspections and appeals.

84 Acts, ch 1284, §3
C85, §135.91
86 Acts, ch 1245, §1111; 90 Acts, ch 1204, §66
C91, §135J.2
98 Acts, ch 1100, §17; 2005 Acts, ch 3, §33; 2021 Acts, ch 76, §150
Code editor directive applied

135J.3 Basic requirements.

A licensed hospice program shall include:

1. A planned program of hospice care, the medical components of which shall be under the direction of a licensed physician.

2. Centrally administered, coordinated hospice core services provided in home, outpatient, or institutional settings.

3. A mechanism that assures the rights of the patient and family.

4. Palliative care provided to a hospice patient and family under the direction of a licensed physician.

5. An interdisciplinary team which develops, implements, and evaluates the hospice plan of care for the patient and family.

6. Bereavement services.

7. Accessible hospice care twenty-four hours a day, seven days a week in all settings.

8. An ongoing system of quality assurance and utilization review.

84 Acts, ch 1284, §7
C85, §135.95
90 Acts, ch 1204, §66
C91, §135J.3
Referred to in §135J.2

135J.4 Inspection.

The department of inspections and appeals shall make or be responsible for inspections of the hospice program, the home care and the inpatient care provided in the hospice program, and the hospital or facility before a license is issued. The department of inspections and appeals shall inspect the hospice program periodically after initial inspection.

84 Acts, ch 1284, §6
C85, §135.94
86 Acts, ch 1245, §1112; 90 Acts, ch 1204, §66
C91, §135J.4

135J.5 Denial, suspension, or revocation of licenses.

The department may deny, suspend, or revoke a license if the department determines there is failure of the program to comply with this chapter or the rules adopted under this chapter. The suspension or revocation may be appealed under chapter 17A. The department may reissue a license following a suspension or revocation after the hospice corrects the conditions upon which the suspension or revocation was based.

84 Acts, ch 1284, §4
C85, §135.92
90 Acts, ch 1204, §66
C91, §135J.5
2005 Acts, ch 3, §34

135J.6 Limitation, expiration, and renewal of licenses.

Licenses for hospice programs shall be issued only for the premises, person, hospital, or facility named in the application and are not transferable or assignable. A license, unless sooner suspended or revoked, shall expire two years after the date of issuance and shall be renewed biennially upon an application by the licensee. Application for renewal shall be made in writing to the department at least thirty days prior to the expiration of the license. The fee for a license renewal shall be determined by the department. Licensed hospice programs which have allowed their licenses to lapse through failure to make timely application for renewal shall pay an additional fee of twenty-five percent of the biennial license fee.

84 Acts, ch 1284, §5
C85, §135.93
85 Acts, ch 67, §17; 89 Acts, ch 122, §1; 90 Acts, ch 1204, §66
C91, §135J.6

135J.7 Rules.

Except as otherwise provided in this chapter, the department shall adopt rules pursuant to chapter 17A necessary to implement this chapter, subject to approval of the state board of

health. Formulation of the rules shall include consultation with Iowa hospice organization representatives and other persons affected by this chapter.

84 Acts, ch 1284, §8
C85, §135.96
87 Acts, ch 8, §3; 90 Acts, ch 1204, §66
C91, §135J.7
2005 Acts, ch 3, §35

CHAPTER 135K

BACKFLOW PREVENTION ASSEMBLY TESTERS

135K.1 Definitions.
135K.2 Applicability.
135K.3 Registration and approval required.
135K.4 Powers and duties.
135K.5 Penalty.
135K.6 Enforcement.

135K.1 Definitions.

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

1. *"Approved course"* means a course covering the testing and repair of backflow prevention assemblies which has been approved by the department.
2. *"Backflow prevention assembly"* means a device or means to prevent backflow into the potable water system.
3. *"Department"* means the Iowa department of public health.
4. *"Registered backflow prevention assembly tester"* means a person who has successfully completed an approved course and has registered with the department.

92 Acts, ch 1204, §1

135K.2 Applicability.

This chapter applies to all persons who test or repair backflow prevention assemblies.

92 Acts, ch 1204, §2

135K.3 Registration and approval required.

A person shall not test or repair backflow prevention assemblies without first having registered with and having been approved by the department.

92 Acts, ch 1204, §3

135K.4 Powers and duties.

The department shall adopt rules in accordance with chapter 17A, which provide for all of the following:

1. The establishment of minimum qualifications for registered backflow prevention assembly testers.
2. The establishment of minimum standards for approved courses.
3. The establishment and collection of fees to defray the cost of administering this chapter.
4. The provision of a listing of registered backflow prevention assembly testers to local health officials.
5. The administration and enforcement of this chapter.

92 Acts, ch 1204, §4

135K.5 Penalty.

A person who violates this chapter is guilty of a simple misdemeanor.

92 Acts, ch 1204, §5

135K.6 Enforcement.

1. The department shall investigate complaints regarding backflow prevention assembly

testers. If the department determines that a provision of this chapter regarding the requirements for a backflow prevention assembly tester has been violated, the department may order a person not to test or repair backflow prevention assemblies or may revoke the registration of a registered backflow prevention assembly tester until the necessary corrective action has been taken.

2. The department shall investigate complaints regarding courses covering the testing and repair of backflow prevention assemblies. If the department determines that a provision of this chapter regarding approved courses has been violated, the department may revoke the approval of a course until the necessary corrective action has been taken.

92 Acts, ch 1204, §6

CHAPTER 135L

NOTIFICATION REQUIREMENTS REGARDING PREGNANT MINORS

135L.1 Definitions.
135L.2 Prospective minor parents decision-making assistance program established.
135L.3 Notification of parent prior to the performance of abortion on a pregnant minor — requirements — criminal penalty.
135L.4 Prospective minor parents program advisory committee created. Repealed by 97 Acts, ch 203, §19.
135L.5 Medical emergency exception — alternative procedure. Repealed by 97 Acts, ch 173, §17.
135L.6 Fraudulent practice.
135L.7 Immunities.
135L.8 Adoption of rules — implementation and documents.

135L.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Abortion"* means an abortion as defined in chapter 146.
2. *"Adult"* means a person eighteen years of age or older.
3. *"Child-placing agency"* means any agency, public, semipublic, or private, which represents itself as placing children, receiving children for placement, or actually engaging in placement of children and includes the department of human services.
4. *"Court"* means the juvenile court.
5. *"Grandparent"* means the parent of an individual who is the parent of the pregnant minor.
6. *"Medical emergency"* means a condition which, based upon a physician's judgment, necessitates an abortion to avert the pregnant minor's death, or for which a delay will create a risk of serious impairment of a major bodily function.
7. *"Minor"* means a person under eighteen years of age who has not been and is not married.
8. *"Parent"* means one parent or a legal guardian or custodian of a pregnant minor.
9. *"Responsible adult"* means an adult, who is not associated with an abortion provider, chosen by a pregnant minor to assist the minor in the decision-making process established in this chapter.

96 Acts, ch 1011, §1, 14; 97 Acts, ch 173, §1

135L.2 Prospective minor parents decision-making assistance program established.

1. A decision-making assistance program is created to provide assistance to minors in making informed decisions relating to pregnancy. The program shall offer and include all of the following:

a. (1) A video, to be developed by a person selected through a request for proposals process or other contractual agreement, which provides information regarding the various

options available to a pregnant minor with regard to the pregnancy, including a decision to continue the pregnancy to term and retain parental rights following the child's birth, a decision to continue the pregnancy to term and place the child for adoption following the child's birth, and a decision to terminate the pregnancy through abortion. The video shall provide the information in a manner and language, including but not limited to the use of closed captioning for the deaf and hard of hearing, which could be understood by a minor.

(2) The video shall explain that public and private agencies are available to assist a pregnant minor with any alternative chosen.

(3) The video shall explain that if the pregnant minor decides to continue the pregnancy to term, and to retain parental rights to the child, the father of the child is liable for the support of the child.

(4) The video shall explain that tendering false documents is a fraudulent practice in the fourth degree pursuant to section 135L.6.

b. Written decision-making materials which include all of the following:

(1) Information regarding the options described in the video including information regarding the agencies and programs available to provide assistance to the pregnant minor in parenting a child; information relating to adoption including but not limited to information regarding child-placing agencies; and information regarding abortion including but not limited to the legal requirements relative to the performance of an abortion on a pregnant minor. The information provided shall include information explaining that if a pregnant minor decides to continue the pregnancy to term and to retain parental rights, the father of the child is liable for the support of the child and that if the pregnant minor seeks public assistance on behalf of the child, the pregnant minor shall, and if the pregnant minor is not otherwise eligible as a public assistance recipient, the pregnant minor may, seek the assistance of the child support recovery unit in establishing the paternity of the child, and in seeking support payments for a reasonable amount of the costs associated with the pregnancy, medical support, and maintenance from the father of the child, or if the father is a minor, from the parents of the minor father. The information shall include a listing of the agencies and programs and the services available from each.

(2) A workbook which is to be used in viewing the video and which includes a questionnaire and exercises to assist a pregnant minor in viewing the video and in considering the options available regarding the minor's pregnancy.

(3) A detachable certification form to be signed by the pregnant minor certifying that the pregnant minor was offered a viewing of the video and the written decision-making materials.

2. *a.* The video shall be available through the state and local offices of the Iowa department of public health, the department of human services, and the judicial branch and through the office of each licensed physician who performs abortions.

b. The video may be available through the office of any licensed physician who does not perform abortions, upon the request of the physician; through any nonprofit agency serving minors, upon the request of the agency; and through any other person providing services to minors, upon the request of the person.

3. During the initial appointment between a licensed physician from whom a pregnant minor is seeking the performance of an abortion and a pregnant minor, the licensed physician shall offer the viewing of the video and the written decision-making materials to the pregnant minor, and shall obtain the signed and dated certification form from the pregnant minor. A licensed physician shall not perform an abortion on a pregnant minor prior to obtaining the completed certification form from a pregnant minor.

4. A pregnant minor shall be encouraged to select a responsible adult, preferably a parent of the pregnant minor, to accompany the pregnant minor in viewing the video and receiving the decision-making materials.

5. To the extent possible and at the discretion of the pregnant minor, the person responsible for impregnating the pregnant minor shall also be involved in the viewing of the video and in the receipt of written decision-making materials.

6. Following the offering of the viewing of the video and of the written decision-making materials, the pregnant minor shall sign and date the certification form attached to the

materials, and shall submit the completed form to the licensed physician. The licensed physician shall also provide a copy of the completed certification form to the pregnant minor.

96 Acts, ch 1011, §2, 14; 96 Acts, ch 1174, §1; 97 Acts, ch 173, §2; 98 Acts, ch 1047, §16; 2020 Acts, ch 1102, §5

Referred to in §135L.3, 135L.6

135L.3 Notification of parent prior to the performance of abortion on a pregnant minor — requirements — criminal penalty.

1. A licensed physician shall not perform an abortion on a pregnant minor until at least forty-eight hours' prior notification is provided to a parent of the pregnant minor.

2. The licensed physician who will perform the abortion shall provide notification in person or by mailing the notification by restricted certified mail to a parent of the pregnant minor at the usual place of abode of the parent. For the purpose of delivery by restricted certified mail, the time of delivery is deemed to occur at 12:00 noon on the next day on which regular mail delivery takes place, subsequent to the mailing.

3. If the pregnant minor objects to the notification of a parent prior to the performance of an abortion on the pregnant minor, the pregnant minor may petition the court to authorize waiver of the notification requirement pursuant to this section in accordance with the following procedures:

a. The court shall ensure that the pregnant minor is provided with assistance in preparing and filing the petition for waiver of notification and shall ensure that the pregnant minor's identity remains confidential.

b. The pregnant minor may participate in the court proceedings on the pregnant minor's own behalf. The court may appoint a guardian ad litem for the pregnant minor and the court shall appoint a guardian ad litem for the pregnant minor if the pregnant minor is not accompanied by a responsible adult or if the pregnant minor has not viewed the video as provided pursuant to section 135L.2. In appointing a guardian ad litem for the pregnant minor, the court shall consider a person licensed to practice psychology pursuant to chapter 154B, a licensed social worker pursuant to chapter 154C, a licensed marital and family therapist pursuant to chapter 154D, or a licensed mental health counselor pursuant to chapter 154D to serve in the capacity of guardian ad litem. The court shall advise the pregnant minor of the pregnant minor's right to court-appointed legal counsel, and shall, upon the pregnant minor's request, provide the pregnant minor with court-appointed legal counsel, at no cost to the pregnant minor.

c. The court proceedings shall be conducted in a manner which protects the confidentiality of the pregnant minor and notwithstanding section 232.147 or any other provision to the contrary, all court documents pertaining to the proceedings shall remain confidential and shall be sealed. Only the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, and persons whose presence is specifically requested by the pregnant minor, by the pregnant minor's guardian ad litem, or by the pregnant minor's legal counsel may attend the hearing on the petition.

d. Notwithstanding any law or rule to the contrary, the court proceedings under this section shall be given precedence over other pending matters to ensure that the court reaches a decision expeditiously.

e. Upon petition and following an appropriate hearing, the court shall waive the notification requirements if the court determines either of the following:

(1) That the pregnant minor is mature and capable of providing informed consent for the performance of an abortion.

(2) That the pregnant minor is not mature, or does not claim to be mature, but that notification is not in the best interest of the pregnant minor.

f. The court shall issue specific factual findings and legal conclusions, in writing, to support the decision.

g. Upon conclusion of the hearing, the court shall immediately issue a written order which shall be provided immediately to the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's legal counsel, or to any other person designated by the pregnant minor to receive the order.

h. An expedited, confidential appeal shall be available to a pregnant minor for whom the court denies a petition for waiver of notification. An order granting the pregnant minor's application for waiver of notification is not subject to appeal. Access to the appellate courts for the purpose of an appeal under this section shall be provided to a pregnant minor twenty-four hours a day, seven days a week.

i. A pregnant minor who chooses to utilize the waiver of notification procedures under this section shall not be required to pay a fee at any level of the proceedings. Fees charged and court costs taxed in connection with a proceeding under this section are waived.

j. If the court denies the petition for waiver of notification and if the decision is not appealed or all appeals are exhausted, the court shall advise the pregnant minor that, upon the request of the pregnant minor, the court will appoint a licensed marital and family therapist to assist the pregnant minor in addressing any intrafamilial problems. All costs of services provided by a court-appointed licensed marital and family therapist shall be paid by the court through the expenditure of funds appropriated to the judicial branch.

k. Venue for proceedings under this section is in any court in the state.

l. The supreme court shall prescribe rules to ensure that the proceedings under this section are performed in an expeditious and confidential manner. The rules shall require that the hearing on the petition shall be held and the court shall rule on the petition within forty-eight hours of the filing of the petition. If the court fails to hold the hearing and rule on the petition within forty-eight hours of the filing of the petition and an extension is not requested, the petition is deemed granted and waiver of the notification requirements is deemed authorized. The court shall immediately provide documentation to the pregnant minor and to the pregnant minor's legal counsel if the pregnant minor is represented by legal counsel, demonstrating that the petition is deemed granted and that waiver of the notification requirements is deemed authorized. Resolution of a petition for authorization of waiver of the notification requirement shall be completed within ten calendar days as calculated from the day after the filing of the petition to the day of issuance of any final decision on appeal.

m. The requirements of this section regarding notification of a parent of a pregnant minor prior to the performance of an abortion on a pregnant minor do not apply if any of the following applies:

(1) The abortion is authorized in writing by a parent entitled to notification.

(2) (a) The pregnant minor declares, in a written statement submitted to the attending physician, a reason for not notifying a parent and a reason for notifying a grandparent of the pregnant minor in lieu of the notification of a parent. Upon receipt of the written statement from the pregnant minor, the attending physician shall provide notification to a grandparent of the pregnant minor, specified by the pregnant minor, in the manner in which notification is provided to a parent.

(b) The notification form shall be in duplicate and shall include both of the following:

(i) A declaration which informs the grandparent of the pregnant minor that the grandparent of the pregnant minor may be subject to civil action if the grandparent accepts notification.

(ii) A provision that the grandparent of the pregnant minor may refuse acceptance of notification.

(3) The pregnant minor's attending physician certifies in writing that a medical emergency exists which necessitates the immediate performance of an abortion, and places the written certification in the medical file of the pregnant minor.

(4) The pregnant minor declares that the pregnant minor is a victim of child abuse pursuant to section 232.68, the person responsible for the care of the child is a parent of the child, and either the abuse has been reported pursuant to the procedures prescribed in chapter 232, subchapter III, part 2, or a parent of the child is named in a report of founded child abuse. The department of human services shall maintain confidentiality under chapter 232 and shall not release any information in response to a request for public records, discovery procedures, subpoena, or any other means, unless the release of information is expressly authorized by the pregnant minor regarding the pregnant minor's pregnancy and

abortion, if the abortion is obtained. A person who knowingly violates the confidentiality provisions of this subparagraph is guilty of a serious misdemeanor.

(5) The pregnant minor declares that the pregnant minor is a victim of sexual abuse as defined in chapter 709 and has reported the sexual abuse to law enforcement.

n. A licensed physician who knowingly performs an abortion in violation of this section is guilty of a serious misdemeanor.

o. All records and files of a court proceeding maintained under this section shall be destroyed by the clerk of court when one year has elapsed from any of the following, as applicable:

(1) The date that the court issues an order waiving the notification requirements.

(2) The date after which the court denies the petition for waiver of notification and the decision is not appealed.

(3) The date after which the court denies the petition for waiver of notification, the decision is appealed, and all appeals are exhausted.

p. A person who knowingly violates the confidentiality requirements of this section relating to court proceedings and documents is guilty of a serious misdemeanor.

96 Acts, ch 1011, §4, 14; 96 Acts, ch 1174, §2; 97 Acts, ch 173, §3 – 11; 98 Acts, ch 1047, §17; 2015 Acts, ch 29, §26; 2020 Acts, ch 1062, §94

Referred to in §232.5, 602.8102(31)

135L.4 Prospective minor parents program advisory committee created. Repealed by 97 Acts, ch 203, §19.

135L.5 Medical emergency exception — alternative procedure. Repealed by 97 Acts, ch 173, §17. See §135L.3, subsection 3, paragraph m.

135L.6 Fraudulent practice.

A person who does any of the following is guilty of a fraudulent practice in the fourth degree pursuant to section 714.12:

1. Knowingly tenders a false original or copy of the signed and dated certification form described in section 135L.2, to be retained by the licensed physician.

2. Knowingly tenders a false original or copy of the notification document mailed to a parent or grandparent of the pregnant minor under this chapter, or a false original or copy of the order waiving notification relative to the performance of an abortion on a pregnant minor.

96 Acts, ch 1011, §7, 14; 96 Acts, ch 1174, §5; 97 Acts, ch 173, §12

Referred to in §135L.2

135L.7 Immunities.

1. With the exception of the civil liability which may apply to a grandparent of a pregnant minor who accepts notification under this chapter, a person is immune from any liability, civil or criminal, for any act, omission, or decision made in connection with a good faith effort to comply with the provisions of this chapter.

2. This section shall not be construed to limit civil liability of a person for any act, omission, or decision made in relation to the performance of a medical procedure on a pregnant minor.

96 Acts, ch 1011, §8, 14; 97 Acts, ch 173, §13

135L.8 Adoption of rules — implementation and documents.

The Iowa department of public health shall adopt rules to implement the notification procedures pursuant to this chapter including but not limited to rules regarding the documents necessary for notification of a parent or grandparent of a pregnant minor who is designated to receive notification under this chapter.

96 Acts, ch 1011, §9, 14; 97 Acts, ch 173, §14

CHAPTER 135M

PRESCRIPTION DRUG DONATION REPOSITORY

135M.1 Purpose.
135M.2 Definitions.
135M.3 Prescription drug donation repository program authorized.
135M.4 Prescription drug donation repository program requirements.
135M.5 Exemption from disciplinary action, civil liability, and criminal prosecution.
135M.6 Sample prescription drugs.
135M.7 Resale prohibited.

135M.1 Purpose.

The purpose of this chapter is to improve the health of low-income Iowans and Iowans who have been victims of a state of disaster emergency proclaimed by the governor pursuant to section 29C.6 or a public health disaster as defined in section 135.140, subsection 6, through a prescription drug donation repository that authorizes medical facilities, pharmacies, and the department to redispense prescription drugs and supplies that would otherwise be destroyed.

2005 Acts, ch 97, §1; 2009 Acts, ch 127, §1

135M.2 Definitions.

1. *"Anti-rejection drug"* means a prescription drug that suppresses the immune system to prevent or reverse rejection of a transplanted organ.
2. *"Cancer drug"* means a prescription drug that is used to treat any of the following:
a. Cancer or the side effects of cancer.
b. The side effects of any prescription drug that is used to treat cancer or the side effects of cancer.
3. *"Controlled substance"* means the same as defined in section 155A.3.
4. *"Department"* means the Iowa department of public health.
5. *"Indigent"* means a person with an income that is below two hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.
6. *"Medical facility"* means any of the following:
a. A physician's office.
b. A hospital.
c. A health clinic.
d. A nonprofit health clinic which includes a federally qualified health center as defined in 42 U.S.C. §1396d(l)(2)(B); a rural health clinic as defined in 42 U.S.C. §1396d(l)(1); and a nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.
e. A free clinic as defined in section 135.24.
f. A charitable organization as defined in section 135.24.
g. A nursing facility as defined in section 135C.1.
7. *"Pharmacy"* means a pharmacy as defined in section 155A.3.
8. *"Prescription drug"* means the same as defined in section 155A.3, and includes cancer drugs and anti-rejection drugs, but does not include controlled substances.
9. *"Supplies"* means the supplies necessary to administer the prescription drugs donated.

2005 Acts, ch 97, §2

135M.3 Prescription drug donation repository program authorized.

1. The department, in cooperation with the board of pharmacy, may establish and maintain a prescription drug donation repository program under which any person may donate prescription drugs and supplies for use by an individual who meets eligibility criteria specified by the department by rule. The department may contract with a third party to implement and administer the program.
2. Donations of prescription drugs and supplies under the program may be made on the

premises of a medical facility or pharmacy that elects to participate in the program and meets the requirements established by the department.

3. The medical facility or pharmacy may charge an individual who receives a prescription drug or supplies a handling fee that shall not exceed an amount established by rule by the department.

4. *a.* A medical facility or pharmacy that receives prescription drugs or supplies may distribute the prescription drugs or supplies to another eligible medical facility or pharmacy for use pursuant to the program.

b. The department may receive prescription drugs or supplies directly from the prescription drug donation repository contractor and may distribute such prescription drugs and supplies through persons licensed to dispense prescription drugs and supplies to an eligible individual for use by the individual pursuant to the program. The department may receive and distribute such prescription drugs or supplies under this paragraph during or in preparation for a state of disaster emergency proclaimed by the governor pursuant to section 29C.6 or during or in preparation for a public health disaster as defined in section 135.140, subsection 6.

5. Participation in the program shall be voluntary.

2005 Acts, ch 97, §3; 2007 Acts, ch 10, §22; 2009 Acts, ch 127, §2

135M.4 Prescription drug donation repository program requirements.

1. A prescription drug or supplies may be accepted and dispensed under the prescription drug donation repository program if all of the following conditions are met:

a. The prescription drug is in its original sealed and tamper-evident packaging. However, a prescription drug in a single-unit dose or blister pack with the outside packaging opened may be accepted if the single-unit dose packaging remains intact.

b. The prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated. However, a donated prescription drug bearing an expiration date that is six months or less after the date the prescription drug was donated may be accepted and distributed if the drug is in high demand and can be dispensed for use prior to the drug's expiration date.

c. The prescription drug or supplies are inspected before the prescription drug or supplies are dispensed by a licensed pharmacist employed by or under contract with the medical facility or pharmacy, and the licensed pharmacist determines that the prescription drug or supplies are not adulterated or misbranded.

d. The prescription drug or supplies are prescribed by a health care practitioner for use by an eligible individual and are dispensed by a pharmacist or are dispensed to an eligible individual by the prescribing health care practitioner or the practitioner's authorized agent.

2. A prescription drug or supplies donated under this chapter shall not be resold.

3. *a.* If a person who donates prescription drugs under this chapter to a medical facility or pharmacy receives a notice from a pharmacy that a prescription drug has been recalled, the person shall inform the medical facility or pharmacy of the recall.

b. If a medical facility or pharmacy receives a recall notification from a person who donated prescription drugs under this chapter, the medical facility or pharmacy shall perform a uniform destruction of all of the recalled prescription drugs in the medical facility or pharmacy.

4. A prescription drug dispensed through the prescription drug donation repository program shall not be eligible for reimbursement under the medical assistance program.

5. The department shall adopt rules establishing all of the following:

a. Requirements for medical facilities and pharmacies to accept and dispense donated prescription drugs and supplies, including all of the following:

(1) Eligibility criteria for participation by medical facilities and pharmacies.

(2) Standards and procedures for accepting, safely storing, and dispensing donated prescription drugs and supplies.

(3) Standards and procedures for inspecting donated prescription drugs to determine if the prescription drugs are in their original sealed and tamper-evident packaging, or if the

prescription drugs are in single-unit doses or blister packs and the outside packaging is opened, if the single-unit dose packaging remains intact.

(4) Standards and procedures for inspecting donated prescription drugs and supplies to determine that the prescription drugs and supplies are not adulterated or misbranded.

b. (1) Eligibility criteria for individuals to receive donated prescription drugs and supplies dispensed by medical facilities and pharmacies under the program. The standards shall prioritize dispensing to individuals who are indigent or uninsured, but may permit dispensing to other individuals if an uninsured or indigent individual is unavailable.

(2) Eligibility criteria for individuals to receive donated prescription drugs and supplies dispensed directly by the department through persons licensed to dispense prescription drugs and supplies. The department shall accept and dispense donated prescription drugs and supplies received from the prescription drug donation repository contractor during or in preparation for a state of disaster emergency proclaimed by the governor pursuant to section 29C.6 or during or in preparation for a public health disaster as defined in section 135.140, subsection 6.

c. Necessary forms for administration of the prescription drug donation repository program, including forms for use by individuals who donate, accept, distribute, or dispense the prescription drugs or supplies under the program.

d. A means by which an individual who is eligible to receive donated prescription drugs and supplies may indicate such eligibility.

e. The maximum handling fee that a medical facility or pharmacy may charge for accepting, distributing, or dispensing donated prescription drugs and supplies under the program.

f. A list of prescription drugs that the prescription drug donation repository program will accept.

2005 Acts, ch 97, §4; 2007 Acts, ch 159, §24; 2008 Acts, ch 1058, §6; 2009 Acts, ch 127, §3

135M.5 Exemption from disciplinary action, civil liability, and criminal prosecution.

1. A drug manufacturer acting reasonably and in good faith, is not subject to criminal prosecution or civil liability for injury, death, or loss to a person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the drug manufacturer that is donated under this chapter, including liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

2. Except as provided in subsection 3, a person including the department or the department's employees, agents, or volunteers, but not a drug manufacturer subject to subsection 1, acting reasonably and in good faith, is immune from civil liability and criminal prosecution for injury to or the death of an individual to whom a donated prescription drug is dispensed under this chapter and shall be exempt from disciplinary action related to the person's acts or omissions related to the donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter.

3. The immunity and exemption provided in subsection 2 do not extend to any of the following:

a. The donation, acceptance, distribution, or dispensing of a donated prescription drug under this chapter by a person if the person's acts or omissions are not performed reasonably and in good faith.

b. To acts or omissions outside the scope of the program.

2005 Acts, ch 97, §5; 2009 Acts, ch 127, §4

135M.6 Sample prescription drugs.

This chapter shall not be construed to restrict the use of samples by a physician or other person legally authorized to prescribe drugs under state and federal law during the course of the physician's or other person's duties at a medical facility or pharmacy.

2005 Acts, ch 97, §6; 2005 Acts, ch 179, §119

135M.7 Resale prohibited.

This chapter shall not be construed to authorize the resale of prescription drugs by any person.

2005 Acts, ch 97, §7

CHAPTER 135N

DIRECT PRIMARY CARE AGREEMENTS

135N.1 Direct primary care agreements.

135N.1 Direct primary care agreements.

1. *Definitions.* For the purpose of this section:

a. "Direct patient" means an individual, or an individual and the individual's immediate family, that is party to a direct primary care agreement.

b. "Direct patient's representative" means a parent, guardian, or an individual holding a durable power of attorney for health care for a direct patient.

c. "Direct primary care agreement" means an agreement between a direct provider and a direct patient, or the direct patient's representative, in which the direct provider agrees to provide primary care health services for a specified period of time to the direct patient for a direct service charge.

d. "Direct provider" means a health care professional licensed, accredited, registered, or certified to perform specified primary care health services consistent with the law of this state. *"Direct provider"* includes an individual health care professional or other legal health care entity alone or with other health care professionals professionally associated with the individual health care professional or other legal health care entity.

e. "Direct service charge" means a charge for primary care health services provided by a direct provider to a direct patient covered by a direct primary care agreement. *"Direct service charge"* may include a periodic retainer, a membership fee, a subscription fee, or a charge in any other form paid by a direct patient to a direct provider under a direct primary care agreement.

f. "Durable power of attorney for health care" means the same as defined in section 144B.1.

g. "Primary care health services" means general health care services of the type provided at the time a patient seeks preventive care or first seeks health care services for a specific health concern. *"Primary care health services"* include all of the following:

(1) Care which promotes and maintains mental and physical health and wellness.

(2) Care which prevents disease.

(3) Screening, diagnosing, and treatment of acute or chronic conditions caused by disease, injury, or illness.

(4) Patient counseling and education.

(5) Provision of a broad spectrum of preventive and curative health care over a period of time.

(6) Coordination of care.

2. *Requirements for a valid direct primary care agreement.*

a. In order to be a valid agreement, a direct primary care agreement must meet all of the following requirements:

(1) Be in writing.

(2) Be signed by the direct provider, or an agent of the direct provider, and the direct patient or the direct patient's representative.

(3) Describe the scope of the primary care health services covered by the direct primary care agreement.

(4) State each of the direct provider's locations where a direct patient may obtain primary care health services and specify any out-of-office primary care health services that are covered under the direct primary care agreement.

(5) Specify the direct service charge and the frequency at which the direct service charge must be paid by the direct patient. A direct patient shall not be required to pay more than twelve months of a direct service charge in advance.

(6) Specify any additional costs for primary care health services not covered by the direct service charge for which the direct patient will be responsible.

(7) Specify the duration of the direct primary care agreement, whether renewal is automatic, and if required the procedure for renewal of the direct primary care agreement.

(8) Specify the terms and conditions under which the direct primary care agreement may be terminated by the direct provider. A termination of the direct primary care agreement by the direct provider shall include a minimum of a thirty-calendar-day advance, written notice to the direct patient or to the direct patient's representative.

(9) Specify that the direct primary care agreement may be terminated at any time by the direct patient upon written notice to the direct provider.

(10) State that if the direct primary care agreement is terminated by either the direct patient or the direct provider all of the following apply:

(a) Within thirty calendar days of the date of the notice of termination from either party, the direct provider shall refund all unearned direct service charges to the direct patient.

(b) Within thirty calendar days of the date of the notice of termination from either party, the direct patient shall pay all outstanding earned direct service charges to the direct provider.

(11) Include a notice in bold, twelve-point font that states substantially as follows:

> NOTICE. This direct primary care agreement is not health insurance and is not a plan that provides health coverage for purposes of any federal mandates. This direct primary care agreement only covers the primary care health services described in this agreement. It is recommended that you obtain health insurance to cover health care services not covered under this direct primary care agreement. You are personally responsible for the payment of any additional health care expenses you may incur.

b. The direct provider shall provide the direct patient, or the direct patient's representative, with a fully executed copy of the direct primary care agreement at the time the direct primary care agreement is executed.

3. *Application for a direct primary care agreement.* If a direct provider requires a prospective direct patient to complete an application for a direct primary care agreement, the direct provider shall provide a written disclaimer on each application that informs the prospective direct patient of the direct patient's financial rights and responsibilities and that states that the direct provider will not bill a health insurance carrier for primary care health services covered under the direct primary care agreement. The disclaimer shall also include the identical notice required by subsection 2, paragraph *"a"*, subparagraph (11).

4. *Notice required for changes to the terms or conditions of a direct primary care agreement.*

a. A direct provider shall provide at least a sixty-calendar-day advance, written notice to a direct patient of any of the following changes to a direct primary care agreement:

(1) Any change in the scope of the primary care health services covered under the agreement.

(2) Any change in the direct provider's locations where the direct patient may access primary care health services.

(3) Any change in the out-of-office services that are covered under the direct primary care service agreement.

(4) Any change in the direct service charge.

(5) Any change in the additional costs for primary care health services not covered by the direct service charge.

(6) Any change in the renewal terms.

(7) Any change in the terms to terminate the agreement.

b. A direct provider shall provide the notice by mailing a letter to the address of the direct

patient that the direct provider has on file. The postmark date on the letter shall be the first day of the required sixty-calendar-day notice period.

5. *Discrimination based on an individual's health status.* A direct provider shall not refuse to accept a new direct patient or discontinue care of an existing direct patient based solely on the new direct patient's or the existing direct patient's health status.

6. *A direct primary care agreement is not insurance.*

a. A direct primary care agreement is not insurance and shall not be subject to the authority of the commissioner of insurance. Neither a direct care provider, nor an agent of a direct care provider, shall be required to be licensed by the commissioner to transact the business of insurance in this state or to obtain a certificate issued by the commissioner to market or offer a direct primary care agreement.

b. A direct provider shall not bill an insurer for a service provided under a direct primary care agreement. A direct patient may submit a request for reimbursement to an insurer if permitted under the direct patient's policy of insurance. This paragraph does not prohibit a direct provider from billing a direct patient's insurance for a service provided to the direct patient by the direct provider that is not provided under the direct primary care agreement.

7. *Third-party payment of a direct service charge.* A direct provider may accept payment of a direct service charge for a direct patient either directly or indirectly from a third party. A direct provider may accept all or part of a direct service charge paid by an employer on behalf of an employee who is a direct patient of the direct provider. A direct provider shall not enter directly into an agreement with an employer relating to a direct primary care agreement between the direct provider and employees of the employer, other than an agreement to establish the timing and method of the payment of a direct service charge paid by the employer on behalf of the employee.

8. *Sale or transfer of a direct primary care agreement.* A direct primary care agreement shall not be sold or transferred by a direct care provider without the prior written consent of the direct patient who is a party to the direct primary care agreement. A direct patient shall not sell or transfer a direct primary care agreement to which the direct patient is a party.

2018 Acts, ch 1043, §1

CHAPTER 135O

BOARDING HOMES

Referred to in §10A.104, 16.49

135O.1 Definitions.
135O.2 Required registration and reporting — rules — penalty.
135O.3 Response to allegations.
135O.4 Public disclosure of findings.

135O.1 Definitions.

For the purposes of this chapter unless the context otherwise requires:

1. *"Boarding home"* means a premises used by its owner or lessee for the purpose of letting rooms for rental to three or more persons not related within the third degree of consanguinity to the owner or lessee where supervision or assistance with activities of daily living is provided to such persons. A boarding home does not include a facility, home, or program otherwise subject to licensure or regulation by the department of human services, department of inspections and appeals, or department of public health.

2. *"Department"* means the department of inspections and appeals.

3. *"Premises"* means the same as defined in section 562A.6.

2009 Acts, ch 136, §3

135O.2 Required registration and reporting — rules — penalty.

1. The owner or lessee of a boarding home in this state shall register with and submit occupancy reports to the department. The content of the required occupancy reports shall

include but is not limited to the number of individuals living in the boarding home and the supervision or assistance with activities of daily living being provided to the individuals.

2. The department of inspections and appeals shall adopt rules to administer this chapter in consultation with the departments of human services and public safety.

3. *a.* The owner or lessee of a boarding home who fails to register with the department or to timely submit occupancy reports required by this section and rules adopted pursuant to this chapter is subject to a civil penalty of not more than five hundred dollars.

b. The department may reduce, alter, or waive a penalty under paragraph *"a"* upon the owner's or lessee's showing of good faith compliance with the department's request to immediately cease and desist from conduct in violation of this chapter.

2009 Acts, ch 136, §4

135O.3 Response to allegations.

1. If the department or other state agency receives an allegation of a violation of this chapter by a boarding home or an allegation regarding the care or safety of an individual living in a boarding home, a coordinated, interagency approach shall be used to respond to the allegation.

2. *a.* The interagency approach may involve a multidisciplinary team consisting of employees of the department of inspections and appeals, the department of human services, the state fire marshal, and the division of criminal investigation of the department of public safety, or other local, state, and federal agencies.

b. The multidisciplinary team may consult with local, state, and federal law enforcement agencies, first responders, health and human services professionals, and governmental and nongovernmental advocacy organizations, and other appropriate persons.

3. The name of a person who files an allegation shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees or the members of a multidisciplinary team involved in the investigation of the allegation.

4. If the department or a multidisciplinary team has probable cause to believe that a boarding home is in violation of this chapter or licensing or other regulatory requirements of the department of human services, department of inspections and appeals, or department of public health, or that dependent adult abuse of any individual living in a boarding home has occurred, and upon producing proper identification, is denied entry to the boarding home or access to any individual living in the boarding home for the purpose of making an inspection or conducting an investigation, the department or multidisciplinary team may, with the assistance of the county attorney of the county in which the boarding home is located, apply to the district court for an order requiring the owner or lessee to permit entry to the boarding home and access to the individuals living in the boarding home.

2009 Acts, ch 136, §5

135O.4 Public disclosure of findings.

Following an inspection or investigation of a boarding home under this chapter by the department or a multidisciplinary team, the final findings with respect to compliance by the boarding home shall be made available to the public. Other information relating to a boarding home obtained by the department or a multidisciplinary team which does not constitute the findings from an inspection or investigation of the boarding home shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a boarding home registration under this chapter. The information made available to the public pursuant to this section shall not include information which is kept confidential under section 22.7.

2009 Acts, ch 136, §6

CHAPTER 135P

ADVERSE HEALTH CARE INCIDENTS — COMMUNICATIONS — CONFIDENTIALITY

135P.1 Definitions.
135P.2 Confidentiality of open discussions.
135P.3 Engaging in an open discussion.
135P.4 Payment and resolution.

135P.1 Definitions.

For the purposes of this chapter, unless the context otherwise requires:

1. *"Adverse health care incident"* means an objective and definable outcome arising from or related to patient care that results in the death or physical injury of a patient.

2. *"Health care provider"* means a physician or osteopathic physician licensed under chapter 148, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a podiatrist licensed under chapter 149, a chiropractor licensed under chapter 151, a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed under chapter 152 or 152E, a dentist licensed under chapter 153, an optometrist licensed under chapter 154, a pharmacist licensed under chapter 155A, or any other person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

3. *"Health facility"* means an institutional health facility as defined in section 135.61, a hospice licensed under chapter 135J, a home health agency as defined in section 144D.1, an assisted living program certified under chapter 231C, a clinic, a community health center, or the university of Iowa hospitals and clinics, and includes any corporation, professional corporation, partnership, limited liability company, limited liability partnership, or other entity comprised of such health facilities.

4. *"Open discussion"* means all communications that are made under section 135P.3, and includes all memoranda, work products, documents, and other materials that are prepared for or submitted in the course of or in connection with communications under section 135P.3.

5. *"Patient"* means a person who receives medical care from a health care provider, or if the person is a minor, deceased, or incapacitated, the person's legal representative.

2015 Acts, ch 33, §1; 2017 Acts, ch 107, §1, 5; 2020 Acts, ch 1045, §7
Referred to in §147.136A
2017 amendment to subsections 1 and 2 applies to causes of action that accrue on or after July 1, 2017; 2017 Acts, ch 107, §5

135P.2 Confidentiality of open discussions.

1. Open discussion communications and offers of compensation made under section 135P.3:

a. Do not constitute an admission of liability.

b. Are privileged, confidential, and shall not be disclosed.

c. Are not admissible as evidence in any subsequent judicial, administrative, or arbitration proceeding and are not subject to discovery, subpoena, or other means of legal compulsion for release and shall not be disclosed by any party in any subsequent judicial, administrative, or arbitration proceeding.

2. Communications, memoranda, work products, documents, and other materials, otherwise subject to discovery, that were not prepared specifically for use in a discussion under section 135P.3, are not confidential.

3. The limitation on disclosure imposed by this section includes disclosure during any discovery conducted as part of a subsequent adjudicatory proceeding, and a court or other adjudicatory body shall not compel any person who engages in an open discussion under this chapter to disclose confidential communications or agreements made under section 135P.3.

4. This section does not affect any other law, regulation, or requirement with respect to confidentiality.

2015 Acts, ch 33, §2

135P.3 Engaging in an open discussion.

1. If an adverse health care incident occurs in a health facility, the health care provider, the health facility, or the health care provider jointly with the health facility, may provide the patient with written notice of the desire of the health care provider, the health facility, or of the health care provider jointly with the health facility, to enter into an open discussion under this chapter. A health facility may designate a person or class of persons who have authority to provide such notice on behalf of the facility. If the health care provider or health facility provides such notice, such notice must be sent within one year after the date on which the health care provider knew, or through the use of diligence should have known, of the adverse health care incident. The notice must include all of the following:

a. Notice of the desire of the health care provider, or of the health care provider jointly with the health facility, to proceed with an open discussion under this chapter.

b. Notice of the patient's right to receive a copy of the medical records related to the adverse health care incident and of the patient's right to authorize the release of the patient's medical records related to the adverse health care incident to any third party.

c. Notice of the patient's right to seek legal counsel.

d. A copy of section 614.1, subsection 9, and notice that the time for a patient to bring a lawsuit is limited under section 614.1, subsection 9, and will not be extended by engaging in an open discussion under this chapter unless all parties agree to an extension in writing.

e. Notice that if the patient chooses to engage in an open discussion with the health care provider or health facility, that all communications made in the course of such a discussion under this chapter, including communications regarding the initiation of an open discussion, are privileged and confidential, are not subject to discovery, subpoena, or other means of legal compulsion for release, and are not admissible in evidence in a judicial, administrative, or arbitration proceeding.

2. If the patient agrees in writing to engage in an open discussion, the patient, health care provider, or health facility engaged in an open discussion under this chapter may include other persons in the open discussion. All additional parties shall also be advised in writing prior to the discussion that discussions are privileged and confidential, are not subject to discovery, subpoena, or other means of legal compulsion for release, and are not admissible in evidence in a judicial, administrative, or arbitration proceeding. The advice in writing must indicate that communications, memoranda, work products, documents, and other materials, otherwise subject to discovery, that were not prepared specifically for use in a discussion under this section, are not confidential.

3. The health care provider or health facility that agrees to engage in an open discussion may do all of the following:

a. Investigate how the adverse health care incident occurred and gather information regarding the medical care or treatment provided.

b. Disclose the results of the investigation to the patient.

c. Openly communicate to the patient the steps the health care provider or health facility will take to prevent future occurrences of the adverse health care incident.

d. Determine either of the following:

(1) That no offer of compensation for the adverse health care incident is warranted and orally communicate that determination to the patient.

(2) That an offer of compensation for the adverse health care incident is warranted and extend such an offer in writing to the patient.

4. If a health care provider or health facility makes an offer of compensation under subsection 3 and the patient is not represented by legal counsel, the health care provider or health facility shall advise the patient of the patient's right to seek legal counsel regarding the offer of compensation.

5. Except for offers of compensation under subsection 3, discussions between the health care provider or health facility and the patient about the compensation offered under subsection 3 shall remain oral.

2015 Acts, ch 33, §3; 2020 Acts, ch 1045, §8; 2021 Acts, ch 80, §70

Referred to in §135P.1, 135P.2, 135P.4

Subsection 1, unnumbered paragraph 1 amended

135P.4 Payment and resolution.

1. A payment made to a patient pursuant to section 135P.3 is not a payment resulting from any of the following:

a. A written claim or demand for payment.

b. A claim for purposes of section 272C.9.

c. A claim for purposes of section 505.27.

2. A health care provider or health facility may require the patient, as a condition of an offer of compensation under section 135P.3, to execute all documents and obtain any necessary court approval to resolve an adverse health care incident. The parties shall negotiate the form of such documents or obtain court approval as necessary.

2015 Acts, ch 33, §4

CHAPTER 136

STATE BOARD OF HEALTH

Referred to in §125.2

136.1	Composition of board.	136.6	Reserved.
136.2	Appointment.	136.7	Chairperson — staff assistance.
136.3	Duties.	136.8	Supplies.
136.4	Questions submitted.	136.9	Compensation and expenses.
136.5	Meetings.	136.10	Publication of proceedings.

136.1 Composition of board.

1. The state board of health shall consist of the following members:

a. Two members learned in health-related disciplines.

b. Three members who have direct experience with public health.

c. Two members who have direct experience with substance abuse treatment or prevention.

d. Four members representing the general public.

2. At least one of such members shall be licensed in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148.

[S13, §2564-a; C24, 27, 31, 35, 39, §**2218;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.1]

86 Acts, ch 1245, §1119; 2005 Acts, ch 175, §78; 2010 Acts, ch 1090, §1; 2011 Acts, ch 25, §17

136.2 Appointment.

1. All members of the state board of health shall be appointed by the governor to three-year staggered terms which shall expire on June 30.

2. Each year, the governor shall appoint successors to the board members whose terms expire that year. A vacancy occurring on the board shall be filled by the governor for the unexpired term of the vacancy.

[C24, 27, 31, 35, 39, §**2219;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.2]

89 Acts, ch 83, §27; 2018 Acts, ch 1026, §50

136.3 Duties.

The state board of health shall provide a forum for the development of public health policy in the state of Iowa and shall have the following powers and duties:

1. Consider and study legislation and administration concerning public health.

2. Advise the department on any issue related to the promotion and protection of the health of Iowans including but not limited to:

a. Prevention of epidemics and the spread of disease, including communicable and

infectious diseases such as zoonotic diseases, quarantine and isolation, sexually transmitted diseases, and antitoxins and vaccines.

b. Protection against environmental hazards.

c. Prevention of injuries.

d. Promotion of healthy behaviors.

e. Preparing for, responding to, and recovering from public health emergencies and disasters.

3. Establish policies governing the performance of the department in the discharge of any duties imposed on it by law.

4. Provide guidance to the director in the discharge of the director's duties.

5. Assure that the department complies with Iowa Code and administrative rules. For this purpose the board shall have access at any time to all documents and records of the department.

6. Assure that the department prepares and distributes an annual report.

7. Advise or make recommendations to the director of public health, governor, and general assembly relative to public health and advocate for the importance of public health standards for state and local public health.

8. Offer consultation to the governor in the appointment of the director of the department.

9. Adopt, promulgate, amend, and repeal rules and regulations consistent with law for the protection of the public health and prevention of substance abuse, and for the guidance of the department. All rules adopted by the department are subject to approval by the board.

10. Act by committee, or by a majority of the board.

11. Keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the department.

12. Perform those duties authorized pursuant to chapter 125. The board may appoint a substance abuse and gambling treatment program committee to approve or deny applications for licensure received from substance abuse programs pursuant to chapter 125 and gambling treatment programs pursuant to chapter 135 and to perform any other function authorized by chapter 125 or 135 and delegated to the committee.

[C97, §2565; C24, 27, 31, 35, 39, §**2220;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.3]

86 Acts, ch 1245, §1120; 2001 Acts, ch 184, §8; 2002 Acts, ch 1050, §19; 2005 Acts, ch 175, §79, 80; 2008 Acts, ch 1188, §27, 47, 53, 66; 2010 Acts, ch 1090, §2; 2011 Acts, ch 129, §80, 82; 2016 Acts, ch 1026, §7, 8; 2017 Acts, ch 148, §27, 28

136.4 Questions submitted.

The department may lay before the board, or any committee thereof, at any regular or special meeting, any matter upon which it desires the advice or opinion of such body or committee.

[C24, 27, 31, 35, 39, §**2221;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.4]

136.5 Meetings.

The board shall meet at least six times per year and as may be deemed necessary by the chairperson of the board or the director of the department. The department shall give each board member adequate notice of all meetings. A majority of the members of the board shall constitute a quorum.

[C97, §2564; S13, §2564; C24, 27, 31, 35, 39, §**2222;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.5]

2010 Acts, ch 1090, §3

136.6 Reserved.

136.7 Chairperson — staff assistance.

The board shall annually in July elect a chairperson, who shall serve for a period of one year. The department shall furnish staff from the regular employees of the department to record the minutes of the meetings of the board.

[C97, §2564; S13, §2564; C24, 27, 31, 35, 39, §**2224;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.7]

2010 Acts, ch 1090, §4

136.8 Supplies.

The department shall furnish the board of health with all articles and supplies necessary to enable the board to perform the duties imposed upon it by law. Such articles and supplies shall be obtained by the department in the same manner in which the regular supplies for the department are obtained and the same shall be considered and accounted for as if obtained for the use of the department.

[S13, §2564; C24, 27, 31, 35, 39, §**2225;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.8]

2010 Acts, ch 1090, §5

136.9 Compensation and expenses.

The members of the board shall be reimbursed for actual expenses for each day employed in the discharge of their duties. All expense moneys paid to the members shall be paid from funds appropriated to the state department of public health. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

[C97, §2574; S13, §2564, 2574; C24, 27, 31, 35, 39, §**2226;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.9]

86 Acts, ch 1245, §1121

136.10 Publication of proceedings.

Upon request of the board the department shall incorporate the proceedings of the board, or any part of the proceedings, in its annual report to the governor, and those proceedings shall then be published as a part of the official report of the department.

[C24, 27, 31, 35, 39, §**2227;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §136.10]

91 Acts, ch 258, §30

CHAPTER 136A

CENTER FOR CONGENITAL AND INHERITED DISORDERS

Referred to in §135.11

136A.1 Purpose.
136A.2 Definitions.
136A.3 Establishment of center for congenital and inherited disorders — duties.
136A.4 Genetic health services.
136A.5 Newborn metabolic screening.
136A.5A Newborn critical congenital heart disease screening.
136A.5B Cytomegalovirus public health initiative.
136A.6 Central registry.
136A.7 Confidentiality.
136A.8 Rules.
136A.9 Cooperation of other agencies.

136A.1 Purpose.

To reduce and avoid adverse health conditions of inhabitants of the state, the Iowa department of public health shall initiate, conduct, and supervise screening and health care programs in order to detect and predict congenital or inherited disorders. The department shall assist in the translation and integration of genetic and genomic advances into public

health services to improve health outcomes throughout the life span of the inhabitants of the state.

2004 Acts, ch 1031, §2, 12

136A.2 Definitions.

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

1. *"Attending health care provider"* means a licensed physician, nurse practitioner, certified nurse midwife, or physician assistant.
2. *"Congenital disorder"* means an abnormality existing prior to or at birth, including a stillbirth, that adversely affects the health and development of a fetus, newborn, child, or adult, including a structural malformation or a genetic, chromosomal, inherited, or biochemical disorder.
3. *"Department"* means the Iowa department of public health.
4. *"Disorder"* means a congenital or inherited disorder.
5. *"Genetics"* means the study of inheritance and how genes contribute to health conditions and the potential for disease.
6. *"Genomics"* means the functions and interactions of all human genes and their variation within human populations, including their interaction with environmental factors, and their contribution to health.
7. *"Inherited disorder"* means a condition caused by an abnormal change in a gene or genes passed from a parent or parents to their child. Onset of the disorder may be prior to or at birth, during childhood, or in adulthood.
8. *"Stillbirth"* means an unintended fetal death occurring after a gestation period of twenty completed weeks, or an unintended fetal death of a fetus with a weight of three hundred fifty or more grams.

2004 Acts, ch 1031, §3, 12
Referred to in §144.31A

136A.3 Establishment of center for congenital and inherited disorders — duties.

A center for congenital and inherited disorders is established within the department. The center shall do all of the following:

1. Initiate, conduct, and supervise statewide screening programs for congenital and inherited disorders amenable to population screening.
2. Initiate, conduct, and supervise statewide health care programs to aid in the early detection, treatment, prevention, education, and provision of supportive care related to congenital and inherited disorders.
3. Develop specifications for and designate a central laboratory in which tests conducted pursuant to the screening programs provided for in subsection 1 will be performed.
4. Gather, evaluate, and maintain information related to causes, severity, prevention, and methods of treatment for congenital and inherited disorders in conjunction with a central registry, screening programs, genetic health care programs, and ongoing scientific investigations and surveys.
5. Perform surveillance and monitoring of congenital and inherited disorders to determine the occurrence and trends of the disorders, to conduct thorough and complete epidemiological surveys, to assist in the planning for and provision of services to children with congenital and inherited disorders and their families, and to identify environmental and genetic risk factors for congenital and inherited disorders.
6. Provide information related to severity, causes, prevention, and methods of treatment for congenital and inherited disorders to the public, medical and scientific communities, and health science disciplines.
7. Implement public education programs, continuing education programs for health practitioners, and education programs for trainees of the health science disciplines related to genetics, congenital disorders, and inheritable disorders.
8. Participate in policy development to assure the appropriate use and confidentiality of genetic information and technologies to improve health and prevent disease.
9. Collaborate with state and local health agencies and other public and private

organizations to provide education, intervention, and treatment for congenital and inherited disorders and to integrate genetics and genomics advances into public health activities and policies.

2004 Acts, ch 1031, §4, 12
Referred to in §136A.5B

136A.4 Genetic health services.

The center may initiate, conduct, and supervise genetic health services for the inhabitants of the state, including the provision of regional genetic consultation clinics, comprehensive neuromuscular health care outreach clinics, and other outreach services and clinics as established by rule.

2004 Acts, ch 1031, §5, 12

136A.5 Newborn metabolic screening.

1. All newborns born in this state shall be screened for congenital and inherited disorders in accordance with rules adopted by the department.

2. An attending health care provider shall ensure that every newborn under the provider's care is screened for congenital and inherited disorders in accordance with rules adopted by the department.

3. This section does not apply if a parent objects to the screening. If a parent objects to the screening of a newborn, the attending health care provider shall document the refusal in the newborn's medical record and shall obtain a written refusal from the parent and report the refusal to the department as provided by rule of the department.

2004 Acts, ch 1031, §6, 12; 2005 Acts, ch 19, §33
Referred to in §136A.5A

136A.5A Newborn critical congenital heart disease screening.

1. Each newborn born in this state shall receive a critical congenital heart disease screening by pulse oximetry or other means as determined by rule, in conjunction with the metabolic screening required pursuant to section 136A.5.

2. An attending health care provider shall ensure that every newborn under the provider's care receives the critical congenital heart disease screening.

3. This section does not apply if a parent objects to the screening. If a parent objects to the screening of a newborn, the attending health care provider shall document the refusal in the newborn's medical record and shall obtain a written refusal from the parent and report the refusal to the department.

4. Notwithstanding any provision to the contrary, the results of each newborn's critical congenital heart disease screening shall only be reported in a manner consistent with the reporting of the results of metabolic screenings pursuant to section 136A.5 if funding is available for implementation of the reporting requirement.

5. This section shall be administered in accordance with rules adopted pursuant to section 136A.8.

2013 Acts, ch 140, §91

136A.5B Cytomegalovirus public health initiative.

1. In accordance with the duties prescribed in section 136A.3, the center for congenital and inherited disorders shall collaborate with state and local health agencies and other public and private organizations to develop and publish or approve and publish informational materials to educate and raise awareness of cytomegalovirus and congenital cytomegalovirus among women who may become pregnant, expectant parents, parents of infants, attending health care providers, and others, as appropriate. The materials shall include information regarding all of the following:

a. The incidence of cytomegalovirus and congenital cytomegalovirus.

b. The transmission of cytomegalovirus to a pregnant woman or a woman who may become pregnant.

c. Birth defects caused by congenital cytomegalovirus.

d. Methods of diagnosing congenital cytomegalovirus.

e. Available preventive measures to avoid cytomegalovirus infection by women who are pregnant or who may become pregnant.

f. Early interventions, treatment, and services available for children diagnosed with congenital cytomegalovirus.

2. An attending health care provider shall provide to a pregnant woman during the first trimester of the pregnancy the informational materials published under this section. The center for congenital and inherited disorders shall make the informational materials available to attending health care providers upon request.

3. The department shall publish the informational materials on its internet site and shall specifically make the informational materials available electronically to child care facilities and child care homes as defined in section 237A.1, school nurses, hospitals, attending health care providers, and other health care providers offering care to pregnant women and infants.

2017 Acts, ch 77, §1; 2018 Acts, ch 1026, §51

136A.6 Central registry.

The center for congenital and inherited disorders shall maintain a central registry, or shall establish an agreement with a designated contractor to maintain a central registry, to compile, evaluate, retain, and disseminate information on the occurrence, prevalence, causes, treatment, and prevention of congenital disorders. Congenital disorders shall be considered reportable conditions in accordance with rules adopted by the department and shall be abstracted and maintained by the registry.

2004 Acts, ch 1031, §7, 12

Referred to in §144.13A

136A.7 Confidentiality.

The center for congenital and inherited disorders and the department shall maintain the confidentiality of any identifying information collected, used, or maintained pursuant to this chapter in accordance with section 22.7, subsection 2.

2004 Acts, ch 1031, §8, 12

136A.8 Rules.

The center for congenital and inherited disorders, with assistance provided by the Iowa department of public health, shall adopt rules pursuant to chapter 17A to administer this chapter.

2004 Acts, ch 1031, §9, 12

Referred to in §136A.5A

136A.9 Cooperation of other agencies.

All state, district, county, and city health or welfare agencies shall cooperate and participate in the administration of this chapter.

2004 Acts, ch 1031, §10, 12

CHAPTER 136B

RADON TESTING

136B.1	Radon testing and abatement program.	136B.3	Testing and reporting of radon level.
136B.2	Radon testing information — disclosure.	136B.4	Fees — rules.
		136B.5	Penalty for violation.

136B.1 Radon testing and abatement program.

1. As used in this chapter, unless the context otherwise requires, *"department"* means the Iowa department of public health.

2. The department shall establish programs and adopt rules for the certification of persons

who test for the presence of radon gas and radon progeny in buildings, the credentialing of persons abating the level of radon in buildings, and standards for radon abatement systems.

3. Following the establishment of the certification and credentialing programs by the department, a person who is not certified, as appropriate, shall not test for the presence of radon gas and radon progeny, and a person who is not credentialed, as required, shall not perform abatement measures. This section does not apply to a person performing the testing or abatement on a building which the person owns, or to a person performing testing or abatement without compensation.

4. For the purposes of this section, radon abatement systems shall be classified as mechanical ventilation systems.

88 Acts, ch 1237, §1; 89 Acts, ch 224, §1; 2004 Acts, ch 1168, §4
Referred to in §136B.2, 136B.3, 136B.4

136B.2 Radon testing information — disclosure.

1. *a.* A person certified or credentialed pursuant to section 136B.1 shall, within thirty days of the provision of any radon testing services or abatement measures or at the request of the department prior to testing or abatement, disclose to the department the address or location of the building, the name of the owner of the building where the services or measures were or will be provided, and the results of any tests or abatement measures performed.

b. A person shall not disclose to any other person, except to the department, the results of a test or the address or the name of the owner of a nonpublic building that the person tested for the presence of radon gas and radon progeny, unless the owner of the building waives, in writing, this right of confidentiality. However, a person certified or credentialed pursuant to section 136B.1 may disclose the results of a test performed by the person for the presence of radon and radon progeny to a potential buyer of a nonpublic building when an offer to purchase has been presented by the buyer and if the potential buyer paid for the testing. Any test results disclosed shall be results of a test performed within the five years prior to the date of the disclosure.

2. *a.* Notwithstanding the requirements of this section, disclosure to any person of the results of a test performed on a nonpublic building for the presence of radon gas and radon progeny is not required if the results do not exceed the currently established United States environmental protection agency action guidelines, except as required during a real estate transaction pursuant to section 558A.4, subsection 2.

b. A person who tests a nonpublic building which the person owns is not required to disclose to any person the results of a test for the presence of radon gas or progeny if the test is performed by the person who owns the nonpublic building, except as required during a real estate transaction pursuant to section 558A.4, subsection 2.

88 Acts, ch 1237, §2; 89 Acts, ch 224, §2; 2009 Acts, ch 41, §48; 2015 Acts, ch 20, §1, 2

136B.3 Testing and reporting of radon level.

The department or its duly authorized agents shall from time to time perform inspections and testing of the premises of a property to determine the level at which it is contaminated with radon gas or radon progeny as a spot-check of the validity of measurements or the adequacy of abatement measures performed by persons certified or credentialed under section 136B.1. Following testing the department shall provide the owner of the property with a written report of its results including the concentration of radon gas or radon progeny contamination present, an interpretation of the results, and recommendation of appropriate action. A person certified or credentialed under section 136B.1 shall also be advised of the department's results, discrepancies revealed by the spot-check, actions required of the person, and actions the department intends to take with respect to the person's continued certification or credentialing.

88 Acts, ch 1237, §3; 89 Acts, ch 224, §3; 2004 Acts, ch 1168, §5
Referred to in §136B.4

136B.4 Fees — rules.

1. The department shall establish a fee schedule to defray the costs of the certification and

credentialing programs established pursuant to section 136B.1 and the testing conducted and the written reports provided pursuant to section 136B.3.

2. The department shall adopt rules, pursuant to chapter 17A, to implement this chapter.

88 Acts, ch 1237, §4; 89 Acts, ch 224, §4; 2021 Acts, ch 76, §150
Code editor directive applied

136B.5 Penalty for violation.

A person who violates a provision of this chapter is guilty of a serious misdemeanor.

88 Acts, ch 1237, §5; 99 Acts, ch 96, §12

CHAPTER 136C

RADIATION MACHINES AND RADIOACTIVE MATERIALS

Referred to in §135.11

136C.1 Definitions.
136C.2 Applicability.
136C.3 Duties of department.
136C.4 Penalties.
136C.5 Enforcement.
136C.6 Reserved.
136C.7 Acceptance of funds.
136C.8 Inspections.
136C.9 Registration and license requirements.
136C.10 Fees.
136C.11 Federal-state agreements.
136C.12 Conflicting laws.
136C.13 Emergencies.
136C.14 Qualified operators — credentials available upon request.
136C.15 Radiation machines used for mammography — registration standards and requirements — application for authority — inspection.

136C.1 Definitions.

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

1. *"Decommissioning"* means final operational activities at a site to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care.

2. *"Department"* means the Iowa department of public health.

3. *"Director"* means the director of public health or the director's designee.

4. *"Licensed professional"* means a person licensed or otherwise authorized by law to practice medicine, osteopathic medicine, podiatry, chiropractic, dentistry, dental hygiene, or veterinary medicine.

5. *"Radiation"* means energy forms capable of causing ionization including alpha particles, beta particles, gamma rays, X rays, neutrons, high-speed protons, and other atomic particles, but does not include sound or radio waves, or visible light, or infrared or ultraviolet light.

6. *"Radiation machine"* means a device capable of producing radiation except those that produce radiation solely from radioactive material.

7. *"Radioactive material"* means a solid, liquid, or gaseous material that emits radiation spontaneously including accelerator-produced and naturally occurring material, and byproduct, source, and special nuclear material as defined in the Atomic Energy Act of 1954 as amended to July 1, 1984.

[C79, 81, §136C.1]

84 Acts, ch 1286, §10; 2009 Acts, ch 133, §37
Referred to in §455B.315

136C.2 Applicability.

This chapter applies to radiation machines and radioactive material located in this state. The provisions of this chapter do not supersede or duplicate the authority and programs of any other agency of the state or the United States government. To avoid duplication and promote

coordination of radiation protection activities, the department may enter into agreements pursuant to chapter 28E with other state and federal agencies, or with private organizations or individuals, to administer this chapter.

[C79, 81, §136C.2]

84 Acts, ch 1286, §11

136C.3 Duties of department.

The department is designated the state radiation control agency and is responsible for regulating the installation and use of radiation machines and the use of radioactive materials in this state as provided in this chapter. The department shall:

1. Establish minimum criteria and safety standards for the installation, operation, and use of radiation machines and radioactive materials.

2. Establish minimum training standards including continuing education requirements, and administer examinations and disciplinary procedures for operators of radiation machines and users of radioactive materials. A state of Iowa license to practice medicine, osteopathic medicine, chiropractic, podiatry, dentistry, dental hygiene, or veterinary medicine, or licensure as a physician assistant pursuant to chapter 148C, or certification by the dental board in dental radiography, or by the board of podiatry in podiatric radiography, or enrollment in a program or course of study approved by the Iowa department of public health which includes the application of radiation to humans satisfies the minimum training standards for operation of radiation machines only.

3. Develop programs for evaluation and control of hazards associated with the use of sources of radiation with due regard for compatibility of a proposed program with federal programs regulating byproduct, source, and special nuclear materials and considering consistency of a proposed program with federal programs for regulation of radiation machines.

4. Adopt, publish, and amend rules in accordance with chapter 17A as necessary for the implementation and enforcement of this chapter. The rules may provide for the licensing and control of radioactive materials with due regard for compatibility with federal regulatory programs.

5. Issue orders as necessary in connection with licensing and registration of radiation machines and radioactive materials and the operators or users thereof.

6. Advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation.

7. Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of radiation.

8. Collect and disseminate information relating to control of sources of radiation. The department shall maintain the following information on file:

a. License applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

b. A list of persons possessing sources of radiation requiring registration under this chapter and any administrative or judicial action involving each person.

c. Departmental rules relating to regulation of sources of radiation, existing or pending, and related actions.

9. Adopt rules requiring the keeping of such records with respect to activities under licenses and registration certificates issued pursuant to this chapter as the department determines necessary to effect the purposes of this chapter.

10. *a.* Adopt rules specifying the minimum training and performance standards for an individual using a radiation machine for mammography, and other rules necessary to implement section 136C.15. The rules shall complement federal requirements applicable to similar radiation machinery and shall not be less stringent than those federal requirements.

b. (1) Adopt rules, in collaboration with appropriate stakeholders, to require that, by January 1, 2018, a facility at which mammography services are performed shall include information on breast density in mammogram reports sent to all mammography patients, pursuant to regulations implementing the federal Mammography Quality Standards Act of

1992, Pub. L. No. 102-539, as amended. The mammogram report shall include information on a patient's breast density, as categorized by an interpreting physician at the facility based on standards as defined in nationally recognized guidelines or systems for breast imaging reporting of mammography screening, including the breast imaging reporting and data system of the American college of radiology. For patients categorized as having heterogeneously dense breasts or extremely dense breasts, or an equivalent determination by another nationally recognized density gradient system, the report to the patient shall include evidence-based information on dense breast tissue, the increased risk associated with dense breast tissue, and the effects of dense breast tissue on screening mammography.

(2) Nothing in this paragraph *"b"* shall be construed to modify the existing liability of a facility where mammography services are performed beyond the duty to provide the information set forth in this paragraph *"b"*. Notwithstanding any other provision of law to the contrary, this paragraph *"b"* shall not create a cause of action or create a standard of care, obligation, or duty that provides grounds for a cause of action.

(3) Nothing in this paragraph *"b"* shall be deemed to require a notice or the provision of information that is inconsistent with the provisions of the federal Mammography Quality Standards Act of 1992, Pub. L. No. 102-539, as amended, or any regulations promulgated pursuant to that Act.

[C79, 81, §136C.3]

84 Acts, ch 1286, §1; 86 Acts, ch 1217, §1; 88 Acts, ch 1225, §1; 90 Acts, ch 1233, §6; 92 Acts, ch 1054, §1; 92 Acts, ch 1163, §36; 99 Acts, ch 141, §12; 2007 Acts, ch 10, §23; 2007 Acts, ch 218, §195; 2009 Acts, ch 133, §38; 2010 Acts, ch 1031, §397; 2012 Acts, ch 1113, §25; 2017 Acts, ch 61, §1, 2

Referred to in §136C.5, 136C.10

136C.4 Penalties.

1. It is unlawful to operate or use radiation machines or radioactive material in violation of this chapter or of any rule adopted pursuant to this chapter. Persons convicted of violating a provision of this chapter are guilty of a serious misdemeanor.

2. In addition to criminal penalties, the department may impose a civil penalty not to exceed one thousand dollars on a person who violates a provision of this chapter or a rule or order issued under this chapter, or a term, condition, or limitation of a license or registration certificate issued under this chapter, or who commits a violation for which a license or registration certificate may be revoked under rules issued pursuant to this chapter. Each day of continuing violation constitutes a separate offense in computing the civil penalty.

3. The department shall notify a person of the intent to impose a civil penalty against the person. The notice shall be by registered or certified mail to the person's last known address and shall state the date, facts, the nature of the act or omission leading to the charge, the specific statute, rule, or license or registration provision involved, and the amount of the penalty the department proposes to impose. The notice shall advise the person that upon failure to pay the civil penalty, the penalty may be collected by civil action. The person shall have the opportunity to respond in writing, within a reasonable time as the department shall establish by rule, why the civil penalty should not be imposed.

4. The department may compromise, mitigate, or remit a civil penalty imposed under this section. A person upon whom a civil penalty is imposed may appeal the action pursuant to chapter 17A. The department shall remit moneys collected from civil penalties to the treasurer of state who shall deposit the moneys in the general fund of the state.

[C79, 81, §136C.4]

84 Acts, ch 1286, §12; 2002 Acts, ch 1108, §10

136C.5 Enforcement.

1. Upon determination by the department that this chapter or any rule adopted pursuant to this chapter has been or is being violated, the department may order that the radiation machine or radioactive material not be used until the necessary corrective action has been taken. If the use of the radiation machine or radioactive material continues in violation of the order of the department, the department may request the county attorney or the attorney

general to make an application in the name of the state to the district court of the county in which the violations may have occurred for an order to enjoin the violations or practices.

2. The department may impound or order the impounding of radioactive material in the possession of a person who is not equipped to observe or fails to observe a provision of this chapter or of a rule adopted under this chapter.

3. The department may enter at reasonable times any private or public property to determine whether there is a violation of a provision of this chapter or of a rule issued under this chapter. However, the department must have the consent of the federal government before entering an area under the jurisdiction of the federal government.

4. The department may inspect records required to be kept under section 136C.3, subsection 9. Upon request of the department a person shall submit the records to the department for inspection.

[C79, 81, §136C.5]
84 Acts, ch 1286, §13
Referred to in §331.756(26)

136C.6 Reserved.

136C.7 Acceptance of funds.

The department may accept from any source loans, grants, gifts, or other funds to be used for programs authorized by this chapter.

84 Acts, ch 1286, §2

136C.8 Inspections.

The department may inspect radiation machines and radioactive materials located in this state, for the purpose of detecting, abating, or eliminating excessive radiation exposure hazards. The inspection shall include but shall not be limited to an evaluation of the radiation machine or radioactive material as well as the immediate environment to ensure that in using the machines or materials all unnecessary hazards for patients, personnel, and other persons who may be exposed to radiation produced by the machine or materials are avoided. All defects and deficiencies noted by the inspector shall be fully disclosed and discussed with the responsible persons at the time of inspection. The department shall establish rules prescribing operating procedures for radiation machines and radioactive materials which ensure minimum radiation exposure to patients, personnel, and other persons in the immediate environment.

84 Acts, ch 1286, §3; 2012 Acts, ch 1113, §26

136C.9 Registration and license requirements.

1. The department shall establish by rule a system for the registration of the possession of radiation machines and for the licensing of radioactive materials in the state. The rules may provide for the issuance of the following licenses:

a. General licenses which do not require the filing of an application or the issuance of a document but do permit designated persons to transfer, acquire, own, possess, or use quantities of or equipment using radioactive materials.

b. Specific licenses issued upon application to a person named in the license to use, manufacture, produce, transfer, receive, acquire, or possess quantities of or equipment using radioactive material. Applicants requesting radioactive materials in quantities of concern, as identified by the United States nuclear regulatory commission, shall submit fingerprints to the United States nuclear regulatory commission for a background check of all individuals authorized for unescorted access to such material.

2. The department may exempt certain sources of radiation or kinds of uses or users from the licensing or registration requirements when the department finds that the exemption of the source of radiation, use, or users will not pose a significant risk to the health and safety of the public. The rules may provide for recognition of other state or federal licenses as the department may allow, subject to registration requirements as the department may prescribe.

3. A person shall not use, manufacture, produce, distribute, sell, transport, transfer,

install, repair, receive, acquire, own, or possess any radioactive material without a license from the department as provided in this chapter.

84 Acts, ch 1286, §4; 2008 Acts, ch 1058, §7

136C.10 Fees.

1. *a.* The department shall establish and collect fees for the licensing and amendment of licenses for radioactive materials, the registration of radiation machines, the periodic inspection of radiation machines and radioactive materials, and the implementation of section 136C.3, subsection 2. Fees shall be in amounts sufficient to defray the cost of administering this chapter. The license fee may include the cost of environmental surveillance activities to assess the radiological impact of activities conducted by licensees.

b. When a registrant or licensee fails to pay the applicable fee the department may suspend or revoke the registration or license or may issue an appropriate order. Fees for the license, amendment of a license, and inspection of radioactive material shall not exceed the fees prescribed by the United States nuclear regulatory commission.

2. The department may establish and collect a fee related to transporting radioactive material if the fee is used for a purpose related to transporting radioactive material, including enforcement and planning, developing, and maintaining a capability for emergency response. The fees shall be established by rules adopted pursuant to chapter 17A.

3. The department may establish and collect fees from persons providing mammography services to assure compliance with applicable rules and the federal Mammography Quality Standards Act of 1992, Pub. L. No. 102-539, as amended. Fees shall be in an amount determined by the department by rule and all fees collected shall be used to support the department's mammography program.

4. Fees collected pursuant to this section shall be retained by the department, shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes described in this section, including but not limited to the addition of full-time equivalent positions for program services and investigations. Notwithstanding section 8.33, moneys retained by the department pursuant to this subsection are not subject to reversion to the general fund of the state.

84 Acts, ch 1286, §5; 86 Acts, ch 1217, §2; 2004 Acts, ch 1167, §3; 2005 Acts, ch 175, §81; 2006 Acts, ch 1155, §1, 15

Referred to in §136C.15

136C.11 Federal-state agreements.

1. The governor, on behalf of the state, may enter into an agreement with the United States nuclear regulatory commission pursuant to section 274b of the Atomic Energy Act of 1954, as amended to July 1, 1984, providing for the discontinuation of certain federal licensing and related regulatory authority over byproduct, source, and special nuclear material and the assumption of regulatory authority over these materials by the state.

2. A person who, on the effective date of an agreement made under subsection 1, possesses a license issued by the United States nuclear regulatory commission for radioactive material that comes under the agreement is considered to possess the license required under this chapter. The license shall expire either ninety days after receipt from the department of a notice of expiration of the license, or on the date of expiration specified in the license issued by the nuclear regulatory commission, whichever is earlier.

84 Acts, ch 1286, §6

136C.12 Conflicting laws.

This chapter does not preempt ordinances, resolutions, or rules of a local government or of a state agency relating to radioactive material that are consistent with this chapter. This chapter does not give the department the authority to regulate a facility for the disposal of low-level radioactive waste as defined in article II of section 457B.1.

84 Acts, ch 1286, §7

136C.13 Emergencies.

If the department finds that an emergency exists involving radioactive material or radiation machines that requires immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order stating that an emergency exists and requiring that action be taken as necessary to meet the emergency. An emergency order shall be effective immediately. A person to whom the order is directed shall comply with the order immediately, but on application to the department shall be afforded a hearing within ten days of the date application is made. The emergency order may be continued, modified, or revoked within thirty days after the hearing, based on the evidence presented at the hearing.

84 Acts, ch 1286, §8

136C.14 Qualified operators — credentials available upon request.

1. A person, other than a licensed professional, shall not operate a radiation machine or use radioactive materials for medical treatment or diagnostic purposes unless that person has completed a course of instruction approved by the department or has otherwise met the minimum training requirement established by the department.

2. A person, other than a licensed professional, who operates a radiation machine or uses radioactive materials for medical treatment or diagnostic purposes shall make available upon request the credentials which indicate that person's qualification to operate the machine or use the materials. A person who owns or controls the machine or materials shall not employ a person to operate the machine or use the materials for medical treatment or diagnostic purposes except as provided in this section.

84 Acts, ch 1286, §9; 85 Acts, ch 195, §17; 2012 Acts, ch 1113, §27

136C.15 Radiation machines used for mammography — registration standards and requirements — application for authority — inspection.

1. A person shall not use a radiation machine to perform mammography unless the radiation machine is registered with the department pursuant to the department's rules and is specifically authorized for use for mammography as provided in this section.

2. The department shall authorize a radiation machine for use for mammography if the radiation machine meets all of the following:

a. The radiation machine meets the criteria for a mammography accreditation program approved by the United States food and drug administration. The department shall make copies of those criteria available to the public and may by rule adopt modified criteria. The department may accept an evaluation report issued by such an approved accreditation program as evidence that a radiation machine meets those criteria. If at any time the department determines that it will not accept any evaluation reports issued by such an approved accreditation program as evidence that a radiation machine meets those criteria, the department shall promptly notify each person who has registered a radiation machine under this paragraph.

b. The radiation machine, the film or other image receptor used in the radiation machine, and the facility where the radiation machine is used meet the requirements set forth in department rules for radiation machines.

c. The radiation machine is specifically designed to perform mammography.

d. The radiation machine is used in a facility that does all of the following:

(1) At least annually has a qualified radiation physicist provide on-site consultation to the facility, including, but not limited to, a complete evaluation of the entire mammography system to ensure compliance with this section and the rules adopted pursuant to this section.

(2) Maintains for at least seven years, records of the consultation required in subparagraph (1) and the findings of the consultation.

e. The radiation machine is used according to the department rules on patient radiation exposure and radiation dose levels.

f. The radiation machine is operated only by an individual who can demonstrate to the department that the individual is specifically trained in mammography and meets the

standards established in this section, or an individual who is a physician or an osteopathic physician.

3. The department may issue a nonrenewable temporary authorization for a radiation machine for use for mammography if additional time is needed to allow submission of evidence satisfactory to the department that the radiation machine meets the standards set forth in subsection 2 for approval for mammography. A temporary authorization granted under this subsection shall be effective for no more than twelve months. The department may withdraw a temporary authorization prior to its expiration if the radiation machine does not meet one or more of the standards set forth in subsection 2.

4. To obtain authorization from the department to use a radiation machine for mammography, the person who owns or leases the radiation machine or an authorized agent of the person shall apply to the department for mammography authorization on an application form provided by the department and shall provide all of the information required by the department as specified on the application form. A person who owns or leases more than one radiation machine used for mammography shall obtain authorization for each radiation machine. The department shall process and respond to an application within thirty days after the date of receipt of the application. Upon determining to grant mammography authorization for a radiation machine, the department shall issue a certificate of registration specifying the mammography authorization. A mammography authorization is effective for three years.

5. The department shall annually inspect each authorized radiation machine and may inspect the radiation machine more frequently. The department shall make reasonable efforts to coordinate the inspections under this section with the department's other inspections of the facility in which the radiation machine is located.

6. After each satisfactory inspection by the department, the department shall issue a written proof of inspection or a similar document identifying the facility and radiation machine inspected and providing a record of the date the radiation machine was inspected.

7. The department may withdraw the mammography authorization for a radiation machine if it does not meet one or more of the standards set forth in subsection 2.

8. The department shall provide an opportunity for a hearing in connection with a denial or withdrawal of mammography authorization.

9. Upon a finding that a deficiency in a radiation machine used for mammography or a violation of this section or the rules adopted pursuant to this section seriously affects the health, safety, and welfare of individuals upon whom the radiation machine is used for mammography, the department may issue an emergency order summarily withdrawing the mammography authorization of the radiation machine. The department shall incorporate its findings in the order and shall provide an opportunity for a hearing within five working days after issuance of the order. The order shall be effective during the proceedings.

10. If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography. An application for reinstatement of a mammography authorization shall be filed and processed in the same manner as an application for mammography authorization under subsection 4, except that the department shall not issue a reinstated certificate of registration specifying the mammography authorization until the department inspects the radiation machine and determines that it meets the standards set forth in subsection 2. The department shall conduct an inspection required under this subsection no later than sixty days after receiving a proper application for reinstatement of a mammography authorization.

11. The department shall establish fees pursuant to section 136C.10 for the application for authorization and the inspection related to a radiation machine used for mammography.

92 Acts, ch 1054, §2; 93 Acts, ch 139, §4; 2008 Acts, ch 1058, §8, 9

Referred to in §136C.3

CHAPTER 136D
TANNING FACILITIES

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136D.1 Short title.

This chapter may be cited as the *"Tanning Facility Regulation Act."*

90 Acts, ch 1220, §1

136D.2 Definitions.

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

1. *"Department"* means the Iowa department of public health.
2. *"Director"* means the director of public health, or the director's designee.
3. *"Phototherapy device"* means a piece of equipment that emits ultraviolet radiation and that is used by a health care professional in the treatment of disease.
4. *"Tanning device"* means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin, such as tanning booths or tanning beds.
5. *"Tanning facility"* means a location, place, area, structure, or business, or a part thereof, which provides access to a tanning device for compensation. *"Tanning facility"* may include but is not limited to a tanning salon, health club, apartment, and condominium.

90 Acts, ch 1220, §2; 2012 Acts, ch 1113, §28

136D.3 Application of chapter.

1. This chapter does not apply to a phototherapy device used by or under the supervision of a licensed physician trained in the use of phototherapy devices. A tanning device used by a tanning facility must comply with all applicable federal laws and regulations.
2. This chapter shall not supersede or duplicate the authority and programs of any other agency of the state or the United States. To avoid duplication and promote coordination of radiation protection activities, the department may enter into written agreements with other state or federal agencies, with local boards of public health, or with private organizations or individuals, to administer this chapter.

90 Acts, ch 1220, §3; 2008 Acts, ch 1058, §10

136D.4 Warning signs — written warning statements.

1. A tanning facility shall post the following warning signs that describe the hazards associated with the use of tanning devices:

a. A warning sign in a conspicuous location readily visible to persons entering the establishment. The signs shall comply with rules adopted by the department.

b. A warning sign for each tanning device, in a conspicuous location readily visible to a person preparing to use the device. The sign shall comply with rules adopted by the department.

2. A tanning facility shall provide each customer with a written warning statement that complies with rules adopted by the department.

90 Acts, ch 1220, §4

136D.5 Reserved.

136D.6 Permits.

1. A person shall not operate a tanning facility without a current and valid permit to operate the facility, issued by the department.

2. The permit shall be displayed in an open public area of the tanning facility.

3. Permits shall be renewed annually upon acceptance of an application provided by the department and upon receipt of a permit fee.

4. The department may revoke, cancel, or suspend a permit to operate a tanning facility based upon criteria adopted by rule of the department.

90 Acts, ch 1220, §5

136D.7 Duties of the department.

The department shall do all of the following:

1. Establish requirements for the operation of tanning facilities, including but not limited to, proper sanitation of tanning devices, provisions of proper equipment, the presence of knowledgeable operators during operating hours, and the use of accurate timers and temperature controls.

2. Adopt rules, in accordance with chapter 17A, as necessary for the implementation and enforcement of this chapter, including but not limited to rules relating to the operation and use of tanning devices, rules regarding the warning signs required to be posted by a tanning facility, and rules prescribing the criteria for revocation, cancellation, or suspension of a tanning facility permit.

3. Establish and collect fees to defray the costs of administering the program established in this chapter. Fees collected shall be deposited in the general fund of the state.

90 Acts, ch 1220, §6

136D.8 Inspections — violations — prohibited acts — injunctions.

1. The director or an authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this chapter is being violated.

2. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk.

3. *a.* If the director finds that a person has violated, or is violating or threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the director may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

b. If a person has violated, or is violating or threatening to violate this chapter, the director may petition the district court for an injunction to prohibit the person from continuing the violation or threat of violation.

c. On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, the district court shall grant any injunctive relief warranted by the facts.

90 Acts, ch 1220, §7; 2012 Acts, ch 1113, §29

136D.9 Penalties.

1. The department may impose a civil penalty not to exceed one thousand dollars on a person who violates a provision of this chapter, a rule adopted or order issued under this chapter, or a term, condition, or limitation of a registration certificate issued pursuant to this chapter, or who commits a violation for which a registration certificate may be revoked under rules issued pursuant to this chapter. Each day of continuing violation constitutes a separate offense in computing the civil penalty. However, the maximum civil penalty for a continuing violation shall not exceed five thousand dollars.

2. The department shall notify a person of the intent to impose a civil penalty against the person. The department shall establish the notification process to include an opportunity for the person to respond in writing, within a reasonable time as the department shall establish by rule, regarding reasons why the civil penalty should not be imposed.

3. The department may compromise, mitigate, or refund a civil penalty imposed under this section. A person upon whom a civil penalty is imposed may appeal the action pursuant to chapter 17A. The department shall remit moneys collected from civil penalties to the treasurer of the state who shall deposit the moneys in the general fund of the state.

2012 Acts, ch 1113, §30

CHAPTER 137

LOCAL BOARDS OF HEALTH

Referred to in §346A.1

Former chapter 137 repealed by 2010 Acts, ch 1036, §22

137.101 Title and purpose.
137.102 Definitions.
137.103 Local boards of health — jurisdiction.
137.104 Local boards of health — powers and duties.
137.105 Local boards of health — membership and meetings.
137.106 District boards of health — request to form.
137.107 Request reviewed by state department.
137.108 Initial appointment of district board of health.
137.109 Organizational structure of district board.
137.110 District personnel.
137.111 District treasurer and auditor.
137.112 District public health fund — budget.
137.113 Adding to district.
137.114 Withdrawal from district.
137.115 Dissolution of county boards.
137.116 Emergency request for funds.
137.117 Penalties — criminal and civil.
137.118 Individual choice of treatment.
137.119 Adoption of rules.

137.101 Title and purpose.

This chapter shall be known and may be cited as the *"Local Public Health Governance Act"*. The purpose of this chapter is to define the structure, powers, and duties of local boards of health. This chapter also provides an optional process for counties to merge to form a district board of health in order to increase efficiencies and enhance the delivery and availability of public health services.

2010 Acts, ch 1036, §1

137.102 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"City board"* means a city board of health in existence prior to July 1, 2010.
2. *"City health department"* refers to the personnel and property under the jurisdiction of a city board in existence prior to July 1, 2010.
3. *"Council"* means a city council.
4. *"County board"* means a county board of health.
5. *"County health department"* refers to the personnel and property under the jurisdiction of a county board.
6. *"Director"* means the director of public health.
7. *"District"* means any two or more geographically contiguous counties.
8. *"District board"* means a board of health representing at least two geographically contiguous counties formed with approval of the state department in accordance with this chapter, or any district board of health in existence prior to July 1, 2010.
9. *"District health department"* refers to the personnel and property under the jurisdiction of a district board.
10. *"Local board of health"* means a city, county, or district board of health.
11. *"Officers"* means a local board of health chairperson, vice chairperson, and secretary, and other officers which may be named at the discretion of the local board of health.
12. *"State board"* means the state board of health.
13. *"State department"* means the Iowa department of public health.

2010 Acts, ch 1036, §2; 2016 Acts, ch 1026, §9

Referred to in §135A.2, 135I.1

137.103 Local boards of health — jurisdiction.

1. A city board shall have jurisdiction over public health matters within the city.
2. A county board shall have jurisdiction over public health matters within the county.
3. A district board shall have jurisdiction over public health matters within the district.

2010 Acts, ch 1036, §3

137.104 Local boards of health — powers and duties.

Local boards of health shall have the following powers and duties:

1. A local board of health shall:

a. Enforce state health laws and the rules and lawful orders of the state department.

b. Make and enforce such reasonable rules and regulations not inconsistent with law and the rules of the state board as may be necessary for the protection and improvement of the public health.

(1) Rules of a city board shall become effective upon approval by the council and publication in a newspaper having general circulation in the city.

(2) Rules of a county board shall become effective upon approval by the county board of supervisors by a motion or resolution as defined in section 331.101, subsection 13, and publication in a newspaper having general circulation in the county.

(3) Rules of a district board shall become effective upon approval by the district board and publication in a newspaper having general circulation in the district.

(4) Before approving any rule or regulation the local board of health shall hold a public hearing on the proposed rule. Any citizen may appear and be heard at the public hearing. A notice of the public hearing, stating the time and place and the general nature of the proposed rule or regulation shall be published in a newspaper having general circulation as provided in section 331.305 in the area served by the local board of health.

c. Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of chapter 8A, subchapter IV, or any civil service provision adopted under chapter 400.

d. Provide the names of all local board of health members and officers to the state department.

e. Provide minutes of local board of health meetings and reports of the local board of health's operations and activities to the state department as may be required by the director, by rule, or by contract.

2. A local board of health may:

a. Provide such population-based and personal health services as may be deemed necessary for the promotion and protection of the health of the public and charge reasonable fees for personal health services. A person shall not be denied necessary services within the limits of available resources because of inability to pay the cost of such services.

b. Provide such environmental health services as may be deemed necessary for the protection and improvement of the public health and issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems.

c. Engage in joint operations and contract with colleges and universities, the state department, other public, private, and nonprofit agencies, and individuals or form a district health department to provide personal and population-based public health services.

d. By written agreement with the council of any city within its jurisdiction, enforce appropriate ordinances of the city relating to public health.

2010 Acts, ch 1036, §4; 2016 Acts, ch 1026, §10

Referred to in §137.115

137.105 Local boards of health — membership and meetings.

1. *Membership, terms, compensation, and vacancies.*

a. All members of a city board shall be appointed by the council.

b. All members of a county board shall be appointed by the county board of supervisors.

c. All members of a district board shall be appointed by the county board of supervisors from each county represented by the district. Each county board of supervisors shall appoint at least one but no more than three members to the district board.

d. Local boards of health shall consist of at least five members. At least one member shall be licensed as a physician under chapter 148, a physician assistant under chapter 148C, an advanced registered nurse practitioner under chapter 152, or an advanced practice registered nurse under chapter 152E.

e. A local board of health member shall serve for a term of three years. A member is eligible for reappointment.

f. A local board of health member shall serve without compensation, but may be reimbursed for necessary expenses in accordance with rules established by the state board or the applicable jurisdiction.

g. A local board of health member vacancy due to death, resignation, or other cause shall be filled as soon as possible after the vacancy exists for the unexpired term of the original appointment.

2. *Meetings.* A majority of the members of a local board of health shall be considered a quorum and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

2010 Acts, ch 1036, §5; 2016 Acts, ch 1026, §11; 2020 Acts, ch 1083, §2
Referred to in §137.106, 137.108, 331.321

137.106 District boards of health — request to form.

The county boards of any two or more geographically contiguous counties may at any time submit a request to form a district board to the state department. The formation request shall be in writing, shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district board, and shall include but not be limited to the following required elements:

1. A written narrative that explains how a district board will attain the capability to provide population-based and personal public health services.

2. The composition of the district board, including the number of members each county shall appoint pursuant to section 137.105 and the total number of members on the district board.

3. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district board and of the elements included in the formation plan.

4. The service delivery plan.

5. The budget and fiscal plan for the proposed district board. The budget plan shall include an estimate of proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district board.

6. A table of organization.

7. A personnel system description, including identification of the district treasurer and district auditor and a section which addresses the employment issues contained in section 137.110.

8. The location of the district board offices and workforce throughout the jurisdiction.

9. An inventory of the property and equipment in the custody of each county board and a description as to whether such property and equipment shall remain in the custody of the county or shall be transferred to the district board to become property of the district board.

10. A timeline for the adoption of district board rules and regulations.

11. Other criteria as established by rule of the state department.

2010 Acts, ch 1036, §6; 2016 Acts, ch 1026, §12
Referred to in §137.107, 137.110, 137.113, 137.114, 137.115

137.107 Request reviewed by state department.

The state department shall review requests submitted pursuant to section 137.106. The state department, upon finding that all required elements are present, shall present findings to the state board. The state board may approve the formation of a district board and if the formation is approved, shall notify the county boards from whom the request was received.

2010 Acts, ch 1036, §7
Referred to in §137.113, 137.114

137.108 Initial appointment of district board of health.

Upon receipt of notice of approval as a district board, district board members shall be appointed as specified in section 137.105.

2010 Acts, ch 1036, §8

137.109 Organizational structure of district board.

A district board is a governing body for purposes of chapter 670 and a district health department is a municipality for purposes of chapter 670. All meetings of a district board shall comply with the requirements of chapter 21 and all records of a district board and a district health department shall be maintained in accordance with chapter 22.

2010 Acts, ch 1036, §9

137.110 District personnel.

1. A district board may employ persons as necessary for the efficient discharge of its duties. A district board shall have all the duties and powers in employing such persons as a county board of supervisors is granted pursuant to section 331.324, with the exception of the authority to provide for support of the civil service commission for deputy sheriffs as specified in section 331.324, subsection 1, paragraph *"k"*. A district board may employ persons who were employed at the time of the formation of the district board by the counties represented by the district board, or may employ persons who were not employed by such counties. The county boards involved shall specify in the request submitted pursuant to section 137.106 whether the individual counties or the district board will be responsible for payment of unemployment compensation for any county employees employed by the county board at the time of formation of the district board but not employed by the district board following formation.

2. If the district board employs persons who were employed by the counties represented by the district board at the time of formation of the district board, the district board shall recognize the term of service of the former county employees for purposes of all employee benefits offered by the district board to such employees and such employees shall not forfeit accrued vacation, accrued sick leave, or longevity by becoming district board employees.

3. Persons who were covered by county employee life insurance, accident insurance, and health insurance plans prior to becoming district board employees pursuant to this chapter shall be permitted to apply prior to becoming district board employees for life, accident, and health insurance plans that are available to district board employees so that those persons do not suffer a lapse of insurance coverage as a result of becoming district board employees.

4. The district board may employ or contract with legal counsel to enforce this chapter and district board rules, represent and defend the district board and its officers and employees, provide legal advice to the district board, and perform any other legal duties required by law or assigned by the district board. The district board may employ or contract with the county attorney of a county within its jurisdiction.

2010 Acts, ch 1036, §10

Referred to in §137.106

137.111 District treasurer and auditor.

Upon establishment of a district board, the district board shall designate a treasurer to serve as treasurer of the district health department, and shall designate an auditor to serve as auditor of the district health department. A treasurer or auditor of any county within the district may also serve in the capacity of treasurer or auditor of the district health department, respectively, or the district board may contract with a third party to act as the treasurer or auditor of the district health department. A county treasurer's or county auditor's official bond may extend to cover their respective duties performed on behalf of the district health department.

2010 Acts, ch 1036, §11; 2016 Acts, ch 1026, §13

137.112 District public health fund — budget.

1. The district treasurer shall establish a district public health fund from which

disbursements may be made in the manner specified for disbursements by law for the disbursement of county funds.

2. All moneys received by a district board or district health department for local public health purposes from federal appropriations, state appropriations, local appropriations, fees, gifts, grants, bequests, or other sources shall be deposited in the district public health fund. Expenditures shall be made from the fund on order of the district board for the purpose of carrying out its duties. No more than twenty percent of the unexpended balance remaining in the fund at the end of each fiscal year shall be maintained in the district public health fund. The remainder of the unexpended balance shall revert to the general funds of the member counties in the manner determined by the district board.

3. The district board shall adopt and certify an annual budget in accordance with section 24.17 relating to certification of budgets and section 24.27 relating to protesting budgets.

4. This section does not apply to any district board of health or district health department in existence prior to July 1, 2010.

2010 Acts, ch 1036, §12; 2012 Acts, ch 1113, §17, 20, 21

137.113 Adding to district.

A county may be added to an existing district board by submission and approval of a request, as specified in sections 137.106 and 137.107.

2010 Acts, ch 1036, §13

137.114 Withdrawal from district.

A county may withdraw from an existing district board upon submission of a request for withdrawal to and approval by the state department. The request shall include a plan to reform its county board or join a different district board, information specified in section 137.106, and approval of the request by the district board and, at the recommendation of the state department, the state board. Any county choosing to withdraw from the district board shall commit to the continuity of services in its county by reestablishing its county board or joining a different district board. The remaining counties in the district shall submit an application including the information specified in section 137.106 to the state department for review as provided in section 137.107.

2010 Acts, ch 1036, §14

137.115 Dissolution of county boards.

Upon appointment of a district board, the county boards involved shall be dissolved and their powers and duties specified in section 137.104 transferred to the district board. All property and equipment in the custody of the county board shall either remain the property of the county or shall become the property of the district board, as so provided in the district board formation request submitted pursuant to section 137.106.

2010 Acts, ch 1036, §15

137.116 Emergency request for funds.

A local board of health may, during a public health disaster as defined in section 135.140 or in preparation for or response to such disaster, request additional appropriations which may upon approval of the director be allotted from the funds reserved for that purpose to the extent that funds are appropriated and available. Upon termination of the disaster response, the local board of health shall report its expenditures of emergency funds to the director.

2010 Acts, ch 1036, §16

137.117 Penalties — criminal and civil.

1. Any person who violates any provision of this chapter or the rules of a local board of health or any lawful order of the board, its officers, or authorized agents is guilty of a simple misdemeanor. Each additional day of neglect or failure to comply with such provision, rule, or lawful order after notice of violation by the local board of health shall constitute a separate offense.

2. A local board of health may impose a civil penalty not to exceed seven hundred fifty

dollars for each violation of this chapter or the rules of the local board of health or any lawful order of the board, its officers, or authorized agents. If the violation is a repeat offense, a civil penalty not to exceed one thousand dollars may be imposed. The local board of health shall impose and enforce such penalties in the manner provided in section 331.307 for county infractions.

2010 Acts, ch 1036, §17

137.118 Individual choice of treatment.

Nothing in this chapter shall be construed to impede, limit, or restrict the right of free choice by an individual to the health care or treatment that the individual may select.

2010 Acts, ch 1036, §18

137.119 Adoption of rules.

The state board of health shall adopt rules to implement this chapter. The department is vested with discretionary authority to interpret the provisions of this chapter.

2010 Acts, ch 1036, §19

CHAPTER 137A

FOOD ESTABLISHMENTS

Repealed effective January 1, 1999; validity of licenses issued prior to that date; 98 Acts, ch 1162, §29, 30; see chapter 137F

CHAPTER 137B

FOOD SERVICE SANITATION CODE

Repealed effective January 1, 1999; validity of licenses issued prior to that date; 98 Acts, ch 1162, §29, 30; see chapter 137F

CHAPTER 137C

HOTEL SANITATION CODE

Referred to in §10A.104, 137F.3A, 331.382

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SUBCHAPTER I

GENERAL PROVISIONS

137C.1 Title.
This chapter shall be known as the *"Iowa Hotel Sanitation Code"*.
[C79, 81, §170B.1]
90 Acts, ch 1204, §66
C91, §137C.1
2018 Acts, ch 1041, §44

137C.2 Definitions.
For purposes of the Iowa hotel sanitation code, unless a different meaning is clearly indicated by the context:
1. *"Bed and breakfast inn"* means a hotel which has nine or fewer guest rooms.
2. *"Director"* means the director of the department of inspections and appeals or the director's designee.
3. *"Department"* means the department of inspections and appeals.
4. *"Guest room"* shall mean any bedroom or other sleeping quarters for transient guests in a hotel.
5. *"Hotel"* shall mean any building or structure, equipped, used, advertised as, or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished transient guests for hire.
6. *"Local board of health"* means a county, city, or district board of health.
7. *"Municipal corporation"* means a political subdivision of this state.
8. *"Regulatory authority"* means the department or a local board of health that has entered into an agreement with the director pursuant to section 137C.6 for authority to enforce the Iowa hotel sanitation code in its jurisdiction.

[S13, §2514-h; C24, 27, 31, 35, 39, §**2808;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.1; C79, 81, §170B.2]
86 Acts, ch 1245, §541; 87 Acts, ch 202, §2; 90 Acts, ch 1204, §66
C91, §137C.2
2004 Acts, ch 1026, §3

137C.3 through 137C.5 Reserved.

SUBCHAPTER II

LICENSES AND INSPECTIONS

137C.6 Authority to enforce.
1. The director shall regulate, license, and inspect hotels and enforce the Iowa hotel

sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from hotels except as provided for in the Iowa hotel sanitation code.

2. If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the director. The director may enter into the agreement if the director finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to section 137F.2.

3. A local board of health that is responsible for enforcing the Iowa hotel sanitation code within its jurisdiction pursuant to an agreement shall make an annual report to the director providing the following information:

a. The total number of hotel licenses granted or renewed during the year.

b. The amount of money collected in license fees during the year.

c. Other information the director requests.

4. The director shall monitor local boards of health to determine if they are enforcing the Iowa hotel sanitation code within their respective jurisdictions. If the director determines that the Iowa hotel sanitation code is enforced by a local board of health, such enforcement shall be accepted in lieu of enforcement by the department in that jurisdiction. If the director determines that the Iowa hotel sanitation code is not enforced by a local board of health, the director may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the director shall assume responsibility for enforcement in the jurisdiction involved.

[C79, 81, §170B.3]

83 Acts, ch 101, §30; 86 Acts, ch 1245, §542, 543; 90 Acts, ch 1204, §66

C91, §137C.6

98 Acts, ch 1162, §3, 30; 2007 Acts, ch 215, §207; 2018 Acts, ch 1144, §1, 16

Referred to in §137C.2, 137F.3

137C.7 License required.

A person shall not open or operate a hotel until the regulatory authority has inspected the hotel and issued a license to the person. The regulatory authority shall conduct inspections in accordance with standards adopted by the department by rule pursuant to chapter 17A. Each license shall expire one year from the date of issue. A license is renewable. All licenses issued under this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee per month if the license is renewed at a later date. A license is not transferable.

[S13, §2527-l; C24, 27, 31, 35, 39, §**2809;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.2; C79, 81, §170B.4]

90 Acts, ch 1204, §66

C91, §137C.7

2002 Acts, ch 1119, §132; 2018 Acts, ch 1144, §2, 16

137C.8 Application for license.

Every application for a license under the Iowa hotel sanitation code shall be made upon a blank furnished by the regulatory authority and shall contain the items required by the department as to ownership, management, location, buildings, equipment, rates, and other data concerning the hotel for which a license is desired. An application for a license to operate an existing hotel shall be made at least thirty days before the expiration of the existing license.

[C79, 81, §170B.5]

90 Acts, ch 1204, §66

C91, §137C.8

137C.9 License fees.

1. Either the department or the municipal corporation shall collect the following annual license fees:

a. For a hotel containing thirty guest rooms or less, fifty dollars.

b. For a hotel containing more than thirty but less than one hundred one guest rooms, one hundred dollars.

c. For a hotel containing one hundred one guest rooms or more, one hundred fifty dollars.

2. Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by it and for its use.

[S13, §2527-l; C24, 27, 31, 35, 39, §**2812;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.5; C79, 81, §170B.6]

90 Acts, ch 1204, §66

C91, §137C.9

2007 Acts, ch 215, §208; 2018 Acts, ch 1144, §3, 16; 2019 Acts, ch 136, §33

Referred to in §137F.3A

137C.10 Suspension or revocation of licenses.

A regulatory authority may suspend or revoke a license issued to a person under the Iowa hotel sanitation code if any of the following occurs:

1. The person's hotel does not conform to a provision of the Iowa hotel sanitation code or a rule adopted pursuant to this chapter.

2. The person violates a provision of the Iowa hotel sanitation code or a rule adopted pursuant to this chapter.

3. The person conducts an activity constituting a criminal offense in the hotel and is convicted of a serious misdemeanor or a more serious offense as a result.

[C79, 81, §170B.7]

90 Acts, ch 1204, §36, 66

C91, §137C.10

91 Acts, ch 107, §9

137C.11 Biennial inspections.

The regulatory authority shall inspect each hotel in the state at least once biennially. The inspector may enter the hotel at any reasonable hour to make the inspection. The management shall afford free access to every part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete inspection.

[S13, §2514-q, 2527-m, 2528-d5; C24, 27, 31, 35, 39, §**2851;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.46; C79, 81, §170B.14]

90 Acts, ch 1204, §66

C91, §137C.11

91 Acts, ch 268, §430

137C.12 Inspection upon complaint.

Upon receipt of a verified complaint signed by a guest of a hotel and stating facts indicating the place is in an insanitary condition, the regulatory authority shall conduct an inspection.

[SS15, §2514-s; C24, 27, 31, 35, 39, §**2852;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.47; C79, 81, §170B.15]

90 Acts, ch 1204, §39, 66

C91, §137C.12

137C.13 through 137C.15 Reserved.

SUBCHAPTER III

HEALTH AND SAFETY REQUIREMENTS

137C.16 Plumbing.

1. A hotel shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The plumbing system shall have a connection to a municipal water and sewerage system or to a benefited water district or sanitary sewerage district whenever such facilities become available.

2. A hotel beyond the reach of a central water or sewerage system shall be served by on-site facilities which meet the technical requirements of the local board of health and the department of natural resources.

[S13, §2514-m, 2527-a; C24, 27, 31, 35, 39, §**2814, 2815;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.9, 170.10; C79, 81, §170B.9; 82 Acts, ch 1199, §92, 96]

90 Acts, ch 1204, §38, 66

C91, §137C.16

137C.17 Toilet and lavatory facilities.

A hotel shall provide toilet and lavatory facilities in accordance with rules adopted pursuant to this chapter.

[S13, §2527-e; C24, 27, 31, 35, 39, §**2821, 2822;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.16, 170.17; C79, 81, §170B.8]

90 Acts, ch 1204, §37, 66

C91, §137C.17

137C.18 Fire safety.

Violation of a fire safety rule adopted pursuant to section 100.35 and applicable to hotels, occurring on the premises of a hotel, is a violation of this chapter.

[S13, §2514-j, -k, -l; SS15, §2514-i, -n, -o; C24, 27, 31, 35, 39, §**2843 – 2850;** C46, 50, 54, 58, §170.38 – 170.45; C62, 66, 71, 73, 75, 77, §170.38; C79, 81, §170B.13; 82 Acts, ch 1157, §6]

90 Acts, ch 1204, §66

C91, §137C.18

137C.19 Employment of persons with communicable diseases prohibited. Repealed by 2000 Acts, ch 1066, §52.

137C.20 through 137C.22 Reserved.

SUBCHAPTER IV

RATES

137C.23 Posting room rates.

A complete list of rooms by number together with the number of the floor and the rate per day per person for each room shall be kept continuously and conspicuously posted on the wall near the office in the lobby of a hotel in such a way as to be accessible to the public without request to the management. The rate per day per person for each room shall also be posted in the same manner in each room. No amount greater than the one posted shall be charged.

[C24, 27, 31, 35, 39, §**2841;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.36; C79, 81, §170B.11]

90 Acts, ch 1204, §66

C91, §137C.23

Referred to in §137C.24

137C.24 Rate increases.

The rates posted under section 137C.23 shall not be increased until sixty days' notice of the proposed increase has been given to the regulatory authority.

[C24, 27, 31, 35, 39, §**2842;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.37; C79, 81, §170B.12]

90 Acts, ch 1204, §66

C91, §137C.24

SUBCHAPTER V

RIGHTS AND OBLIGATIONS

137C.25 Right of hotel operator to deny services.

1. A person operating a hotel has the right to refuse or deny the use of a room, accommodations, facilities, or other privileges of the hotel to any of the following:

a. An individual unwilling or unable to pay for the room, accommodations, facilities, or other privileges of the hotel.

b. An individual who is visibly publicly intoxicated or under the influence of alcohol or some other illegal drug, or who is disorderly so as to create a public nuisance.

c. An individual the hotel operator reasonably believes is seeking to use a room, accommodations, facilities, or other privileges of the hotel for an unlawful purpose.

d. An individual the hotel operator reasonably believes is bringing in anything which may create an unreasonable danger or risk to other persons, including but not limited to firearms or explosives.

e. An individual whose use of the room, accommodations, facilities, or other privileges of the hotel would result in a violation of the maximum capacity of such hotel.

2. A hotel operator who reasonably refuses or denies the use of a room, accommodations, facilities, or other privileges of the hotel pursuant to this section is not subject to any civil or criminal action or any fine or other penalty, unless the refusal or denial is a violation of state or federal law.

94 Acts, ch 1032, §1

Referred to in §137C.25D

137C.25A Right to require financial guarantee.

The hotel operator has the right to require a person seeking the use of a room, accommodations, facilities, or other privileges of the hotel to demonstrate the ability to pay for such use by cash, credit card, or approved check. The hotel operator may require the parent or guardian of a minor to do all of the following:

1. Accept in writing the liability for the cost of the room, accommodations, facilities, or other privileges of the hotel used by the minor, and for the cost of any damages to the room, furnishings in the room, or other facilities of the hotel caused by the minor while the minor is using the room, accommodations, facilities, or other privileges of the hotel.

2. Provide the hotel operator with one of the following:

a. The authority to charge any amount due for the cost of the room, accommodations, facilities, or other privileges of the hotel used by the minor, and for the cost of any damages to the room, furnishings in the room, or other facilities of the hotel caused by the minor while the minor is using the room, accommodations, facilities, or other privileges of the hotel to a credit card as defined in section 537.1301, subsection 17.

b. An advance cash payment sufficient to cover the cost of the room, accommodations, facilities, or other privileges of the hotel used by the minor, and a reasonable amount as a deposit toward the cost of any damages to the room, furnishings in the room, or other facilities of the hotel caused by the minor while the minor is using the room, accommodations, facilities, or other privileges of the hotel. A cash deposit for any damages required by the hotel operator shall be refunded to the extent not used to cover the cost of any such damages as

determined by the hotel operator following an inspection of the room, accommodations, or facilities of the hotel used by the minor at the end of the minor's stay.

94 Acts, ch 1032, §2
Referred to in §137C.25D

137C.25B Restitution.

In addition to any other applicable penalties, a court may order a person to pay restitution for any damages caused by such person which are suffered by the owner or operator of the hotel. Damages for which restitution may be ordered, in addition to physical damages, may include the loss of revenue resulting from the hotel being unable to rent or lease the room, accommodation, or facility during any time of repair, and restitution to any other individual who is injured or whose property is damaged as a result of the violation. The parent or guardian of a minor shall be liable to the owner or operator for the acts of the minor which result in damage to the room, accommodation, or facility, and for restitution to any other individual who is injured or whose property is damaged as a result of such acts.

94 Acts, ch 1032, §3
Referred to in §137C.25D, 232D.504

137C.25C Right to eject.

An owner or operator of a hotel may eject a person from the hotel for any of the following reasons:

1. Nonpayment of charges incurred by the individual renting or leasing a room, accommodations, or facilities of the hotel when the charges are due and owing.
2. The individual renting or leasing a room, accommodations, or facilities of the hotel is visibly intoxicated, or is disorderly so as to create a public nuisance.
3. The owner or operator reasonably believes that the individual is using the premises for an unlawful purpose including, but not limited to, the unlawful use or possession of controlled substances or the use of the premises for the consumption of alcohol by an individual in violation of section 123.47.
4. The owner or operator reasonably believes that the individual has brought anything into the hotel which may create an unreasonable danger or risk to other persons, including but not limited to firearms or explosives.
5. The individual is in violation of any federal, state, or local laws or regulations relating to the hotel.
6. The individual is in violation of any rule of the hotel which is posted as provided in section 137C.25D.

94 Acts, ch 1032, §4; 97 Acts, ch 126, §8
Referred to in §137C.25D

137C.25D Posting rules by owner or operator.

An owner or operator of a hotel shall post a copy of sections 137C.25 through 137C.25C, in addition to any rules established by the owner or operator of the hotel, in a conspicuous place at or near the guest registration desk and in each room of the hotel.

94 Acts, ch 1032, §5
Referred to in §137C.25C

137C.25E Documentation and registration requirements.

1. A hotel shall keep and maintain for a period of three years, a guest register which shall show the name, residence, date of arrival, and date of departure of each individual renting or leasing a room, accommodations, or facilities of the hotel.
2. Each individual renting or leasing a room, accommodations, or facilities of the hotel shall register, and may be required by the owner or operator of the hotel to show proof of identity by producing a valid driver's license, or other identification satisfactory to the owner or operator. The identification shall have a photograph of the individual and include the name and residence of the individual. If the individual is a minor, the owner or operator may also require a parent or guardian of the minor to register.
3. The guest register may be kept and maintained by recording, copying, or reproducing

the register by any photographic, photostatic, microfilm, microcard, miniature photographic, electronic imaging, electronic data processing, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original.

94 Acts, ch 1032, §6; 2017 Acts, ch 54, §76

137C.26 and 137C.27 Reserved.

SUBCHAPTER VI

ENFORCEMENT

137C.28 Penalty.

A person who violates a provision of the Iowa hotel sanitation code shall be guilty of a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

[C79, 81, §170B.16]
90 Acts, ch 1204, §66
C91, §137C.28
Referred to in §137C.35

137C.29 Injunction.

A person conducting a hotel in violation of a provision of the Iowa hotel sanitation code may be restrained by injunction from operating that hotel. If an imminent health hazard exists, the hotel, or as much of the hotel as is necessary, must cease operation. Operation shall not be resumed until authorized by the regulatory authority.

[S13, §2514-x; C24, 27, 31, 35, 39, §**2855;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §170.50; C79, 81, §170B.17]
90 Acts, ch 1204, §66
C91, §137C.29

137C.30 Duty of county attorney.

The county attorney in each county shall assist in the enforcement of the Iowa hotel sanitation code.

[C79, 81, §170B.18]
90 Acts, ch 1204, §66
C91, §137C.30
Referred to in §331.756(28)

137C.31 Conflicts with state building code.

Provisions of the Iowa hotel sanitation code in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

[C79, 81, §170B.19]
90 Acts, ch 1204, §66
C91, §137C.31
2004 Acts, ch 1086, §38

137C.32 through 137C.34 Reserved.

SUBCHAPTER VII

EXEMPTION — APPLICABILITY

137C.35 Bed and breakfast homes and inns.

1. This chapter does not apply to bed and breakfast homes as defined in section 137F.1.

However, a bed and breakfast home shall have a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor. A bed and breakfast home which does not receive its drinking water from a public water supply shall have its drinking water tested at least annually by the state hygienic laboratory or the local board of health.

2. A bed and breakfast inn is subject to regulation, licensing, and inspection under this chapter, but separate toilet and lavatory facilities shall not be required for each guest room. Additionally, a bed and breakfast inn is exempt from fire safety rules adopted pursuant to section 100.35 and applicable to hotels, but is subject to fire safety rules which the state fire marshal shall specifically adopt for bed and breakfast inns.

3. A violation of this section is punishable as provided in section 137C.28.

86 Acts, ch 1041, §3
C87, §170B.20
87 Acts, ch 202, §3
CS87, §170B.21
88 Acts, ch 1060, §1; 90 Acts, ch 1204, §66
C91, §137C.35
98 Acts, ch 1162, §4, 30; 99 Acts, ch 32, §1; 2018 Acts, ch 1041, §45

CHAPTER 137D

HOME BAKERIES

Referred to in §10A.104, 137F.1, 137F.3A

137D.1	Definitions.	137D.7	Reserved.
137D.2	Licenses and inspections.	137D.8	Suspension or revocation of licenses.
137D.3	Penalty.		
137D.4	Injunction.		
137D.5	Duty of county attorney.	137D.9	Exemption. Repealed by 99 Acts, ch 208, §41.
137D.6	Conflicts with state building code.		

137D.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Food"* means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.

2. *"Department"* means the department of inspections and appeals.

3. *"Home bakery"* means a business on the premises of a residence in which prepared food is created for sale or resale, for consumption off the premises, if the business has gross annual sales of prepared food of less than thirty-five thousand dollars. However, *"home bakery"* does not include a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.

4. *"Prepared food"* means soft pies, bakery products with a custard or cream filling, or baked goods that are a time/temperature control for safety food. *"Prepared food"* does not include baked goods that are not a time/temperature control for safety food, including but not limited to breads, fruit pies, cakes, or other pastries that are not a time/temperature control for safety food.

5. *"Time/temperature control for safety food"* means a food that requires time and temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

88 Acts, ch 1220, §7
C89, §170C.1
C91, §137D.1
2016 Acts, ch 1086, §2, 3

137D.2 Licenses and inspections.

1. A person shall not open or operate a home bakery until a license has been obtained

from the department of inspections and appeals. The department shall collect a fee of fifty dollars for a license. After collection, the fees shall be deposited in the general fund of the state. A license shall expire one year from date of issue. A license is renewable.

2. A person shall not sell or distribute from a home bakery if the home bakery is unlicensed, the license of the home bakery is suspended, or the food fails to meet standards adopted for such food by the department.

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

4. The department shall regulate, license, and inspect home bakeries according to standards adopted by rule.

5. The department shall provide for the periodic inspection of a home bakery. The inspector may enter the home bakery at any reasonable hour to make the inspection. The department shall inspect only those areas related to preparing food for sale.

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

88 Acts, ch 1220, §8
C89, §170C.2
C91, §137D.2
2007 Acts, ch 215, §209; 2016 Acts, ch 1086, §4; 2018 Acts, ch 1144, §4, 16

137D.3 Penalty.

A person who violates a provision of this chapter, including a standard adopted by departmental rule, relating to home bakeries or prepared foods created in a home bakery, is guilty of a simple misdemeanor. Each day that the violation continues constitutes a separate offense.

88 Acts, ch 1220, §9
C89, §170C.3
C91, §137D.3
2016 Acts, ch 1086, §5

137D.4 Injunction.

A person operating a home bakery or selling prepared foods created at a home bakery in violation of a provision of this chapter may be restrained by injunction from further operating that home bakery. If an imminent health hazard exists, the home bakery must cease operation. Operation shall not be resumed until authorized by the department.

88 Acts, ch 1220, §10
C89, §170C.4
C91, §137D.4
2016 Acts, ch 1086, §6

137D.5 Duty of county attorney.

The county attorney in each county shall assist in the enforcement of this chapter.

88 Acts, ch 1220, §11
C89, §170C.5
C91, §137D.5

137D.6 Conflicts with state building code.

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

88 Acts, ch 1220, §12
C89, §170C.6

C91, §137D.6
2004 Acts, ch 1086, §39; 2016 Acts, ch 1086, §7

137D.7 Reserved.

137D.8 Suspension or revocation of licenses.
The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:
1. The person's home bakery does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.
2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.
3. The person conducts an activity constituting a criminal offense in the home bakery and is convicted of a serious misdemeanor or a more serious offense as a result.
91 Acts, ch 107, §10; 2016 Acts, ch 1086, §8

137D.9 Exemption. Repealed by 99 Acts, ch 208, §41.

CHAPTER 137E

FOOD AND BEVERAGE VENDING MACHINES

Repealed effective January 1, 1999; validity of licenses issued prior to that date; 98 Acts, ch 1162, §29, 30; see chapter 137F

CHAPTER 137F

FOOD ESTABLISHMENTS AND FOOD PROCESSING PLANTS

Referred to in §10A.104, 172A.6, 331.382

137F.1	Definitions.
137F.2	Adoption by rule.
137F.3	Authority to enforce.
137F.3A	Municipal corporation inspections — contingent appropriation.
137F.4	License required.
137F.5	Application for license.
137F.6	License fees.
137F.7	Suspension or revocation of licenses.
137F.8	Farmers markets.
137F.8A	Stand operated by a minor.
137F.9	Operation without inspection prohibited.
137F.10	Regular inspections.
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137F.12	Plumbing.
137F.13	Water and waste treatment.
137F.14	Toilets and lavatories.
137F.15	Fire safety.
137F.16	Conflicts with state building code.
137F.17	Penalty. Repealed by 2018 Acts, ch 1144, §15, 16.
137F.18	Injunction.
137F.19	Duty of county or city attorney.

137F.1 Definitions.
For the purpose of this chapter:
1. *"Bed and breakfast home"* means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than four guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel, does not require reservations, and serves food only to overnight guests.
2. *"Commissary"* means a food establishment used for preparing, fabricating, packaging, and storage of food or food products for distribution and sale through the food establishment's own food establishment outlets.

3. *"Department"* means the department of inspections and appeals.

4. *"Director"* means the director of the department of inspections and appeals.

5. *"Event"* means a significant occurrence or happening sponsored by a civic, business, governmental, community, or veterans organization and may include an athletic contest.

6. *"Farmers market"* means a marketplace which seasonally operates principally as a common market for Iowa-produced farm products on a retail basis for off-the-premises consumption.

7. *"Food"* means a raw, cooked, or processed edible substance, ice, a beverage, an ingredient used or intended for use or sale in whole or in part for human consumption, or chewing gum.

8. *"Food establishment"* means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption and includes a food service operation in a salvage or distressed food operation, school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, or the state training school. *"Food establishment"* does not include the following:

a. A food processing plant.

b. An establishment that offers only prepackaged foods that are not time/temperature control for safety foods.

c. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.

d. Premises which are a home bakery pursuant to chapter 137D.

e. Premises where a person operates a farmers market, if time/temperature control for safety foods are not sold or distributed from the premises.

f. Premises of a residence in which food that is not a time/temperature control for safety food is sold for consumption off the premises to a consumer customer, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food.

g. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.

h. A private home that receives catered or home-delivered food.

i. Child care facilities and other food establishment facilities located in hospitals or health care facilities which are subject to inspection by other state agencies or divisions of the department.

j. Supply vehicles, vending machine locations, or boardinghouses for permanent guests.

k. Establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to section 189A.3.

l. Premises covered by a current class "A" beer permit as provided in chapter 123.

m. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; labeled; or from which honey is distributed.

n. A stand operated by a minor.

9. *"Food processing plant"* means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. *"Food processing plant"* does not include any of the following:

a. A premises covered by a class "A" beer permit as provided in chapter 123.

b. A premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; labeled; or from which honey is distributed.

c. A premises covered by a class "A" wine permit or a class "B" wine permit as provided in chapter 123.

10. *"Mobile food unit"* means a food establishment that is readily movable, which either operates up to three consecutive days at one location or returns to a home base of operation at the end of each day.

11. *"Municipal corporation"* means a political subdivision of this state.

12. *"Pushcart"* means a non-self-propelled vehicle food establishment limited to serving foods that are not time/temperature control for safety foods or commissary-wrapped foods maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

13. *"Regulatory authority"* means the department or a municipal corporation that has

entered into an agreement with the director pursuant to section 137F.3 for authority to enforce this chapter in its jurisdiction.

14. *"Stand operated by a minor"* means a stand or other facility operated by a person or persons under the age of eighteen at which food is sold directly to consumers that is not time/temperature control for safety food or an alcoholic beverage and that operates on a temporary and occasional basis on private property with the permission of the owner of the property.

15. *"Temporary food establishment"* means a food establishment that operates for a period of no more than fourteen consecutive days in conjunction with a single event.

16. *"Time/temperature control for safety food"* means a food that requires time and temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

17. *"Vending machine"* means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

18. *"Vending machine location"* means the room, enclosure, space, or area where one or more vending machines are installed and operated, including the storage areas on the premises that are used to service and maintain the vending machine.

98 Acts, ch 1162, §6, 30; 99 Acts, ch 192, §33; 99 Acts, ch 208, §28; 2001 Acts, ch 81, §1, 2; 2002 Acts, ch 1149, §1, 3; 2003 Acts, ch 44, §37; 2006 Acts, ch 1032, §4; 2007 Acts, ch 215, §210, 211; 2012 Acts, ch 1064, §1, 3; 2014 Acts, ch 1026, §32; 2016 Acts, ch 1086, §9; 2018 Acts, ch 1144, §5 – 9, 16; 2020 Acts, ch 1084, §1, 2

Referred to in §100.35, 135.16A, 135.185, 137C.35, 189A.3, 190C.1, 331.301, 364.3, 716.7A

137F.2 Adoption by rule.

1. The department shall, in accordance with chapter 17A, adopt rules setting minimum standards for entities covered under this chapter to protect consumers from foodborne illness. In so doing, the department may adopt by reference, with or without amendment, the United States food and drug administration food code, which shall be specified by title and edition, date of publication, or similar information. The rules and standards shall be formulated in consultation with municipal corporations under agreement with the department, affected state agencies, and industry, professional, and consumer groups.

2. In establishing minimum standards as described in subsection 1, the department shall adopt rules for the sale at a farmers market of culinary mushrooms commonly referred to as a variety of wild golden oyster and classified as pleurotus ostreatus, pleurotus populinus, or pleurotus pulmonarious.

98 Acts, ch 1162, §7, 30; 99 Acts, ch 208, §29 – 32; 2001 Acts, ch 81, §3; 2007 Acts, ch 215, §212; 2019 Acts, ch 73, §1, 2

Referred to in §137C.6, 137F.3, 331.756(28)

137F.3 Authority to enforce.

1. The director shall regulate, license, and inspect food establishments and food processing plants and enforce this chapter pursuant to rules adopted by the department in accordance with chapter 17A. Municipal corporations shall not regulate, license, inspect, or collect license fees from food establishments and food processing plants, except as provided in this section.

2. A municipal corporation may enter into an agreement with the director to provide that the municipal corporation shall license, inspect, and otherwise enforce this chapter within its jurisdiction. The director may enter into the agreement if the director finds that the municipal corporation has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to section 137F.2 if it also agrees to enforce the Iowa hotel sanitation code pursuant to section 137C.6. However, the department shall license and inspect all food processing plants which manufacture, package, or label food products. A municipal corporation may license and

inspect, as authorized by this section, food processing plants whose operations are limited to the storage of food products.

3. If the director enters into an agreement with a municipal corporation as provided by this section, the director shall provide that the inspection practices of a municipal corporation are spot-checked on a regular basis.

4. A municipal corporation that is responsible for enforcing this chapter within its jurisdiction pursuant to an agreement shall use the data system prescribed by the director for activities governed by an agreement executed pursuant to this section.

5. The director shall monitor municipal corporations which have entered into an agreement pursuant to this section to determine if they are enforcing this chapter within their respective jurisdictions. If the director determines that this chapter is not enforced by a municipal corporation, the director may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the director shall assume responsibility for enforcement in the jurisdiction involved.

6. The inspection staff of a municipal corporation that has entered into an agreement with the director to enforce this chapter shall be required by the department to apply the current rules setting minimum standards to protect consumers from foodborne illness adopted pursuant to section 137F.2 to ensure consistency in application of the rules. A municipal corporation's failure to comply may result in the department rescinding the agreement with the municipal corporation, after reasonable notice and an opportunity for a hearing.

98 Acts, ch 1162, §8, 30; 2007 Acts, ch 215, §213; 2018 Acts, ch 1144, §10, 16
Referred to in §137F.1

137F.3A Municipal corporation inspections — contingent appropriation.

1. *a.* The department of inspections and appeals may employ additional full-time equivalent positions to enforce the provisions of this chapter and chapters 137C and 137D, with the approval of the department of management, if either of the following apply:

(1) A municipal corporation operating pursuant to a chapter 28E agreement with the department of inspections and appeals to enforce the chapters either fails to renew the agreement effective after April 1, 2007, or discontinues, after April 1, 2007, enforcement activities in one or more jurisdictions during the agreement time frame.

(2) The department of inspections and appeals cancels an agreement after April 1, 2007, due to noncompliance with the terms of the agreement.

b. Before approval may be given, the director of the department of management must have determined that the expenses exceed the funds budgeted by the general assembly for food inspections to the department of inspections and appeals. The department of inspections and appeals may hire no more than one full-time equivalent position for each six hundred inspections required pursuant to this chapter and chapters 137C and 137D.

2. Notwithstanding chapter 137D, and sections 137C.9 and 137F.6, if the conditions described in this section are met, fees imposed pursuant to that chapter and those sections shall be retained by and are appropriated to the department of inspections and appeals each fiscal year to provide for salaries, support, maintenance, and miscellaneous purposes associated with the additional inspections. The appropriation made in this subsection is not applicable in a fiscal year for which the general assembly enacts an appropriation made for the purposes described in this subsection.

2006 Acts, ch 1185, §46, 53; 2007 Acts, ch 215, §214, 221; 2009 Acts, ch 133, §39
For certain fiscal years, certain fees collected by the department of inspections and appeals as a result of licensing and registration activities under chapters 99B, 137C, 137D, and 137F shall be retained by the department for purposes of enforcing those chapters and certain fees collected on behalf of a municipal corporation shall be remitted to the municipal corporation; 2016 Acts, ch 1130, §12; 2017 Acts, ch 171, §13, 40; 2018 Acts, ch 1164, §11; 2019 Acts, ch 136, §13; 2020 Acts, ch 1121, §1; 2021 Acts, ch 142, §13

137F.4 License required.

A person shall not operate a food establishment or food processing plant to provide goods or services to the general public, or open a food establishment to the general public, until the appropriate license has been obtained from the regulatory authority. Sale of products at wholesale to outlets not owned by a commissary owner requires a food processing plant license. A license shall expire one year from the date of issue. A license is renewable if

application for renewal is made prior to expiration of the license or within sixty days of the expiration date of the license. All licenses issued under this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent per month of the license fee if the license is renewed at a later date.

98 Acts, ch 1162, §9, 30; 2018 Acts, ch 1144, §11, 16
Referred to in §135.16A

137F.5 Application for license.

1. An application form prescribed by the department for a license under this chapter shall be obtained from the department or from a municipal corporation which is a regulatory authority. A completed application shall be submitted to the appropriate regulatory authority.

2. A person conducting an event shall submit a license application and an application fee of fifty dollars to the appropriate regulatory authority at least sixty days in advance of the event. An "*event*" for purposes of this subsection does not include a function with ten or fewer temporary food establishments, a fair as defined in section 174.1, or a farmers market.

3. The dominant form of business shall determine the type of license for establishments which engage in operations covered under both the definition of a food establishment and of a food processing plant.

4. The regulatory authority where the unit is domiciled shall issue a license for a mobile food unit.

98 Acts, ch 1162, §10, 30; 2017 Acts, ch 54, §76; 2018 Acts, ch 1144, §12, 16

137F.6 License fees.

1. The regulatory authority shall collect the following annual license fees:

a. For a mobile food unit or pushcart, two hundred fifty dollars.

b. For a temporary food establishment per fixed location for a single event, fifty dollars.

c. For a temporary food establishment for multiple nonconcurrent events during a calendar year, one annual license fee of two hundred dollars for each establishment on a countywide basis.

d. For a vending machine, fifty dollars for the first machine and ten dollars for each additional machine.

e. For a food establishment which prepares or serves food for individual portion service intended for consumption on-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:

(1) Annual gross sales of less than one hundred thousand dollars, one hundred fifty dollars.

(2) Annual gross sales of at least one hundred thousand dollars but less than five hundred thousand dollars, three hundred dollars.

(3) Annual gross sales of five hundred thousand dollars or more, four hundred dollars.

f. For a food establishment which sells food or food products to consumer customers intended for preparation or consumption off-the-premises, the annual license fee shall correspond to the annual gross food and beverage sales of the food establishment, as follows:

(1) Annual gross sales of less than two hundred fifty thousand dollars, one hundred fifty dollars.

(2) Annual gross sales of at least two hundred fifty thousand dollars but less than seven hundred fifty thousand dollars, three hundred dollars.

(3) Annual gross sales of seven hundred fifty thousand dollars or more, four hundred dollars.

g. For a food processing plant, the annual license fee shall correspond to the annual gross food and beverage sales of the food processing plant, as follows:

(1) Annual gross sales of less than two hundred thousand dollars, one hundred fifty dollars.

(2) Annual gross sales of at least two hundred thousand dollars but less than two million dollars, three hundred dollars.

(3) Annual gross sales of two million dollars or more, five hundred dollars.

h. For a farmers market where time/temperature control for safety food is sold or

distributed, one annual license fee of one hundred fifty dollars for each vendor on a countywide basis.

i. For a certificate of free sale or sanitation, thirty-five dollars for the first certificate and ten dollars for each additional identical certificate requested at the same time.

j. For a food establishment covered by both paragraphs *"e"* and *"f"*, the applicant shall pay the licensee fee based on the dominant form of business plus one hundred fifty dollars.

k. For an unattended food establishment, the annual license fee shall correspond to the annual gross food and beverage sales, as follows:

(1) Annual gross sales of less than one hundred thousand dollars, seventy-five dollars.

(2) Annual gross sales of one hundred thousand dollars or more, one hundred fifty dollars.

2. Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by the municipal corporation for regulation of food establishments and food processing plants licensed under this chapter.

3. Each vending machine licensed under this chapter shall bear a readily visible identification tag or decal provided by the licensee, containing the licensee's business address and phone number, and a company license number assigned by the regulatory authority.

98 Acts, ch 1162, §11, 30; 2002 Acts, ch 1149, §2, 3; 2003 Acts, ch 108, §128, 132; 2007 Acts, ch 215, §215; 2009 Acts, ch 133, §40; 2012 Acts, ch 1064, §2, 3; 2018 Acts, ch 1144, §13, 14, 16

Referred to in §137F.3A

137F.7 Suspension or revocation of licenses.

1. The regulatory authority may suspend or revoke a license issued to a person under this chapter pursuant to rules adopted by the department if any of the following occurs:

a. The person's food establishment or food processing plant does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.

b. The person conducts an activity constituting a criminal offense in the food establishment or food processing plant and is convicted of a serious misdemeanor or a more serious offense as a result.

2. A licensee may appeal a suspension or revocation in accordance with rules adopted by the department.

98 Acts, ch 1162, §12, 30; 2009 Acts, ch 41, §263

137F.8 Farmers markets.

A vendor who offers a product for sale at a farmers market shall have the sole responsibility to obtain and maintain any license required to sell or distribute the product.

98 Acts, ch 1162, §13, 30

137F.8A Stand operated by a minor.

A municipal corporation or regulatory authority shall not adopt or enforce an ordinance or rule that requires a license, permit, or fee to sell or otherwise distribute food at a stand operated by a minor.

2020 Acts, ch 1084, §3

137F.9 Operation without inspection prohibited.

1. A person shall not open or operate a food establishment or food processing plant until an inspection has been made and a license has been issued by the regulatory authority. Inspections shall be conducted according to standards adopted by rule of the department pursuant to chapter 17A.

2. A person who opens or operates a food establishment or food processing plant without a license is subject to a penalty of up to twice the amount of the annual license fee.

98 Acts, ch 1162, §14, 30

137F.10 Regular inspections.

The appropriate regulatory authority shall provide for the inspection of each food establishment and food processing plant in this state in accordance with this chapter and

with rules adopted pursuant to this chapter in accordance with chapter 17A. A regulatory authority may enter a food establishment or food processing plant at any reasonable hour to conduct an inspection. The manager or person in charge of the food establishment or food processing plant shall afford free access to every part of the premises and render all aid and assistance necessary to enable the regulatory authority to make a thorough and complete inspection. As part of the inspection process, the regulatory authority shall provide an explanation of the violation or violations cited and provide guidance as to actions for correction and elimination of the violation or violations.

98 Acts, ch 1162, §15, 30; 2007 Acts, ch 215, §216

137F.11 Inspection upon complaint.

Upon receipt of a complaint by a customer of a food establishment or food processing plant stating facts indicating the premises are in an unsanitary condition, the regulatory authority may conduct an inspection.

98 Acts, ch 1162, §16, 30

137F.11A Posting of inspection reports.

An establishment inspected under this chapter shall post the most recent routine inspection report, along with any current complaint or reinspection reports, in a location at the establishment that is readily visible to the public.

2007 Acts, ch 215, §217

137F.12 Plumbing.

A food establishment or food processing plant shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code, or local plumbing code, whichever is more stringent. The plumbing system shall have a connection to a municipal water and sewer system or to a benefited water district or sanitary district if such facilities are available.

98 Acts, ch 1162, §17, 30

137F.13 Water and waste treatment.

If a food establishment or food processing plant is served by privately owned water or waste treatment facilities, those facilities shall meet the technical requirements of the local board of health and the department of natural resources.

98 Acts, ch 1162, §18, 30

137F.14 Toilets and lavatories.

A food establishment or food processing plant shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to this chapter in accordance with chapter 17A.

98 Acts, ch 1162, §19, 30

137F.15 Fire safety.

A violation of a fire safety rule adopted pursuant to section 100.35 and applicable to food establishments or food processing plants which occurs on the premises of a food establishment or food processing plant is a violation of this chapter.

98 Acts, ch 1162, §20, 30

137F.16 Conflicts with state building code.

Provisions of this chapter in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

98 Acts, ch 1162, §21, 30; 2004 Acts, ch 1086, §40

137F.17 Penalty. Repealed by 2018 Acts, ch 1144, §15, 16.

137F.18 Injunction.

A person opening or operating a food establishment or food processing plant in violation of this chapter may be enjoined from further operation of the establishment or plant. If an imminent health hazard exists, the establishment or plant must cease operation. Operation shall not be resumed until authorized by the regulatory authority.

98 Acts, ch 1162, §23, 30

137F.19 Duty of county or city attorney.

The county attorney in each county or city attorney in each city shall assist in the enforcement of this chapter.

98 Acts, ch 1162, §24, 30

Referred to in §331.756(28)

CHAPTER 138

MIGRANT LABOR CAMPS

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138.1 Definitions.

When used in this chapter unless the context otherwise requires:

1. *"Camp operator"* means the person who has been granted a permit, in accordance with the provisions of this chapter, to operate a migrant labor camp, or portion thereof.
2. *"Chemical toilet"* means a nonwater carriage toilet facility where human waste is collected in a container charged with a chemical solution for the purpose of disinfecting and deodorizing such waste.
3. *"Communicable disease"* means any of those diseases regulated by state or local communicable disease laws, ordinances, or regulations.
4. *"Department"* means the Iowa department of public health.
5. *"Director"* means the director of public health or the director's designee.
6. *"Garbage"* means all putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, or consumption of food at a migrant labor camp.
7. *"Migrant"* means any individual who customarily and repeatedly travels from state to state for the purpose of obtaining seasonal employment in agriculture, including the spouse and children of such individuals, whether or not authorized by law to engage in such employment.
8. *"Migrant labor camp"* means one or more buildings, structures, shelters, tents, trailers, or vehicles or any other structure or a combination thereof together with the land appertaining thereto, established, operated, or maintained as living quarters for seven or more migrants or two or more shelters. A camp shall include such land or quarters separate from one another if the migrants housed therein work at any time for the same person and the total number of migrants in all such camps is seven or more. Such separate camps shall constitute a portion of a migrant labor camp.
9. *"Person"* means an individual, group of individuals, firm, association, partnership, or corporation.

10. *"Privy"* means a portable or fixed sanitary facility used for excretion in a shelter separate and apart from any building and without water-borne disposal.

11. *"Refuse"* means all putrescible and nonputrescible solid waste except human body wastes, including garbage, rubbish, and ashes.

12. *"Service building"* means any building provided for the common use, welfare, and comfort of persons occupying or using the migrant labor camp.

13. *"Shelter"* means any conventional or unconventional building of one or more rooms, or any tent, trailer, railroad car, or any other enclosure or structure used for sleeping or living purposes.

14. *"Toilet room"* means an enclosure containing one or more toilet facilities or water closet facilities.

15. *"Urinal"* means a sanitary fixture or structure installed for the purpose of urination.

16. *"Water closet"* means a sanitary fixture, within a toilet room, used for excretion and equipped with a bowl and device for flushing the bowl contents into a disposal system.

[C71, 73, 75, 77, 79, 81, §138.1]

138.2 Permit required.

No person shall establish, maintain, or operate a migrant labor camp, or portion thereof, directly or indirectly, until the person has obtained a permit to operate such camp from the department and unless the permit is in full force and effect and is posted and remains posted in the camp, or portion thereof, to which it applies at all times during the maintenance and operation of such camp.

[C71, 73, 75, 77, 79, 81, §138.2]

138.3 Written application.

Written application to operate a migrant labor camp, or portion thereof, shall be made to the department upon forms approved by the department at least sixty days prior to the first day of the intended operation of such camp. The application shall state the name and address of the person requesting a permit; and name and address of the owner of the camp, or portion thereof; approximate number of persons to be lodged in such camp; approximate period during which the migrant labor camp, or portion thereof, is to be operated; the location of such camp, or portion thereof; and any other information required by the department. A separate application shall be submitted for each camp, or portion thereof, and a separate permit shall be issued annually for each such camp, or portion thereof.

[C71, 73, 75, 77, 79, 81, §138.3]

138.4 Permit not assignable.

If the department finds, after investigation, that the migrant labor camp, or portion thereof, conforms to the minimum standards required by this chapter, it shall issue a permit for operation of such camp, or portion thereof. A permit shall not be assignable or transferable. It shall expire one year after the date of issuance, or upon a change of operator of the camp or upon revocation.

[C71, 73, 75, 77, 79, 81, §138.4]

138.5 Revocation or suspension of permit.

If the holder of any permit under the provisions of this chapter fails to maintain and operate a migrant labor camp in accordance with the provisions of this chapter and the rules of the department relating thereto, the director shall revoke or suspend the permit for the operation and maintenance of such camp.

[C71, 73, 75, 77, 79, 81, §138.5]

138.6 Notice of intention.

The director shall serve written notice upon the holder of the permit, by restricted certified mail, return receipt requested, specifying the manner in which the holder of the permit has failed to comply with the provisions of this chapter or any rules of the department and shall fix a reasonable time within which the objectionable condition or conditions must be removed or

corrected. If the holder of the permit fails to remove or correct such objectionable condition or conditions within the time fixed by the director, the director shall revoke or suspend such permit. However, if the objectionable condition or conditions endanger the health, safety, or welfare of any inhabitants of a migrant labor camp, the director shall immediately suspend or revoke such permit.

[C71, 73, 75, 77, 79, 81, §138.6]

138.7 Appeal to director.

When any person applying for a permit to operate a migrant labor camp is denied a permit, or when a permit is suspended or revoked, such person may appeal such denial, suspension, or revocation to the director. The director, after reasonable notice to all interested parties, shall hold a hearing upon such denial, suspension, or revocation. At the hearing all parties involved shall be entitled to be present and represented by counsel and to present such evidence as they desire as to why a permit should, or should not, be issued, suspended, or revoked. The director shall render a decision within thirty days after the termination of the hearing, and a copy of the decision shall be sent by restricted certified mail, return receipt requested, to all parties given notice of the appeal and hearing. Notice of appeal shall be sent in writing to the department by restricted certified mail, return receipt requested, by the aggrieved party. In the event such appeal is taken from a notice of suspension or revocation, such appeal shall be made prior to the date set for such suspension or revocation.

[C71, 73, 75, 77, 79, 81, §138.7]

138.8 Place — evidence — record.

The hearing shall be conducted at the office of the department or at such other place convenient for the aggrieved party or for the attendance of witnesses and receipt of evidence. The director, when requested in writing by any party to the appeal, shall compel by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents. All testimony and evidence shall be received under oath administered by the director. In the event any party fails to attend who has been properly served with a subpoena, application shall be made to the district court in the county where such hearing is to be held, to enforce the subpoena issued by the director. The director shall cause a record of the proceedings at the hearing to be kept and shall provide any interested party to the hearing a transcript of the evidence presented, upon payment of the cost thereof. The hearing may be continued from time to time at the discretion of the director.

[C71, 73, 75, 77, 79, 81, §138.8]

138.9 Liberal rules to prevail.

Technical errors in the proceeding or failure to observe the technical rules of evidence shall not constitute grounds for reversal of any decision unless it shall appear to the reviewing court that such error or failure materially affects the rights of any party and results in substantial injustice to any interested party.

[C71, 73, 75, 77, 79, 81, §138.9]

138.10 Judicial review.

Judicial review of actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county wherein the license was to be issued or wherein such license is to be revoked or suspended, and such a petition for judicial review shall not operate to stay any order or final determination of the director unless the district court finds upon hearing after reasonable notice to all interested parties, that substantial damage would result to the appealing party unless such order or final determination was stayed and such a stay would not endanger the health, safety, or welfare of any inhabitants of a migrant labor camp.

[C71, 73, 75, 77, 79, 81, §138.10]

2003 Acts, ch 44, §114

138.11 Access to camp for inspection.

The director may enter and inspect migrant labor camps at any reasonable time and may question persons, and investigate facts, conditions, practices, or any other matters as are necessary or appropriate to determine compliance with the provisions of this chapter and any rules made pursuant to this chapter, or in the formulation of any additional rules. The director may, to the extent appropriate, utilize the services of any other state department or agency or any local agency for assistance in inspections and investigations.

[C71, 73, 75, 77, 79, 81, §138.11]

138.12 Variations permitted.

1. The director may grant written permission to individual camp operators to vary from the provisions of this chapter or the rules of the department when the extent of the variation is clearly specified and it is demonstrated to the director's satisfaction that:

a. Such variation is necessary to obtain a beneficial use of an existing facility.

b. The variation is necessary to prevent a substantial difficulty or unnecessary hardship.

c. Appropriate alternative measures have been taken to protect the health, safety, and welfare of any inhabitants of a migrant labor camp and assure that the purpose of the provisions for which variation is sought will be observed.

2. Written application for such variations shall be filed with the director and local board of health serving the area in which the migrant labor camp is situated. No such variation shall be effective until granted in writing by the director.

[C71, 73, 75, 77, 79, 81, §138.12]

2009 Acts, ch 41, §263

138.13 Conditions for permit.

To be eligible for a permit, a migrant labor camp, or portion thereof, shall meet each and all of the following requirements:

1. *Site.*

a. Sites for migrant labor camps shall be adequately drained. Such sites shall not be subject to periodic flooding, nor located within two hundred feet of swamps, pools, sinkholes, or other quiescent surface collections of water unless the water surfaces can be subjected to mosquito and pest control measures. Sites shall be located so that drainage from and through the camp will not endanger any domestic or public water supply. Sites shall be graded, ditched, and rendered free from depressions in which water may collect and become a nuisance.

b. Sites shall be adequate in size to prevent overcrowding of necessary structures and to minimize the hazards of fire. Housing shall not be subject to, or in proximity to, conditions that create or are likely to create offensive odors, flies, noise, traffic, or attract rats or other rodents, or any other similar conditions.

c. The grounds and open areas surrounding the shelters, buildings, or structures, shall be maintained in a clean and sanitary condition free from rubbish, debris, wastepaper, garbage, and other refuse.

d. All camps shall provide space for recreation, commensurate with size of the camp and type of occupancy.

e. Whenever a camp is permanently closed or closed for the season, all garbage, manure, and other refuse shall be collected and disposed of to prevent a nuisance. All abandoned privy pits shall be filled with earth and the grounds and buildings left in a clean and sanitary condition. If privy buildings remain, then such buildings shall be locked or otherwise secured to prevent entrance.

2. *Shelter.*

a. Shelters shall be structurally sound and shall provide protection to the occupants.

b. At least one-half of the floor area in each living unit shall have a minimum ceiling height of seven feet. No floor space shall be counted toward minimum requirements where the ceiling height is less than five feet.

c. Sleeping facilities shall be provided for each person. Such facilities shall consist of comfortable beds, cots, or bunks, provided with clean mattresses.

d. Any bedding provided by the camp operator shall be clean and sanitary.

e. Triple deck bunks shall not be allowed.

f. The clear space above the top of the lower mattress of a double deck bunk and the bottom of the upper bunk shall be a minimum of twenty-seven inches. The distance from the top of the upper mattress to the ceiling shall be a minimum of thirty-six inches.

g. Beds used for double occupancy may be provided only in family accommodations.

h. Floors of buildings used as living quarters or shelters shall be constructed of wood, asphalt, concrete, or other comparable material. Wooden floors shall be of smooth and tight construction and shall be elevated not less than one foot above the ground level at all points to prevent dampness and to permit free circulation of air beneath. Floors shall be kept in good repair.

i. Nothing in this chapter shall prohibit banking with earth or other suitable material around the outside walls of shelters and other structures in areas subject to extremely low temperatures.

j. Living quarters of shelters shall be provided with windows and doors which shall be in total area not less than one-tenth of the floor area. At least one-half of each window shall be constructed so that it can be opened for purposes of ventilation.

k. Exterior openings shall be effectively screened with sixteen mesh material. Screen doors shall be equipped with self-closing devices.

l. In a room where people cook, live, and sleep, a minimum of sixty square feet per occupant shall be provided. Sanitary facilities shall be provided for storing and preparing food.

m. When a camp is operated during a season requiring artificial heating, living quarters with a minimum of one hundred square feet per occupant shall be provided and such living quarters or shelters shall, also, be provided with properly installed heating equipment of adequate capacity to maintain a room temperature of at least 70 degrees Fahrenheit. A stove or other source of heat shall be installed and vented in a manner to avoid both a fire hazard and a concentration of fumes or gas within such living quarters and shelters. In a room with wooden or combustible flooring, there shall be a concrete slab, metal sheet, or other fire-resistant material, on the floor under each stove, extending at least eighteen inches beyond the perimeter of the base of the stove. Any wall or ceiling not having a fire-resistant surface, within twenty-four inches of a stove or stovepipe, shall be protected by a metal sheet or other fire-resistant material. Heating appliances, other than electrical, shall be provided with a stovepipe or vent connected to the appliance and discharging to the outside air or chimney. The vent or chimney shall extend above the peak of the roof. Stovepipes shall be insulated with fire-resistant material where they pass through walls, ceilings, or floors.

3. *Water supply.*

a. An adequate and convenient water supply, approved by the department, shall be provided in each camp for drinking, cooking, bathing, and laundry purposes.

b. Each water supply shall be inspected at the time of occupancy of the camp and as frequently thereafter as is necessary to insure its continued suitability.

c. Distribution lines shall be capable of supplying water at normal operating pressures to all fixtures for simultaneous operation. Water outlets shall be distributed throughout the camp in such a manner that no shelter or living quarter is more than one hundred feet from a yard hydrant if water is not piped to the shelters.

d. A cold water tap shall be available within one hundred feet of each individual living unit when water is not provided in the unit. Adequate drainage facilities shall be provided for overflow and spillage.

e. Common drinking cups shall not be allowed or permitted.

f. Wells or springs used as sources of water supply shall have tight covers and be constructed and located to preclude pollution by seepage from cesspools, privies, sewers, sewage treatment works, stables or manure piles, or surface drainage. The water from such sources shall be obtained by free gravity flow or by an approved metal pump securely mounted on a concrete slab covering the well or spring. If the pump is adjacent to the well or spring, it shall be located and connected to prevent any pollution of such water supply.

4. *Toilet facilities.*

a. Approved toilet facilities adequate for the capacity of the camp shall be provided.

b. Each toilet facility shall be located so as to be accessible to the inhabitants of the camp without any individual passing through any sleeping room. Toilet rooms shall have a window not less than six square feet in area opening directly to the outside or shall otherwise be satisfactorily ventilated. All outside openings shall be screened with sixteen mesh material. No water closet, chemical toilet, or urinal shall be located in a room used for other than toilet purposes.

c. A toilet room shall be located within two hundred feet of each sleeping room. No privy existing on May 23, 1969, shall be nearer than fifty feet from any sleeping room, dining room, lunch area, or kitchen. No privy constructed after May 23, 1969, shall be nearer than one hundred feet from any sleeping room, dining room, lunch area, or kitchen.

d. Separate facilities shall be provided for men and women and such facilities shall be clearly marked by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols, when men and women, not members of the same immediate family, are housed in the same camp.

e. Where toilet facilities are shared, the number of water closets or privy seats provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ratio of one unit for each fifteen persons, with a minimum of two units for any shared facility.

f. Urinals, constructed of nonabsorbent materials, may be substituted for men's toilet seats on the basis of one urinal or twenty-four inches of trough-type urinal for one toilet seat up to a maximum of one-third of the required toilet seats.

g. Each toilet room or facility shall be lighted naturally, or artificially, by a safe type of lighting at all hours of the day and night.

h. An adequate supply of toilet paper shall be provided in each privy, water closet, or chemical toilet compartment.

i. Toilet seats, privies, and toilet rooms or facilities shall be kept in a sanitary condition and cleaned daily.

j. Each privy shall have a pit initially at least five feet deep.

k. Privy pits shall be constructed and maintained so that flies cannot gain access to the human waste.

l. A privy pit shall not be filled with human waste to a point nearer than one foot from the surface of the ground; the human waste in the pit shall then be covered with earth, ashes, lime, or other similar material.

m. Seat openings in privies shall be covered with tight-fitting, hinged lids.

5. *Sewage disposal facilities.*

a. In camps where public sewers are available, all sewer lines and floor drains from buildings and shelters shall be connected to the sewers.

b. All human waste, sewage, or liquid waste from camps not discharged into public sewers shall be disposed of in accordance with the provisions of this chapter or the rules of the department.

6. *Laundry, handwashing, and bathing facilities.*

a. Laundry, handwashing, and bathing facilities shall be provided as follows:

(1) One handwash basin for each immediate family shelter or dwelling for every fifteen individuals or fraction thereof in shared facilities.

(2) One shower head for every fifteen or fraction thereof individuals. Separate facilities for men and women shall be provided in shared facilities.

(3) One laundry tray or tub for every twenty-five persons or fraction thereof.

(4) One slop sink in each building used for laundry, handwashing, or bathing.

b. Floors shall be of smooth finish but not of slippery materials and they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning. Junctions of the curbing and the floor shall be covered. Walls and partitions of shower rooms shall be smooth and impervious to moisture to the height of splash.

c. A supply of hot and cold running water conforming to the provisions of this chapter

or the rules and regulations of the department shall be provided for bathing and laundry purposes.

d. Every service building used during periods requiring artificial heating shall be provided with equipment capable of maintaining a room temperature of at least 70 degrees Fahrenheit.

e. Facilities for drying clothes shall be provided.

f. Service buildings shall be kept clean.

g. Waste water shall be disposed of so as not to form pools on the ground nor create a nuisance, nor pollute any drinking water supply. Toilet drainage shall be carried through a covered drain into a covered septic tank that conforms to standards established by the department.

7. *Lighting.*

a. All housing sites, quarters, and shelters shall be provided with electric service.

b. Each habitable room and common use rooms, and areas including, but not limited to, laundry rooms, toilets, privies, hallways, and stairways shall contain adequate ceiling or wall-type light fixtures. At least one wall-type electrical convenience outlet shall be provided in each individual living room.

c. Adequate lighting shall be provided for the yard area and pathways to common use facilities.

d. All wiring and lighting fixtures shall be installed and maintained in a safe condition.

e. Where electric service is not available, gas lighting will be acceptable. Hallways and stairways to upper floors shall be lighted at night. Electric lighting shall be provided in all camps or additions to camps constructed after May 23, 1969.

8. *Refuse disposal.*

a. Durable, fly-tight, clean containers in good condition of a minimum capacity of twenty gallons, shall be provided adjacent to each housing unit or shelter for the storage of garbage and other refuse. Such containers shall be provided in a minimum ratio of one per fifteen persons or fraction thereof.

b. Provisions shall be made for collection of refuse at least twice a week, or more often if necessary.

c. The disposal of refuse shall be in accordance with state and local laws.

9. *Construction and operation of kitchens, dining halls, and feeding facilities.*

a. Every camp shall be provided with adequate gas stoves or electrical stoves for cooking.

b. Utensils in which food is prepared or kept, or from which food is to be eaten, and implements used in the preparation and eating of food shall be kept in a clean, unbroken, and sanitary condition.

c. Adequate refrigeration for perishable foods, cooked or raw, shall be provided in every kitchen or wherever food is prepared. Tables, benches, or chairs shall be provided.

d. Cooking of meals by an immediate family unit within its assigned living quarters may be permitted, provided that safe and adequate areas are available, but a separate kitchen in each shelter is desirable.

e. In camps where cooking facilities are used in common, stoves, in ratio of one stove to ten persons or one stove to two immediate families or fraction thereof, shall be provided in a central kitchen room or building separate and distinct from sleeping quarters and toilet facilities. Floors, walls, ceilings, tables and shelves of kitchens, dining rooms, refrigerators and food storage rooms shall be constructed so that they can always be maintained in a clean and sanitary condition. Exterior wall openings of all rooms shall be screened and rendered fly-tight at all times during the period that the camp is in operation. Screen doors shall be self-closing and installed to open outward from the area to be protected.

f. In camps where meals are furnished by the operator, manager, or concessionaire, the requirements of the department shall be met.

g. No person with any communicable or venereal disease shall be employed or permitted to work at preparation, cooking, serving, or other handling of food, foodstuffs, or other materials, in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.

10. *Insect and rodent control.*

a. Effective measures shall be taken to control rats, mice, flies, mosquitoes; bedbugs, and all other insects, rodents, and parasites within the camp premises.

b. Pesticides and pest control equipment shall be stored and used in a safe manner.

11. *Safety and fire prevention.*

a. No flammable or volatile liquids or materials shall be stored in or adjacent to rooms used for living purposes, except for those needed for current household use.

b. First aid facilities shall be provided and readily accessible for use at all times. Such facilities shall be equivalent to the sixteen unit first aid kit recommended by the American Red Cross, and provided in a ratio of one per fifty persons or fraction thereof.

c. Buildings and structures of a camp shall be maintained and used in accordance with state and local law relative to fire prevention.

d. Units of approved fire-extinguisher equipment shall be located so that a person will not have to travel more than one hundred feet from any point to reach the nearest unit, and at least one unit shall be provided for each one thousand square feet of floor space or fraction thereof.

e. Appliances of the type, number, and size indicated below shall constitute one unit of fire-extinguisher equipment:

(1) *Soda and acid.* One appliance of two and one-half gallon capacity, or two appliances of one and one-half gallon capacity in each appliance.

(2) *Foam.* One appliance of two and one-half gallon capacity, or two appliances of one and one-half gallon capacity in each appliance.

(3) *Water type.* One stored pressure appliance of two and one-half gallon capacity, or two pump-type appliances of five gallon capacity.

f. Fire fighting equipment shall be maintained in good operating condition so that it may be used instantly when the need arises.

g. Adult occupants shall be properly instructed in fire prevention and in the proper use of equipment.

h. Agricultural pesticides and toxic chemicals shall not be stored in the housing area.

[C71, 73, 75, 77, 79, 81, §138.13]

2013 Acts, ch 30, §35, 36

138.14 Communicable diseases reported.

The camp operator shall report immediately to the local board of health the name and address of any individual in the camp known to have or suspected of having a communicable disease. Whenever there shall occur in any camp, or portion thereof, a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, the camp operator shall report immediately the existence of the condition to the local board of health and the director.

[C71, 73, 75, 77, 79, 81, §138.14]

138.15 Notice of intent to construct or alter a camp.

Any person who is planning to construct, reconstruct, or enlarge a camp or any portion thereof, or facility of a camp, or to convert a property for use or occupancy as a camp, shall give notice in writing of the person's intent to do so to the director at least fifteen days prior to the date of the commencement of any major construction, reconstruction, enlargement, or conversion. The notice shall give the name of the city, village, and county in which the property is located; the location of the property within that area; a brief description of the proposed major construction, reconstruction, enlargement, or conversion; the name and mailing address of the person giving such notice; and the person's telephone number. The director, upon receipt of such notice, shall promptly send to such person by ordinary mail a copy of this chapter and all rules of the department applicable to migrant labor camps.

[C71, 73, 75, 77, 79, 81, §138.15]

138.16 Cleanliness and repair required.

Every migrant or inhabitant of a migrant labor camp shall use the sanitary and other facilities provided and shall keep that part of the living quarters or shelter which the

migrant's or inhabitant's immediate family occupies and controls as well as the premises immediately adjacent thereto in a clean condition comparable to normal domestic standards. Every camp operator or permit holder shall be responsible for the providing of and proper maintenance and repair of the premises, all shelters, structures, facilities, and service buildings of the camp, or portion thereof, for which the camp operator or permit holder was issued a permit as well as proper garbage and refuse collection, privy openings and closings, maintenance of water supply, pest and rodent control, toilet facilities, sewage disposal, laundry, handwashing and bathing facilities, lighting, operation of common kitchens, dining halls, and feeding facilities, and safety and fire prevention.

[C71, 73, 75, 77, 79, 81, §138.16]

138.17 Rental charges or wage deductions.

A rental charge or deduction from any wages due a migrant shall not be made by any camp operator or person for providing any of the facilities required by this chapter unless such migrant is fully informed of all such rental charges or deductions to be made prior to the time the migrant contracts for employment as an agricultural or migrant worker.

[C71, 73, 75, 77, 79, 81, §138.17]

138.18 Rules promulgated.

The director shall make such rules necessary for carrying out the purposes and provisions of this chapter, subject to the requirements of chapter 17A.

[C71, 73, 75, 77, 79, 81, §138.18]

138.19 Penalties.

Any person failing to comply with any provision of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, or interfering with, impeding, or obstructing in any manner, the director, department, or any of its employees in the performance of official duties pursuant to this chapter, shall be guilty of a simple misdemeanor. If any person further fails to comply with any provisions of this chapter, or with any rule or order issued pursuant to the provisions of this chapter, the director shall enforce such provision, rule, or order by filing an action for injunction against such person in the district court in the county wherein such violation or violations occur.

[C71, 73, 75, 77, 79, 81, §138.19]

CHAPTER 139

COMMUNICABLE AND REPORTABLE DISEASES AND POISONINGS

Repealed by 2000 Acts, ch 1066, §51; see chapter 139A

CHAPTER 139A

COMMUNICABLE AND INFECTIOUS DISEASES AND POISONINGS

Referred to in §135.11, 135.144

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SUBCHAPTER I

GENERAL PROVISIONS

139A.1 Title.

This chapter shall be known as the *"Communicable and Infectious Disease Reporting and Control Act"*.

2000 Acts, ch 1066, §1

139A.2 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Area quarantine"* means prohibiting ingress and egress to and from a building or buildings, structure or structures, or other definable physical location, or portion thereof, to prevent or contain the spread of a suspected or confirmed quarantinable disease or to prevent or contain exposure to a suspected or known chemical, biological, radioactive, or other hazardous or toxic agent.

2. *"Business"* means and includes every trade, occupation, or profession.

3. *"Care provider"* means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. *"Care provider"* also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.

4. *"Communicable disease"* means any disease spread from person to person or animal to person.

5. *"Contagious or infectious disease"* means hepatitis in any form, meningococcal disease, AIDS or HIV as defined in section 141A.1, tuberculosis, and any other disease determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.

6. *"Department"* means the Iowa department of public health.

7. *"Designated officer"* means a person who is designated by a department, agency, division, or service organization to act as an infection control liaison officer.

8. *"Exposure"* means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious bodily fluids.

9. *"Exposure-prone procedure"* means a procedure performed by a health care provider which presents a recognized risk of percutaneous injury to the health care provider and if such an injury occurs, the health care provider's blood is likely to contact a patient's body cavity, subcutaneous tissues, or mucous membranes, or an exposure-prone procedure as defined by the centers for disease control and prevention of the United States department of health and human services.

10. *"HBV"* means hepatitis B virus.

11. *"Health care facility"* means a health care facility as defined in section 135C.1, an ambulatory surgical center, or a clinic.

12. *"Health care provider"* means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, nursing, dentistry, optometry, or as a physician assistant, dental hygienist, or acupuncturist.

13. *"HIV"* means HIV as defined in section 141A.1.

14. *"Hospital"* means hospital as defined in section 135B.1.

15. *"Isolation"* means the separation of persons or animals presumably or actually infected with a communicable disease or who are disease carriers for the usual period of communicability of that disease in such places, marked by placards if necessary, and under such conditions as will prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible persons.

16. *"Local board"* means the local board of health.

17. *"Local department"* means the local health department.

18. *"Placard"* means a warning sign to be erected and displayed on the periphery of a quarantine area, forbidding entry to or exit from the area.

19. *"Public health disaster"* means public health disaster as defined in section 135.140.

20. *"Quarantinable disease"* means any communicable disease designated by rule adopted by the department as requiring quarantine or isolation to prevent its spread.

21. *"Quarantine"* means the limitation of freedom of movement of persons or animals that have been exposed to a quarantinable disease within specified limits marked by placards for a period of time equal to the longest usual incubation period of the disease in such manner as to prevent the spread of a quarantinable disease which affects people.

22. *"Reportable disease"* means any disease designated by rule adopted by the department requiring its occurrence to be reported to an appropriate authority.

23. *"Sexually transmitted disease or infection"* means a disease or infection as identified by rules adopted by the department, based upon a determination by the state epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.

24. *"Significant exposure"* means a situation in which there is a risk of contracting disease through exposure to a person's infectious bodily fluids in a manner capable of transmitting an infectious agent as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

25. *"Terminal cleaning"* means cleaning procedures defined in the isolation guidelines issued by the centers for disease control and prevention of the United States department of health and human services.

2000 Acts, ch 1066, §2; 2001 Acts, ch 24, §29; 2001 Acts, ch 157, §1 – 3; 2003 Acts, ch 33, §9, 11; 2004 Acts, ch 1168, §6; 2006 Acts, ch 1079, §2; 2008 Acts, ch 1088, §141; 2011 Acts, ch 63, §18, 19

Referred to in §135.144, 141A.9, 356.48

139A.3 Reports to department — immunity — confidentiality — investigations.

1. The health care provider or public, private, or hospital clinical laboratory attending a person infected with a reportable disease shall immediately report the case to the department. However, when a case occurs within the jurisdiction of a local health department, the report

shall be made to the local department and to the department. A health care provider or public, private, or hospital clinical laboratory who files such a report which identifies a person infected with a reportable disease shall assist in the investigation by the department, a local board, or a local department. The department shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the department and shall require inclusion of all the following information:

a. The patient's name.
b. The patient's address.
c. The patient's date of birth.
d. The sex of the patient.
e. The race and ethnicity of the patient.
f. The patient's marital status.
g. The patient's telephone number.
h. The name and address of the laboratory.
i. The date the test was found to be positive and the collection date.
j. The name of the health care provider who performed the test.
k. If the patient is female, whether the patient is pregnant.

2. *a.* Any person who, acting reasonably and in good faith, files a report, releases information, or otherwise cooperates with an investigation under this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action.

b. A report or other information provided to or maintained by the department, a local board, or a local department, which identifies a person infected with or exposed to a reportable or other disease or health condition, is confidential and shall not be accessible to the public.

c. Notwithstanding paragraph *"b"*, information contained in the report may be reported in public health records in a manner which prevents the identification of any person or business named in the report. If information contained in the report concerns a business, information disclosing the identity of the business may be released to the public when the state epidemiologist or the director of public health determines such a release of information necessary for the protection of the health of the public.

3. A health care provider or public, private, or hospital clinical laboratory shall provide the department, local board, or local department with all information reasonably necessary to conduct an investigation pursuant to this chapter upon request of the department, local board, or local department. The department may also subpoena records, reports, and any other evidence necessary to conduct an investigation pursuant to this chapter from other persons, facilities, and entities pursuant to rules adopted by the department.

2000 Acts, ch 1066, §3; 2006 Acts, ch 1079, §3, 4
Referred to in §139A.19

139A.3A Investigation and control.

When the department receives a report under this chapter or acts on other reliable information that a person is infected with a disease, illness, or health condition that may be a potential cause of a public health disaster, the department shall identify all individuals reasonably believed to have been exposed to the disease, illness, or health condition and shall investigate all such cases for sources of infection and ensure that such cases are subject to proper control measures. Any hospital, health care provider, or other person may provide information, interviews, reports, statements, memoranda, records, or other data related to the condition and treatment of any individual, if not otherwise prohibited by the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, to the department to be used for the limited purpose of determining whether a public health disaster exists.

2003 Acts, ch 33, §10, 11

139A.4 Type and length of isolation or quarantine.

1. The type and length of isolation or quarantine imposed for a specific communicable disease shall be in accordance with rules adopted by the department.

2. The department and the local boards may impose and enforce isolation and quarantine restrictions.

3. The department shall adopt rules governing terminal cleaning.

4. The department and local boards may impose and enforce area quarantine restrictions according to rules adopted by the department. Area quarantine shall be imposed by the least restrictive means necessary to prevent or contain the spread of the suspected or confirmed quarantinable disease or suspected or known hazardous or toxic agent.

2000 Acts, ch 1066, §4; 2006 Acts, ch 1079, §5

139A.5 Isolation or quarantine signs erected.

When isolation or a quarantine is established, appropriate placards prescribed by the department shall be erected to mark the boundaries of the place of isolation or quarantine.

2000 Acts, ch 1066, §5

139A.6 Communicable diseases.

If a person, whether or not a resident, is infected with a communicable disease dangerous to the public health, the local board shall issue orders in regard to the care of the person as necessary to protect the public health. The orders shall be executed by the designated officer as the local board directs or provides by rules.

2000 Acts, ch 1066, §6

139A.7 Diseased persons moving — record forwarded.

If a person known to be suffering from a communicable disease dangerous to the public health moves from the jurisdiction of a local board into the jurisdiction of another local board, the local board from whose jurisdiction the person moves shall notify the local board into whose jurisdiction the person is moving.

2000 Acts, ch 1066, §7

139A.8 Immunization of children.

1. A parent or legal guardian shall assure that the person's minor children residing in the state are adequately immunized against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella, according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

2. *a.* A person shall not be enrolled in any licensed child care center or elementary or secondary school in Iowa without evidence of adequate immunizations against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, and varicella.

b. Evidence of adequate immunization against haemophilus influenza B and invasive pneumococcal disease shall be required prior to enrollment in any licensed child care center.

c. Evidence of hepatitis type B immunization shall be required of a child born on or after July 1, 1994, prior to enrollment in school in kindergarten or in a grade.

d. Immunizations shall be provided according to recommendations provided by the department subject to the provisions of subsections 3 and 4.

e. A person shall not be enrolled in school in the seventh grade or twelfth grade in Iowa without evidence of adequate immunization against meningococcal disease in accordance with standards approved by the United States public health service of the United States department of health and human services for such biological products and in accordance with immunization practices recommended by the advisory committee on immunization practices of the centers for disease control and prevention.

3. Subject to the provision of subsection 4, the state board of health may modify or delete any of the immunizations in subsection 2.

4. *a.* Immunization is not required for a person's enrollment in any elementary or secondary school or licensed child care center if either of the following applies:

(1) The applicant, or if the applicant is a minor, the applicant's parent or legal guardian,

submits to the admitting official a statement signed by a physician, advanced registered nurse practitioner, or physician assistant who is licensed by the board of medicine, board of nursing, or board of physician assistants that the immunizations required would be injurious to the health and well-being of the applicant or any member of the applicant's family.

(2) The applicant, or if the applicant is a minor, the applicant's parent or legal guardian, submits an affidavit signed by the applicant, or if the applicant is a minor, the applicant's parent or legal guardian, stating that the immunization conflicts with the tenets and practices of a recognized religious denomination of which the applicant is an adherent or member.

b. The exemptions under this subsection do not apply in times of emergency or epidemic as determined by the state board of health and as declared by the director of public health.

5. A person may be provisionally enrolled in an elementary or secondary school or licensed child care center if the person has begun the required immunizations and if the person continues to receive the necessary immunizations as rapidly as is medically feasible. The department shall adopt rules relating to the provisional admission of persons to an elementary or secondary school or licensed child care center.

6. The local board shall furnish the department, within sixty days after the first official day of school, evidence that each person enrolled in any elementary or secondary school has been immunized as required in this section subject to subsection 4. The department shall adopt rules pursuant to chapter 17A relating to the reporting of evidence of immunization.

7. Local boards shall provide the required immunizations to children in areas where no local provision of these services exists.

8. The department, in consultation with the director of the department of education, shall adopt rules for the implementation of this section and shall provide those rules to local school boards and local boards.

2000 Acts, ch 1066, §8; 2003 Acts, ch 78, §1 – 3; 2007 Acts, ch 10, §24; 2007 Acts, ch 11, §1; 2009 Acts, ch 41, §263; 2016 Acts, ch 1139, §92; 2017 Acts, ch 29, §41

Referred to in §239B.12, 299.4

139A.8A Vaccine shortage — department order — immunity.

1. In the event of a shortage of a vaccine, or in the event a vaccine shortage is imminent, the department may issue an order controlling, restricting, or otherwise regulating the distribution and administration of the vaccine. The order may designate groups of persons which shall receive priority in administration of the vaccine and may prohibit vaccination of persons who are not included in a priority designation. The order shall include an effective date, which may be amended or rescinded only through a written order of the department. The order shall be applicable to health care providers, hospitals, clinics, pharmacies, health care facilities, local boards of health, public health agencies, and other persons or entities that distribute or administer vaccines.

2. A health care provider, hospital, clinic, pharmacy, health care facility, local board of health, public health agency, or other person or entity that distributes or administers vaccines shall not be civilly liable in any action based on a failure or refusal to distribute or administer a vaccine to any person if the failure or refusal to distribute or administer the vaccine was consistent with a department order issued pursuant to this section.

3. The department shall adopt rules to administer this section.

2005 Acts, ch 89, §10

139A.9 Forcible removal — isolation — quarantine.

The forcible removal and isolation or quarantine of any infected person shall be accomplished according to the rules and regulations of the local board or the rules of the state board of health.

2000 Acts, ch 1066, §9

139A.10 Fees for removing.

The officers designated shall receive reasonable compensation for their services as determined by the local board. The amount determined shall be certified and paid in the same manner as other expenses incurred under this chapter.

2000 Acts, ch 1066, §10; 2002 Acts, ch 1119, §133

139A.11 Services and supplies — isolation — quarantine.

If the person under isolation or quarantine or the person liable for the support of the person, in the opinion of the local board, is financially unable to secure proper care, provisions, or medical attendance, the local board shall furnish supplies and services during the period of isolation or quarantine and may delegate the duty, by rules, to one of its designated officers.

2000 Acts, ch 1066, §11

139A.12 County liability for care, provisions, and medical attendance.

The local board shall provide proper care, provisions, and medical attendance for any person removed and isolated or quarantined in a separate house or hospital for detention and treatment, and the care, provisions, and medical attendance shall be paid for by the county in which the infected person has residence, if the patient or legal guardian is unable to pay.

2000 Acts, ch 1066, §12; 2018 Acts, ch 1137, §23

139A.13 Rights of isolated or quarantined persons.

Any person removed and isolated or quarantined in a separate house or hospital may, at the person's own expense, employ the health care provider of the person's choice, and may provide such supplies and commodities as the person may require.

2000 Acts, ch 1066, §13

139A.13A Employment protection.

1. An employer shall not discharge an employee, or take or fail to take action regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits for actual time worked, due to the compliance of an employee with a quarantine or isolation order or voluntary confinement request issued by the department, a local board, or the centers for disease control and prevention of the United States department of health and human services.

2. An employee whose employer violates this section may petition the court for imposition of a cease and desist order against the person's employer and for reinstatement to the person's previous position of employment. This section does not create a private cause of action for relief of money damages.

2006 Acts, ch 1184, §85; 2007 Acts, ch 159, §25

139A.14 Services or supplies — authorization.

All services or supplies furnished to persons under this chapter must be authorized by the local board or an officer of the local board, and a written order designating the person employed to furnish such services or supplies, issued before the services or supplies are furnished, shall be attached to the bill when presented for audit and payment.

2000 Acts, ch 1066, §14

139A.15 Filing of bills.

All bills incurred under this chapter in establishing, maintaining, and terminating isolation and quarantine, in providing a necessary house or hospital for isolation or quarantine, and in making terminal cleanings, shall be filed with the local board. The local board at its next regular meeting or special meeting called for this purpose shall examine and audit the bills and, if found correct, approve and certify the bills to the county board of supervisors for payment.

2000 Acts, ch 1066, §15

139A.16 Allowing claims.

All bills for supplies furnished and services rendered for persons removed and isolated or quarantined in a separate house or hospital, or for persons financially unable to provide their own sustenance and care during isolation or quarantine, shall be allowed and paid for only on a basis of the local market price for such provisions, services, and supplies in the locality furnished. A bill for the terminal cleaning of premises or effects shall not be allowed, unless the infected person or those liable for the person's support are financially unable to pay.

2000 Acts, ch 1066, §16

139A.17 Approval and payment of claims.

The board of supervisors is not bound by the action of the local board in approving the bills, but shall pay the bills for a reasonable amount and within a reasonable time.

2000 Acts, ch 1066, §17

139A.18 Reimbursement from county.

If any person receives services or supplies under this chapter who does not have residence in the county in which the bills were incurred and paid, the amount paid shall be certified to the board of supervisors of the county in which the person claims residence or owns property, and the board of supervisors of that county shall reimburse the county from which the claim is certified, in the full amount originally paid.

2000 Acts, ch 1066, §18; 2018 Acts, ch 1137, §24; 2019 Acts, ch 59, §50

Referred to in §252.24

139A.19 Care provider notification.

1. *a.* Notwithstanding any provision of this chapter to the contrary, if a care provider sustains a significant exposure from an individual while rendering health care services or other services, the individual to whom the care provider was exposed is deemed to consent to a test to determine if the individual has a contagious or infectious disease and is deemed to consent to notification of the care provider of the results of the test, upon submission of a significant exposure report by the care provider to the hospital, clinic, other health facility, or other person specified in this section to whom the individual is delivered by the care provider as determined by rule.

b. The hospital, clinic, or other health facility in which the significant exposure occurred or other person specified in this section to whom the individual is delivered shall conduct the test. If the individual is delivered by the care provider to an institution administered by the Iowa department of corrections, the test shall be conducted by the staff physician of the institution. If the individual is delivered by the care provider to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. The sample and test results shall only be identified by a number.

c. A hospital, clinic, or other health facility, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, clinic, or other health facility, institution administered by the department of corrections, or jail of those parties who received the notification, and following receipt of this information and upon request of the individual tested, the hospital, clinic, or other health facility, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.

d. Notwithstanding any other provision of law to the contrary, a care provider may transmit cautions regarding contagious or infectious disease information, with the exception of AIDS or HIV pursuant to section 80.9B, in the course of the care provider's duties over the police radio broadcasting system under chapter 693 or any other radio-based communications system if the information transmitted does not personally identify an individual.

2. *a.* If the test results are positive, the hospital, clinic, other health facility, or other person performing the test shall notify the subject of the test and make any required reports to the department pursuant to sections 139A.3 and 141A.6. The report to the department shall include the name of the individual tested.

b. If the individual tested is diagnosed or confirmed as having a contagious or infectious disease, the hospital, clinic, other health facility, or other person conducting the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider.

c. The notification to the care provider shall be provided as soon as is reasonably possible following determination that the subject of the test has a contagious or infectious disease. The notification shall not include the name of the individual tested for the contagious or infectious disease unless the individual consents. If the care provider who sustained a significant exposure determines the identity of the individual diagnosed or confirmed as having a contagious or infectious disease, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the individual diagnosed with or confirmed as having a contagious or infectious disease.

3. This section does not preclude a hospital, clinic, other health facility, or a health care provider from providing notification to a care provider under circumstances in which the hospital's, clinic's, other health facility's, or health care provider's policy provides for notification of the hospital's, clinic's, other health facility's, or health care provider's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a patient's name, unless the patient consents.

4. A hospital, clinic, other health facility, or health care provider, or other person participating in good faith in complying with provisions authorized or required under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

5. A hospital's, clinic's, other health facility's, or health care provider's duty to notify under this section is not continuing but is limited to a diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of health care services or other services to the individual who was the source of the significant exposure.

6. Notwithstanding subsection 5, the hospital, clinic, or other health facility may provide a procedure for notifying the exposed care provider if, following discharge from or completion of care or treatment by the hospital, clinic, or other health facility, the individual who was the source of the significant exposure, and for whom a significant exposure report was submitted that did not result in notification of the exposed care provider, wishes to provide information regarding the source individual's contagious or infectious disease status to the exposed care provider.

7. A hospital, clinic, other health facility, health care provider, or other person who is authorized to perform a test under this section who performs the test in compliance with this section or who fails to perform the test authorized under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

8. A hospital, clinic, other health facility, health care provider, or other person who is authorized to perform a test under this section has no duty to perform the test authorized.

9. The department shall adopt rules pursuant to chapter 17A to administer this section. The department may determine by rule the contagious or infectious diseases for which testing is reasonable and appropriate and which may be administered under this section.

10. The employer of a care provider who sustained a significant exposure under this section shall pay the costs of testing for the individual who is the source of the significant exposure and of the testing of the care provider, if the significant exposure was sustained during the course of employment. However, the department shall assist an individual who is the source of the significant exposure in finding resources to pay for the costs of the testing

and shall assist a care provider who renders direct aid without compensation in finding resources to pay for the cost of the test.

2000 Acts, ch 1066, §19; 2001 Acts, ch 157, §4; 2011 Acts, ch 63, §20; 2011 Acts, ch 131, §54, 158

139A.20 Exposing to communicable disease.

A person who knowingly exposes another to a communicable disease or who knowingly subjects another to a child or other legally incapacitated person who has contracted a communicable disease, with the intent that another person contract the communicable disease, shall be liable for all resulting damages and shall be punished as provided in this chapter.

2000 Acts, ch 1066, §20

139A.21 Reportable poisonings and illnesses.

1. If the results of an examination by a public, private, or hospital clinical laboratory of a specimen from a person in Iowa yield evidence of or are reactive for a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, the results shall be reported to the department on forms prescribed by the department. If the laboratory is located in Iowa, the person in charge of the laboratory shall report the results. If the laboratory is not in Iowa, the health care provider submitting the specimen shall report the results.

2. The health care provider attending a person infected with a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, shall immediately report the case to the department. The department shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the department.

3. A person in charge of a poison control information center shall report to the department cases of reportable poisoning, including methemoglobinemia, about which inquiries have been received.

4. The department shall adopt rules designating reportable poisonings, including methemoglobinemia, and illnesses which must be reported under this section.

5. The department shall establish and maintain a central registry to collect and store data reported pursuant to this section.

6. The department shall timely provide copies of all reports of pesticide poisonings or illnesses received pursuant to this section to the secretary of agriculture who shall timely forward these reports and any reports of pesticide poisonings or illnesses received pursuant to section 206.14 to the registrant of a pesticide which is the subject of any reports.

2000 Acts, ch 1066, §21; 2009 Acts, ch 41, §49; 2012 Acts, ch 1095, §130

Referred to in §135.11, 455E.11

139A.22 Prevention of transmission of HIV or HBV to patients.

1. A hospital shall adopt procedures requiring the establishment of protocols applicable on a case-by-case basis to a health care provider determined to be infected with HIV or HBV who ordinarily performs exposure-prone procedures as determined by an expert review panel, within the hospital setting. The protocols established shall be in accordance with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services. The expert review panel may be an established committee of the hospital. The procedures may provide for referral of the health care provider to the expert review panel established by the department pursuant to subsection 3 for establishment of the protocols. The procedures shall require reporting noncompliance with the protocols by a health care provider to the licensing board with jurisdiction over the relevant health care providers.

2. A health care facility shall adopt procedures in accordance with recommendations issued by the centers for disease control and prevention of the United States department of health and human services, applicable to a health care provider determined to be infected with HIV or HBV who ordinarily performs or assists with exposure-prone procedures within

the health care facility. The procedures shall require referral of the health care provider to the expert review panel established by the department pursuant to subsection 3.

3. The department shall establish an expert review panel to determine on a case-by-case basis under what circumstances, if any, a health care provider determined to be infected with HIV or HBV practicing outside the hospital setting or referred to the panel by a hospital or health care facility may perform exposure-prone procedures. If a health care provider determined to be infected with HIV or HBV does not comply with the determination of the expert review panel, the panel shall report the noncompliance to the licensing board with jurisdiction over the health care provider. A determination of an expert review panel pursuant to this section is a final agency action appealable pursuant to section 17A.19.

4. The health care provider determined to be infected with HIV or HBV, who works in a hospital setting, may elect either the expert review panel established by the hospital or the expert review panel established by the department for the purpose of making a determination of the circumstances under which the health care provider may perform exposure-prone procedures.

5. A health care provider determined to be infected with HIV or HBV shall not perform an exposure-prone procedure except as approved by the expert review panel established by the department pursuant to subsection 3, or in compliance with the protocol established by the hospital pursuant to subsection 1 or the procedures established by the health care facility pursuant to subsection 2.

6. The board of medicine, the board of physician assistants, the board of podiatry, the board of nursing, the dental board, and the board of optometry shall require that licensees comply with the recommendations issued by the centers for disease control and prevention of the United States department of health and human services for preventing transmission of human immunodeficiency virus and hepatitis B virus to patients during exposure-prone invasive procedures, with the recommendations of the expert review panel established pursuant to subsection 3, with hospital protocols established pursuant to subsection 1, and with health care facility procedures established pursuant to subsection 2, as applicable.

7. Information relating to the HIV status of a health care provider is confidential and subject to the provisions of section 141A.9. A person who intentionally or recklessly makes an unauthorized disclosure of such information is subject to a civil penalty of one thousand dollars. The attorney general or the attorney general's designee may maintain a civil action to enforce this section. Proceedings maintained under this section shall provide for the anonymity of the health care provider and all documentation shall be maintained in a confidential manner. Information relating to the HBV status of a health care provider is confidential and shall not be accessible to the public. Information regulated by this section, however, may be disclosed to members of the expert review panel established by the department or a panel established by hospital protocol under this section. The information may also be disclosed to the appropriate licensing board by filing a report as required by this section. The licensing board shall consider the report a complaint subject to the confidentiality provisions of section 272C.6. A licensee, upon the filing of a formal charge or notice of hearing by the licensing board based on such a complaint, may seek a protective order from the board.

8. The expert review panel established by the department and individual members of the panel shall be immune from any liability, civil or criminal, for reasonable actions taken in the good faith performance of functions authorized or required by this section. A hospital, an expert review panel established by the hospital, and individual members of the panel shall be immune from any liability, civil or criminal, for reasonable actions taken in the good faith performance of functions authorized or required by this section. Complaints, investigations, reports, deliberations, and findings of the hospital and its panel with respect to a named health care provider suspected, alleged, or found to be in violation of the protocol required

by this section constitute peer review records under section 147.135, and are subject to the specific confidentiality requirements and limitations of that section.

2000 Acts, ch 1066, §22; 2001 Acts, ch 24, §30; 2007 Acts, ch 10, §25; 2007 Acts, ch 218, §196

Referred to in §139A.23
Contingent repeal, see §139A.23

139A.23 Contingent repeal.

If the provisions of Pub. L. No. 102-141 relating to requirements for prevention of transmission of HIV or HBV to patients in the performance of exposure-prone procedures are repealed, section 139A.22 is repealed.

2000 Acts, ch 1066, §23

139A.24 Blood donation or sale — penalty.

A person suffering from a communicable disease dangerous to the public health who knowingly gives false information regarding the person's infected state on a blood plasma sale application to blood plasma-taking personnel commits a serious misdemeanor.

2000 Acts, ch 1066, §24

139A.25 Penalties.

1. Unless otherwise provided in this chapter, a person who knowingly violates any provision of this chapter, or of the rules of the department or a local board, or any lawful order, written or oral, of the department or board, or of their officers or authorized agents, is guilty of a simple misdemeanor.

2. Notwithstanding subsection 1, an individual who repeatedly fails to file any mandatory report specified in this chapter is subject to a report being made to the licensing board governing the professional activities of the individual. The department shall notify the individual each time that the department determines that the individual has failed to file a required report. The department shall inform the individual in the notification that the individual may provide information to the department to explain or dispute the failure to report.

3. Notwithstanding subsection 1, a public, private, or hospital clinical laboratory that repeatedly fails to file a mandatory report specified in this chapter is subject to a civil penalty of not more than one thousand dollars per occurrence. The department shall not impose the penalty under this subsection without prior written notice and opportunity for hearing.

2000 Acts, ch 1066, §25
Referred to in §139A.40

139A.26 Meningococcal disease vaccination information for postsecondary students.

1. Each institution of higher education that has an on-campus residence hall or dormitory shall provide vaccination information on meningococcal disease to each student enrolled in the institution. The vaccination information shall be contained on student health forms provided to each student by the institution, which forms shall include space for the student to indicate whether or not the student has received the vaccination against meningococcal disease. The vaccination information about meningococcal disease shall include any recommendations issued by the national centers for disease control and prevention regarding the disease. Vaccination information obtained under this section that is in the possession of an institution of higher education pursuant to this section shall not be considered a public record. Data obtained under this section shall be submitted annually to the department in a manner prescribed by the department and such that no individual person can be identified.

2. This section shall not be construed to require any institution of higher education to provide the vaccination against meningococcal disease to students.

3. This section shall not apply if the national centers for disease control and prevention no longer recommend the meningococcal disease vaccine.

4. This section does not create a private right of action.

5. The department shall adopt rules for administration of this section. The department shall review the requirements of this section at least every five years, and shall submit

its recommendations for modification to, or continuation of, this section based upon new information about the disease or vaccination against the disease in a report that shall be submitted to the general assembly no later than January 15, 2010, with subsequent reports developed and submitted by January 15 at least every fifth year thereafter.

2004 Acts, ch 1023, §1

139A.27 through 139A.29 Reserved.

SUBCHAPTER II

CONTROL OF SEXUALLY TRANSMITTED DISEASES AND INFECTIONS

Referred to in §135.11

139A.30 Confidential reports.

1. Reports to the department which include the identity of persons infected with a sexually transmitted disease or infection, and all such related information, records, and reports concerning the person, shall be confidential and shall not be accessible to the public.

2. Notwithstanding subsection 1, reports to the department and related reports, information, and records shall be confidential only to the extent necessary to prevent identification of persons named in such reports, information, and records. The other parts of such reports, information, and records shall be public records. This subsection shall prevail over any inconsistent provision of this subchapter.

2000 Acts, ch 1066, §26; 2002 Acts, ch 1119, §134; 2019 Acts, ch 59, §51

Referred to in §232.69

139A.31 Report to department.

Immediately after the first examination or treatment of any person infected with any sexually transmitted disease or infection, the health care provider who performed the examination or treatment shall transmit to the department a report stating the name of the infected person, the address of the infected person, the infected person's date of birth, the sex of the infected person, the race and ethnicity of the infected person, the infected person's marital status, the infected person's telephone number, if the infected person is female, whether the infected person is pregnant, the name and address of the laboratory that performed the test, the date the test was found to be positive and the collection date, and the name of the health care provider who performed the test. However, when a case occurs within the jurisdiction of a local health department, the report shall be made directly to the local health department which shall immediately forward the information to the department. Reports shall be made in accordance with rules adopted by the department. Reports shall be confidential. Any person filing a report of a sexually transmitted disease or infection who is acting reasonably and in good faith is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of such report.

2000 Acts, ch 1066, §27

139A.32 Examination results from laboratory — report.

A person in charge of a public, private, or hospital clinical laboratory shall report to the department, on forms prescribed by the department, results obtained in the examination of all specimens which yield evidence of or are reactive for those diseases defined as sexually transmitted diseases or infections, and listed in the Iowa administrative code. The report shall state the name of the infected person from whom the specimen was obtained, the address of the infected person, the infected person's date of birth, the sex of the infected person, the race and ethnicity of the infected person, the infected person's marital status, the infected person's telephone number, if the infected person is female, whether the infected person is pregnant, the name and address of the laboratory that performed the test, the laboratory results, the test employed, the date the test was found to be positive and the collection date, the name

of the health care provider who performed the test, and the name and address of the person submitting the specimen.

2000 Acts, ch 1066, §28

139A.33 Partner notification program.

1. The department shall maintain a partner notification program for persons known to have tested positive for a reportable sexually transmitted disease or infection.

2. In administering the program, the department shall provide for all of the following:

a. A person who voluntarily participates in the program shall receive post-test counseling during which time the person shall be encouraged to refer for counseling and testing any person with whom the person has had sexual relations or has shared drug injecting equipment.

b. The physician or other health care provider attending the person may provide to the department any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or has shared drug injecting equipment.

3. The department may delegate its partner notification duties under this section to local health authorities or a physician or other health care provider, as provided by rules adopted by the department.

4. In making contact with sexual or drug equipment-sharing partners, the department or its designee shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of the persons contacted.

5. *a.* This section shall not be interpreted as creating a duty to warn third parties of the danger of exposure to a sexually transmitted disease or infection through contact with a person who tests positive for a sexually transmitted disease.

b. This section shall not be interpreted to require the department to provide partner notification services to all persons who have tested positive for a sexually transmitted disease or infection.

2000 Acts, ch 1066, §29; 2011 Acts, ch 63, §21

139A.34 Examination of persons suspected.

The local board shall cause an examination to be made of every person reasonably suspected, on the basis of epidemiological investigation, of having any sexually transmitted disease or infection in the infectious stages to ascertain if such person is infected and, if infected, to cause such person to be treated. A person who is under the care and treatment of a health care provider for the suspected condition shall not be subjected to such examination. If a person suspected of having a sexually transmitted disease or infection refuses to submit to an examination voluntarily, application may be made by the local board to the district court for an order compelling the person to submit to examination and, if infected, to treatment. The person shall be treated until certified as no longer infectious to the local board or to the department. If treatment is ordered by the district court, the attending health care provider shall certify that the person is no longer infectious.

2000 Acts, ch 1066, §30

139A.35 Minors.

A minor shall have the legal capacity to act and give consent to provision of medical care or services to the minor for the prevention, diagnosis, or treatment of a sexually transmitted disease or infection by a hospital, clinic, or health care provider. Such medical care or services shall be provided by or under the supervision of a physician licensed to practice medicine and surgery or osteopathic medicine and surgery, a physician assistant, or an advanced registered nurse practitioner. Consent shall not be subject to later disaffirmance by reason of such minority. The consent of another person, including but not limited to the consent of a spouse, parent, custodian, or guardian, shall not be necessary.

2000 Acts, ch 1066, §31; 2008 Acts, ch 1058, §11; 2008 Acts, ch 1088, §141

139A.36 Certificate not to be issued.

A certificate of freedom from sexually transmitted disease or infection shall not be issued to any person by any official health agency.

2000 Acts, ch 1066, §32

139A.37 Pregnant women.

The department shall adopt rules which incorporate the prenatal guidelines established by the centers for disease control and prevention of the United States department of health and human services as the state guidelines for prenatal testing and care relative to infectious disease.

2000 Acts, ch 1066, §33

139A.38 Medical treatment of newly born.

A physician attending the birth of a child shall cause to be instilled into the eyes of the newly born infant a prophylactic solution approved by the department. This section shall not be construed to require treatment of the infant's eyes with a prophylactic solution if the infant's parent or legal guardian states that such treatment conflicts with the tenets and practices of a recognized religious denomination of which the parent or legal guardian is an adherent or member.

2000 Acts, ch 1066, §34

139A.39 Religious exceptions.

A provision of this chapter shall not be construed to require or compel any person to take or follow a course of medical treatment prescribed by law or a health care provider if the person is an adherent or member of a church or religious denomination and in accordance with the tenets or principles of the person's church or religious denomination the person opposes the specific course of medical treatment. However, such person while in an infectious stage of disease shall be subject to isolation and such other measures appropriate for the prevention of the spread of the disease to other persons.

2000 Acts, ch 1066, §35

139A.40 Filing false reports.

A person who knowingly makes a false statement in any of the reports required by this subchapter concerning persons infected with any sexually transmitted disease or infection, or who discloses the identity of such person, except as authorized by this subchapter, shall be punished as provided in section 139A.25.

2000 Acts, ch 1066, §36

139A.41 Chlamydia and gonorrhea treatment.

Notwithstanding any other provision of law to the contrary, a physician, physician assistant, or advanced registered nurse practitioner who diagnoses a sexually transmitted chlamydia or gonorrhea infection in an individual patient may prescribe, dispense, furnish, or otherwise provide prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. If the infected individual patient is unwilling or unable to deliver such prescription drugs to a sexual partner or partners, a physician, physician assistant, or advanced registered nurse practitioner may dispense, furnish, or otherwise provide the prescription drugs to the department or local disease prevention investigation staff for delivery to the partner or partners.

2008 Acts, ch 1058, §12

CHAPTER 139B

EMERGENCY CARE PROVIDERS — EXPOSURE TO DISEASE

Repealed by 2000 Acts, ch 1066, §51; see chapter 139A

CHAPTER 139C

EXPOSURE-PRONE PROCEDURES

Repealed by 2000 Acts, ch 1066, §51; see chapter 139A

CHAPTER 140

VENEREAL DISEASE CONTROL

Repealed by 2000 Acts, ch 1066, §51; see chapter 139A

CHAPTER 141

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Repealed by 99 Acts, ch 181, §22; see chapter 141A

CHAPTER 141A

ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Referred to in §80.9B, 321.186, 904.515

141A.1 Definitions.
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141A.1 Definitions.

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

1. *"AIDS"* means acquired immune deficiency syndrome as defined by the centers for disease control and prevention of the United States department of health and human services.

2. *"AIDS-related conditions"* means any condition resulting from human immunodeficiency virus infection that meets the definition of AIDS as established by the centers for disease control and prevention of the United States department of health and human services.

3. *"Blinded epidemiological studies"* means studies in which specimens which were collected for other purposes are selected according to established criteria, are permanently stripped of personal identifiers, and are then tested.

4. *"Blood bank"* means a facility for the collection, processing, or storage of human blood or blood derivatives, including blood plasma, or from which or by means of which human blood or blood derivatives are distributed or otherwise made available.

5. *"Care provider"* means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. *"Care provider"* also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.

6. *"Department"* means the Iowa department of public health.

7. *"Exposure"* means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious bodily fluids.

8. *"Good faith"* means objectively reasonable and not in violation of clearly established statutory rights or other rights of a person which a reasonable person would know or should have known.

9. *"Health care provider"* means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, nursing, dentistry, or optometry, or as a physician assistant, dental hygienist, or acupuncturist.

10. *"Health facility"* means a hospital, health care facility, clinic, blood bank, blood center, sperm bank, laboratory organ transplant center and procurement agency, or other health care institution.

11. *"HIV"* means the human immunodeficiency virus identified as the causative agent of AIDS.

12. *"HIV-related condition"* means any condition resulting from human immunodeficiency virus infection.

13. *"HIV-related test"* means a diagnostic test conducted by a laboratory approved pursuant to the federal Clinical Laboratory Improvement Amendments for determining the presence of HIV or antibodies to HIV.

14. *"Infectious bodily fluids"* means bodily fluids capable of transmitting HIV as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

15. *"Legal guardian"* means a person appointed by a court pursuant to chapter 633 or an attorney in fact as defined in section 144B.1. In the case of a minor, *"legal guardian"* also means a parent or other person responsible for the care of the minor.

16. *"Nonblinded epidemiological studies"* means studies in which specimens are collected for the express purpose of testing for HIV infection and persons included in the nonblinded study are selected according to established criteria.

17. *"Release of test results"* means a written authorization for disclosure of HIV-related test results which is signed and dated, and which specifies to whom disclosure is authorized and the time period during which the release is to be effective.

18. *"Sample"* means a human specimen obtained for the purpose of conducting an HIV-related test.

19. *"Significant exposure"* means a situation in which there is a risk of contracting HIV through exposure to a person's infectious bodily fluids in a manner capable of transmitting HIV as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

99 Acts, ch 181, §5; 2001 Acts, ch 157, §5, 6; 2007 Acts, ch 70, §1, 2; 2008 Acts, ch 1088, §92; 2011 Acts, ch 63, §22, 23

Referred to in §97A.1, 124E.2, 139A.2, 279.50, 411.1, 709D.2

141A.2 Lead agency.

1. The department is designated as the lead agency in the coordination and implementation of the Iowa comprehensive HIV plan.

2. The department shall adopt rules pursuant to chapter 17A to implement and enforce this chapter. The rules may include procedures for taking appropriate action with regard to health facilities or health care providers which violate this chapter or the rules adopted pursuant to this chapter.

3. The department shall adopt rules pursuant to chapter 17A which require that if a health care provider attending a person prior to the person's death determines that the person suffered from or was suspected of suffering from a contagious or infectious disease, the health care provider shall place with the remains written notification of the condition for the information of any person handling the body of the deceased person subsequent to the person's death. For purposes of this subsection, *"contagious or infectious disease"* means hepatitis in any form, meningococcal disease, tuberculosis, and any other disease including AIDS or HIV infection, determined to be life-threatening to a person exposed to the disease as established by rules adopted by the department based upon a determination by the state

epidemiologist and in accordance with guidelines of the centers for disease control and prevention of the United States department of health and human services.

4. The department shall provide consultation services to all care providers, including paramedics, ambulance personnel, physicians, nurses, hospital personnel, first responders, peace officers, and fire fighters, who provide care services to a person, and to all persons who attend dead bodies regarding standard precautions to prevent the transmission of contagious and infectious diseases.

5. The department shall coordinate efforts with local health officers to investigate sources of HIV infection and use every appropriate means to prevent the spread of HIV.

6. The department, with the approval of the state board of health, may conduct epidemiological blinded and nonblinded studies to determine the incidence and prevalence of HIV infection. Initiation of any new epidemiological studies shall be contingent upon the receipt of funding sufficient to cover all the costs associated with the studies. The informed consent, reporting, and counseling requirements of this chapter shall not apply to blinded studies.

99 Acts, ch 181, §6; 2007 Acts, ch 70, §3; 2011 Acts, ch 63, §24
Referred to in §356.48

141A.3 Duties of the department.

1. All federal and state moneys appropriated to the department for HIV-related activities shall be utilized and distributed in a manner consistent with the guidelines established by the United States department of health and human services.

2. The department shall do all of the following:

a. Provide consultation services to agencies and organizations regarding appropriate policies for testing, education, confidentiality, and infection control.

b. Provide health information to the public regarding HIV, including information about how HIV is transmitted and how transmittal can be prevented. The department shall prepare and distribute information regarding HIV transmission and prevention.

c. Provide consultation services concerning HIV infection in the workplace.

d. Implement HIV education risk-reduction programs for specific populations at high risk for infection.

e. Provide an informational brochure for patients who provide samples for purposes of performing an HIV test which, at a minimum, shall include a summary of the patient's rights and responsibilities under the law.

f. In cooperation with the department of education, recommend evidence-based, medically accurate HIV prevention curricula for use at the discretion of secondary and middle schools.

99 Acts, ch 181, §7; 2007 Acts, ch 70, §4; 2011 Acts, ch 63, §25

141A.4 Testing and education.

1. HIV testing and education shall be offered to persons who are at risk for HIV infection including all of the following:

a. Males who have had sexual relations with other males.

b. All persons testing positive for a sexually transmitted disease.

c. All persons having a history of injecting drug abuse.

d. Male and female sex workers and those who trade sex for drugs, money, or favors.

e. Sexual partners of HIV-infected persons.

f. Persons whose sexual partners are identified in paragraphs "*a*" through "*e*".

2. *a.* All pregnant women shall be tested for HIV infection as part of the routine panel of prenatal tests.

b. A pregnant woman shall be notified that HIV screening is recommended for all prenatal patients and that the pregnant woman will receive an HIV test as part of the routine panel of prenatal tests unless the pregnant woman objects to the test.

c. If a pregnant woman objects to and declines the test, the decision shall be documented in the pregnant woman's medical record.

d. Information about HIV prevention, risk reduction, and treatment opportunities to

reduce the possible transmission of HIV to a fetus shall be made available to all pregnant women.

99 Acts, ch 181, §8; 2007 Acts, ch 70, §5; 2011 Acts, ch 63, §26

141A.5 Partner notification program — HIV.

1. The department shall maintain a partner notification program for persons known to have tested positive for HIV infection.

2. In administering the program, the department shall provide for the following:

a. A person who tests positive for HIV infection shall receive post-test counseling, during which time the person shall be encouraged to refer for counseling and HIV testing any person with whom the person has had sexual relations or has shared drug injecting equipment.

b. The physician or other health care provider attending the person may provide to the department any relevant information provided by the person regarding any person with whom the tested person has had sexual relations or has shared drug injecting equipment.

c. (1) Devise a procedure, as a part of the partner notification program, to provide for the notification of an identifiable third party who is a sexual partner of or who shares drug injecting equipment with a person who has tested positive for HIV, by the department or a physician, when all of the following situations exist:

(a) A physician for the infected person is of the good faith opinion that the nature of the continuing contact poses an imminent danger of HIV transmission to the third party.

(b) When the physician believes in good faith that the infected person, despite strong encouragement, has not and will not warn the third party and will not participate in the voluntary partner notification program.

(2) Notwithstanding subsection 3, the department or a physician may reveal the identity of a person who has tested positive for HIV infection pursuant to this subsection only to the extent necessary to protect a third party from the direct threat of transmission. This subsection shall not be interpreted to create a duty to warn third parties of the danger of exposure to HIV through contact with a person who tests positive for HIV infection.

(3) The department shall adopt rules pursuant to chapter 17A to implement this paragraph "*c*". The rules shall provide a detailed procedure by which the department or a physician may directly notify an endangered third party.

3. In making contact the department shall not disclose the identity of the person who provided the names of the persons to be contacted and shall protect the confidentiality of persons contacted.

4. The department may delegate its partner notification duties under this section to local health authorities unless the local authority refuses or neglects to conduct the partner notification program in a manner deemed to be effective by the department.

5. In addition to the provisions for partner notification provided under this section and notwithstanding any provision to the contrary, a county medical examiner or deputy medical examiner performing official duties pursuant to sections 331.801 through 331.805 or the state medical examiner or deputy medical examiner performing official duties pursuant to chapter 691, who determines through an investigation that a deceased person was infected with HIV, may notify directly, or request that the department notify, the immediate family of the deceased or any person known to have had a significant exposure from the deceased of the finding.

99 Acts, ch 181, §9; 2007 Acts, ch 70, §6; 2011 Acts, ch 63, §27

Referred to in §141A.9, 141A.11

141A.6 HIV-related conditions — consent, testing, and reporting — penalty.

1. Prior to undergoing a voluntary HIV-related test, information shall be available to the subject of the test concerning testing and any means of obtaining additional information regarding HIV transmission and risk reduction. If an individual signs a general consent form for the performance of medical tests or procedures, the signing of an additional consent form for the specific purpose of consenting to an HIV-related test is not required during the time in which the general consent form is in effect. If an individual has not signed a general consent form for the performance of medical tests and procedures or the consent form is no longer

in effect, a health care provider shall obtain oral or written consent prior to performing an HIV-related test. If an individual is unable to provide consent, the individual's legal guardian may provide consent. If the individual's legal guardian cannot be located or is unavailable, a health care provider may authorize the test when the test results are necessary for diagnostic purposes to provide appropriate urgent medical care.

2. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology or immediately after the initial examination or treatment of an individual infected with HIV, the physician or other health care provider at whose request the test was performed or who performed the initial examination or treatment shall make a report to the department on a form provided by the department.

3. Within seven days of diagnosing a person as having AIDS or an AIDS-related condition, the diagnosing physician shall make a report to the department on a form provided by the department.

4. Within seven days of the death of a person with HIV infection, the attending physician shall make a report to the department on a form provided by the department.

5. Within seven days of the receipt of a test result indicating HIV infection which has been confirmed as positive according to prevailing medical technology, the director of a blood bank shall make a report to the department on a form provided by the department.

6. Within seven days of the receipt of a test result that is indicative of HIV, the director of a clinical laboratory shall make a report to the department on a form provided by the department.

7. The forms provided by the department shall require inclusion of all of the following information:

a. The name of the patient.

b. The address of the patient.

c. The patient's date of birth.

d. The gender of the patient.

e. The race and ethnicity of the patient.

f. The patient's marital status.

g. The patient's telephone number.

h. If an HIV-related test was performed, the name and address of the laboratory or blood bank.

i. If an HIV-related test was performed, the date the test was found to be positive and the collection date.

j. If an HIV-related test was performed, the name of the physician or health care provider who performed the test.

k. If the patient is female, whether the patient is pregnant.

8. An individual who repeatedly fails to file the report required under this section is subject to a report being made to the licensing board governing the professional activities of the individual. The department shall notify the individual each time the department determines that the individual has failed to file a required report. The department shall inform the individual in the notification that the individual may provide information to the department to explain or dispute the failure to report.

9. A public, private, or hospital clinical laboratory that repeatedly fails to make the report required under this section is subject to a civil penalty of not more than one thousand dollars per occurrence. The department shall not impose the penalty under this subsection without prior written notice and opportunity for hearing.

99 Acts, ch 181, §10; 2000 Acts, ch 1066, §39; 2000 Acts, ch 1140, §26; 2007 Acts, ch 70, §7; 2011 Acts, ch 63, §28

Referred to in §139A.19, 141A.7

141A.7 Test results — counseling — application for services.

1. At any time that the subject of an HIV-related test is informed of confirmed positive test results, counseling concerning the emotional and physical health effects shall be initiated. Particular attention shall be given to explaining the need for the precautions necessary to

avoid transmitting the virus. The subject shall be given information concerning additional counseling. If the legal guardian of the subject of the test provides consent to the test pursuant to section 141A.6, the provisions of this subsection shall apply to the legal guardian.

2. Notwithstanding subsection 1, the provisions of this section do not apply to any of the following:

a. The performance by a health care provider or health facility of an HIV-related test when the health care provider or health facility procures, processes, distributes, or uses a human body part donated for a purpose specified under the revised uniform anatomical gift Act as provided in chapter 142C, or semen provided prior to July 1, 1988, for the purpose of artificial insemination, or donations of blood, and such test is necessary to ensure medical acceptability of such gift or semen for the purposes intended.

b. A person engaged in the business of insurance who is subject to section 505.16.

c. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is deceased and a documented significant exposure has occurred.

d. The performance by a health care provider or health facility of an HIV-related test when the subject of the test is unable to provide consent and the health care provider or health care facility provides consent for the patient pursuant to section 141A.6.

3. A person may apply for voluntary treatment, contraceptive services, or screening or treatment for HIV infection and other sexually transmitted diseases directly to a licensed physician and surgeon, an osteopathic physician and surgeon, or a family planning clinic. Notwithstanding any other provision of law, however, a minor shall be informed prior to testing that, upon confirmation according to prevailing medical technology of a positive HIV-related test result, the minor's legal guardian is required to be informed by the testing facility. Testing facilities where minors are tested shall have available a program to assist minors and legal guardians with the notification process which emphasizes the need for family support and assists in making available the resources necessary to accomplish that goal. However, a testing facility which is precluded by federal statute, regulation, or centers for disease control and prevention guidelines from informing the legal guardian is exempt from the notification requirement. The minor shall give written consent to these procedures and to receive the services, screening, or treatment. Such consent is not subject to later disaffirmance by reason of minority.

99 Acts, ch 181, §11; 2003 Acts, ch 108, §35; 2007 Acts, ch 44, §25; 2007 Acts, ch 70, §8
Referred to in §141A.9, 915.43

141A.8 Care provider notification. Repealed by 2011 Acts, ch 63, §32.

141A.9 Confidentiality of information.

1. Any information, including reports and records, obtained, submitted, and maintained pursuant to this chapter is strictly confidential medical information. The information shall not be released, shared with an agency or institution, or made public upon subpoena, search warrant, discovery proceedings, or by any other means except as provided in this chapter. A person shall not be compelled to disclose the identity of any person upon whom an HIV-related test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to persons entitled to that information under this chapter.

2. HIV-related test results shall be made available for release to the following individuals or under the following circumstances:

a. To the subject of the test or the subject's legal guardian subject to the provisions of section 141A.7, subsection 3, when applicable.

b. To any person who secures a written release of test results executed by the subject of the test or the subject's legal guardian.

c. To an authorized agent or employee of a health facility or health care provider, if the health facility or health care provider ordered or participated in the testing or is otherwise authorized to obtain the test results, the agent or employee provides patient care or handles or processes samples, and the agent or employee has a medical need to know such information.

d. To a health care provider providing care to the subject of the test when knowledge of the test results is necessary to provide care or treatment.

e. To the department in accordance with reporting requirements for an HIV-related condition.

f. To a health facility or health care provider which procures, processes, distributes, or uses a human body part from a deceased person with respect to medical information regarding that person, or semen provided prior to July 1, 1988, for the purpose of artificial insemination.

g. To a person allowed access to an HIV-related test result by a court order which is issued in compliance with the following provisions:

(1) A court has found that the person seeking the test results has demonstrated a compelling need for the test results which need cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure due to its deterrent effect on future testing or due to its effect in leading to discrimination.

(2) Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.

(3) Before granting an order, the court shall provide the person whose test results are in question with notice and a reasonable opportunity to participate in the proceedings if the person is not already a party.

(4) Court proceedings as to disclosure of test results shall be conducted in camera unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(5) Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may gain access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

h. To an employer, if the test is authorized to be required under any other provision of law.

i. Pursuant to sections 915.42 and 915.43, to a convicted or alleged sexual assault offender; the physician or other health care provider who orders the test of a convicted or alleged offender; the victim; the parent, guardian, or custodian of the victim if the victim is a minor; the physician of the victim if requested by the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the victim's spouse; persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault; members of the victim's family within the third degree of consanguinity; and the county attorney who filed the petition for HIV-related testing under section 915.42. For the purposes of this paragraph, *"victim"* means victim as defined in section 915.40.

j. To employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the department of human services, and employees of city and county jails, if the employees have direct supervision over inmates of those facilities or institutions in the exercise of the duties prescribed pursuant to section 80.9B.

3. Release may be made of medical or epidemiological information for research or statistical purposes in a manner such that no individual person can be identified.

4. Release may be made of medical or epidemiological information to the extent necessary to enforce the provisions of this chapter and related rules concerning the treatment, control, and investigation of HIV infection by public health officials.

5. Release may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of the named party.

6. Release may be made of test results concerning a patient pursuant to procedures established under section 141A.5, subsection 2, paragraph "c".

7. Medical information secured pursuant to subsection 1 may be shared between employees of the department who shall use the information collected only for the purposes

of carrying out their official duties in preventing the spread of the disease or the spread of other reportable diseases as defined in section 139A.2.

8. Medical information secured pursuant to subsection 1 may be shared with other state or federal agencies, with employees or agents of the department, or with local units of government that have a need for the information in the performance of their duties related to HIV prevention, disease surveillance, or care of persons with HIV, only as necessary to administer the program for which the information is collected or to administer a program within the other agency. Confidential information transferred to other persons or entities under this subsection shall continue to maintain its confidential status and shall not be rereleased by the receiving person or entity.

99 Acts, ch 181, §13; 2000 Acts, ch 1066, §40; 2007 Acts, ch 70, §10; 2008 Acts, ch 1031, §103; 2008 Acts, ch 1032, §25; 2011 Acts, ch 63, §29, 30; 2012 Acts, ch 1113, §23; 2014 Acts, ch 1119, §5, 11

Referred to in §139A.22, 505.16, 915.43

141A.10 Immunities.

1. A person making a report in good faith pursuant to this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report.

2. A health care provider attending a person who tests positive for HIV infection has no duty to disclose to or to warn third parties of the dangers of exposure to HIV infection through contact with that person and is immune from any liability, civil or criminal, for failure to disclose to or warn third parties of the condition of that person.

99 Acts, ch 181, §14; 2011 Acts, ch 63, §31

141A.11 Remedies.

1. A person aggrieved by a violation of this chapter shall have a right of civil action for damages in district court.

2. A care provider who intentionally or recklessly makes an unauthorized disclosure under this chapter is subject to a civil penalty of one thousand dollars.

3. A person who violates a confidentiality requirement of section 141A.5 is guilty of an aggravated misdemeanor.

4. A civil action under this chapter is barred unless the action is commenced within two years after the cause of action accrues.

5. The attorney general may maintain a civil action to enforce this chapter.

6. This chapter does not limit the rights of the subject of an HIV-related test to recover damages or other relief under any other applicable law.

7. This chapter shall not be construed to impose civil liability or criminal sanctions for disclosure of HIV-related test results in accordance with any reporting requirement for a diagnosed case of AIDS or a related condition by the department or the centers for disease control and prevention of the United States department of health and human services.

99 Acts, ch 181, §15; 2006 Acts, ch 1010, §53

CHAPTER 142

DEAD BODIES FOR SCIENTIFIC PURPOSES

Referred to in §135.11, 331.804

142.1 Delivery of bodies.
142.2 Furnished to physicians.
142.3 Notification of department.
142.4 Surrender to relatives.
142.5 Disposition after dissection.
142.6 Record of receipt.
142.7 Record and bodies.
142.8 Purpose for which body used.
142.9 Failure to deliver dead body.
142.10 Use without proper record.
142.11 Penalties.
142.12 Reserved.
142.13 Burial in private cemetery lot.

142.1 Delivery of bodies.

The body of every person dying in a public asylum, hospital, county care facility, penitentiary, or reformatory in this state, or found dead within the state, or which is to be buried at public expense in this state, except those buried under the provisions of chapter 144C or 249, and which is suitable for scientific purposes, shall be delivered to the medical college of the state university, or some osteopathic or chiropractic college or school located in this state, which has been approved under the law regulating the practice of osteopathic medicine or chiropractic; but no such body shall be delivered to any such college or school if the deceased person expressed a desire during the person's last illness that the person's body should be buried or cremated, nor if such is the desire of the person's relatives. Such bodies shall be equitably distributed among said colleges and schools according to their needs for teaching anatomy in accordance with such rules as may be adopted by the Iowa department of public health. The expense of transporting said bodies to such college or school shall be paid by the college or school receiving the same. If the deceased person has not expressed a desire during the person's last illness that the person's body should be buried or cremated and no person authorized to control the deceased person's remains under section 144C.5 requests the person's body for burial or cremation, and if a friend objects to the use of the deceased person's body for scientific purposes, said deceased person's body shall be forthwith delivered to such friend for burial or cremation at no expense to the state or county. Unless such friend provides for burial and burial expenses within five days, the body shall be used for scientific purposes under this chapter.

[C73, §4018; C97, §4946; S13, §4946-b; C24, 27, 31, 35, 39, §**2351;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.1]

2008 Acts, ch 1051, §1, 22; 2009 Acts, ch 133, §41

Referred to in §142.2, 142.3, 156.2, 252.27

Approval of medical, osteopathic, and chiropractic colleges, see §148.3, 151.4

142.2 Furnished to physicians.

When there are more dead bodies available for use under section 142.1 than are desired by said colleges or schools, the same may be delivered to physicians in the state for scientific study under such rules as may be adopted by the Iowa department of public health.

[S13, §4946-b; C24, 27, 31, 35, 39, §**2352;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.2]

Referred to in §142.3, 156.2

142.3 Notification of department.

Every county medical examiner, funeral director or embalmer, and the managing officer of every public asylum, hospital, county care facility, penitentiary, or reformatory, as soon as any dead body shall come into the person's custody which may be used for scientific purposes as provided in sections 142.1 and 142.2, shall at once notify the nearest relative or friend of the deceased, if known, and the Iowa department of public health, and hold such body unburied for forty-eight hours. Upon receipt of notification, the department shall issue verbal or written instructions relative to the disposition to be made of said body. Complete jurisdiction over said bodies is vested exclusively in the Iowa department of public health. No autopsy or post

mortem, except as are legally ordered by county medical examiners, shall be performed on any of said bodies prior to their delivery to the medical schools.

[S13, §4946-c; C24, 27, 31, 35, 39, §**2353;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.3]

2013 Acts, ch 90, §28

142.4 Surrender to relatives.

1. When any dead body which has been delivered under this chapter for scientific purposes is subsequently claimed by any relative, it shall be at once surrendered to such relative for burial without public expense; and all bodies received under this chapter shall be held for a period of thirty days before being used. Unless such person claiming the body for burial pays the costs that have been incurred in the care and transportation of the body within thirty days after claiming it, all rights thereto shall cease and the body may then be used as if no claim had been made.

2. This section shall not apply to bodies given under authority of the revised uniform anatomical gift Act as provided in chapter 142C.

[C73, §4018; C97, §4946; S13, §4946-c, -d; C24, 27, 31, 35, 39, §**2354;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.4]

2003 Acts, ch 108, §36; 2007 Acts, ch 44, §26; 2020 Acts, ch 1062, §94

142.5 Disposition after dissection.

The remains of every body received for scientific purposes under this chapter shall be decently buried or cremated after it has been used for said purposes, and a failure to do so shall be a simple misdemeanor.

[C73, §4019; C97, §4947; C24, 27, 31, 35, 39, §**2355;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.5]

Referred to in §156.2

142.6 Record of receipt.

Any college, school, or physician receiving the dead body of any human being for scientific purposes shall keep a record showing:

1. The name of the person from whom, and the time and place, such body was received.
2. The description of the receptacle in which the body was received, including the shipping direction attached to the same.
3. The description of the body, including the length, weight, and sex, apparent age at time of death, color of hair and beard, if any, and all marks or scars which might be used to identify the same.
4. The condition of the body and whether mutilated so as to prevent identification.

[C97, §4948; C24, 27, 31, 35, 39, §**2356;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.6]

Referred to in §142.7, 142.10

142.7 Record and bodies.

The record required by section 142.6 and the dead body of every human being received under this chapter shall be subject to inspection by any peace officer, or relative of the deceased.

[C97, §4948, 4949; C24, 27, 31, 35, 39, §**2357;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.7]

142.8 Purpose for which body used.

1. The dead bodies delivered under this chapter shall be used only within the limits of this state for the purpose of scientific, medical, and surgical study, and no person shall remove the same beyond the limits of this state or in any manner traffic therein. Any person who shall violate this section shall be guilty of a serious misdemeanor.

2. This section shall not apply to bodies given under authority of the revised uniform anatomical gift Act as provided in chapter 142C.

[C73, §4020; C97, §4950; C24, 27, 31, 35, 39, §**2358;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.8]

2003 Acts, ch 108, §37; 2007 Acts, ch 44, §27; 2020 Acts, ch 1062, §94

142.9 Failure to deliver dead body.

Any person having the custody of the dead body of any human being which is required to be delivered for scientific purposes by this chapter, who shall fail to notify the Iowa department of public health of the existence of such body, or fail to deliver the same in accordance with the instructions of the department, shall be guilty of a simple misdemeanor.

[S13, §4946-e; C24, 27, 31, 35, 39, §**2359;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.9]

142.10 Use without proper record.

Any physician or member of the instructional staff of any college or school who uses, or permits others under the physician's or member's charge to use the dead body of a human being for the purpose of medical or surgical study without the record required in section 142.6 having been made, or who shall refuse to allow any peace officer or relative of the deceased to inspect said record or body, shall be guilty of a serious misdemeanor.

[C97, §4949; C24, 27, 31, 35, 39, §**2360;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.10]

142.11 Penalties.

Any person who shall receive or deliver any dead body of a human being knowing that any of the provisions of this chapter have been violated, shall be guilty of an aggravated misdemeanor.

[S13, §4946-e; C24, 27, 31, 35, 39, §**2361;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §142.11]

142.12 Reserved.

142.13 Burial in private cemetery lot.

In the event that a deceased person, whose body has been used for scientific purposes as provided in this chapter, owns or has the right of burial in a private or family cemetery lot in the state of Iowa, that deceased person's body shall be buried in that lot.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §142.13]

2021 Acts, ch 80, §71

Section amended

CHAPTER 142A

TOBACCO USE PREVENTION AND CONTROL

Referred to in §135.11

142A.1	Tobacco use prevention and control partnership — purpose and intent.	142A.6	Comprehensive tobacco use prevention and control initiative established — purpose — results.
142A.2	Definitions.	142A.7	Initiative components.
142A.3	Tobacco use prevention and control — division — commission — created.	142A.8	Community partnerships.
		142A.9	Youth program.
142A.4	Commission duties.	142A.10	Funding of programs delivered through community partnerships.
142A.5	Director and administrator duties.	142A.11	Application for services — minors.

142A.1 Tobacco use prevention and control partnership — purpose and intent.

1. The purpose of this chapter is to establish a comprehensive partnership among the general assembly, the executive branch, communities, and the people of Iowa in addressing the prevalence of tobacco use in the state.

2. It is the intent of the general assembly that the comprehensive tobacco use prevention and control initiative established in this chapter will specifically address reduction of tobacco use by youth and pregnant women and enhancement of the capacity of youth to make healthy choices. The initiative shall allow extensive involvement of youth in attaining these results.

3. It is also the intent of the general assembly that the comprehensive tobacco use prevention and control initiative will foster a social and legal climate in which tobacco use becomes undesirable and unacceptable, in which role models and those who influence youth promote healthy social norms and demonstrate behavior that counteracts the glamorization of tobacco use, and in which tobacco becomes less accessible to youth. The intent of the general assembly shall be accomplished by engaging all who are affected by the use of tobacco in the state, including smokers and nonsmokers, youth, and adults.

2000 Acts, ch 1192, §1, 17; 2011 Acts, ch 63, §1
Referred to in §142A.4, 142A.6

142A.2 Definitions.

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

1. *"Administrator"* means the administrator of the division of tobacco use prevention and control.

2. *"Commission"* means the commission on tobacco use prevention and control established in this chapter.

3. *"Community partnership"* means a public agency or nonprofit organization implementing the tobacco use prevention and control initiative in a local area in accordance with this chapter.

4. *"Department"* means the Iowa department of public health.

5. *"Director"* means the director of public health.

6. *"Division"* means the division of tobacco use prevention and control of the Iowa department of public health, established pursuant to this chapter.

7. *"Initiative"* means the comprehensive tobacco use prevention and control initiative established in this chapter.

8. *"Manufacturer"* means manufacturer as defined in section 453A.1.

9. *"Pregnant woman"* means a female of any age who is pregnant.

10. *"School-age youth"* means a person attending school in kindergarten through grade twelve.

11. *"Tobacco"* means both cigarettes and tobacco products as defined in section 453A.1.

12. *"Youth"* means a person who is five through twenty-four years of age.

2000 Acts, ch 1192, §2, 17; 2011 Acts, ch 63, §2

142A.3 Tobacco use prevention and control — division — commission — created.

1. The department shall establish, as a separate and distinct division within the department, a division of tobacco use prevention and control. The division shall develop, implement, and administer the initiative established in this chapter and shall perform other duties as directed by this chapter or as assigned by the director of public health.

2. A commission on tobacco use prevention and control is established to develop policy, provide direction for the initiative, and perform all other duties related to the initiative and other tobacco use prevention and control activities as directed by this chapter or referred to the commission by the director of public health.

3. The membership of the commission shall include the following voting members who shall serve three-year, staggered terms:

a. Members, at least one of whom is a member of a racial minority, to be appointed by the governor, subject to confirmation by the senate pursuant to sections 2.32 and 69.19, and consisting of the following:

(1) Three members who are active with nonprofit health organizations that emphasize tobacco use prevention or who are active as health services providers, at the local level.

(2) Three members who are active with health promotion activities at the local level in youth education, nonprofit services, or other activities relating to tobacco use prevention and control.

b. Three voting members, to be selected by the participants in the annual statewide youth summit of the initiative's youth program, who shall not be subject to section 69.16 or 69.16A. However, the selection process shall provide for diversity among the members and at least one of the youth members shall be a female.

4. The commission shall also include the following ex officio, nonvoting members:

a. Four members of the general assembly, with not more than one member from each chamber being from the same political party. The majority leader of the senate and the minority leader of the senate shall each appoint one of the senate members. The majority leader of the house of representatives and the minority leader of the house of representatives shall each appoint one of the house members.

b. The presiding officer of the statewide youth executive body, selected by the delegates to the statewide youth summit.

5. In addition to the members of the commission, the following agencies, organizations, and persons shall each assign a single liaison to the commission to provide assistance to the commission in the discharge of the commission's duties:

a. The department of education.

b. The drug policy coordinator.

c. The department of justice, office of the attorney general.

d. The department of human services.

6. Citizen members shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Citizen members shall be paid a per diem as specified in section 7E.6. Legislative members are eligible for per diem and expenses as provided in section 2.10.

7. A member of the commission who is convicted of a crime relating to tobacco, alcohol, or controlled substances is subject to removal from the commission.

8. A vacancy on the commission other than for the youth members shall be filled in the same manner as the original appointment for the balance of the unexpired term. A youth member vacancy shall be filled by the presiding officer of the statewide executive body as selected by the delegates to the statewide youth summit.

9. The commission shall elect a chairperson from among its voting members and may select other officers from among its voting members, as determined necessary by the commission. The commission shall meet regularly as determined by the commission, upon the call of the chairperson, or upon the call of a majority of the voting members.

10. The commission may designate an advisory council. The commission shall determine the membership and representation of the advisory council and members of the council shall serve at the pleasure of the commission. The advisory council may include representatives

of health care provider groups, parent groups, antitobacco advocacy programs and organizations, research and evaluation experts, and youth organizers.

2000 Acts, ch 1192, §3, 17; 2004 Acts, ch 1176, §6; 2009 Acts, ch 133, §42; 2010 Acts, ch 1061, §30; 2011 Acts, ch 63, §3, 4; 2012 Acts, ch 1021, §46

142A.4 Commission duties.

The commission shall do all of the following:

1. Develop and implement the comprehensive tobacco use prevention and control initiative as provided in this chapter.

2. Provide a forum for the discussion, development, and recommendation of public policy alternatives in the field of tobacco use prevention and control.

3. Develop an educational component of the initiative. Educational efforts provided through the school system shall be developed in conjunction with the department of education.

4. Develop a plan for implementation of the initiative in accordance with the purpose and intent specified in section 142A.1.

5. Provide for technical assistance, training, and other support under the initiative.

6. Take actions to develop and implement a statewide system for the initiative programs that are delivered through community partnerships.

7. Manage and coordinate the provision of funding and other moneys available to the initiative by combining all or portions of appropriations or other revenues as authorized by law.

8. Assist with the linkage of the initiative with child welfare and juvenile justice decategorization projects, education programming, early childhood Iowa areas, and other programs and services directed to youth at the state and community level.

9. *a.* Coordinate and respond to any requests from a community partnership relating to any of the following:

(1) Removal of barriers to community partnership efforts.

(2) Pooling and redirecting of existing federal, state, or other public or private funds available for purposes that are consistent with the initiative.

(3) Seeking of federal waivers to assist community partnership efforts.

b. In coordinating and responding to the requests, the commission shall work with state agencies, the governor, and the general assembly as necessary to address requests deemed appropriate by the commission.

10. Adopt rules pursuant to chapter 17A as necessary for the designation, governance, and oversight of the initiative and the implementation of this chapter. The commission shall provide for community partnership and youth program input in the rules adoption process. The rules shall include but are not limited to all of the following:

a. Performance indicators for initiative programs, community partnerships, and the services provided under the auspices of community partnerships. The performance indicators shall be developed with input from communities.

b. Minimum standards to further the provision of equal access to services.

11. Monitor and evaluate the effectiveness of performance measures utilized under the initiative.

12. Submit a report to the governor and the general assembly on a periodic basis, during the initial year of operation, and on an annual basis thereafter, regarding the initiative, including demonstrated progress based on performance indicators. The commission shall report more frequently if requested by the joint appropriations subcommittee that makes recommendations concerning the commission's budget. Beginning July 1, 2005, the commission shall also perform a comprehensive review of the initiative and shall submit a report of its findings to the governor and the general assembly on or before December 15, 2005.

13. Represented by the chairperson of the commission, annually appear before the joint appropriations subcommittee that makes recommendations concerning the commission's budget to report on budget expenditures and division operations relative to the prior fiscal year and the current fiscal year.

14. Advise the director in evaluating potential candidates for the position of administrator, consult with the director in the hiring of the administrator, and review and advise the director on the performance of the administrator in the discharge of the administrator's duties.

15. Prioritize funding needs and the allocation of moneys appropriated and other resources available for the programs and activities of the initiative.

16. Review fiscal needs of the initiative and make recommendations to the director in the development of budget requests.

17. Solicit and accept any gift of money or property, including any grant of money, services, or property from the federal government, the state, a political subdivision, or a private source that is consistent with the goals of the initiative. The commission shall adopt rules prohibiting the acceptance of gifts from a manufacturer of tobacco products.

18. Advise and make recommendations to the governor, the general assembly, the director, and the administrator, relative to tobacco use, treatment, intervention, prevention, control, and education programs in the state.

19. Evaluate the work of the division and the department relating to the initiative. For this purpose, the commission shall have access to any relevant department records and documents, and other information reasonably obtainable by the department.

20. Develop the structure for the statewide youth summit to be held annually.

21. Approve the content of any materials distributed by the youth program pursuant to section 142A.9, prior to distribution of the materials.

2000 Acts, ch 1192, §4, 17; 2004 Acts, ch 1176, §7; 2005 Acts, ch 179, §57; 2009 Acts, ch 41, §263; 2010 Acts, ch 1031, §293; 2011 Acts, ch 63, §5

Referred to in §142A.5

142A.5 Director and administrator duties.

1. The director shall do all of the following:

a. Establish and maintain the division of tobacco use prevention and control.

b. Employ a separate division administrator, in accordance with the requirements of section 142A.4, subsection 14, in a full-time equivalent position whose sole responsibility and duty shall be the administration and oversight of the division. The division administrator shall report to and shall serve at the pleasure of the director. The administrator shall be exempt from the merit system provisions of chapter 8A, subchapter IV.

c. Coordinate all tobacco use prevention and control programs and activities under the purview of the department.

d. Receive and review budget recommendations from the commission. The director shall consider these recommendations in developing the budget request for the department.

2. The administrator shall do all of the following:

a. Implement the initiative, coordinate the activities of the commission and the initiative, and coordinate other tobacco use prevention and control activities as assigned by the director.

b. Monitor and evaluate the effectiveness of performance measures.

c. Provide staff and administrative support to the commission.

d. Administer contracts entered into under this chapter.

e. Coordinate and cooperate with other tobacco use prevention and control programs within and outside of the state.

f. Provide necessary information to the commission to assist the commission in making its annual report to the joint appropriations subcommittee pursuant to section 142A.4, subsection 13, and in fulfilling other commission duties pursuant to section 142A.4.

2000 Acts, ch 1192, §5, 17; 2003 Acts, ch 145, §190; 2004 Acts, ch 1176, §8, 9; 2011 Acts, ch 63, §6, 7

142A.6 Comprehensive tobacco use prevention and control initiative established — purpose — results.

1. A comprehensive tobacco use prevention and control initiative is established. The division shall implement the initiative as provided in this chapter.

2. The purpose of the initiative is to attain the following results:

a. Reduction of tobacco use by youth.

b. Strong, active youth involvement in activities to prevent youth tobacco use and to promote cessation of youth tobacco use.

c. Enhanced capacity of youth to make healthy choices.

d. Reduction of tobacco use by pregnant women.

3. Success in achieving the initiative's desired results may be demonstrated by a minimum of the following:

a. Data demonstrating consistent progress in reducing the prevalence of tobacco use among youth and adults.

b. Survey results indicating widespread support among youth for the initiative's tobacco use prevention and control activities; for programs that enhance the ability of youth to make healthy choices including those related to use of tobacco, alcohol, and other substances; and for the media, marketing, and communications efforts supporting the initiative's desired results. Any survey conducted may also include an assessment of the effectiveness of tobacco use prevention and control activities in affecting other unhealthy youth behaviors including sexual activity and violent behavior.

4. The division shall implement the initiative in a manner that ensures that youth are extensively involved in the decision making for the programs implemented under the initiative. The initiative shall also involve parents, schools, and community members in activities to achieve the results desired for the initiative. The division shall encourage collaboration at the state and local levels to maximize available resources and to provide flexibility to support community efforts.

5. Procurement of goods and services necessary to implement the initiative is subject to approval of the commission. Notwithstanding chapter 8A, subchapter III, or any other provision of law to the contrary, such procurement may be accomplished by the commission under its own competitive bidding process which shall provide for consideration of such factors as price, bidder competence, and expediency in procurement.

6. In order to promote the tobacco use prevention and control partnership established in section 142A.1, the following persons shall comply with the following, as applicable:

a. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not give away cigarettes or tobacco products.

b. A manufacturer, distributor, wholesaler, retailer, or distributing agent or agent thereof shall not provide free articles, products, commodities, gifts, or concessions in any exchange for the purchase of cigarettes or tobacco products.

c. The prohibitions in this section do not apply to transactions between manufacturers, distributors, wholesalers, or retailers.

d. For the purpose of this subsection, manufacturer, distributor, wholesaler, retailer, and distributing agent mean as defined in section 453A.1.

2000 Acts, ch 1192, §6, 17; 2003 Acts, ch 145, §191; 2011 Acts, ch 63, §8, 9

See also §453A.39

142A.7 Initiative components.

1. The initiative shall include but is not limited to all of the following:

a. Youth programs, designed to achieve the initiative's desired results, that are directed by youth participants for youth.

b. A media, marketing, and communications program to achieve the initiative's desired results. Advertising shall not include the name, voice, or likeness of any elected or appointed public official or of any candidate for elective office.

c. Independent evaluation of each component of the statewide initiative.

d. Ongoing statewide assessment of data, review of indicators used in assessing the effectiveness of the initiative, and evaluation of the initiative, its programs, and its marketing strategy. The initial baseline used to measure the effectiveness of the initiative shall be developed using existing, available indicators. Following development of the initial baseline, indicators of the effectiveness of the initiative shall be reviewed on at least an annual basis to ensure that the indicators used most accurately provide for measurement of such effectiveness. Primary emphasis in data assessment shall be on data relating to tobacco usage and may include data demonstrating the prevalence of tobacco use among youth and

pregnant women, and the prevalence of the use of alcohol and other substances among youth. Sources of data considered shall include but are not limited to the centers for disease control and prevention of the United States department of health and human services and the Iowa youth tobacco survey, and may include the Iowa youth risk survey conducted by the department or the youth risk behavior survey.

e. A tobacco use prevention and control education program.

2. Administrative costs associated with each program of the initiative and program provider shall be established at a reasonable level consistent with effective management practices.

3. Requests for information or for proposals shall emphasize that performance measures are required for any contract or allocation of funding under the initiative.

2000 Acts, ch 1192, §7, 17; 2011 Acts, ch 63, §10

142A.8 Community partnerships.

1. A community partnership is a public agency or nonprofit organization operating in a local area under contract with the department to implement the initiative in that local area utilizing broad community involvement. The community partnership or its designee shall act as the fiscal agent for moneys administered by the community partnership.

2. A community partnership area shall encompass a county or multicounty area, school district or multischool district area, economic development enterprise zone that meets the requirements of an urban or rural enterprise community under Tit. XIII of the federal Omnibus Budget Reconciliation Act of 1993, or early childhood Iowa area, in accordance with criteria adopted by the commission for appropriate population levels and size of geographic areas.

3. The commission shall adopt rules pursuant to chapter 17A providing procedures for the initial designation of community partnership areas and for subsequent changes to the initially designated areas.

4. The requirements for contracts entered into by a community partnership and the department shall include but are not limited to all of the following:

a. Administrative functions.

b. Fiscal provisions.

c. Community and youth involvement in program and administrative decisions.

d. Evaluation of the program.

2000 Acts, ch 1192, §8, 17; 2010 Acts, ch 1031, §294; 2010 Acts, ch 1061, §180; 2011 Acts, ch 63, §11

142A.9 Youth program.

1. A youth program component shall be implemented in each community partnership area to achieve the purposes of the initiative.

2. The youth program shall include but is not limited to all of the following:

a. A structure for program participants to interact with other participating youth within the community partnership area and in other areas of the state.

b. A structure for formal youth involvement in youth program governance at the community partnership area level and in a statewide youth summit or summits consisting of participation by representatives of the community partnership area level.

c. A structure for participation in a statewide executive body consisting of participants selected by the delegates to the statewide youth summit of the youth program.

d. Youth activities that are character-based and focused on rewarding appropriate values, behavior, and healthy choices by participants.

3. To the greatest extent possible, the youth program shall be directed by youth for youth participants. State and local administrators associated with the initiative shall consult with and utilize the youth program participants in the media, marketing, and communications program; education efforts; and other aspects of the initiative including evaluation and collaboration.

2000 Acts, ch 1192, §9, 17; 2011 Acts, ch 63, §12

Referred to in §142A.4

142A.10 Funding of programs delivered through community partnerships.

1. The commission shall develop and implement a statewide system for the initiative programs that are delivered through community partnerships.

2. The system shall provide for equitable allocation of funding for initiative programs among the state's community partnership areas, based upon school-age population and other criteria established by the commission.

3. The specific programs, distribution provisions, and other provisions approved by the commission for expenditure of the maximum allocation amount established for a community partnership area shall be outlined in the written contract with the community partnership.

4. Any allocation received by a community partnership shall be matched with local funding, in-kind services, office support, or other tangible support or offset of costs.

2000 Acts, ch 1192, §10, 17

142A.11 Application for services — minors.

A minor who is twelve years of age or older shall have the legal capacity to act and give consent to the provision of tobacco cessation coaching services pursuant to a tobacco cessation telephone and internet-based program approved by the department. Consent shall not be subject to later disaffirmance by reason of such minority. The consent of another person, including but not limited to the consent of a spouse, parent, custodian, or guardian, shall not be necessary.

2013 Acts, ch 81, §5

CHAPTER 142B

SMOKING PROHIBITIONS

Repealed by 2008 Acts, ch 1084, §16; see chapter 142D

CHAPTER 142C

REVISED UNIFORM ANATOMICAL GIFT ACT

Referred to in §22.7(41)(b), 141A.7, 142.4, 142.8, 144C.6, 144C.10, 321.178, 321.178A, 321.189, 483A.10, 483A.18, 483A.27

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142C.16 Anatomical gift public awareness advisory committee — established — duties. Repealed by 2010 Acts, ch 1031, §399.
142C.17 Annual donation and compliance report.
142C.18 Iowa donor registry.

142C.1 Short title.

This chapter shall be known and may be cited as the *"Revised Uniform Anatomical Gift Act"*.

95 Acts, ch 39, §1; 2007 Acts, ch 44, §1

142C.2 Definitions.

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

1. *"Adult"* means an individual who is eighteen years of age or older.
2. *"Agent"* means an individual who meets any of the following conditions:

a. Is authorized to make health care decisions on the principal's behalf by a durable power of attorney for health care pursuant to chapter 144B.

b. Is expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

3. *"Anatomical gift"* or *"gift"* means a donation of all or part of the human body effective after the donor's death, for the purposes of transplantation, therapy, research, or education.
4. *"Decedent"* means a deceased individual whose body or part is or may be the source of an anatomical gift and includes a stillborn infant.
5. *"Disinterested witness"* means a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift, or any other adult who exhibited special care and concern for the individual. *"Disinterested witness"* does not include a person who may receive an anatomical gift pursuant to section 142C.5.
6. *"Document of gift"* means a donor card or other record used to make an anatomical gift, including a statement or symbol on a driver's license, identification card, or hunting, fishing, or fur harvester license, or an entry in a donor registry.
7. *"Donor"* means an individual whose body or part is the subject of an anatomical gift.
8. *"Donor registry"* means a database that contains records of anatomical gifts and amendments of anatomical gifts.
9. *"Driver's license"* means a license or permit issued by the state department of transportation to operate a vehicle, whether or not conditions are attached to the license or permit.
10. *"Eye bank"* means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.
11. *"Forensic pathologist"* means a pathologist who is further certified in the subspecialty of forensic pathology by the American board of pathology.
12. *"Guardian"* means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual, but does not include a guardian ad litem.
13. *"Hospital"* means a hospital licensed under chapter 135B, or a hospital licensed, accredited, or approved under federal law or the laws of any other state, and includes a hospital operated by the federal government, a state, or a political subdivision of a state, although not required to be licensed under state laws.
14. *"Hunting, fishing, or fur harvester license"* means a license issued by the department of natural resources or an authorized license agent pursuant to chapter 483A.
15. *"Identification card"* means a nonoperator's identification card issued by the state department of transportation pursuant to section 321.190.
16. *"Iowa donor network"* means the nonprofit organization certified by the centers for Medicare and Medicaid services of the United States department of health and human

services as the single organ procurement agency serving the state and which also serves as the tissue recovery agency for the state.

17. *"Iowa donor registry"* means the Iowa donor registry administered by the Iowa donor network.

18. *"Know"* means to have actual knowledge.

19. *"Medical examiner"* means an individual who is appointed as a medical examiner pursuant to section 331.801 or 691.5.

20. *"Minor"* means an individual who is less than eighteen years of age.

21. *"Organ procurement organization"* means a person designated by the United States secretary of health and human services as an organ procurement organization.

22. *"Parent"* means a parent whose parental rights have not been terminated.

23. *"Part"* means an organ, an eye, or tissue of a human being, but does not include the whole body of a human being.

24. *"Pathologist"* means a licensed physician who is certified in anatomic or clinical pathology by the American board of pathology.

25. *"Person"* means person as defined in section 4.1.

26. *"Physician"* means an individual authorized to practice medicine and surgery or osteopathic medicine and surgery under the laws of any state.

27. *"Procurement organization"* means an eye bank, organ procurement organization, or tissue bank.

28. *"Prospective donor"* means an individual who is dead or near death and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education, but does not include an individual who has made a refusal.

29. *"Reasonably available"* means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

30. *"Recipient"* means an individual into whose body a decedent's part has been transplanted or is intended for transplant.

31. *"Record"* means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

32. *"Refusal"* means a record created pursuant to section 142C.3 that expressly states an individual's intent to prohibit other persons from making an anatomical gift of the individual's body or part.

33. *"Sign"* means to do any of the following with the present intent to authenticate or adopt a record:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic symbol, sound, or process.

34. *"State"* means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

35. *"Technician"* means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law and includes an enucleator.

36. *"Tissue"* means a portion of the human body other than an organ or an eye, but does not include blood unless the blood is donated for the purpose of research or education.

37. *"Tissue bank"* means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

38. *"Transplant hospital"* means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

95 Acts, ch 39, §2; 2001 Acts, ch 74, §3; 2002 Acts, ch 1064, §1, 2; 2007 Acts, ch 44, §2; 2009 Acts, ch 133, §43; 2019 Acts, ch 86, §2, 3

Referred to in §22.7(41)(b), 135.192, 423.3

142C.3 Persons who may make — manner of making — amending or revoking — refusal to make anatomical gift before donor's death — preclusive effect.

1. *Who may make.* Subject to subsection 5, an anatomical gift of a donor's body or part may be made during the life of the donor for the purposes of transplantation, therapy, research, or education in the manner prescribed in subsection 2 by any of the following:

a. The donor if the donor is any of the following:

(1) An adult.

(2) A minor, if the minor is emancipated.

(3) A minor, if the minor is authorized under state law to apply for a driver's license or identification card because the minor is at least fourteen years of age, and the minor authorizes a statement or symbol indicating an anatomical gift on a driver's license, identification card, or donor registry entry with the signed approval of a parent or guardian.

(4) A minor, if the minor is authorized under state law to apply for a hunting, fishing, or fur harvester license, the minor is at least fourteen years of age, and the minor authorizes a symbol indicating an anatomical gift on a hunting, fishing, or fur harvester license with the signed approval of a parent or guardian.

b. An agent of the donor, unless the durable power of attorney for health care or other record prohibits the agent from making the anatomical gift.

c. A parent of the donor, if the donor is an unemancipated minor.

d. The guardian of the donor.

2. *Manner of making.*

a. A donor may make an anatomical gift by any of the following means:

(1) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card.

(2) By authorizing a symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's hunting, fishing, or fur harvester license.

(3) In a will.

(4) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness.

(5) As provided in paragraph *"b"*.

b. (1) A donor or other person authorized to make an anatomical gift under subsection 1 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on the donor registry.

(2) If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall meet all of the following requirements:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or other person.

(b) State that the record has been signed and witnessed as provided in subparagraph division (a).

c. Revocation, suspension, expiration, or cancellation of a driver's license, identification card, or hunting, fishing, or fur harvester license upon which an anatomical gift is indicated shall not invalidate the gift.

d. An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

3. *Amending or revoking gift before donor's death.*

a. Subject to subsection 5, a donor or other person authorized to make an anatomical gift under subsection 1 may amend or revoke an anatomical gift by any of the following means:

(1) A record signed by any of the following:

(a) The donor.

(b) The other person authorized to make an anatomical gift.

(c) Subject to paragraph *"b"*, another individual acting at the direction of the donor or the other authorized person if the donor or other person is physically unable to sign the record.

(2) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

b. A record signed pursuant to paragraph *"a"*, subparagraph (1), subparagraph division (c), shall comply with all of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other authorized person.

(2) State that the record has been signed and witnessed as provided in subparagraph (1).

c. Subject to subsection 5, a donor or other person authorized to make an anatomical gift under subsection 1 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

d. A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

e. A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in paragraph *"a"*.

4. *Refusal to make.*

a. An individual may refuse to make an anatomical gift of the individual's body or part by any of the following means:

(1) A record signed by any of the following:

(a) The individual.

(b) Subject to paragraph *"b"*, another individual acting at the direction of the individual if the individual is physically unable to sign the record.

(2) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death.

(3) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

b. A record signed pursuant to paragraph *"a"*, subparagraph (1), subparagraph division (b), shall comply with all of the following:

(1) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual.

(2) State that the record has been signed and witnessed as provided in subparagraph (1).

c. An individual who has made a refusal may amend or revoke the refusal in accordance with any of the following:

(1) In the manner provided in paragraph *"a"* for making a refusal.

(2) By subsequently making an anatomical gift pursuant to subsection 2 that is inconsistent with the refusal.

(3) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

d. Except as otherwise provided in subsection 5, paragraph *"h"*, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part prohibits all other persons from making an anatomical gift of the individual's body or part.

5. *Preclusive effect.*

a. Donor gift or amendment — subsequent actions by others prohibited. Except as otherwise provided in paragraph *"g"*, and subject to paragraph *"f"*, in the absence of a contrary indication by the donor, a person other than the donor is prohibited from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under subsection 2 or an amendment to an anatomical gift of the donor's body or part under subsection 3.

b. Donor revocation not a refusal. A donor's revocation of an anatomical gift of the donor's body or part under subsection 3 is not a refusal and does not prohibit another person specified in subsection 1 or section 142C.4 from making an anatomical gift of the donor's body or part under subsection 2 or section 142C.4.

c. Gift on amendment by another — subsequent actions by others prohibited. If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under subsection 2, or an amendment to an anatomical gift of the donor's body or part under

subsection 3, another person may not make, amend, or revoke the gift of the donor's body or part under section 142C.4.

d. Revocation by another not prohibitive of other gift. A revocation of an anatomical gift of a donor's body or part under subsection 3 by a person other than the donor does not prohibit another person from making an anatomical gift of the body or part under subsection 2 or section 142C.4.

e. Gift of part not prohibitive of gift of another part. In the absence of a contrary indication by the donor or other person authorized to make an anatomical gift under subsection 1, an anatomical gift of a part is neither a refusal to donate another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another authorized person.

f. Gift for one purpose not prohibitive of another purpose. In the absence of a contrary indication by the donor or other person authorized to make an anatomical gift under subsection 1, an anatomical gift of a part for one or more of the purposes specified in subsection 1 is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under subsection 2 or section 142C.4.

g. Unemancipated minor gift — parent revocation. If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

h. Unemancipated minor refusal — parent revocation or amendment. If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

95 Acts, ch 39, §3; 2002 Acts, ch 1064, §3, 4; 2007 Acts, ch 44, §3; 2009 Acts, ch 41, §263; 2019 Acts, ch 86, §4 – 6

Referred to in §142C.2, 142C.4, 142C.5, 142C.18

142C.4 Who may make anatomical gift of decedent's body or part — amending or revoking gift.

1. Subject to subsection 2, and unless prohibited by section 142C.3, subsection 4 or 5, an anatomical gift of a decedent's body or part for purposes of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed.

a. An agent of the decedent at the time of death who could have made an anatomical gift under section 142C.3, subsection 1, immediately before the decedent's death.

b. The spouse of the decedent.

c. Adult children of the decedent.

d. Parents of the decedent.

e. Adult siblings of the decedent.

f. Adult grandchildren of the decedent.

g. Grandparents of the decedent.

h. An adult who exhibited special care and concern for the decedent.

i. Any persons who were acting as guardians of the decedent at the time of death.

j. Any other person having the authority to dispose of the decedent's body.

2. *a.* If there is more than one member of a class listed in subsection 1, paragraph "*a*", "*c*", "*d*", "*e*", "*f*", "*g*", or "*i*", entitled to make an anatomical gift, an anatomical gift may be made by one member of the class unless that member or a person to whom the gift may pass under section 142C.5 knows of an objection by another member of the class. If an objection is known, the gift shall be made only by a majority of the members of the class who are reasonably available.

b. A person shall not make an anatomical gift if, at the time of the death of the decedent, a person in a prior class under subsection 1 is reasonably available to make or to object to the making of an anatomical gift.

3. A person authorized to make an anatomical gift under subsection 1 may make an anatomical gift by a document of gift signed by the person making the gift or by the person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the recipient of the oral communication.

4. Subject to subsection 5, an anatomical gift by a person authorized under subsection 1 may be amended or revoked orally or in a record by any member of the prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under subsection 1 may be:

a. Amended only if a majority of the reasonably available members agree to the amending of the gift.

b. Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

5. A revocation under subsection 4 is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

95 Acts, ch 39, §4; 2002 Acts, ch 1064, §5; 2007 Acts, ch 44, §4
Referred to in §142C.3, 142C.5, 142C.8, 142C.11, 142C.12B

142C.4A Cooperation between medical examiner and organ procurement organization — facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.

1. A medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover organs for the purpose of transplantation when the recovery of organs does not interfere with a death investigation.

2. If a medical examiner receives notice from a procurement organization that an organ might be or was made available with respect to a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination will be performed, unless the medical examiner denies recovery in accordance with this section, the medical examiner or designee shall conduct a postmortem examination of the body or the organ in a manner and within a period compatible with its preservation for the purposes of the gift. Every reasonable effort shall be made to accomplish the mutual goals of organ donation and a thorough death investigation.

3. An organ shall not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation unless the organ is the subject of an anatomical gift. This subsection does not preclude a medical examiner from performing a medicolegal investigation pursuant to subsection 5 upon the body or organs of a decedent under the jurisdiction of the medical examiner.

4. Upon request of an organ procurement organization, a medical examiner shall release to the organ procurement organization the name and contact information of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's organs are medically suitable for transplantation, the pathologist or medical examiner shall release to the organ procurement organization the postmortem examination results, limited to cause and manner of death and any evidence of infection or other disease process, which might preclude safe transplantation of recovered organs. The organ procurement organization may make a subsequent disclosure of the postmortem examination results only if relevant to transplantation.

5. The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, X rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner, which the medical examiner determines may be relevant to the investigation.

6. A person who has any information requested by a medical examiner pursuant to subsection 5 shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of organs for the purpose of transplantation.

7. If an anatomical gift has been or might be made of an organ of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the organ that is the subject of an anatomical gift will not interfere with

the examination, the medical examiner and organ procurement organization shall cooperate in the timely removal of the organ from the decedent for the purpose of transplantation.

8. *a.* If an anatomical gift of an organ from a decedent under the jurisdiction of the medical examiner has been or might be made, but the pathologist or medical examiner initially believes that the recovery of the organ could interfere with the postmortem investigation into the decedent's cause or manner of death, the pathologist or medical examiner shall consult with the organ procurement organization or physician or technician designated by the organ procurement organization about the proposed recovery.

b. Ancillary clinical tests such as a magnetic resonance imaging (MRI), a computed tomography (CT) scan, or skeletal survey may be required by the pathologist prior to determination of suitability of organ procurement. These tests shall be performed and interpreted by the appropriate physician at the pathologist's request, and reported in a timely fashion. All expenses for such tests shall be the responsibility of the organ procurement organization regardless of outcome.

c. After consultation pursuant to paragraph *"a"* and any preliminary investigation pursuant to paragraph *"b"*, the pathologist or medical examiner may allow recovery, depending on the nature of the case and the availability of a pathologist to view the body prior to recovery.

9. If the manner of death may be homicide or has the potential for litigation, the organ recovery shall be approved by the forensic pathologist, and the forensic pathologist may examine the body prior to organ recovery and document by diagrams and photographs all visible injuries.

10. *a.* If the medical examiner or designee allows recovery of an organ under subsection 7, 8, or 9, the organ procurement organization, upon request, shall cause the physician or technician who removes the organ to provide the medical examiner with a record describing the condition of the organ, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

b. Arrangements for the examination of bodies of such decedents shall be coordinated between the organ procurement organization and the state medical examiner.

c. If applicable, and whenever possible, the forensic pathologist who examined the decedent's body prior to recovery of the organ shall perform the autopsy. If the forensic pathologist is unable to accommodate examination of the body due to scheduling or staffing, the request for organ donation may be denied.

11. If a medical examiner or designee is required to be present at a removal procedure under subsection 9, upon request, the organ procurement organization requesting the recovery of the organ shall reimburse the medical examiner or designee for the additional costs incurred in complying with subsection 9.

12. A physician or technician who removes an organ at the direction of the organ procurement organization may be called to testify about findings from the surgical recovery of organs at no cost to taxpayers if the decedent is under the jurisdiction of the medical examiner.

13. *a.* The medical examiner or pathologist with jurisdiction over the body of a decedent has discretion to grant or deny permission for organ or tissue recovery.

b. If the recovery of organs or tissues may hinder the determination of cause or manner of death or if evidence may be destroyed by the recovery, permission may be denied.

c. The medical examiner or a pathologist performing state autopsies shall work closely with procurement organizations in an effort to balance the needs of the public and the decedent's next of kin.

96 Acts, ch 1048, §1; 2007 Acts, ch 44, §5

142C.5 Persons who may receive anatomical gifts and purposes for which anatomical gifts may be made.

1. An anatomical gift may be made to the following persons named in a document of gift:

a. A hospital, accredited medical or osteopathic medical school, dental school, college, or university, organ procurement organization, or other appropriate person for research or education.

b. An eye bank or tissue bank.

c. Subject to subsection 2, an individual designated by the person making the anatomical gift if the individual is the recipient of the part.

2. If an anatomical gift to an individual under subsection 1, paragraph "*c*", cannot be transplanted into the individual, the part passes in accordance with subsection 7 in the absence of an express, contrary indication by the person making the anatomical gift.

3. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection 1 but identifies the purpose for which an anatomical gift may be used, the following rules apply:

a. If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

b. If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

c. If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

d. If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

4. For the purpose of subsection 3, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

5. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection 1 and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7.

6. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection 7.

7. For the purposes of subsections 2, 5, and 6, the following rules shall apply:

a. If the part is an eye, the gift passes to the appropriate eye bank.

b. If the part is tissue, the gift passes to the appropriate tissue bank.

c. If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

8. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection 1, paragraph "*c*", passes to the organ procurement organization as custodian of the organ.

9. If an anatomical gift does not pass pursuant to subsections 1 through 8, or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

10. A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under section 142C.3, subsection 2, or section 142C.4, or if the person knows that the decedent made a refusal under section 142C.3, subsection 4, that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

11. Except as otherwise provided in subsection 1, paragraph "*c*", nothing in this chapter shall affect the allocation of organs for transplantation or therapy.

95 Acts, ch 39, §5; 2007 Acts, ch 44, §6
Referred to in §142C.2, 142C.4, 142C.6, 142C.8

142C.5A Search and notification.

1. The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

a. A law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding the individual.

b. If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

2. If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection 1, paragraph "*a*", and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall deliver the document of gift or refusal to the hospital.

3. A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

2007 Acts, ch 44, §7

142C.6 Delivery of document of gift not required — right to examine.

1. A document of gift does not require delivery during the donor's lifetime to be effective.

2. Upon or after an individual's death, a person in possession of the document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or the refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to whom the gift could pass under section 142C.5.

95 Acts, ch 39, §6; 2002 Acts, ch 1064, §6; 2003 Acts, ch 108, §38; 2007 Acts, ch 44, §8

142C.7 Confidential information.

A hospital, licensed or certified health care professional pursuant to chapter 148, 148C, or 152, or medical examiner shall release patient information to a procurement organization as part of a referral or retrospective review of the patient as a potential donor, unless such disclosure would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

95 Acts, ch 39, §7; 96 Acts, ch 1048, §2; 2002 Acts, ch 1064, §7; 2007 Acts, ch 44, §9; 2008 Acts, ch 1088, §93; 2015 Acts, ch 60, §2

142C.8 Rights and duties of procurement organizations and donors.

1. When a hospital refers an individual at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the state department of transportation, department of natural resources, and any donor registry that the hospital knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

2. A procurement organization shall be allowed reasonable access to information in the records of the state department of transportation and the department of natural resources to ascertain whether an individual at or near death is a donor.

3. When a hospital refers an individual at or near death to a procurement organization, the procurement organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part shall not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

4. Unless prohibited by law other than this chapter, at any time after a donor's death, the person to whom a part passes under section 142C.5 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

5. Unless prohibited by law other than this chapter, an examination under subsection 3 or 4 may include an examination of all medical and dental records of the donor or prospective donor.

6. Upon the death of a minor who was a donor or had signed a refusal, unless a

procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

7. Upon referral by a hospital under subsection 1, a procurement organization shall make a reasonable search for any person listed in section 142C.4 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, the procurement organization shall promptly advise the other person of all relevant information.

8. Subject to section 142C.5, subsection 9, the rights of a person to whom a part passes under section 142C.5 are superior to the rights of all other persons with respect to the part.

9. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person who accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of the remains in a funeral service. If the gift is of a part, the person to whom the part passes under section 142C.5, upon the death of the donor and prior to embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

10. The physician, physician assistant, or advanced registered nurse practitioner who attends the decedent at death and the physician, physician assistant, or advanced registered nurse practitioner who determines the time of death shall not participate in the procedures for removing or transplanting a part from the decedent.

11. A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

95 Acts, ch 39, §8; 2007 Acts, ch 44, §10; 2011 Acts, ch 26, §1; 2019 Acts, ch 86, §7

142C.9 Coordination of procurement and use.

Each hospital in the state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

95 Acts, ch 39, §9; 2007 Acts, ch 44, §11

142C.10 Sale or purchase of parts prohibited — penalty.

1. A person shall not knowingly, for valuable consideration, purchase or sell a part for transplantation or therapy if removal of the part is intended to occur after the death of the decedent.

2. Valuable consideration does not include reasonable payment for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

3. A person who violates this section commits a class "C" felony.

95 Acts, ch 39, §10; 2007 Acts, ch 44, §12

142C.10A Other prohibited acts — penalty.

A person who, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal, commits a class "C" felony.

2007 Acts, ch 44, §13

142C.11 Immunity.

1. A person who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from liability in any civil action, criminal prosecution, or administrative proceeding.

2. An individual who makes an anatomical gift pursuant to this chapter and the individual's estate are not liable for any injury or damages that may result from the making or the use of the anatomical gift, if the gift is made in good faith.

3. In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 142C.4, subsection 1, paragraph *"b"*, *"c"*, *"d"*, *"e"*, *"f"*, *"g"*, or *"h"*, relating to the

individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

95 Acts, ch 39, §11; 2002 Acts, ch 1064, §8; 2007 Acts, ch 44, §14

142C.12 Service but not a sale.

The procurement, removal, preservation, processing, storage, distribution, or use of parts for the purpose of injecting, transfusing, or transplanting any of the parts into the human body is, for all purposes, the rendition of a service by every person participating in the act, and whether or not any remuneration is paid, is not a sale of the part for any purposes. However, any person that renders such service warrants only under this section that due care has been exercised and that acceptable professional standards of care in providing such service according to the state of the medical arts have been followed. Strict liability, in tort, shall not be applicable to the rendition of such services.

95 Acts, ch 39, §12

142C.12A Law governing validity, choice of law, presumption of validity.

1. A document of gift is valid if executed in accordance with any of the following:

a. This chapter.

b. The laws of the state or country where the document of gift was executed.

c. The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

2. If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

3. A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

2007 Acts, ch 44, §15

142C.12B Effect of anatomical gift on advance health care directive.

1. As used in this section:

a. "Advance health care directive" means a durable power of attorney for health care pursuant to chapter 144B or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor.

b. "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

c. "Health care decision" means any decision regarding the health care of the prospective donor.

2. *a.* If a prospective donor has a declaration or advance health care directive and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and prospective donor shall confer to resolve the conflict.

b. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive or, if no agent exists or the agent is not reasonably available, another person, authorized by law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The agent or other person shall resolve the conflict consistent with the desires of the donor as expressed in a declaration executed in accordance with chapter 144A, or a durable power of attorney for health care executed in accordance with chapter 144B, or as otherwise known, or if not known, consistent with the donor's best interest.

c. The conflict shall be resolved as expeditiously as possible.

d. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 142C.4. Prior to resolution of

the conflict, measures necessary to ensure the medical suitability of the part shall not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

2007 Acts, ch 44, §16

142C.13 Transitional provisions.

This chapter applies to an anatomical gift, or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

95 Acts, ch 39, §13; 95 Acts, ch 209, §20; 2007 Acts, ch 44, §17

142C.14 Uniformity of application and construction.

This chapter shall be applied and construed with consideration given to the need to promote uniformity of the law with respect to anatomical gifts among states which enact this law.

95 Acts, ch 39, §14; 2007 Acts, ch 44, §18

142C.14A Electronic signatures.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §7001 et seq., but does not modify, limit, or authorize electronic delivery of any of the notices described in §103(b) of that Act, 15 U.S.C. §7003(b).

2007 Acts, ch 44, §19

142C.15 Anatomical gift public awareness and transplantation fund — established — uses of fund.

1. An anatomical gift public awareness and transplantation fund is created as a separate fund in the state treasury under the control of the Iowa department of public health. The fund shall consist of moneys remitted by the county treasurer of a county or by the department of transportation which were collected through the payment of a contribution made by an applicant for registration of a motor vehicle pursuant to section 321.44A and any other contributions to the fund.

2. The moneys collected under this section and deposited in the fund are appropriated to the Iowa department of public health for the purposes specified in this section. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose.

3. The treasurer of state shall act as custodian of the fund and shall disburse amounts contained in the fund as directed by the department. The treasurer of state may invest the moneys deposited in the fund. The income from any investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes of this section.

4. The Iowa department of public health may use not more than five percent of the moneys in the fund for administrative costs. The remaining moneys in the fund may be expended through grants to any of the following persons, subject to the following conditions:

a. Not more than twenty percent of the moneys in the fund annually may be expended in the form of grants to state agencies or to nonprofit legal entities with an interest in anatomical gift public awareness and transplantation to conduct public awareness projects. Moneys remaining that were not requested and awarded for public awareness projects may be used to support the Iowa donor registry. Grants shall be made based upon the submission of a grant application.

b. Not more than thirty percent of the moneys in the fund annually may be expended in the form of grants to hospitals for reimbursement for costs directly related to the development of in-hospital anatomical gift public awareness projects, anatomical gift referral protocols, and associated administrative expenses. As a condition of receiving a grant, a hospital shall demonstrate, through documentation, that the hospital, during the previous calendar year, properly complied with in-hospital anatomical gift request protocols for all deaths occurring in the hospital at a percentage rate which places the hospital in the upper fifty percent of all protocol compliance rates for hospitals submitting documentation for cost reimbursement under this section.

c. Any unobligated moneys in the fund annually may be expended in the form of grants to transplant recipients, transplant candidates, living organ donors, or to legal representatives on behalf of transplant recipients, transplant candidates, or living organ donors. Transplant recipients, transplant candidates, living organ donors, or the legal representatives of transplant recipients, transplant candidates, or living organ donors shall submit grant applications with supporting documentation provided by a hospital that performs transplants, verifying that the person by or for whom the application is submitted requires a transplant or is a living organ donor and specifying the amount of the costs associated with the following, if funds are not available from any other third-party payor:

(1) The costs of the organ transplantation procedure.

(2) The costs of post-transplantation drug or other therapy.

(3) Other transplantation costs including but not limited to food, lodging, and transportation.

96 Acts, ch 1076, §1; 98 Acts, ch 1015, §1; 2000 Acts, ch 1052, §1; 2003 Acts, ch 32, §2; 2005 Acts, ch 89, §11; 2006 Acts, ch 1030, §14; 2007 Acts, ch 44, §20; 2015 Acts, ch 138, §6, 161, 162

Referred to in §142C.17, 321.44A

142C.16 Anatomical gift public awareness advisory committee — established — duties. Repealed by 2010 Acts, ch 1031, §399.

142C.17 Annual donation and compliance report.

The Iowa department of public health, in conjunction with any statewide organ procurement organization in Iowa, shall prepare and submit a report to the general assembly on or before January 1 each year regarding organ donation rates and voluntary compliance efforts with hospital organ and tissue donation protocols by physicians, hospitals, and other health systems organizations. The report shall contain the following:

1. An evaluation of organ procurement efforts in the state, including statistics regarding organ and tissue donation activity as of September 30 of the preceding year.

2. Efforts by any statewide organ procurement organization in Iowa, and related parties, to increase organ and tissue donation and consent rates.

3. Voluntary compliance efforts with hospital organ and tissue donation protocols by physicians, hospitals, and health systems organizations and the results of those efforts.

4. Annual contribution levels to the anatomical gift public awareness and transplantation fund created in section 142C.15, and any distributions made from the fund.

5. Efforts and ideas for increasing public awareness of the option of organ and tissue donation.

6. Additional information deemed relevant by the department in assessing the status and progress of organ and tissue donation efforts in the state.

98 Acts, ch 1015, §2

142C.18 Iowa donor registry.

1. The director of public health shall contract with and recognize the Iowa donor registry for the purpose of indicating on the donor registry all relevant information regarding a donor's making or amending of an anatomical gift.

2. The state department of transportation shall cooperate with a person that administers the Iowa donor registry for the purpose of transferring to the donor registry all relevant information regarding a donor's making of an anatomical gift.

3. The department of natural resources shall cooperate with a person that administers the Iowa donor registry for the purpose of transferring to the donor registry all relevant information regarding a donor's making of an anatomical gift.

4. The Iowa donor registry shall do all of the following:

a. Allow a donor or other person authorized under section 142C.3 to include on the donor registry a statement or symbol that the donor has made or amended an anatomical gift.

b. Be accessible to a procurement organization to allow the procurement organization to obtain relevant information on the donor registry to determine, at or near the death of the

donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

c. Be accessible for purposes of paragraphs *"a"* and *"b"* seven days a week on a twenty-four-hour per day basis.

d. Provide a centralized, automated system to compile donation information received by the state department of transportation, department of natural resources, county treasurers, and the Iowa donor network.

e. Provide educational materials regarding the making, amending, or revoking of an anatomical gift or a refusal to make an anatomical gift.

5. Personally identifiable information on the donor registry about a donor or prospective donor shall not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near the death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

2000 Acts, ch 1052, §2; 2007 Acts, ch 44, §24; 2019 Acts, ch 86, §8, 9

CHAPTER 142D

SMOKEFREE AIR ACT

142D.1	Title — findings — purpose.	142D.6	Notice of nonsmoking requirements — posting of signs.
142D.2	Definitions.	142D.7	Nonretaliation — nonwaiver of rights.
142D.3	Prohibition of smoking — public places, places of employment, and outdoor areas.	142D.8	Enforcement.
142D.4	Areas where smoking not regulated.	142D.9	Civil penalties.
142D.5	Declaration of area as nonsmoking.		

142D.1 Title — findings — purpose.

1. This chapter shall be known and may be cited as the *"Smokefree Air Act"*.

2. The general assembly finds that environmental tobacco smoke causes and exacerbates disease in nonsmoking adults and children. These findings are sufficient to warrant measures that regulate smoking in public places, places of employment, and outdoor areas in order to protect the public health and the health of employees.

3. The purpose of this chapter is to reduce the level of exposure by the general public and employees to environmental tobacco smoke in order to improve the public health of Iowans.

2008 Acts, ch 1084, §1

142D.2 Definitions.

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

1. *"Bar"* means an establishment where one may purchase alcoholic beverages, as defined in section 123.3, for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

2. *"Business"* means a sole proprietorship, partnership, joint venture, corporation, association, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

3. *"Common area"* means a reception area, waiting room, lobby, hallway, restroom, elevator, stairway or stairwell, the common use area of a multiunit residential property, or other area to which the public is invited or in which the public is permitted.

4. *"Employee"* means a person who is employed by an employer in consideration for direct

or indirect monetary wages or profit, or a person who provides services to an employer on a voluntary basis.

5. *"Employer"* means a person including a sole proprietorship, partnership, joint venture, corporation, association, or other business entity whether for-profit or not-for-profit, including state government and its political subdivisions, that employs the services of one or more individuals as employees.

6. *"Enclosed area"* means all space between a floor and ceiling that is contained on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

7. *"Farm tractor"* means farm tractor as defined in section 321.1.

8. *"Farm truck"* means a single-unit truck, truck-tractor, tractor, semitrailer, or trailer used by a farmer to transport agricultural, horticultural, dairy, or other farm products, including livestock, produced or finished by the farmer, or to transport any other personal property owned by the farmer, from the farm to market, and to transport property and supplies to the farm of the farmer.

9. *a. "Farmer"* means any of the following:

(1) A person who files schedule F as part of the person's annual form 1040 or form 1041 filing with the United States internal revenue service, or an employee of such person while the employee is actively engaged in farming.

(2) A person who holds an equity position in or who is employed by a business association holding agricultural land where the business association is any of the following:

(a) A family farm corporation, authorized farm corporation, family farm limited partnership, limited partnership, family farm limited liability company, authorized limited liability company, family trust, or authorized trust, as provided in chapter 9H.

(b) A limited liability partnership as defined in section 486A.101.

(3) A natural person related to the person actively engaged in farming as provided in subparagraph (1) or (2) when the person is actively engaged in farming. The natural person must be related as spouse, parent, grandparent, lineal ascendant of a grandparent or a grandparent's spouse, other lineal descendant of a grandparent or a grandparent's spouse, or a person acting in a fiduciary capacity for persons so related.

b. For purposes of this subsection, *"actively engaged in farming"* means participating in physical labor on a regular, continuous, and substantial basis, or making day-to-day management decisions, where such participation or decision making is directly related to raising and harvesting crops for feed, food, seed, or fiber, or to the care and feeding of livestock.

10. *"Health care provider location"* means an office or institution providing care or treatment of disease, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to a hospital as defined in section 135B.1, a long-term care facility, an adult day services program as defined in section 231D.1, clinics, laboratories, and the locations of professionals regulated pursuant to Title IV, subtitle 3, and includes all enclosed areas of the location including waiting rooms, hallways, other common areas, private rooms, semiprivate rooms, and wards within the location.

11. *"Implement of husbandry"* means implement of husbandry as defined in section 321.1.

12. *"Long-term care facility"* means a health care facility as defined in section 135C.1, an elder group home as defined in section 231B.1, or an assisted living program as defined in section 231C.2.

13. *"Place of employment"* means an area under the control of an employer and includes all areas that an employee frequents during the course of employment or volunteering, including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under this chapter. *"Place of employment"* does not include a private residence, unless the private residence is used as a child care facility, a child care home, or as a health care provider location.

14. *"Political subdivision"* means a city, county, township, or school district.

15. *"Private club"* means an organization, whether or not incorporated, that is the owner,

lessee, or occupant of a location used exclusively for club purposes at all times and that meets all of the following criteria:

a. Is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain.

b. Sells alcoholic beverages only as incidental to its operation.

c. Is managed by a board of directors, executive committee, or similar body chosen by the members.

d. Has established bylaws or another document to govern its activities.

e. Has been granted an exemption from the payment of federal income tax as a club pursuant to 26 U.S.C. §501.

16. *"Public place"* means an enclosed area to which the public is invited or in which the public is permitted, including common areas, and including but not limited to all of the following:

a. Financial institutions.

b. Restaurants.

c. Bars.

d. Public and private educational facilities.

e. Health care provider locations.

f. Hotels and motels.

g. Laundromats.

h. Public transportation facilities and conveyances under the authority of the state or its political subdivisions, including buses and taxicabs, and including the ticketing, boarding, and waiting areas of these facilities.

i. Aquariums, galleries, libraries, and museums.

j. Retail food production and marketing establishments.

k. Retail service establishments.

l. Retail stores.

m. Shopping malls.

n. Entertainment venues including but not limited to theaters; concert halls; auditoriums and other facilities primarily used for exhibiting motion pictures, stage performances, lectures, musical recitals, and other similar performances; bingo facilities; and indoor arenas including sports arenas.

o. Polling places.

p. Convention facilities and meeting rooms.

q. Public buildings and vehicles owned, leased, or operated by or under the control of the state government or its political subdivisions and including the entirety of the private residence of any state employee any portion of which is open to the public.

r. Service lines.

s. Private clubs only when being used for a function to which the general public is invited.

t. Private residences only when used as a child care facility, a child care home, or health care provider location.

u. Child care facilities and child care homes.

v. Gambling structures, excursion gambling boats, and racetrack enclosures.

17. *"Restaurant"* means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

18. *"Retail tobacco store"* means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is incidental to the sale of tobacco products.

19. *"Service line"* means an indoor line in which one or more individuals are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

20. *"Shopping mall"* means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

21. *"Smoking"* means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco product in any manner or in any form. *"Smoking"* does not include

smoking that is associated with a recognized religious ceremony, ritual, or activity, including but not limited to burning of incense.

22. *"Sports arena"* means a sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

2008 Acts, ch 1084, §2
Referred to in §237A.3B, 321.453

142D.3 Prohibition of smoking — public places, places of employment, and outdoor areas.

1. Smoking is prohibited and a person shall not smoke in any of the following:

a. Public places.

b. All enclosed areas within places of employment including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under this chapter.

2. In addition to the prohibitions specified in subsection 1, smoking is prohibited and a person shall not smoke in or on any of the following outdoor areas:

a. The seating areas of outdoor sports arenas, stadiums, amphitheaters, and other entertainment venues where members of the general public assemble to witness entertainment events.

b. Outdoor seating or serving areas of restaurants.

c. Public transit stations, platforms, and shelters under the authority of the state or its political subdivisions.

d. School grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a public or private educational facility, including inside any vehicle located on such school grounds.

e. The grounds of any public buildings owned, leased, or operated by or under the control of the state government or its political subdivisions, including the grounds of a private residence of any state employee any portion of which is open to the public with the following exceptions:

(1) This paragraph shall not apply to the Iowa state fairgrounds, or fairgrounds as defined in section 174.1.

(2) This paragraph shall not apply to institutions administered by the department of corrections, except that smoking on the grounds shall be limited to designated smoking areas.

(3) This paragraph shall not apply to facilities of the Iowa national guard as defined in section 29A.1, except that smoking on the grounds shall be limited to designated smoking areas.

2008 Acts, ch 1084, §3
Referred to in §142D.4, 142D.5

142D.4 Areas where smoking not regulated.

Notwithstanding any provision of this chapter to the contrary, the following areas are exempt from the prohibitions of section 142D.3:

1. Private residences, unless used as a child care facility, child care home, or a health care provider location.

2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that not more than twenty percent of the rooms of a hotel or motel rented to guests are designated as smoking rooms, all smoking rooms on the same floor are contiguous, and smoke from smoking rooms does not infiltrate into areas in which smoking is otherwise prohibited under this chapter. The status of smoking and nonsmoking rooms shall not be changed, except to provide additional nonsmoking rooms.

3. Retail tobacco stores, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter.

4. Private and semiprivate rooms in long-term care facilities, occupied by one or more individuals, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter.

5. Private clubs that have no employees, except when being used for a function to which the general public is invited, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter. This exemption shall not apply to any entity that is established for the purpose of avoiding compliance with this chapter.

6. Outdoor areas that are places of employment except those areas where smoking is prohibited pursuant to section 142D.3, subsection 2.

7. Limousines under private hire; vehicles owned, leased, or provided by a private employer that are for the sole use of the driver and are not used by more than one person in the course of employment either as a driver or passenger; privately owned vehicles not otherwise defined as a place of employment or public place; and cabs of motor trucks or truck tractors if no nonsmoking employees are present.

8. An enclosed area within a place of employment or public place that provides a smoking cessation program or a medical or scientific research or therapy program, if smoking is an integral part of the program.

9. Farm tractors, farm trucks, and implements of husbandry when being used for their intended purposes.

10. Only the gaming floor of a premises licensed pursuant to chapter 99F exclusive of any bar or restaurant located within the gaming floor which is an enclosed area and subject to the prohibitions of section 142D.3.

11. The Iowa veterans home.

2008 Acts, ch 1084, §4

142D.5 Declaration of area as nonsmoking.

1. Notwithstanding any provision of this chapter to the contrary, an owner, operator, manager, or other person having custody or control of an area otherwise exempt from the prohibitions of section 142D.3 may declare the entire area as a nonsmoking place.

2. Smoking shall be prohibited in any location of an area declared a nonsmoking place under this section if a sign is posted conforming to the provisions of section 142D.6.

2008 Acts, ch 1084, §5
Referred to in §142D.6, 142D.8, 142D.9

142D.6 Notice of nonsmoking requirements — posting of signs.

1. Notice of the provisions of this chapter shall be provided to all applicants for a business license in this state, to all law enforcement agencies, and to any business required to be registered with the office of the secretary of state.

2. All employers subject to the prohibitions of this chapter shall communicate to all existing employees and to all prospective employees upon application for employment the smoking prohibitions prescribed in this chapter.

3. The owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited under this chapter shall clearly and conspicuously post in and at every entrance to the public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area, “no smoking” signs or the international “no smoking” symbol. Additionally, a “no smoking” sign or the international “no smoking” symbol shall be placed in every vehicle that constitutes a public place, place of employment, or area declared a nonsmoking place pursuant to section 142D.5 under this chapter, visible from the exterior of the vehicle. All signs shall contain the telephone number for reporting complaints and the internet site of the department of public health. The owner, operator, manager, or other person having custody or control of the public place, place of

employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area may use the sample signs provided on the department of public health's internet site, or may use another sign if the contents of the sign comply with the requirements of this subsection.

4. The owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited under this chapter shall remove all ashtrays from these locations.

2008 Acts, ch 1084, §6
Referred to in §142D.5

142D.7 Nonretaliation — nonwaiver of rights.

1. A person or employer shall not discharge, refuse to employ, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded under this chapter, registers a complaint, or attempts to prosecute a violation of this chapter.

2. An employee who works in a location where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other person.

2008 Acts, ch 1084, §7

142D.8 Enforcement.

1. This chapter shall be enforced by the department of public health or the department's designee. The department of public health shall adopt rules to administer this chapter, including rules regarding enforcement. The department of public health shall provide information regarding the provisions of this chapter and related compliance issues to employers, owners, operators, managers, and other persons having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited, and the general public via the department's internet site. The internet site shall include sample signage and the telephone number for reporting complaints. Judicial magistrates shall hear and determine violations of this chapter.

2. If a public place is subject to any state or political subdivision inspection process or is under contract with the state or a political subdivision, the person performing the inspection shall assess compliance with the requirements of this chapter and shall report any violations to the department of public health or the department's designee.

3. An owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter shall inform persons violating this chapter of the provisions of this chapter.

4. An employee or private citizen may bring a legal action to enforce this chapter. Any person may register a complaint under this chapter by filing a complaint with the department of public health or the department's designee.

5. In addition to the remedies provided in this section, the department of public health or the department's designee or any other person aggrieved by the failure of the owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated by this chapter to comply with this chapter may seek injunctive relief to enforce this chapter.

2008 Acts, ch 1084, §8

142D.9 Civil penalties.

1. A person who smokes in an area where smoking is prohibited pursuant to this chapter shall pay a civil penalty pursuant to section 805.8C, subsection 3, paragraph *"a"*, for each violation.

2. A person who owns, operates, manages, or otherwise has custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5,

or outdoor area regulated under this chapter and who fails to comply with this chapter shall pay a civil penalty as follows:

a. For a first violation, a monetary penalty not to exceed one hundred dollars.

b. For a second violation within one year, a monetary penalty not to exceed two hundred dollars.

c. For each violation in excess of a second violation within one year, a monetary penalty not to exceed five hundred dollars for each additional violation.

3. An employer who discharges or in any manner discriminates against an employee because the employee has made a complaint or has provided information or instituted a legal action under this chapter shall pay a civil penalty of not less than two thousand dollars and not more than ten thousand dollars for each violation.

4. In addition to the penalties established in this section, violation of this chapter by a person who owns, operates, manages, or who otherwise has custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

5. Violation of this chapter constitutes a public nuisance which may be abated by the department of public health or the department's designee by restraining order, preliminary or permanent injunction, or other means provided by law, and the entity abating the public nuisance may take action to recover the costs of such abatement.

6. Each day on which a violation of this chapter occurs is considered a separate and distinct violation.

7. Civil penalties paid pursuant to this chapter shall be deposited in the general fund of the state, unless a local authority as designated by the department in administrative rules is involved in the enforcement, in which case the civil penalties paid shall be deposited in the general fund of the respective city or county.

2008 Acts, ch 1084, §9

Referred to in §331.427, 805.8C(3)(a)

Nuisances in general, chapter 657

CHAPTER 143

PUBLIC HEALTH NURSES

143.1 Authority to employ.
143.2 Cooperation.
143.3 Duties.

143.1 Authority to employ.

Any local board of health, area education agency board, or the school board of any school district may employ public health nurses at periods each year and in numbers as deemed advisable. The council of any city, or the school board of any school district, or any of them acting in cooperation, may contract with any nonprofit nurses' association for public health nursing service. The compensation and expenses shall be paid out of the general fund of the political subdivision employing nurses.

[C24, 27, 31, 35, 39, §**2362;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §143.1; 81 Acts, ch 117, §1018]

143.2 Cooperation.

The said boards may cooperate in the employment of public health nurses and may apportion the expenses therefor to the various political subdivisions represented by said authorities.

[C24, 27, 31, 35, 39, §**2363;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §143.2]

143.3 Duties.

The authorities employing any public health nurses shall prescribe their duties which in a general way shall be for the promotion and conservation of the public health.

[C24, 27, 31, 35, 39, §**2364;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §143.3]

CHAPTER 144

VITAL STATISTICS

Referred to in §135.11, 156.9, 331.601, 331.611, 331.802, 331.803

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144.1 Definitions.

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

1. *"Board"* means the state board of health.

2. *"Book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

3. *"Court of competent jurisdiction"* when used to refer to inspection of an original certificate of birth based upon an adoption means the court where the adoption was ordered.

4. *"Cremated remains"* means all the remains of the cremated human body recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions, and may include the residue of any foreign matter including casket material, bridgework, or eyeglasses that were cremated with the human remains.

5. *"Cremation"* means the technical process, using heat and flame, that reduces human remains to bone fragments, with the reduction taking place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

6. *"Dead body"* means a lifeless human body or parts or bones of a body, if, from the state of the body, parts, or bones, it may reasonably be concluded that death recently occurred.

7. *"Department"* means the Iowa department of public health.

8. *"Division"* means a division, within the department, for records and statistics.

9. *"Fetal death"* means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy. Death is indicated by the fact that after expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. In determining a fetal death, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

10. *"Filing"* means the presentation of a certificate, report, or other record, provided for in this chapter, of a birth, death, fetal death, adoption, marriage, dissolution, or annulment for registration by the division.

11. *"Final disposition"* means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.

12. *"Institution"* means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more unrelated individuals, or to which persons are committed by law.

13. *"Live birth"* means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. In determining a live birth, heartbeats shall be distinguished from transient cardiac contractions, and respirations shall be distinguished from fleeting respiratory efforts or gasps.

14. *"Registration"* means the process by which vital statistic records are completed, filed, and incorporated by the division in the division's official records.

15. *"State registrar"* means the state registrar of vital statistics.

16. *"System of vital statistics"* includes the registration, collection, preservation, amendment, and certification of vital statistics records, and activities and records related thereto including the data processing, analysis, and publication of statistical data derived from such records.

17. *"Vital statistics"* means records of births, deaths, fetal deaths, adoptions, marriages, dissolutions, annulments, and data related thereto.

[C24, 27, 31, 35, 39, §**2317, 2384;** C46, 50, 54, 58, 62, 66, §141.1, 144.1; C71, 73, 75, 77, 79, 81, §144.1]

83 Acts, ch 101, §21; 97 Acts, ch 159, §7; 99 Acts, ch 141, §14, 15; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201; 2020 Acts, ch 1025, §1

Referred to in §252A.2

144.2 Division of records and statistics.

There is established in the department a division for records and statistics which shall install, maintain, and operate the system of vital statistics throughout the state. No system for the registration of births, deaths, fetal deaths, adoptions, marriages, dissolutions, and annulments, shall be maintained in the state or any of its political subdivisions other than the one provided for in this chapter. Suitable quarters shall be provided for the division by the executive council at the seat of government. The quarters shall be properly equipped for the permanent and safe preservation of all official records made and returned under this chapter.

[C24, 27, 31, 35, 39, §**2388, 2432;** C46, 50, 54, 58, 62, 66, §144.3, 144.49; C71, 73, 75, 77, 79, 81, §144.2]

83 Acts, ch 101, §22

144.3 Rules adopted.

The department may adopt, amend, and repeal rules for the purpose of carrying out the provisions of this chapter, in accordance with chapter 17A.

[C71, 73, 75, 77, 79, 81, §144.3]

144.4 Registrar.

The director of public health shall be the state registrar of vital statistics and shall carry out the provisions of this chapter.

[C24, 27, 31, 35, 39, §**2387;** C46, 50, 54, 58, 62, 66, §144.2; C71, 73, 75, 77, 79, 81, §144.4]

144.5 Duties of registrar.

The state registrar shall:

1. Administer and enforce this chapter and the rules issued under this chapter, and issue instructions for the efficient administration of the statewide system of vital statistics and the division for records and statistics.
2. Direct and supervise the statewide system of vital statistics and the division for records and statistics and be custodian of its records.
3. Direct, supervise, and control the activities of clerks of the district court and county recorders related to the operation of the vital statistics system and provide registrars with necessary postage.
4. Prescribe, print, and distribute the forms required by this chapter and prescribe any other means for transmission of data, as necessary to accomplish complete, accurate reporting.
5. Prepare and publish annual reports of vital statistics of this state and other reports as may be required.
6. Delegate functions and duties vested in the state registrar to officers, to employees of the department, to the clerks of the district court, and to the county registrars as the state registrar deems necessary or expedient.
7. Provide, by rules, for appropriate morbidity reporting.

[C24, 27, 31, 35, 39, §**2393;** C46, 50, 54, 58, 62, 66, §144.8; C71, 73, 75, 77, 79, 81, §144.5; 81 Acts, ch 64, §1]

88 Acts, ch 1158, §33; 95 Acts, ch 124, §1, 2, 26; 97 Acts, ch 159, §8; 2021 Acts, ch 80, §72

Subsection 1 amended

144.6 through 144.8 Reserved.

144.9 County recorder as registrar.

The county recorder is the county registrar and with respect to the county shall:

1. Administer and enforce this chapter and the rules issued by the department.
2. Record and transmit the certificates, reports, or other returns filed with the county registrar to the state registrar at least semimonthly, or more frequently when directed by the state registrar.

[C46, 50, 54, 58, 62, 66, §144.4, 144.10; C71, 73, 75, 77, 79, 81, §144.9]

88 Acts, ch 1158, §34; 95 Acts, ch 124, §3, 26

144.10 Reserved.

144.11 Public access to records.

The county registrar shall allow public access to public records under the custody of the county registrar during normal business hours for county offices in the county.

95 Acts, ch 124, §4, 26

144.12 Forms uniform.

In order to promote and maintain uniformity in the system of vital statistics, the forms of certificates, reports, and other returns shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval and modification by the department. Forms shall be furnished by the department. The forms or other recording methods used to register records required under this chapter shall be prescribed by the department.

[C71, 73, 75, 77, 79, 81, §144.12]

88 Acts, ch 1158, §35; 97 Acts, ch 159, §9

Referred to in §595.15

144.12A Declaration of paternity registry.

1. As used in this section, unless the context otherwise requires:

a. "Child" means a person under eighteen years of age for whom paternity has not been established.

b. "Court" means the juvenile court.

c. "Father" means the male, biological parent of a child.

d. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.

e. "Registrant" means a person who has registered pursuant to this section and who claims to be the father of a child.

f. "Registrar" means the state registrar of vital statistics.

g. "Registry" means the declaration of paternity registry established in this section.

2. *a.* The registrar shall establish a declaration of paternity registry to record the name, address, social security number, and any other identifying information required by rule of the department of a putative father who wishes to register under this section prior to the birth of a child and no later than the date of the filing of the petition for termination of parental rights.

b. The declaration does not constitute an affidavit of paternity filed pursuant to section 252A.3 and declarations filed shall be maintained by the registrar in a registry distinct from the registry used to maintain affidavits of paternity filed pursuant to section 252A.3. A declaration of paternity filed with the registry may be used as evidence of paternity in an action to establish paternity or to determine a support obligation with respect to the putative father.

c. Failure or refusal to file a declaration of paternity shall not be used as evidence to avoid a legally established obligation of financial support for a child.

3. A person who files a declaration of paternity with the registrar shall include in the declaration all of the following:

a. The person's name, current address, social security number, and any other identifying information requested by the department. If the person filing the declaration of paternity changes the person's address, the person shall notify the registrar of the new address in a manner prescribed by the department.

b. The name, last known address, and social security number, if known, of the mother of the child, or any other identifying information requested by the department.

c. The name of the child, if known, and the date and location of the birth of the child, if known.

d. The registrar shall accept a declaration of paternity filed in accordance with this section.

e. The registrar shall forward a copy of the declaration to the mother as notification that the person has registered with the registry.

f. The registrar shall accept and immediately register, upon receipt, a declaration of paternity without a fee and without the signature of the biological mother. The registrar may charge a reasonable fee as established by rule of the department for processing searches of the registry.

4. The department shall, upon request, provide the name, address, social security number, and any other identifying information of a registrant to the biological mother of the child; a court; the department of human services; the attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action; or to the child support recovery unit for an action to establish paternity or support. The information shall not be divulged to any other person and shall be considered a confidential record as to any other person, except upon order of the court for good cause shown. If the registry has not received a declaration of paternity, the department shall provide a written statement to that effect to the person making the inquiry.

5. *a.* Information provided to the registry may be revoked by the registrant by submission of a written statement signed and acknowledged by the registrant before a notary public as provided in chapter 9B.

b. The statement shall include a declaration that to the best of the registrant's knowledge, the registrant is not the father of the named child or that paternity of the true father has been established.

c. Revocation nullifies the registration and the information provided by the registrant shall be expunged.

d. Revocation is effective only following the birth of the child.

6. The department shall adopt rules necessary to implement and administer this section. The rules shall include establishment of sites throughout the state for local distribution of declaration of paternity registration forms.

94 Acts, ch 1174, §2; 95 Acts, ch 67, §12; 2012 Acts, ch 1050, §36, 60
Referred to in §22.7(30), 233.2, 252K.201, 600A.6, 600A.7

144.13 Birth certificates.

1. Certificates of births shall be filed as follows:

a. A certificate of birth for each live birth which occurs in this state shall be filed as directed by the state registrar within seven days after the birth and shall be registered by the county registrar if it has been completed and filed in accordance with this chapter.

b. When a birth occurs in an institution or en route to an institution, the person in charge of the institution or the person's designated representative, shall obtain the personal data, prepare the certificate, and file the certificate as directed by the state registrar. The physician in attendance or the person in charge of the institution or the person's designee shall certify to the facts of birth either by signature or as otherwise authorized by rule and provide the medical information required by the certificate within seven days after the birth.

c. When a birth occurs outside an institution and not en route to an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth.

(2) Any other person in attendance at or immediately after the birth.

(3) The father or the mother.

(4) The person in charge of the premises where the birth occurred. The state registrar shall establish by rule the evidence required to establish the facts of birth.

d. The state registrar may share information from birth certificates for the sole purpose of identifying those children in need of immunizations.

e. If an affidavit of paternity is obtained directly from the county registrar and is filed pursuant to section 252A.3A the county registrar shall forward the original affidavit to the state registrar.

2. If the mother was married at the time of conception, birth, or at any time during the period between conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a

court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

3. If the mother was not married at the time of conception, birth, and at any time during the period between conception and birth, the name of the father shall not be entered on the certificate of birth, unless a determination of paternity has been made pursuant to section 252A.3, in which case the name of the father as established shall be entered by the department. If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

4. The division shall make all of the following available to the child support recovery unit, upon request:

a. A copy of a child's birth certificate.

b. The social security numbers of the mother and the father.

c. A copy of the affidavit of paternity if filed pursuant to section 252A.3A and any subsequent rescission form which rescinds the affidavit.

d. Information, other than information for medical and health use only, identified on a child's birth certificate or on an affidavit of paternity filed pursuant to section 252A.3A. The information may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

[C24, 27, 31, 35, 39, §**2397, 2398, 2399, 2400, 2401;** C46, 50, 54, 58, 62, 66, §144.12 – 144.16; C71, 73, 75, 77, 79, 81, §144.13]

88 Acts, ch 1158, §36; 90 Acts, ch 1052, §1; 92 Acts, ch 1097, §2; 93 Acts, ch 79, §9; 93 Acts, ch 116, §1; 94 Acts, ch 1171, §2, 3; 95 Acts, ch 94, §1; 97 Acts, ch 159, §10 – 12; 97 Acts, ch 175, §223 – 225; 99 Acts, ch 141, §16; 2017 Acts, ch 54, §76

Referred to in §144.13A, 233.2, 252A.3A, 331.611

144.13A Fees — use of funds — electronic birth certificate system.

1. The state registrar shall charge the parent a fee of twenty dollars for the registration of a certificate of birth.

2. The state registrar shall charge the parent a separate fee established under section 144.46 for a certified copy of the certificate. The certified copy shall include all of the information included in the original certificate of birth and shall be letter-sized. The certified copy shall be mailed to the parent by the state registrar. The mailing of a certified copy of the certificate to a biological parent shall not be precluded by the execution of a release of custody under chapter 600A, and, upon request, a biological parent shall be provided with a certified copy of the certificate unless the parental rights of the biological parent are terminated.

3. *a.* If, during the period between May 1993 and October 2009, a parent was issued a smaller than letter-sized certified copy of the certificate of birth under this section, which did not include all of the information included in the original certificate of birth, upon request of a parent, the state registrar shall issue to the parent a single letter-sized certified copy replacement that includes all of the information provided in the original certificate of birth. A parent shall not be required to exchange the smaller certified copy for the larger certified copy replacement, but may retain the smaller certified copy.

b. Notwithstanding the amount of the fee charged under subsection 2, the state registrar shall not charge a fee for the issuance of a single letter-sized certified copy of the certificate of birth requested by a parent under this subsection.

c. This subsection shall not apply if a new certificate of birth was substituted for the original certificate of birth pursuant to section 144.24.

d. The department shall post the application form and instructions for requesting a letter-sized certified copy replacement as specified in this subsection on the department's internet site. This paragraph is repealed June 30, 2022.

4. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to collect the fee from the parent. The fee shall be remitted to the state registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the

registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent.

5. The fees collected by the state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state.

a. Ten dollars of each registration fee is appropriated and shall be used for primary and secondary child abuse prevention programs pursuant to section 235A.1, and ten dollars of each registration fee is appropriated and shall be used for the center for congenital and inherited disorders central registry established pursuant to section 136A.6. Notwithstanding section 8.33, moneys appropriated in this paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year, and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this paragraph.

b. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

6. The state registrar shall provide the county registrars with access to all birth records available through the electronic birth certificate system, including all records provided in accordance with section 144.13 or section 144.14 and birth records that are prepared and delivered to parents named in an adoption decree pursuant to section 600.13, subsection 5.

85 Acts, ch 173, §1; 87 Acts, ch 233, §428; 88 Acts, ch 1158, §37; 91 Acts, ch 243, §1; 92 Acts, ch 1097, §3; 95 Acts, ch 124, §5, 26; 99 Acts, ch 96, §13; 99 Acts, ch 141, §17; 2003 Acts, ch 103, §1; 2004 Acts, ch 1031, §12; 2004 Acts, ch 1156, §1; 2004 Acts, ch 1171, §1, 2; 2005 Acts, ch 167, §45, 66; 2005 Acts, ch 175, §82, 129; 2006 Acts, ch 1155, §2, 15; 2015 Acts, ch 119, §1; 2017 Acts, ch 148, §105, 106

Referred to in §232.2, 331.611, 600A.9

144.13B Waiver of fees — military service.

Notwithstanding any provision of this chapter to the contrary, the certified copy fees for a birth certificate or death certificate of a service member who died while performing military duty, as defined in section 29A.1, subsection 3, 8, or 12, shall be waived for a period of one year from the date of death for a family member of the deceased service member.

2010 Acts, ch 1170, §2; 2011 Acts, ch 47, §7; 2012 Acts, ch 1072, §32

Referred to in §331.611

144.14 Foundlings.

1. A person who assumes the custody of a living infant of unknown parentage shall report on a form and in the manner prescribed by the state registrar within five days to the county registrar of the county in which the child was found, the following information:

a. The date and place the child was found.

b. The sex, color or race, and approximate age of the child.

c. The name and address of the person or institution which has assumed custody of the child.

d. The name given to the child by the custodian.

e. Other data required by the state registrar.

2. The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation. A report registered under this section shall constitute the certificate of birth for the infant.

3. If the child is identified and a certificate of birth is found or obtained, any report registered under this section shall be sealed and filed and may be opened only by order of a court of competent jurisdiction or as provided by regulation.

[C71, 73, 75, 77, 79, 81, §144.14]

88 Acts, ch 1158, §38; 2009 Acts, ch 133, §44

Referred to in §144.13A, 233.2, 331.611

144.15 Delayed registrations of birth.

1. When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with regulations. The certificate shall be registered subject to evidentiary requirements prescribed to substantiate the alleged facts of birth. Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of the delayed registration. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate. A delayed certificate of birth shall not be registered for a deceased person.

2. When an applicant does not submit the substantiating evidence required for delayed registration or when the state registrar finds reason to question the validity or adequacy of the evidence, the state registrar shall not register the delayed certificate and shall advise the applicant of the reasons for this action. The registration official shall advise the applicant of the applicant's right of appeal to the district court pursuant to sections 144.17 and 144.18, which sections shall be applicable to such appeal notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A.

3. The department may by regulation provide for the dismissal of an application which is not actively prosecuted.

[C71, 73, 75, 77, 79, 81, §144.15]

97 Acts, ch 159, §13; 2003 Acts, ch 44, §114; 2017 Acts, ch 54, §76

Referred to in §144.17, 144.25, 331.611

144.16 Delayed registration of death or marriage.

When a death or marriage occurring in this state has not been registered, a certificate may be filed in accordance with regulations. Such certificate shall be registered subject to evidentiary requirements prescribed to substantiate the alleged facts of death or marriage. Certificates of death and marriage registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of the delayed registration.

[C71, 73, 75, 77, 79, 81, §144.16]

Referred to in §331.611

144.17 Petition to establish certificate.

1. If a delayed certificate of birth is rejected under the provisions of section 144.15, a petition may be filed with the district court for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.

2. *a.* The petition shall be made on a form prescribed and furnished by the state registrar and shall allege:

(1) That the person for whom a delayed certificate of birth is sought was born in this state.

(2) That no record of birth of that person can be found in the office of the state or county custodian of birth records.

(3) That diligent efforts by the petitioner have failed to obtain the evidence required in accordance with section 144.15.

(4) That the state registrar has refused to register a delayed certificate of birth.

(5) Such other allegations as may be required.

b. The petition shall be accompanied by a statement of the registration official made in accordance with section 144.15 and all documentary evidence which was submitted to the registration official in support of such registration. The petition shall be verified by the petitioner.

[C71, 73, 75, 77, 79, 81, §144.17]

88 Acts, ch 1158, §39; 2009 Acts, ch 41, §193

Referred to in §144.15, 144.25, 331.611

144.18 Court hearing.

1. The court shall fix a time and place for hearing the petition and shall give the registration official who refused to register the petitioner's delayed certificate of birth at least ten days' notice of such hearing. If both persons to be named as parents are not a party to the petition, such person or persons, if living, shall also be given at least ten days' notice

of the hearing. The court shall prescribe the manner of such notice. Such official, or the official's authorized representative, may appear and testify in the proceeding.

2. If the court from the evidence presented finds that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as the case may require and shall issue an order on a form prescribed and furnished by the state registrar to establish a record of birth. The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

3. The clerks of the district court shall forward each order to the state registrar not later than the tenth day of the calendar month following the month in which it was entered. The order shall be registered by the state registrar and shall constitute the record of birth, from which copies may be issued in accordance with sections 144.42 through 144.46.

[C71, 73, 75, 77, 79, 81, §144.18]
2017 Acts, ch 29, §42
Referred to in §144.15, 144.25, 331.611

144.19 Adoption certificate.

For each adoption decreed by any court in this state, the court shall require the preparation of a certificate of adoption on a form prescribed and furnished by the state registrar. The certificate shall include a report of the facts necessary to locate and identify the certificate of birth of the person adopted, provide information necessary to establish a new certificate of birth of the person adopted, identify the order of adoption, and be certified by the clerk of the court. A fee established by the department by rule based on average administrative cost shall be collected for the preparation of a certificate of adoption. Fees collected under this section shall be deposited in the general fund of the state.

[C46, 50, 54, 58, 62, 66, §144.44; C71, 73, 75, 77, 79, 81, §144.19; 81 Acts, ch 64, §4]
Referred to in §144.23, 600.13

144.20 Information.

Information in the possession of the petitioner necessary to prepare the adoption report shall be furnished with the petition for adoption by each petitioner for adoption or the petitioner's attorney. The adoption services provider or other person concerned shall supply the court with such additional information in their possession as necessary to complete the certificate. The provision of such information shall be submitted to the court prior to the issuance of a final decree in the matter by the court, unless found by the court to be unavailable after diligent inquiry.

[C71, 73, 75, 77, 79, 81, §144.20]
2021 Acts, ch 80, §73
Section amended

144.21 Amended record.

Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a certificate, which shall include facts necessary to identify the original adoption report, and facts in the adoption decree necessary to properly amend the birth record.

[C46, 50, 54, 58, 62, 66, §144.44; C71, 73, 75, 77, 79, 81, §144.21]

144.22 Clerk to report to state registrar.

Not later than the tenth day of each calendar month, the clerk of the court shall forward to the state registrar certificates of adoption, or amendment or annulment of adoption, entered in the preceding month, together with such related reports as the state registrar requires. The state registrar, upon receipt from a court of a certificate of adoption, or amendment or annulment of adoption, for a person born outside this state shall forward the certificate to the appropriate registration authority in the state of birth.

[C46, 50, 54, 58, 62, 66, §144.44; C71, 73, 75, 77, 79, 81, §144.22]

144.23 State registrar to issue new certificate.

The state registrar shall establish a new certificate of birth for a person born in this state, when the state registrar receives the following:

1. An adoption report as provided in section 144.19, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth.

2. A request that a new certificate be established and evidence proving that the person for whom the new certificate is requested has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person.

3. A notarized affidavit by a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment by the licensee, the sex designation of the person has been changed. The state registrar may make a further investigation or require further information necessary to determine whether a sex change has occurred.

[C24, 27, 31, 35, 39, §**2406;** C46, 50, 54, 58, 62, 66, §144.21, 144.44; C71, 73, 75, 77, 79, 81, §144.23]

2002 Acts, ch 1040, §1, 5; 2005 Acts, ch 89, §12

Referred to in §600.13

144.24 Substituting new for original birth certificates — inspection.

1. If a new certificate of birth is established, the actual place and date of birth shall be shown on the certificate. The certificate shall be substituted for the original certificate of birth.

2. Following substitution of the original certificate of birth with a new certificate of birth, the original certificate and the evidence of adoption, paternity, legitimation, or sex change shall not be subject to inspection except under order of a court of competent jurisdiction, including but not limited to an order issued pursuant to section 600.16A, as provided in section 144.24A, or as provided by administrative rule for statistical or administrative purposes only.

3. Notwithstanding subsection 2, the state registrar shall, upon the application of an adult adopted person, a biological parent, an adoptive parent, or the legal representative of the adult adopted person, the biological parent, or the adoptive parent, inspect the original certificate and the evidence of adoption and reveal to the applicant the date of the adoption and the name and address of the court which issued the adoption decree.

[C24, 27, 31, 35, 39, §**2406;** C46, 50, 54, 58, 62, 66, §144.21, 144.44; C71, 73, 75, 77, 79, 81, §144.24]

91 Acts, ch 243, §2; 99 Acts, ch 141, §18; 2021 Acts, ch 113, §1

Referred to in §144.13A, 144.24A

Section amended

144.24A Access to original certificate of birth — application — contact preference form — medical history form — fees.

1. Notwithstanding any provision of law to the contrary, an adopted person who was born in this state and whose original certificate of birth was substituted with a new certificate of birth pursuant to section 144.24 based upon the adoption, or an entitled person, may apply for and obtain a noncertified copy of the original certificate of birth of the adopted person who is the subject of the original certificate of birth in accordance with this section, including with any required redaction of personally identifiable information pursuant to subsection 2, paragraph "*a*", subparagraph (4).

a. (1) If an adopted person who is the subject of the original certificate of birth is submitting the application, the adopted person shall be at least eighteen years of age at the time the application is filed.

(2) If an entitled person is submitting the application, the adopted person who is the subject of the original certificate of birth shall be deceased at the time the application is filed.

b. The adopted person or the entitled person shall file a written application with the state registrar on a form and in the manner prescribed by the state registrar requesting a noncertified copy of the original certificate of birth.

c. Upon receipt of the written application, proof of identification, and payment of a fee, the state registrar shall issue a noncertified copy of the original certificate of birth to the applicant in accordance with this section, including with any required redaction of personally identifiable information pursuant to subsection 2, paragraph "*a*", subparagraph

(4). At the time of such issuance, the state registrar shall also provide to the applicant any contact preference form or medical history form completed and submitted to the state registrar pursuant to subsections 2 and 3 in accordance with this section, including with any required redaction of personally identifiable information pursuant to subsection 2, paragraph "*a*", subparagraph (4), and subsection 3, paragraph "*a*", subparagraph (4).

2. *a.* The state registrar shall develop a contact preference form on which a biological parent may state a preference regarding contact by an adopted person or an entitled person following application for and issuance of the noncertified copy of the original certificate of birth under this section. The preferences available to the biological parent shall include all of the following, from which the biological parent may choose only one:

(1) "I would like to be contacted. I have completed this contact preference form and am filing the form with the state registrar. I may change this preference by filing a subsequent contact preference form with the state registrar."

(2) "I would prefer to be contacted only through an intermediary. I would like the following named individual or entity to act as an intermediary. I have completed this contact preference form and am filing the form with the state registrar. I may change this preference by filing a subsequent contact preference form with the state registrar."

(3) "I do not want to be contacted; however, my personally identifiable information may be released if requested in accordance with Iowa Code section 144.24A. I have completed this contact preference form and am filing the form with the state registrar. I may change this preference by filing a subsequent contact preference form with the state registrar."

(4) "I do not want to be contacted. I request that my personally identifiable information be redacted from the noncertified copy of the original certificate of birth and my contact preference form. I have completed this contact preference form and am filing the form with the state registrar. I may change this preference by filing a subsequent contract preference form with the state registrar."

b. The contact preference form shall also state that regardless of whether a contact preference form is completed by the biological parent, a noncertified copy of the original certificate of birth shall be issued to an adopted person or an entitled person who applies for a noncertified copy of an original certificate of birth in accordance with this section, including with any required redaction of personally identifiable information pursuant to subsection 2, paragraph "*a*", subparagraph (4).

c. The contact preference form shall be provided to the biological parent in accordance with section 600A.4. A contact preference form may be completed or updated by the biological parent at any time at the request of the biological parent.

3. *a.* The state registrar shall develop a medical history form on which a biological parent may provide the medical history of the biological parent and any blood relatives. The options available to the biological parent shall include all of the following, from which the biological parent may choose only one:

(1) "I am not aware of any medical history of any significance."

(2) "I prefer not to provide any medical information at this time."

(3) "I wish to provide the following medical information included on the attached form."

(4) "I wish to provide the following medical information included in the attached form. However, I request that my personally identifiable information be redacted from the medical information form prior to its release under Iowa Code section 144.24A."

b. The medical history form shall be provided to the biological parent in accordance with section 600A.4. A medical history form may be completed or updated by the biological parent at any time at the request of the biological parent.

4. Upon receipt of a completed contact preference form or medical history form, the state registrar shall attach any such completed form to the original certificate of birth.

5. For the purposes of this section, "*entitled person*" means the spouse of the adopted person who is deceased or an adult related to the adopted person who is deceased within the second degree of consanguinity.

6. The state registrar shall adopt rules pursuant to chapter 17A to administer this section including rules relating to all of the following:

a. Establishment, collection, and deposit of fees in accordance with section 144.46 for

issuance of a noncertified copy of the original certificate of birth under this section. The fee established shall not exceed the fee established for issuance of a certified copy of a certificate of birth.

b. The application form and proof of identification requirements relative to an application for a noncertified copy of an original certificate of birth.

c. The contact preference form and the medical history form.

7. *a.* The department shall implement a public awareness and notification period to promote awareness of the provisions of this section and to allow time for a biological parent to file contact preference and medical history forms.

b. An application may be submitted under this section by an adopted person or an entitled person to obtain a noncertified copy of an adopted person's original certificate of birth in accordance with this section, if the adopted person who is the subject of the original certificate of birth was born before January 1, 1971.

c. Beginning January 1, 2022, an application may be submitted under this section by an adopted person or an entitled person to obtain a noncertified copy of an adopted person's original certificate of birth in accordance with this section, notwithstanding the date of birth of the adopted person who is the subject of the original certificate of birth prescribed under paragraph *"b"*.

2021 Acts, ch 113, §2, 6
Referred to in §144.24, 600.13, 600.16A, 600A.4
NEW section

144.25 No previous certificate — procedure.

1. If no certificate of birth is on file for the person for whom a new certificate is to be established, a delayed certificate of birth shall be filed with the state registrar as provided in section 144.15, or sections 144.17 and 144.18, before a new certificate of birth is established, except that when the date and place of birth and parentage have been established in the adoption proceedings, a delayed certificate shall not be required.

2. When a new certificate of birth is established by the state registrar, all copies of the original certificate of birth in the custody of any custodian of permanent local records in this state shall be sealed from inspection or forwarded to the state registrar of vital statistics, as the state registrar shall direct.

[C71, 73, 75, 77, 79, 81, §144.25]

144.25A Certificate of birth — foreign and international adoptions.

The department shall adopt rules pursuant to chapter 17A to establish a procedure for the issuance of a certificate of birth for children adopted pursuant to section 600.15.

2002 Acts, ch 1040, §2, 5

144.26 Death certificate.

1. *a.* A death certificate for each death which occurs in this state shall be filed as directed by the state registrar within three days after the death and prior to final disposition, and shall be registered by the county registrar if it has been completed and filed in accordance with this chapter. A death certificate shall include the social security number, if provided, of the deceased person. All information including the certifying physician's, physician assistant's, or advanced registered nurse practitioner's name shall be typewritten.

b. A physician assistant or an advanced registered nurse practitioner authorized to sign a death certificate shall be licensed in this state and shall have been in charge of the deceased patient's care.

2. All information included on a death certificate may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

3. *a.* The county in which a dead body is found is the county of death. If death occurs in a moving conveyance, the county in which the dead body is first removed from the conveyance is the county of death.

b. If a decedent died outside of the county of the decedent's residence, the state registrar shall send a copy of the decedent's death certificate and any amendments to the county registrar of the county of the decedent's residence. The county registrar shall record a

death certificate received pursuant to this paragraph in the same records in which the death certificate of a decedent who died within the county is recorded. The state registrar may provide the county registrars with electronic access to vital records in lieu of the requirements of this paragraph.

4. *a.* The department shall establish by rule procedures for making a finding of presumption of death when no body can be found. The department shall also provide by rule the responsibility for completing and signing the medical certification of cause of death in such circumstances. The presumptive death certificate shall be in a form prescribed by the state registrar and filed in the county where the death was presumed to occur.

b. The division shall provide for the correction, substitution, or removal of a presumptive death certificate when the body of the person is later found, additional facts are discovered, or the person is discovered to be alive.

5. Upon the activation of an electronic death record system, each person with a duty related to death certificates shall participate in the electronic death record system. A person with a duty related to a death certificate includes but is not limited to a physician as defined in section 135.1, a physician assistant, an advanced registered nurse practitioner, a funeral director, and a county recorder.

[SS15, §587-b; C24, 27, 31, 35, 39, §**2319;** C46, 50, 54, 58, 62, 66, §141.3; C71, 73, 75, 77, 79, 81, S81, §144.26; 81 Acts, ch 64, §5]

88 Acts, ch 1158, §40; 97 Acts, ch 159, §14; 97 Acts, ch 175, §226; 2002 Acts, ch 1108, §11; 2011 Acts, ch 26, §2; 2012 Acts, ch 1069, §1, 3; 2013 Acts, ch 140, §17

Referred to in §144.35, 331.611, 633.520

144.27 Funeral director's duties — death certificate — disposition of unclaimed veterans' remains.

1. The funeral director who first assumes custody of a dead body shall file the death certificate, obtain the personal data from the next of kin or the best qualified person or source available and obtain the medical certification of cause of death from the person responsible for completing the certification. When a person other than a funeral director assumes custody of a dead body, the person shall be responsible for carrying out the provisions of this section.

2. *a.* A funeral director responsible for filing a death certificate under this section may after a period of one hundred eighty days release to the department of veterans affairs the name of a deceased person whose cremated remains are not claimed by a person authorized to control the decedent's remains under section 144C.5, for the purposes of determining whether the deceased person is a veteran or dependent of a veteran and is eligible for inurnment at a national or state veterans cemetery. If obtained pursuant to subsection 1, the funeral director may also release to the department of veterans affairs documents of identification, including but not limited to the social security number, military service number, and military separation or discharge documents, or such similar federal or state documents, of such a person.

b. If the department of veterans affairs determines that the cremated remains of the deceased person are eligible for inurnment at a national or state veterans cemetery, the department of veterans affairs shall notify the funeral director of the determination. If the cremated remains have not been claimed by a person authorized to control the decedent's remains under section 144C.5 one hundred eighty days after the funeral director receives notice under this paragraph *"b"*, all rights to the cremated remains shall cease, and the funeral director shall transfer the cremated remains to an eligible veterans organization if the eligible veterans organization has secured arrangements for the inurnment of the cremated remains at a national or state veterans cemetery. For purposes of this subsection, an *"eligible veterans organization"* means a veterans service organization organized for the benefit of veterans and chartered by the United States Congress or a veterans remains organization exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code that is recognized by the department of veterans affairs to inurn unclaimed cremated remains.

c. A funeral director providing information or transferring cremated remains shall be immune from criminal, civil, or other regulatory liability arising from any actions in

accordance with this subsection. In addition, the department of veterans affairs, a national or state veterans cemetery, and an eligible veterans organization shall be immune from criminal, civil, or other regulatory liability arising from any actions in accordance with this subsection. Such immunity shall not apply to acts or omissions constituting intentional misconduct.

[C24, 27, 31, 35, 39, §**2321;** C46, 50, 54, 58, 62, 66, §141.5; C71, 73, 75, 77, 79, 81, §144.27]
97 Acts, ch 159, §15; 2016 Acts, ch 1033, §1
Referred to in §331.611

144.28 Medical certification.

1. *a.* For the purposes of this section, *"nonnatural cause of death"* means the death is a direct or indirect result of physical, chemical, thermal, or electrical trauma, or drug or alcohol intoxication or other poisoning.

b. Unless there is a nonnatural cause of death, the medical certification shall be completed and signed by the physician, physician assistant, or advanced registered nurse practitioner in charge of the patient's care for the illness or condition which resulted in death within seventy-two hours after receipt of the death certificate from the funeral director or individual who initially assumes custody of the body.

c. If there is a nonnatural cause of death, the county or state medical examiner shall be notified and shall conduct an inquiry.

d. If the decedent was an infant or child and the cause of death is not known, a medical examiner's inquiry shall be conducted and an autopsy performed as necessary to exclude a nonnatural cause of death.

e. If upon inquiry into a death, the county or state medical examiner determines that a preexisting natural disease or condition was the likely cause of death and that the death does not affect the public interest as described in section 331.802, subsection 3, the medical examiner may elect to defer to the physician, physician assistant, or advanced registered nurse practitioner in charge of the patient's preexisting condition the certification of the cause of death.

f. When an inquiry is required by the county or state medical examiner, the medical examiner shall investigate the cause and manner of death and shall complete and sign the medical certification within seventy-two hours after determination of the cause and manner of death.

2. The person completing the medical certification of cause of death shall attest to its accuracy either by signature or by an electronic process approved by rule.

[C24, 27, 31, 35, 39, §**2320;** C46, 50, 54, 58, 62, 66, §141.4(18); C71, 73, 75, 77, 79, 81, §144.28]
97 Acts, ch 159, §16; 2002 Acts, ch 1098, §2; 2007 Acts, ch 159, §26; 2008 Acts, ch 1058, §13; 2011 Acts, ch 26, §3
Referred to in §144.35, 331.611

144.29 Fetal deaths.

1. A fetal death certificate for each fetal death which occurs in this state after a gestation period of twenty completed weeks or greater, or for a fetus with a weight of three hundred fifty grams or more shall be filed as directed by the state registrar within three days after delivery and prior to final disposition of the fetus. The certificate shall be registered if it has been completed and filed in accordance with this chapter.

2. The county in which a dead fetus is found is the county of death. The certificate shall be filed within three days after the fetus is found. If a fetal death occurs in a moving conveyance, the county in which the fetus is first removed from the conveyance is the county of death.

[C24, 27, 31, 35, 39, §**2405;** C46, 50, 54, 58, 62, 66, §144.20; C71, 73, 75, 77, 79, 81, §144.29]
88 Acts, ch 1158, §41; 97 Acts, ch 159, §17
Referred to in §144.35, 331.611

144.29A Termination of pregnancy reporting — legislative intent.

1. A health care provider who initially identifies and diagnoses a spontaneous termination of pregnancy or who induces a termination of pregnancy shall file with the department a

report for each termination within thirty days of the occurrence. The health care provider shall make a good faith effort to obtain all of the following information that is available with respect to each termination:

a. The confidential health care provider code as assigned by the department.

b. The report tracking number.

c. The maternal health services region of the Iowa department of public health, as designated as of July 1, 1997, in which the patient resides.

d. The race of the patient.

e. The age of the patient.

f. The marital status of the patient.

g. The educational level of the patient.

h. The number of previous pregnancies, live births, and spontaneous or induced terminations of pregnancies.

i. The month and year in which the termination occurred.

j. The number of weeks since the patient's last menstrual period and a clinical estimate of gestation.

k. The method used for an induced termination, including whether mifepristone was used.

2. It is the intent of the general assembly that the information shall be collected, reproduced, released, and disclosed in a manner specified by rule of the department, adopted pursuant to chapter 17A, which ensures the anonymity of the patient who experiences a termination of pregnancy, the health care provider who identifies and diagnoses or induces a termination of pregnancy, and the hospital, clinic, or other health facility in which a termination of pregnancy is identified and diagnosed or induced. The department may share information with federal public health officials for the purposes of securing federal funding or conducting public health research. However, in sharing the information, the department shall not relinquish control of the information, and any agreement entered into by the department with federal public health officials to share information shall prohibit the use, reproduction, release, or disclosure of the information by federal public health officials in a manner which violates this section. The department shall publish, annually, a demographic summary of the information obtained pursuant to this section, except that the department shall not reproduce, release, or disclose any information obtained pursuant to this section which reveals the identity of any patient, health care provider, hospital, clinic, or other health facility, and shall ensure anonymity in the following ways:

a. The department may use information concerning the report tracking number or concerning the identity of a reporting health care provider, hospital, clinic, or other health facility only for purposes of information collection. The department shall not reproduce, release, or disclose this information for any purpose other than for use in annually publishing the demographic summary under this section.

b. The department shall enter the information, from any report of termination submitted, within thirty days of receipt of the report, and shall immediately destroy the report following entry of the information. However, entry of the information from a report shall not include any health care provider, hospital, clinic, or other health facility identification information including, but not limited to, the confidential health care provider code, as assigned by the department.

c. To protect confidentiality, the department shall limit release of information to release in an aggregate form which prevents identification of any individual patient, health care provider, hospital, clinic, or other health facility. For the purposes of this paragraph, "*aggregate form*" means a compilation of the information received by the department on termination of pregnancies for each information item listed, with the exceptions of the report tracking number, the health care provider code, and any set of information for which the amount is so small that the confidentiality of any person to whom the information relates may be compromised. The department shall establish a methodology to provide a statistically verifiable basis for any determination of the correct amount at which information may be released so that the confidentiality of any person is not compromised.

3. Except as specified in subsection 2, reports, information, and records submitted and

maintained pursuant to this section are strictly confidential and shall not be released or made public upon subpoena, search warrant, discovery proceedings, or by any other means.

4. The department shall assign a code to any health care provider who may be required to report a termination under this section. An application procedure shall not be required for assignment of a code to a health care provider.

5. A health care provider shall assign a report tracking number which enables the health care provider to access the patient's medical information without identifying the patient.

6. To ensure proper performance of the reporting requirements under this section, it is preferred that a health care provider who practices within a hospital, clinic, or other health facility authorize one staff person to fulfill the reporting requirements.

7. For the purposes of this section:

a. "Health care provider" means an individual licensed under chapter 148, 148C, 148D, or 152, or any individual who provides medical services under the authorization of the licensee.

b. "Inducing a termination of pregnancy" means the use of any means to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus.

c. "Spontaneous termination of pregnancy" means the occurrence of an unintended termination of pregnancy at any time during the period from conception to twenty weeks gestation and which is not a spontaneous termination of pregnancy at any time during the period from twenty weeks or greater which is reported to the department as a fetal death under this chapter.

97 Acts, ch 172, §1; 2003 Acts, ch 42, §1; 2008 Acts, ch 1088, §94; 2013 Acts, ch 90, §29
Referred to in §144.52, 331.611

144.30 Funeral director's duty — fetal death certificate.

The funeral director who first assumes custody of a fetus shall file the fetal death certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery shall file the certificate of fetal death. The person filing the certificate shall obtain the personal data from the next of kin or the best qualified person or source available and shall obtain the medical certification of cause of death from the person responsible for completing the certification. When a person other than a funeral director assumes custody of a fetus, the person shall be responsible for carrying out the provisions of this section.

[C71, 73, 75, 77, 79, 81, §144.30]
97 Acts, ch 159, §18
Referred to in §144.31A, 331.611

144.31 Medical certification — fetal death.

1. The medical certification for a fetal death shall be completed within seventy-two hours after delivery by the physician in attendance at or after delivery except when inquiry is required by the county medical examiner.

2. When a fetal death occurs without medical attendance upon the mother at or after delivery or when inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of fetal death and shall complete the medical certification within seventy-two hours after taking charge of the case. The person completing the medical certification of cause of fetal death shall attest to its accuracy either by signature or as authorized by rule.

[C24, 27, 31, 35, 39, §**2322, 2323, 2405;** C46, 50, 54, 58, 62, 66, §141.6, 141.7, 144.20; C71, 73, 75, 77, 79, 81, §144.31]
97 Acts, ch 159, §19; 2010 Acts, ch 1163, §1
Referred to in §144.35, 331.611

144.31A Certificate of birth resulting in stillbirth.

1. As used in this section:

a. "Certificate of birth resulting in stillbirth" means a document issued based upon a properly filed fetal death certificate to record the birth of a stillborn fetus.

b. "Stillbirth" means stillbirth as defined in section 136A.2.

2. After each fetal death that occurs in the state which is also a stillbirth, the person

required to file the fetal death certificate pursuant to section 144.30 shall advise any parent named on the fetal death certificate that the parent may request the preparation of a certificate of birth resulting in stillbirth following registration of a fetal death certificate.

3. The department may prescribe by rules adopted pursuant to chapter 17A the form and content of a request and the process for requesting a certificate of birth resulting in stillbirth.

4. The department shall prescribe by rules adopted pursuant to chapter 17A the form and content of and the fee for the preparation of a certificate of birth resulting in stillbirth.

a. At a minimum, the rules shall require that the certificate of birth resulting in stillbirth contain all of the following:

(1) The date of the stillbirth.

(2) The county in which the stillbirth occurred.

(3) A first name, middle name, last name, no name, or combination of these as requested by the parent.

(4) The state file number of the corresponding fetal death certificate.

(5) The statement: "This certificate is not proof of live birth."

b. The fees collected shall be remitted to the treasurer of state for deposit in the general fund of the state and the vital records fund in accordance with section 144.46.

5. Only a parent named on the fetal death certificate may request a certificate of birth resulting in stillbirth. A certificate of birth resulting in stillbirth may be requested and issued at any time regardless of the date on which the fetal death certificate was issued.

6. A certificate of birth resulting in stillbirth is not required to be filed or registered.

7. A certificate of birth resulting in stillbirth shall not be used to establish, bring, or support a civil cause of action seeking damages against any person for bodily injury, personal injury, or wrongful death for a stillbirth.

2012 Acts, ch 1022, §1, 2
Referred to in §331.611

144.32 Burial transit permit.

1. If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead body or fetus, the person shall secure a burial transit permit. To be valid, the burial transit permit must be issued by the county medical examiner, a funeral director, or the state registrar. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

2. To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial transit permit prior to the transfer. The permit shall accompany the dead body or fetus to the place of final disposition.

3. A dead body or fetus brought into this state for final disposition shall be accompanied by a burial transit permit under the law of the state in which the death occurred.

4. A burial transit permit shall not be issued to a person other than a funeral director when the cause of death is or is suspected to be a communicable disease as defined by rule of the department.

93 Acts, ch 139, §5; 97 Acts, ch 159, §20; 2012 Acts, ch 1069, §2
Referred to in §156.2, 331.611, 331.804, 523I.309

144.33 Bodies brought into state.

A burial transit permit issued under the law of another state which accompanies a dead body or fetus brought into this state shall be authority for final disposition of the body or fetus in this state.

[C24, 27, 31, 35, 39, §**2324;** C46, 50, 54, 58, 62, 66, §141.18; C71, 73, 75, 77, 79, 81, §144.33]
Referred to in §331.611

144.34 Disinterment — permit.

1. *a.* Disinterment of a dead body or fetus, without a court order, shall be allowed for the purpose of autopsy or reburial only, and then only if supervised by a funeral director.

b. Disinterment of cremated remains, without a court order, shall be allowed, but only if supervised by a funeral director.

c. The state registrar, without a court order, shall not issue a permit without the consent of the person authorized to control the decedent's remains under section 144C.5.

2. *a.* Disinterment of a dead body or fetus for the purpose of reburial may be allowed by court order only upon a showing of substantial benefit to the public, and then only if supervised by a funeral director.

b. Disinterment of a dead body or fetus for the purpose of autopsy by court order shall be allowed only when reasonable cause is shown that someone is criminally or civilly responsible for such death, after hearing, upon reasonable notice prescribed by the court to the person authorized to control the decedent's remains under section 144C.5, and then only if supervised by a funeral director.

c. Disinterment of a dead body or fetus for the purpose of cremation may be allowed by court order only if supervised by a funeral director. Subsequent to the disinterment, cremation of the body shall only be allowed upon a determination by the state or county medical examiner that the death was due to natural causes.

3. A permit for disinterment shall be issued by the state registrar according to rules adopted pursuant to chapter 17A or when ordered by the district court of the county in which such body is buried. A person authorized to control final disposition of a decedent's remains under section 144C.5 is an interested person and shall be entitled to notice prior to the obtaining of a court order.

4. Due consideration under this section shall be given to the public health, the preferences of a person authorized to control final disposition of a decedent's remains under section 144C.5, and any court order.

[C24, 27, 31, 35, 39, §**2337, 2338;** C46, 50, 54, 58, 62, 66, §141.21, 141.22; C71, 73, 75, 77, 79, 81, §144.34]

2008 Acts, ch 1051, §2, 22; 2020 Acts, ch 1025, §2

Referred to in §144.52, 331.611, 523I.309, 523I.402

144.35 Extensions of time by rules.

The department may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this chapter, provide for extension of the periods prescribed in sections 144.26, 144.28, 144.29, and 144.31, for filing of death certificates, fetal death certificates, and medical certifications of cause of death in cases in which compliance with the applicable prescribed period would result in undue hardship.

[C24, 27, 31, 35, 39, §**2318;** C46, 50, 54, 58, 62, 66, §141.2(2); C71, 73, 75, 77, 79, 81, §144.35]

91 Acts, ch 116, §2

Referred to in §331.611

144.36 Marriage certificate filed — prohibited information.

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The county registrar shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The county registrar in each county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept in lieu of marriage record books.

2. Every person who performs a marriage shall certify the fact of marriage and return the certificate to the county registrar within fifteen days after the ceremony. The certificate shall be signed by the witnesses to the ceremony and the person performing the ceremony.

3. The certificate of marriage shall not contain information concerning the race of the married persons, previous marriages of the married persons, or the educational level of the married persons.

4. The county registrar shall record and forward to the state registrar on or before the tenth day of each calendar month the original certificates of marriages filed with the county registrar during the preceding calendar month and the fees collected by the county registrar

on behalf of the state for applications for a license to marry in accordance with section 331.605, subsection 1, paragraph "*g*".

[C24, 27, 31, 35, 39, §**2421, 2422, 2425;** C46, 50, 54, 58, 62, 66, §144.36, 144.37, 144.40; C71, 73, 75, 77, 79, 81, §144.36]

83 Acts, ch 186, §10048, 10201; 85 Acts, ch 195, §18; 95 Acts, ch 124, §6, 26; 99 Acts, ch 114, §6; 2010 Acts, ch 1061, §163

Referred to in §331.611, 595.16A

See also §595.13 regarding certificate return

144.37 Dissolution and annulment records.

1. For each dissolution or annulment of marriage granted by any court in this state, a record shall be prepared by the clerk of court or by the petitioner or the petitioner's legal representative if directed by the clerk and filed by the clerk of court with the state registrar. The information necessary to prepare the report shall be furnished with the petition, to the clerk of court by the petitioner or the petitioner's legal representative, on forms supplied by the state registrar.

2. The clerk of the district court in each county shall keep a record book for dissolutions. The form of dissolution record books shall be uniform throughout the state. A properly indexed record of dissolutions upon microfilm, electronic computer, or data processing equipment may be kept in lieu of dissolution record books.

3. On or before the tenth day of each calendar month, the clerk of court shall forward to the state registrar the record of each dissolution and annulment granted during the preceding calendar month and related reports required by regulations issued under this chapter.

[C24, 27, 31, 35, 39, §**2421, 2423, 2425;** C46, 50, 54, 58, 62, 66, §144.36, 144.38, 144.40; C71, 73, 75, 77, 79, 81, §144.37; 81 Acts, ch 64, §6; 82 Acts, ch 1100, §1]

83 Acts, ch 101, §23; 83 Acts, ch 186, §10049, 10201; 85 Acts, ch 195, §19; 2017 Acts, ch 54, §76

144.38 Amendment of official record.

To protect the integrity and accuracy of vital statistics records, a certificate or record registered under this chapter may be amended only in accordance with this chapter and regulations adopted hereunder. A certificate that is amended under this section shall be marked "amended" except as provided in section 144.40. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The department shall prescribe by regulation the conditions under which additions or minor corrections shall be made to birth certificates within one year after the date of birth without the certificate being marked "amended".

[C24, 27, 31, 35, 39, §**2402, 2404;** C46, 50, 54, 58, 62, 66, §144.17, 144.19, 144.44, 144.45; C71, 73, 75, 77, 79, 81, §144.38]

Referred to in §144.41

144.39 Change of name.

Upon receipt of a certified copy of a court order from a court of competent jurisdiction or certificate of the clerk of court pursuant to chapter 674 changing the name of a person born in this state, the state registrar shall amend the certificate of birth to reflect the new name. A fee established by the department by rule based on average administrative cost shall be collected to amend the certificate of birth to reflect a new name. Fees collected under this section shall be deposited in the general fund of the state.

[C71, 73, 75, 77, 79, 81, §144.39; 81 Acts, ch 64, §7]

2009 Acts, ch 56, §1

Referred to in §144.41

144.40 Paternity of children — birth certificates.

Upon request and receipt of an affidavit of paternity completed and filed pursuant to section 252A.3A, or a certified copy or notification by the clerk of court of a court or administrative order establishing paternity, the state registrar shall establish a new certificate of birth to show paternity if paternity is not shown on the birth certificate. Upon written request of the

parents on the affidavit of paternity, the surname of the child may be changed on the certificate to that of the father. The certificate shall not be marked "amended". The original certificate and supporting documentation shall be maintained in a sealed file; however, a photocopy of the paternity affidavit filed pursuant to section 252A.3A and clearly labeled as a copy may be provided to a parent named on the affidavit of paternity.

[C24, 27, 31, 35, 39, §**2406;** C46, 50, 54, 58, 62, 66, §144.21; C71, 73, 75, 77, 79, 81, §144.40; 81 Acts, ch 64, §8]

93 Acts, ch 79, §10; 94 Acts, ch 1171, §4; 2005 Acts, ch 89, §13

Referred to in §144.38, 144.41

144.41 Amending local records.

When a certificate is amended under sections 144.38 through 144.40 the state registrar shall report the amendment to the custodian of any permanent local records and such records shall be amended accordingly.

[C71, 73, 75, 77, 79, 81, §144.41]

2021 Acts, ch 80, §74

Section amended

144.42 Reproduction of original records.

To preserve original documents, the state registrar may prepare typewritten, photographic, or other reproductions of original records and files in the state registrar's office. Such reproductions when certified by the state registrar shall be accepted as the original record.

[C71, 73, 75, 77, 79, 81, §144.42; 81 Acts, ch 64, §9]

Referred to in §144.18

144.43 Vital records closed to inspection — exceptions.

1. To protect the integrity of vital statistics records, to ensure their proper use, and to ensure the efficient and proper administration of the vital statistics system kept by the state registrar, access to vital statistics records kept by the state registrar shall be limited to the state registrar and the state registrar's employees, and then only for administrative purposes.

2. It shall be unlawful for the state registrar to permit inspection of, or to disclose information contained in vital statistics records, or to copy or permit to be copied all or part of any such record except as authorized by rule.

3. *a.* The following vital statistics records in the custody of a county registrar may be inspected and copied as of right under chapter 22:

(1) A record of birth.

(2) A record of marriage.

(3) A record of divorce, dissolution of marriage, or annulment of marriage.

(4) A record of death if that death was not a fetal death.

b. The following vital statistics records in the custody of the state archivist may be inspected and copied as of right under chapter 22:

(1) A record of birth that is at least seventy-five years old.

(2) A record of marriage that is at least seventy-five years old.

(3) A record of divorce, dissolution of marriage, or annulment of marriage that is at least seventy-five years old.

(4) A record of death or fetal death, either of which is at least fifty years old.

4. A public record shall not be withheld from the public because it is combined with data processing software. The state registrar shall not implement any electronic data processing system for the storage, manipulation, or retrieval of vital records that would impair a county registrar's ability to permit the examination of a public record and the copying of a public record, as established by rule. If it is necessary to separate a public record from data processing software in order to permit the examination of the public record, the county

registrar shall periodically generate a written log available for public inspection which contains the public record.

[C46, 50, 54, 58, 62, 66, §144.45; C71, 73, 75, 77, 79, 81, S81, §144.43; 81 Acts, ch 64, §10; 82 Acts, ch 1100, §2]

88 Acts, ch 1158, §43; 90 Acts, ch 1025, §1; 94 Acts, ch 1171, §5; 97 Acts, ch 159, §21; 2009 Acts, ch 41, §194; 2015 Acts, ch 30, §59; 2018 Acts, ch 1125, §2

Referred to in §144.18, 233.2

144.43A Mutual consent voluntary adoption registry.

1. In addition to other procedures by which birth certificates may be inspected under this chapter, the state registrar shall establish a mutual consent voluntary adoption registry through which adult adopted children, adult siblings, and the biological parents of adult adoptees may register to obtain identifying birth information.

2. If all of the following conditions are met, the state registrar shall reveal the identity of the biological parent to the adult adopted child or the identity of the adult adopted child to the biological parent, shall notify the parties involved that the requests have been matched, and shall disclose the identifying information to those parties:

a. A biological parent has filed a request and provided consent to the revelation of the biological parent's identity to the adult adopted child, upon request of the adult adopted child.

b. An adult adopted child has filed a request and provided consent to the revelation of the identity of the adult adopted child to a biological parent, upon request of the biological parent.

c. The state registrar has been provided sufficient information to make the requested match.

3. Notwithstanding the provisions of this section, if the adult adopted person has a sibling who is a minor and who has also been adopted, the state registrar shall not grant the request of either the adult adopted person or the biological parent to reveal the identities of the parties.

4. If all of the following conditions are met, the state registrar shall reveal the identity of the adult adopted child to an adult sibling and shall notify the parties involved that the requests have been matched, and disclose the identifying information to those parties:

a. An adult adopted child has filed a request and provided consent to the revelation of the adult adopted child's identity to an adult sibling.

b. The adult sibling has filed a request and provided consent to the revelation of the identity of the adult sibling to the adult adopted child.

c. The state registrar has been provided with sufficient information to make the requested match.

5. A person who has filed a request or provided consent under this section may withdraw the consent at any time prior to the release of any information by filing a written withdrawal of consent statement with the state registrar. The adult adoptee, adult sibling, and biological parent shall notify the state registrar of any change in the information contained in a filed request or consent.

6. The state registrar shall establish a fee by rule based on the average administrative costs for providing services under this section.

99 Acts, ch 141, §19

Referred to in §144.18

144.44 Permits for research.

The department may permit access to vital statistics by professional genealogists and historians, and may authorize the disclosure of data contained in vital statistics records when deemed essential for bona fide research purposes which are not for private gain. The department shall adopt rules which establish the parameters for access to and authorized disclosure of vital statistics and data contained in vital statistics records relating to birth and adoption records under this section.

[C24, 27, 31, 35, 39, §**2406, 2415;** C46, 50, 54, 58, 62, 66, §144.21, 144.30; C71, 73, 75, 77, 79, 81, §144.44]

94 Acts, ch 1171, §6

Referred to in §144.18, 144.46

144.45 Certified copies.

1. The state registrar and the county registrar shall, upon written request from any applicant entitled to a record, issue a certified copy of any certificate or record in the registrar's custody or of a part of a certificate or record. Each copy issued shall show the date of registration; and copies issued from records marked "delayed", "amended", or "court order" shall be similarly marked and show the effective date.

2. A certified copy of a certificate, or any part thereof, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts therein stated, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

3. The national division of vital statistics may be furnished copies or data which it requires for national statistics, provided that the state be reimbursed for the cost of furnishing data, and provided further that data shall not be used for other than statistical purposes by the national division of vital statistics unless so authorized by the state registrar.

4. Federal, state, local, and other public or private agencies may, upon written request, be furnished copies or data for statistical purposes upon terms or conditions prescribed by the department.

5. No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, fetal death, or marriage except as authorized in this chapter.

[S13, §2575-a45; C24, 27, 31, 35, 39, §**2349, 2416, 2426, 2429, 2431;** C46, 50, 54, 58, 62, 66, §141.33, 144.31, 144.41, 144.46, 144.48; C71, 73, 75, 77, 79, 81, §144.45]

95 Acts, ch 124, §7, 26; 2017 Acts, ch 54, §76

Referred to in §144.18, 144.46, 331.611

144.45A Commemorative birth and marriage certificates.

Upon application and payment of a thirty-five dollar fee, the director may issue a commemorative copy of a certificate of birth or a certificate of marriage. Fees collected pursuant to this section shall be deposited in the emergency medical services fund established in section 135.25 to support the development and enhancement of emergency medical services systems and emergency medical services for children.

97 Acts, ch 203, §20

Referred to in §144.18

144.46 Fees.

1. The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the county registrar for each of the following:

a. A certified copy or short form certification of a certificate or record.

b. A copy of a certificate or record or a vital statistics data file provided to a researcher in accordance with section 144.44.

c. A copy of a certificate or record or a vital statistics data file provided to a federal, state, local, or other public or private agency for statistical purposes in accordance with section 144.45.

d. Verification or certification of vital statistics data provided to a federal, state, or local governmental agency authorized by rule to receive such data.

2. Fees collected by the state registrar and by the county registrar on behalf of the state under this section shall be deposited in the general fund of the state and the vital records fund established in section 144.46A in accordance with an apportionment established by rule. Fees collected by the county registrar pursuant to section 331.605, subsection 1, paragraph "*f*", shall be deposited in the county general fund.

3. The department may establish and maintain, and either the state registrar or the county

registrar is authorized to collect, a fee for a search of the files or records when no copy is made, or when no record is found on file.

[C24, 27, 31, 35, 39, §**2417, 2418, 2427;** C46, 50, 54, 58, 62, 66, §144.32, 144.33, 144.42; C71, 73, 75, 77, 79, 81, S81, §144.46; 81 Acts, ch 64, §11]

83 Acts, ch 123, §68, 209; 83 Acts, ch 186, §10050, 10201; 94 Acts, ch 1074, §1; 95 Acts, ch 124, §8, 26; 99 Acts, ch 114, §7; 2007 Acts, ch 159, §27; 2010 Acts, ch 1061, §164; 2015 Acts, ch 119, §2, 3

Referred to in §144.13A, 144.18, 144.24A, 144.31A, 144.46A, 232.2, 331.611, 600.13

144.46A Vital records fund.

1. A vital records fund is created under the control of the department. Moneys in the fund shall be used for purposes of the purchase and maintenance of an electronic system for vital records scanning, data capture, data reporting, storage, and retrieval, and for all registration and issuance activities. Moneys in the fund may also be used for other related purposes including but not limited to the streamlining of administrative procedures and electronically linking offices of county registrars to state vital records so that the records may be issued at the county level.

2. Moneys credited to the fund pursuant to section 144.46 and otherwise are appropriated to the department to be used for the purposes designated in subsection 1. Notwithstanding section 8.33, moneys credited to the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated.

2005 Acts, ch 175, §83; 2007 Acts, ch 159, §28

Referred to in §144.46

144.47 Persons confined in institutions.

Every person in charge of an institution shall keep a record of personal particulars and data concerning each person admitted or confined to the institution. This record shall include information required by the standard certificate of birth, death, and fetal death forms issued under the provisions of this chapter. The record shall be made at the time of admission from information provided by such person, but when it cannot be so obtained, the same shall be obtained from relatives or other persons acquainted with the facts. The name and address of the person providing the information shall be a part of the record.

[C24, 27, 31, 35, 39, §**2407, 2408, 2409;** C46, 50, 54, 58, 62, 66, §144.22, 144.23, 144.24; C71, 73, 75, 77, 79, 81, §144.47]

Referred to in §144.50

144.48 Institutions — dead persons.

When a dead human body is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the deceased, date of death, name and address of the person to whom the body is released, date of removal from the institution, or if finally disposed of by the institution, the date, place, and manner of disposition shall be recorded.

[C24, 27, 31, 35, 39, §**2407;** C46, 50, 54, 58, 62, 66, §144.22; C71, 73, 75, 77, 79, 81, §144.48]

Referred to in §144.50

144.49 Additional record by funeral director.

A funeral director or other person who removes from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any certificate or other form required by this chapter, shall keep a record which shall identify the body, and information pertaining to the funeral director's or other person's receipt, removal, and delivery of the body as prescribed by the department.

[C24, 27, 31, 35, 39, §**2414;** C46, 50, 54, 58, 62, 66, §144.29; C71, 73, 75, 77, 79, 81, §144.49]

Referred to in §144.50

144.50 Length of time records to be kept.

Records maintained under sections 144.47 through 144.49 shall be retained for a period of not less than ten years and shall be made available for inspection by the state registrar or the state registrar's representative upon demand.

[C71, 73, 75, 77, 79, 81, §144.50]

2021 Acts, ch 80, §75
Section amended

144.51 Information by others furnished on demand.

Any person having knowledge of the facts shall furnish information the person possesses regarding any birth, death, fetal death, adoption, marriage, dissolution, or annulment, upon demand of the state registrar or the state registrar's representative.

[C24, 27, 31, 35, 39, §**2403, 2414;** C46, 50, 54, 58, 62, 66, §144.18, 144.29; C71, 73, 75, 77, 79, 81, §144.51]

83 Acts, ch 101, §24

144.52 Unlawful acts — punishment.

Any person committing any of the following acts is guilty of a serious misdemeanor:

1. Willfully and knowingly makes any false statement in a report, record, or certificate required to be filed under this chapter, or in an application for an amendment thereof, or willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record, or certificate, or amendment thereof.
2. Without lawful authority and with the intent to deceive, makes, alters, amends, or mutilates any report, record, or certificate required to be filed under this chapter or a certified copy of such report, record, or certificate.
3. Willfully and knowingly uses or attempts to use or furnish to another for use for any purpose of deception, any certificate, record, report, or certified copy thereof so made, altered, amended, or mutilated.
4. Willfully, with the intent to deceive, uses or attempts to use any certificate of birth or certified copy of a record of birth knowing that such certificate or certified copy was issued upon a record which is false in whole or in part or which relates to the birth of another person.
5. Willfully and knowingly furnishes a certificate of birth or certified copy of a record of birth with the intention that it be used by a person other than the person whose birth the record relates.
6. Disinterring a body in violation of section 144.34.
7. Knowingly violates a provision of section 144.29A.

[C24, 27, 31, 35, 39, §**2349, 2350, 2436;** C46, 50, 54, 58, 62, 66, §141.33, 141.34, 144.53, 144.54; C71, 73, 75, 77, 79, 81, §144.52]

97 Acts, ch 172, §2

144.53 Other acts — simple misdemeanors.

Any person committing any of the following acts is guilty of a simple misdemeanor:

1. Knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this chapter.
2. Refuses to provide information required by this chapter.
3. Willfully violates any of the provisions of this chapter or refuses to perform any of the duties imposed upon the person by this chapter.

[C24, 27, 31, 35, 39, §**2350, 2436;** C46, 50, 54, 58, 62, 66, §141.34, 144.53; C71, 73, 75, 77, 79, 81, §144.53]

144.54 Report to county attorney.

The department shall report cases of alleged violations to the proper county attorney, with a statement of the facts and circumstances, for such action as is appropriate.

[C27, 31, 35, 39, §**2434;** C46, 50, 54, 58, 62, 66, §144.51; C71, 73, 75, 77, 79, 81, §144.54]

144.55 Attorney general to assist in enforcement.

Upon request of the department, the attorney general shall assist in the enforcement of the provisions of this chapter.

[C24, 27, 31, 35, 39, §**2435;** C46, 50, 54, 58, 62, 66, §144.52; C71, 73, 75, 77, 79, 81, §144.55]

144.56 Autopsy.

1. An autopsy or postmortem examination may be performed upon the body of a deceased person by a physician whenever the written consent to the examination or autopsy has been obtained from the person authorized to control the deceased person's remains under section 144C.5.

2. This section does not apply to any death investigated under the authority of sections 331.802 through 331.804.

[C75, 77, 79, 81, S81, §144.56; 81 Acts, ch 117, §1207]

2008 Acts, ch 1051, §3, 22; 2021 Acts, ch 80, §76

Referred to in §144.57

Subsection 2 amended

144.57 Public safety officer death — required notice — autopsy.

A person who is authorized to pronounce individuals dead is required to inform one of the persons authorized to request an autopsy, as provided in section 144.56, that an autopsy will be required if the individual who died was a public safety officer who may have died in the line of duty and an eligible beneficiary of the deceased seeks to claim a federal public safety officer death benefit.*

2005 Acts, ch 174, §19

*Public safety officers' death benefits, see 34 U.S.C. §10281

CHAPTER 144A

LIFE-SUSTAINING PROCEDURES

Referred to in §142C.12B, 144B.6, 144D.4, 235B.2, 235E.1, 235F.1, 633.635, 707A.3

Policy statement; see 85 Acts, ch 3, §1

See also chapter 144B concerning durable power of attorney for health care

144A.1 Short title.
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144A.1 Short title.

This chapter may be cited as the *"Life-sustaining Procedures Act"*.

85 Acts, ch 3, §2

144A.2 Definitions.

Except as otherwise provided, as used in this chapter:

1. *"Adult"* means an individual eighteen years of age or older.

2. *"Attending physician"* means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

3. *"Declaration"* means a document executed in accordance with the requirements of section 144A.3.

4. *"Department"* means the Iowa department of public health.

5. *"Emergency medical care provider"* means emergency medical care provider as defined in section 147A.1.

6. *"Health care provider"* means a person, including an emergency medical care provider, who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

7. *"Hospital"* means hospital as defined in section 135B.1.

8. *a. "Life-sustaining procedure"* means any medical procedure, treatment, or intervention, including resuscitation, which meets both of the following requirements:

(1) Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.

(2) When applied to a patient in a terminal condition, would serve only to prolong the dying process.

b. "Life-sustaining procedure" does not include the provision of nutrition or hydration except when required to be provided parenterally or through intubation, or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

9. *"Out-of-hospital do-not-resuscitate order"* means a written order signed by a physician, executed in accordance with the requirements of section 144A.7A and issued consistent with this chapter, that directs the withholding or withdrawal of resuscitation when an adult patient in a terminal condition is outside the hospital.

10. *"Physician"* means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

11. *"Qualified patient"* means a patient who has executed a declaration or an out-of-hospital do-not-resuscitate order in accordance with this chapter and who has been determined by the attending physician to be in a terminal condition.

12. *"Resuscitation"* means any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to chest compression, defibrillation, intubation, and emergency drugs intended to alter cardiac function or otherwise to sustain life.

13. *"Terminal condition"* means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery.

85 Acts, ch 3, §3; 92 Acts, ch 1132, §1 – 3; 2002 Acts, ch 1061, §1; 2008 Acts, ch 1088, §141; 2013 Acts, ch 30, §37; 2014 Acts, ch 1092, §32

Referred to in §144C.2, 144D.4, 144G.1, 232D.401

144A.3 Declaration relating to use of life-sustaining procedures.

1. A competent adult may execute a declaration at any time directing that life-sustaining procedures be withheld or withdrawn. The declaration shall be given operative effect only if the declarant's condition is determined to be terminal and the declarant is not able to make treatment decisions.

2. The declaration must be signed by the declarant or another person acting on behalf of the declarant at the direction of the declarant, must contain the date of the declaration's execution, and must be witnessed or acknowledged by one of the following methods:

a. Is signed by at least two individuals who, in the presence of each other and the declarant, witnessed the signing of the declaration by the declarant or by another person acting on behalf of the declarant at the declarant's direction. At least one of the witnesses shall be an individual who is not a relative of the declarant by blood, marriage, or adoption within the third degree of consanguinity. The following individuals shall not be witnesses for a declaration:

(1) A health care provider attending the declarant on the date of execution of the declaration.

(2) An employee of a health care provider attending the declarant on the date of execution of the declaration.

(3) An individual who is less than eighteen years of age.

b. Is acknowledged before a notarial officer within this state as provided in chapter 9B.

3. It is the responsibility of the declarant to provide the declarant's attending physician or health care provider with the declaration. An attending physician or health care provider may presume, in the absence of actual notice to the contrary, that the declaration complies with this chapter and is valid.

4. A declaration or similar document executed in another state or jurisdiction in compliance with the law of that state or jurisdiction shall be deemed valid and enforceable in this state, to the extent the declaration or similar document is consistent with the laws of this state. A declaration or similar document executed by a veteran of the armed forces which is in compliance with the federal department of veterans affairs advance directive requirements shall be deemed valid and enforceable.

5. A declaration executed pursuant to this chapter may, but need not, be in the following form:

DECLARATION

If I should have an incurable or irreversible condition that will result either in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery, it is my desire that my life not be prolonged by the administration of life-sustaining procedures. If I am unable to participate in my health care decisions, I direct my attending physician to withhold or withdraw life-sustaining procedures that merely prolong the dying process and are not necessary to my comfort or freedom from pain.

85 Acts, ch 3, §4; 92 Acts, ch 1132, §4; 98 Acts, ch 1083, §1; 2002 Acts, ch 1061, §2, 3; 2012 Acts, ch 1050, §37, 60

Referred to in §144A.2, 144A.11

144A.4 Revocation of declaration.

1. A declaration may be revoked at any time and in any manner by which the declarant is able to communicate the declarant's intent to revoke, without regard to mental or physical condition. A revocation is only effective as to the attending physician upon communication to such physician by the declarant or by another to whom the revocation was communicated.

2. The attending physician shall make the revocation a part of the declarant's medical record.

85 Acts, ch 3, §5

Referred to in §144A.10

144A.5 Determination of terminal condition.

When an attending physician who has been provided with a declaration determines that the declarant is in a terminal condition, this decision must be confirmed by another physician. The attending physician must record that determination in the declarant's medical record.

85 Acts, ch 3, §6

Referred to in §144A.8

144A.6 Treatment of qualified patients.

1. A qualified patient has the right to make decisions regarding use of life-sustaining procedures as long as the qualified patient is able to do so. If a qualified patient is not able to make such decisions, the declaration shall govern decisions regarding use of life-sustaining procedures.

2. The declaration of a qualified patient known to the attending physician to be pregnant shall not be in effect as long as the fetus could develop to the point of live birth with continued application of life-sustaining procedures. However, the provisions of this subsection do not

impair any existing rights or responsibilities that any person may have in regard to the withholding or withdrawal of life-sustaining procedures.

85 Acts, ch 3, §7
Referred to in §144A.8

144A.7 Procedure in absence of declaration.

1. Life-sustaining procedures may be withheld or withdrawn from a patient who is in a terminal condition and who is comatose, incompetent, or otherwise physically or mentally incapable of communication and has not made a declaration in accordance with this chapter if there is consultation and written agreement for the withholding or the withdrawal of life-sustaining procedures between the attending physician and any of the following individuals, who shall be guided by the express or implied intentions of the patient, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act:

a. The attorney in fact designated to make treatment decisions for the patient should such person be diagnosed as suffering from a terminal condition, if the designation is in writing and complies with chapter 144B.

b. The guardian of the person of the patient if one has been appointed, provided court approval is obtained in accordance with section 232D.401, subsection 4, paragraph *"a"*, or section 633.635, subsection 3, paragraph *"b"*, subparagraph (1). This paragraph does not require the appointment of a guardian in order for a treatment decision to be made under this section.

c. The patient's spouse.

d. An adult child of the patient or, if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation.

e. A parent of the patient, or parents if both are reasonably available.

f. An adult sibling.

2. When a decision is made pursuant to this section to withhold or withdraw life-sustaining procedures, there shall be a witness present at the time of the consultation when that decision is made.

3. Subsections 1 and 2 shall not be in effect for a patient who is known to the attending physician to be pregnant with a fetus that could develop to the point of live birth with continued application of life-sustaining procedures. However, the provisions of this subsection do not impair any existing rights or responsibilities that any person may have in regard to the withholding or withdrawal of life-sustaining procedures.

85 Acts, ch 3, §8; 87 Acts, ch 100, §1; 2002 Acts, ch 1061, §4; 2005 Acts, ch 38, §55; 2014 Acts, ch 1078, §1; 2020 Acts, ch 1063, §61
Referred to in §144A.8, 144D.1, 144D.4

144A.7A Out-of-hospital do-not-resuscitate orders.

1. If an attending physician issues an out-of-hospital do-not-resuscitate order for an adult patient under this section, the physician shall use the form prescribed pursuant to subsection 2, include a copy of the order in the patient's medical record, and provide a copy to the patient or an individual authorized to act on the patient's behalf.

2. The department, in collaboration with interested parties, shall prescribe uniform out-of-hospital do-not-resuscitate order forms and uniform personal identifiers, and shall adopt administrative rules necessary to implement this section. The uniform forms and personal identifiers shall be used statewide.

3. The out-of-hospital do-not-resuscitate order form shall include all of the following:

a. The patient's name.

b. The patient's date of birth.

c. The name of the individual authorized to act on the patient's behalf, if applicable.

d. A statement that the patient is in a terminal condition.

e. The physician's signature.

f. The date the form is signed.

g. A concise statement of the nature and scope of the order.

h. Any other information necessary to provide clear and reliable instructions to a health care provider.

4. A health care provider may withhold or withdraw resuscitation outside a hospital consistent with an out-of-hospital do-not-resuscitate order issued under this section and the rules or protocols adopted by the department.

5. In fulfilling the instructions of an out-of-hospital do-not-resuscitate order under this chapter, a health care provider shall continue to provide appropriate comfort care and pain relief to the patient.

6. An out-of-hospital do-not-resuscitate order shall not apply when a patient is in need of emergency medical services due to a sudden accident or injury resulting from a motor vehicle collision, fire, mass casualty, or other cause of a sudden accident or injury which is outside the scope of the patient's terminal condition.

7. An out-of-hospital do-not-resuscitate order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as designated on the out-of-hospital do-not-resuscitate order, is able to communicate in any manner the intent that the order be revoked, without regard to the mental or physical condition of the patient. A revocation is only effective as to the health care provider upon communication to that provider by the patient, an individual authorized to act on the patient's behalf as designated in the order, or by another person to whom the revocation is communicated.

8. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid out-of-hospital do-not-resuscitate order.

9. If uncertainty regarding the validity or applicability of an out-of-hospital do-not-resuscitate order exists, a health care provider shall provide necessary and appropriate resuscitation.

10. A health care provider shall document compliance or noncompliance with an out-of-hospital do-not-resuscitate order and the reasons for not complying with the order, including evidence that the order was revoked or uncertainty regarding the validity or applicability of the order.

11. This section shall not preclude a hospital licensed under chapter 135B from honoring an out-of-hospital do-not-resuscitate order entered in accordance with this section and in compliance with established hospital policies and protocols.

2002 Acts, ch 1061, §5
Referred to in §144A.2, 144A.8, 144A.10, 144A.11, 144D.4
Applicability to and validity of orders executed prior to July 1, 2002; 2002 Acts, ch 1061, §11

144A.8 Transfer of patients.

1. An attending physician who is unwilling to comply with the requirements of section 144A.5, or who is unwilling to comply with the declaration of a qualified patient in accordance with section 144A.6 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A, or who is unwilling to comply with the provisions of section 144A.7 or 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician.

2. If the policies of a health care provider preclude compliance with the declaration or out-of-hospital do-not-resuscitate order of a qualified patient under this chapter or preclude compliance with the provisions of section 144A.7 or 144A.7A, the provider shall take all reasonable steps to effect the transfer of the patient to a facility in which the provisions of this chapter can be carried out.

85 Acts, ch 3, §9; 2002 Acts, ch 1061, §6

144A.9 Immunities.

1. In the absence of actual notice of the revocation of a declaration or of an out-of-hospital do-not-resuscitate order, the following, while acting in accordance with the requirements of this chapter, are not subject to civil or criminal liability or guilty of unprofessional conduct:

a. A physician who causes the withholding or withdrawal of life-sustaining procedures from a qualified patient.

b. The health care provider in which such withholding or withdrawal occurs.

c. A person who participates in the withholding or withdrawal of life-sustaining procedures under the direction of or with the authorization of a physician.

2. A physician is not subject to civil or criminal liability for actions under this chapter which are in accord with reasonable medical standards.

3. Any person, institution or facility against whom criminal or civil liability is asserted because of conduct in compliance with this chapter may interpose this chapter as an absolute defense.

4. In the absence of actual notice of the revocation of an out-of-hospital do-not-resuscitate order, a health care provider who complies with this chapter is not subject to civil or criminal liability or guilty of unprofessional conduct in entering, executing, or otherwise participating in an out-of-hospital do-not-resuscitate order.

85 Acts, ch 3, §10; 2002 Acts, ch 1061, §7, 8

144A.10 Penalties.

1. Any person who willfully conceals, withholds, cancels, destroys, alters, defaces, or obliterates the declaration, out-of-hospital do-not-resuscitate order, or out-of-hospital do-not-resuscitate identifier of another without the declarant's or patient's consent or who falsifies or forges a revocation of the declaration or out-of-hospital do-not-resuscitate order of another is guilty of a serious misdemeanor.

2. Any person who falsifies or forges the declaration or out-of-hospital do-not-resuscitate order of another, or willfully conceals or withholds personal knowledge of or delivery of a revocation as provided in section 144A.4 or 144A.7A, with the intent to cause a withholding or withdrawal of life-sustaining procedures, is guilty of a serious misdemeanor.

85 Acts, ch 3, §11; 2002 Acts, ch 1061, §9

144A.11 General provisions.

1. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to a declaration or out-of-hospital do-not-resuscitate order and in accordance with this chapter does not, for any purpose, constitute a suicide, homicide, or dependent adult abuse.

2. The executing of a declaration pursuant to section 144A.3 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance is legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter, notwithstanding any term of the policy to the contrary.

3. A physician, health care provider, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a declaration or an out-of-hospital do-not-resuscitate order as a condition for being insured for, or receiving, health care services.

4. This chapter creates no presumption concerning the intention of an individual who has not executed a declaration or an out-of-hospital do-not-resuscitate order with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

5. This chapter shall not be interpreted to increase or decrease the right of a patient to make decisions regarding use of life-sustaining procedures as long as the patient is able to do so, nor to impair or supersede any right or responsibility that any person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of this chapter are cumulative.

6. This chapter shall not be construed to condone, authorize or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

85 Acts, ch 3, §12; 2002 Acts, ch 1061, §10

Adult abuse, chapter 235B
Homicide, chapter 707

144A.12 Application to existing declarations.

A declaration executed prior to April 23, 1992, shall remain valid and shall be given effect in accordance with the then-applicable provisions of this chapter. If a declaration executed prior to April 23, 1992, includes a provision which would not have been given effect under this chapter prior to April 23, 1992, but which would be given effect under 1992 Acts, ch. 1132, then the provision shall be given effect in accordance with 1992 Acts, ch. 1132.

92 Acts, ch 1132, §5; 2014 Acts, ch 1026, §143

CHAPTER 144B

DURABLE POWER OF ATTORNEY FOR HEALTH CARE

Referred to in §142C.2, 142C.12B, 144A.7, 144D.4, 144F.1, 144F.2, 144F.6, 235B.2, 235B.19, 235E.1, 235F.1, 633.556, 707A.3

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144B.2 Durable power of attorney for health care.
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144B.10 Emergency treatment.
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144B.1 Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. *"Attorney in fact"* means an individual who is designated by a durable power of attorney for health care as an agent to make health care decisions on behalf of a principal and has consented to act in that capacity.
2. *"Designee"* means a person named in a declaration under chapter 144C.
3. *"Durable power of attorney for health care"* means a document authorizing an attorney in fact to make health care decisions for the principal if the principal is unable, in the judgment of the attending physician, to make health care decisions.
4. *"Health care"* means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition. *"Health care"* does not include the provision of nutrition or hydration except when they are required to be provided parenterally or through intubation.
5. *"Health care decision"* means the consent, refusal of consent, or withdrawal of consent to health care.
6. *"Health care provider"* means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.
7. *"Principal"* means a person age eighteen or older who has executed a durable power of attorney for health care.

91 Acts, ch 140, §1; 2008 Acts, ch 1051, §4, 22; 2017 Acts, ch 30, §1, 4

Referred to in §135N.1, 141A.1, 321.189

2017 amendment to subsection 2 applies to declarations executed on or after July 1, 2017; 2017 Acts, ch 30, §4

144B.2 Durable power of attorney for health care.

A durable power of attorney for health care authorizes the attorney in fact to make health care decisions for the principal if the durable power of attorney for health care substantially complies with the requirements of this chapter. A document executed prior to May 8, 1991, purporting to create a durable power of attorney for health care shall be deemed valid if the document specifically authorizes the attorney in fact to make health care decisions and is signed by the principal.

91 Acts, ch 140, §2

144B.3 Requirements.

1. An attorney in fact shall make health care decisions only if the following requirements are satisfied:

a. The durable power of attorney for health care explicitly authorizes the attorney in fact to make health care decisions.

b. The durable power of attorney for health care contains the date of its execution and is witnessed or acknowledged by one of the following methods:

(1) Is signed by at least two individuals who, in the presence of each other and the principal, witnessed the signing of the instrument by the principal or by another person acting on behalf of the principal at the principal's direction.

(2) Is acknowledged before a notarial officer within this state as provided in chapter 9B.

2. The following individuals shall not be witnesses for a durable power of attorney for health care:

a. A health care provider attending the principal on the date of execution.

b. An employee of a health care provider attending the principal on the date of execution.

c. The individual designated in the durable power of attorney for health care as the attorney in fact.

d. An individual who is less than eighteen years of age.

3. At least one of the witnesses for a durable power of attorney for health care shall be an individual who is not a relative of the principal by blood, marriage, or adoption within the third degree of consanguinity.

4. A durable power of attorney for health care or similar document executed in another state or jurisdiction in compliance with the law of that state or jurisdiction shall be deemed valid and enforceable in this state, to the extent the document is consistent with the laws of this state. A durable power of attorney or similar document executed by a veteran of the armed forces which is in compliance with the federal department of veterans affairs advance directive requirements shall be deemed valid and enforceable.

91 Acts, ch 140, §3; 98 Acts, ch 1083, §2; 2012 Acts, ch 1050, §38, 60

144B.4 Individuals ineligible to be attorney in fact.

The following individuals shall not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care:

1. A health care provider attending the principal on the date of execution.

2. An employee of a health care provider attending the principal on the date of execution unless the individual to be designated is related to the principal by blood, marriage, or adoption within the third degree of consanguinity.

91 Acts, ch 140, §4

144B.5 Durable power of attorney for health care — form.

1. A durable power of attorney for health care executed pursuant to this chapter may, but need not, be in the following form:

> I hereby designate ..... as my attorney in fact (my agent) and give to my agent the power to make health care decisions for me. This power exists only when I am unable, in the judgment of my attending physician, to make those health care decisions. The attorney in fact must act consistently with my desires as stated in this document or otherwise made known.
>
> Except as otherwise specified in this document, this document gives my agent the power, where otherwise consistent with the law of this state, to consent to my physician not giving health care or stopping health care which is necessary to keep me alive.
>
> This document gives my agent power to make health care decisions on my behalf, including to consent, to refuse to consent, or to withdraw consent to the provision of any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or

mental condition. This power is subject to any statement of my desires and any limitations included in this document.

My agent has the right to examine my medical records and to consent to disclosure of such records.

2. In addition to the foregoing, the principal may provide specific instructions in the document conferring the durable power of attorney for health care, consistent with the provisions of this chapter.

3. The principal may include a statement indicating that the designated attorney in fact has been notified of and consented to the designation.

4. A durable power of attorney for health care may designate one or more alternative attorneys in fact.

5. A durable power of attorney for health care may include a declaration under chapter 144C that names a designee and alternate designees who may be different persons than the attorney in fact or alternate attorneys in fact who are designated in the durable power of attorney for health care.

91 Acts, ch 140, §5; 2008 Acts, ch 1051, §5, 22

144B.6 Attorney in fact — priority to make decisions.

1. Unless the district court sitting in equity specifically finds that the attorney in fact is acting in a manner contrary to the wishes of the principal or the durable power of attorney for health care provides otherwise, an attorney in fact who is known to the health care provider to be available and willing to make health care decisions has priority over any other person, including a guardian appointed pursuant to chapter 633, to act for the principal in all matters of health care decisions. The attorney in fact has authority to make a particular health care decision only if the principal is unable, in the judgment of the attending physician, to make the health care decision. If the principal objects to a decision to withhold or withdraw health care, the principal shall be presumed to be able to make a decision.

2. In exercising the authority under the durable power of attorney for health care, the attorney in fact has a duty to act in accordance with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known to the attorney in fact at any time. A declaration executed by the principal pursuant to the life-sustaining procedures Act, chapter 144A, shall not be interpreted as expressing an intent to prohibit the withdrawal of hydration or nutrition when required to be provided parenterally or through intubation and shall not otherwise restrict the authority of the attorney in fact unless either the declaration or the durable power of attorney for health care expressly provides otherwise. If the principal's desires are unknown, the attorney in fact has a duty to act in the best interests of the principal, taking into account the principal's overall medical condition and prognosis.

91 Acts, ch 140, §6

144B.7 Authority to review medical records.

Except as limited by the durable power of attorney for health care, an attorney in fact has the same right as the principal to receive and review medical records of the principal, and to consent to the disclosure of medical records of the principal when acting pursuant to the durable power of attorney for health care.

91 Acts, ch 140, §7

144B.8 Revocation of durable power of attorney.

1. A durable power of attorney for health care may be revoked at any time and in any manner by which the principal is able to communicate the intent to revoke, without regard to mental or physical condition. Revocation may be by notifying the attorney in fact orally or in writing. Revocation may also be made by notifying a health care provider orally or in writing while that provider is engaged in providing health care to the principal. A revocation is only effective as to a health care provider upon its communication to the provider by the principal or by another to whom the principal has communicated revocation. The health care provider shall document the revocation in the treatment records of the principal.

2. The principal is presumed to have the capacity to revoke a durable power of attorney for health care.

3. Unless it provides otherwise, a valid durable power of attorney for health care revokes any prior durable power of attorney for health care.

4. If authority granted by a durable power of attorney for health care is revoked under this section, an individual is not subject to criminal prosecution or civil liability for acting in good faith reliance upon the durable power of attorney for health care unless the individual has actual knowledge of the revocation.

5. The fact of execution and subsequent revocation of a durable power of attorney shall have no effect upon subsequent health care decisions made in accordance with accepted principles of law and standards of medical care governing those decisions.

91 Acts, ch 140, §8

144B.9 Immunities and responsibilities.

1. A health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action if the health care provider relies on a health care decision and both of the following requirements are satisfied:

a. The decision is made by an attorney in fact who the health care provider believes in good faith is authorized to make the decision.

b. The health care provider believes in good faith that the decision is not inconsistent with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known to the health care provider, and, if the decision is to withhold or withdraw health care necessary to keep the principal alive, the health care provider has provided an opportunity for the principal to object to the decision.

2. Notwithstanding a contrary health care decision of the attorney in fact, the health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action for failing to withhold or withdraw health care necessary to keep the principal alive. However, the attorney in fact may make provisions to transfer the responsibility for the care of the principal to another health care provider.

3. An attorney in fact is not subject to criminal prosecution or civil liability for any health care decision made in good faith pursuant to a durable power of attorney for health care.

4. It shall be presumed that an attorney in fact, and a health care provider acting pursuant to the direction of an attorney in fact, are acting in good faith and in the best interests of the principal absent clear and convincing evidence to the contrary.

5. For purposes of this section, acting in *"good faith"* means acting consistent with the desires of the principal as expressed in the durable power of attorney for health care or otherwise made known to the attorney in fact, or where those desires are unknown, acting in the best interests of the principal, taking into account the principal's overall medical condition and prognosis.

6. A health care provider or attorney in fact may presume that a durable power of attorney for health care is valid absent actual knowledge to the contrary.

91 Acts, ch 140, §9

144B.10 Emergency treatment.

This chapter does not affect the law governing health care treatment in an emergency.

91 Acts, ch 140, §10

144B.11 Prohibited practices.

1. A health care provider, health care service plan, insurer, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not condition admission to a facility, or the providing of treatment, or insurance, on the requirement that an individual execute a durable power of attorney for health care.

2. A policy of life insurance shall not be legally impaired or invalidated in any manner by the withholding or withdrawing of health care pursuant to the direction of an attorney in fact appointed pursuant to this chapter.

91 Acts, ch 140, §11

144B.12 General provisions.

1. This chapter does not create a presumption concerning the intention of an individual who has not executed a durable power of attorney for health care and does not impair or supersede any right or responsibility of an individual to consent, refuse to consent, or withdraw consent to health care on behalf of another in the absence of a durable power of attorney for health care.

2. This chapter shall not be construed to condone, authorize, or approve any affirmative or deliberate act or omission which would constitute mercy killing or euthanasia.

3. If after executing a durable power of attorney for health care designating a spouse as attorney in fact, the marriage between the principal and the attorney in fact is dissolved, the power is thereby revoked. In the event of remarriage to each other, the power is reinstated unless otherwise revoked by the principal.

4. It is the responsibility of the principal to provide for notification of a health care provider of the terms of the principal's durable power of attorney for health care.

91 Acts, ch 140, §12

CHAPTER 144C

FINAL DISPOSITION ACT

Referred to in §142.1, 144B.1, 144B.5

144C.1 Short title.
144C.2 Definitions.
144C.3 Declaration — designee.
144C.4 Reliance — immunities.
144C.5 Final disposition of remains — right to control.
144C.6 Declaration of designee — form — requirements.
144C.7 Revocation of declaration.
144C.8 Forfeiture of designee's authority.
144C.9 Interstate effect of declaration.
144C.10 Effect of declaration.
144C.11 Practice of mortuary science.

144C.1 Short title.

This chapter may be cited as the "*Final Disposition Act*".

2008 Acts, ch 1051, §6, 22

144C.2 Definitions.

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

1. "*Adult*" means a person who is married or who is eighteen years of age or older.

2. "*Adult day services program*" means adult day services program as defined in section 231D.1.

3. "*Assisted living program*" means an assisted living program under chapter 231C.

4. "*Ceremony*" means a formal act or set of formal acts established by custom or authority to commemorate a decedent.

5. "*Child*" means a son or daughter of a person, whether by birth or adoption.

6. "*Decedent*" means a deceased adult.

7. "*Declarant*" means a competent adult who executes a declaration pursuant to this chapter.

8. "*Declaration*" means a written instrument that is executed by a declarant in accordance with the requirements of this chapter, and that names a designee who shall have the sole responsibility and discretion for making decisions concerning the final disposition of the declarant's remains and the ceremonies planned after the declarant's death.

9. "*Designee*" means a competent adult designated under a declaration who shall have the sole responsibility and discretion for making decisions concerning the final disposition of the declarant's remains and the ceremonies planned after the declarant's death.

10. "*Elder group home*" means elder group home as defined in section 231B.1.

11. "*Final disposition*" means the burial, interment, cremation, removal from the state, or other disposition of remains.

12. *"Health care facility"* means health care facility as defined in section 135C.1.
13. *"Health care provider"* means health care provider as defined in section 144A.2.
14. *"Hospital"* means hospital as defined in section 135B.1.
15. *"Interested person"* means a decedent's spouse, parent, grandparent, adult child, adult sibling, adult grandchild, or a designee.
16. *"Licensed hospice program"* means a licensed hospice program as defined in section 135J.1.
17. *"Reasonable under the circumstances"* means consideration of what is appropriate in relation to the declarant's finances, cultural or family customs, and religious or spiritual beliefs. *"Reasonable under the circumstances"* may include but is not limited to consideration of the declarant's preneed funeral, burial, or cremation plan, and known or reasonably ascertainable creditors of the declarant.
18. *"Remains"* means the body or cremated remains of a decedent.
19. *a.* *"Third party"* means a person who is requested to dispose of remains by an adult with the right to dispose of a decedent's remains under section 144C.5 or assist with arrangements for ceremonies planned after the declarant's death.

b. *"Third party"* includes but is not limited to a funeral director, funeral establishment, cremation establishment, cemetery, the state medical examiner, or a county medical examiner.

2008 Acts, ch 1051, §7, 22; 2009 Acts, ch 133, §45; 2017 Acts, ch 30, §2, 4
2017 amendment to subsection 8 applies to declarations executed on or after July 1, 2017; 2017 Acts, ch 30, §4

144C.3 Declaration — designee.

1. A declaration shall name a designee who shall have the sole responsibility and discretion for making decisions concerning the final disposition of the declarant's remains and the ceremonies planned after the declarant's death. A declaration may name one or more alternate designees and may include contact information for the designees and alternate designees.
2. A declaration shall not include directives for final disposition of the declarant's remains and shall not include arrangements for ceremonies planned after the declarant's death.
3. A designee, an alternate designee, and a third party shall act in good faith and in a manner that is reasonable under the circumstances.
4. A funeral director, an attorney, or any agent, owner, or employee of a funeral establishment, cremation establishment, cemetery, elder group home, assisted living program, adult day services program, or licensed hospice program shall not serve as a designee unless married to the declarant or related to the declarant within the third degree of consanguinity.
5. This section shall not be construed to permit a person who is not licensed pursuant to chapter 156 to make funeral arrangements.

2008 Acts, ch 1051, §8, 22; 2008 Acts, ch 1191, §124; 2009 Acts, ch 133, §46; 2020 Acts, ch 1025, §3

144C.4 Reliance — immunities.

1. A designee or third party who relies in good faith on a declaration is not subject to civil liability or to criminal prosecution or professional disciplinary action to any greater extent than if the designee or third party dealt directly with the declarant as a fully competent and living person.
2. A designee or third party who relies in good faith on a declaration may presume, in the absence of actual knowledge to the contrary, all of the following:

a. That the declaration was validly executed.

b. That the declarant was competent at the time the declaration was executed.

3. A third party who relies in good faith on a declaration is not subject to civil or criminal liability for the proper application of property delivered or surrendered in compliance with decisions made by the designee including but not limited to trust funds held pursuant to chapter 523A.
4. A third party who has reasonable cause to question the authenticity or validity of

a declaration may promptly and reasonably seek additional information from the person proffering the declaration or from other persons to verify the declaration.

5. The state medical examiner or a county medical examiner shall not be subject to civil liability or to criminal prosecution or professional disciplinary action for releasing a decedent's remains to a person who is not a designee or alternate designee.

6. This section shall not be construed to impair any contractual obligations of a designee or third party incurred in fulfillment of a declaration.

2008 Acts, ch 1051, §9, 22

144C.5 Final disposition of remains — right to control.

1. The right to control final disposition of a decedent's remains or to make arrangements for the ceremony after a decedent's death vests in and devolves upon the following persons who are competent adults at the time of the decedent's death, in the following order:

a. A designee, or alternate designee, acting pursuant to the decedent's declaration.

b. The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts is reasonably ascertainable.

c. A surviving child of the decedent, or, if there is more than one, a majority of the surviving children whose whereabouts are reasonably ascertainable.

d. The surviving parents of the decedent whose whereabouts are reasonably ascertainable.

e. A surviving grandchild of the decedent, or, if there is more than one, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.

f. A surviving sibling of the decedent, or, if there is more than one, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.

g. A surviving grandparent of the decedent, or, if there is more than one, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.

h. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than one, a majority of such surviving persons whose whereabouts are reasonably ascertainable.

i. A person who represents that the person knows the identity of the decedent and who signs an affidavit warranting the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense attendant to such final disposition. A person who warrants the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that warrant.

j. The county medical examiner, if responsible for the decedent's remains.

2. A third party may rely upon the directives of a person who represents that the person is a member of a class of persons described in subsection 1, paragraph "*c*", "*e*", "*f*", "*g*", or "*h*", and who signs an affidavit stating that all other members of the class, whose whereabouts are reasonably ascertainable, have been notified of the decedent's death and the person has received the assent of a majority of those members of that class of persons to control final disposition of the decedent's remains and to make arrangements for the performance of a ceremony for the decedent.

3. A third party may await a court order before proceeding with final disposition of a decedent's remains or arrangements for the performance of a ceremony for a decedent if the third party is aware of a dispute among persons who are members of the same class of persons described in subsection 1, or of a dispute between persons who are authorized under subsection 1 and the executor named in a decedent's will or a personal representative appointed by the court.

2008 Acts, ch 1051, §10, 22

Referred to in §142.1, 144.27, 144.34, 144.56, 144C.2, 144C.8, 331.802, 331.804, 331.805, 523I.309

Section applies to all deaths occurring on or after July 1, 2008, except that subsection 1, paragraph a, applies only to a designee or alternate designee designated in a declaration that is executed on or after July 1, 2008; 2008 Acts, ch 1051, §22

144C.6 Declaration of designee — form — requirements.

1. A declaration executed pursuant to this chapter may but need not be in the following form:

I hereby designate ..... as my designee. My designee shall have the sole responsibility for making decisions concerning the final disposition of my remains and the ceremonies to be performed after my death. This declaration hereby revokes all prior declarations. This designation becomes effective upon my death.

My designee shall act in a manner that is reasonable under the circumstances.

I may revoke or amend this declaration at any time. I agree that a third party (such as a funeral or cremation establishment, funeral director, or cemetery) who receives a copy of this declaration may act in reliance on it. Revocation of this declaration is not effective as to a third party until the third party receives notice of the revocation. My estate shall indemnify my designee and any third party for costs incurred by them or claims arising against them as a result of their good faith reliance on this declaration.

I execute this declaration as my free and voluntary act.

2. A declaration executed pursuant to this chapter shall be in a written form that substantially complies with the form in subsection 1, is properly completed, and is dated and signed by the declarant or another person acting on the declarant's behalf at the direction of and in the presence of the declarant. In addition, a declaration shall be either of the following:

a. Signed by at least two individuals who are not named therein and who, in the presence of each other and the declarant, witnessed the signing of the declaration by the declarant, or another person acting on the declarant's behalf at the direction of and in the presence of the declarant, and witnessed the signing of the declaration by each other.

b. Acknowledged before a notarial officer as provided in chapter 9B.

3. A declaration may include the location of an agreement for prearranged funeral services or funeral merchandise as defined in and executed under chapter 523A, cemetery lots owned by or reserved for the declarant, and special instructions regarding organ donation consistent with chapter 142C.

4. A declaration for disposition of remains made by a service member who died while performing military duty as defined in section 29A.1, subsection 3, 8, or 12, on forms provided and authorized by the department of defense for service members for this purpose shall constitute a valid declaration of designee for purposes of this chapter.

2008 Acts, ch 1051, §11, 22; 2010 Acts, ch 1170, §3; 2011 Acts, ch 47, §8; 2012 Acts, ch 1050, §39, 60; 2012 Acts, ch 1072, §33; 2017 Acts, ch 30, §3, 4

2017 amendment to subsection 2, unnumbered paragraph 1, applies to declarations executed on or after July 1, 2017; 2017 Acts, ch 30, §4

144C.7 Revocation of declaration.

1. A declaration is revocable by a declarant in a writing signed and dated by the declarant.

2. Unless otherwise expressly provided in a declaration:

a. A dissolution of marriage, annulment of marriage, or legal separation between the declarant and the declarant's spouse that occurs subsequent to the execution of the declaration constitutes an automatic revocation of the spouse as a designee.

b. A designation of a person as a designee pursuant to a declaration is ineffective if the designation is revoked by the declarant in writing subsequent to the execution of the declaration or if the designee is unable or unwilling to serve as the designee.

2008 Acts, ch 1051, §12, 22

144C.8 Forfeiture of designee's authority.

A designee shall forfeit all rights and authority under a declaration and all rights and authority under the declaration shall vest in and devolve upon an alternate designee, or if there is none, vest in and devolve pursuant to section 144C.5, under either of the following circumstances:

1. The designee is charged with murder in the first or second degree or voluntary manslaughter in connection with the declarant's death and those charges are known to a third party.

2. The designee does not exercise the designee's authority under the declaration within twenty-four hours of receiving notification of the death of the declarant or within forty hours of the declarant's death, whichever is earlier.

2008 Acts, ch 1051, §13, 22

144C.9 Interstate effect of declaration.

Unless otherwise expressly provided in a declaration:

1. It is presumed that the declarant intended to have a declaration executed pursuant to this chapter have the full force and effect of law in any state of the United States, the District of Columbia, and any other territorial possessions of the United States.

2. A declaration or similar instrument executed in another state that complies with the requirements of this chapter may be relied upon, in good faith, by the designee, an alternate designee, and a third party in this state so long as the declaration is not invalid, illegal, or unconstitutional in this state.

2008 Acts, ch 1051, §14, 22

144C.10 Effect of declaration.

1. The designee designated in a declaration shall have the sole discretion pursuant to the declaration to determine what final disposition of the declarant's remains and ceremonies to be performed after the declarant's death are reasonable under the circumstances.

2. The most recent declaration executed by a declarant shall control.

3. This chapter does not prohibit a person from conducting a separate ceremony to commemorate a declarant, at the person's expense, to assist in the bereavement process.

4. The rights of a donee created by an anatomical gift pursuant to chapter 142C are superior to the authority of a designee under a declaration executed pursuant to this chapter.

2008 Acts, ch 1051, §15, 22; 2010 Acts, ch 1032, §1

144C.11 Practice of mortuary science.

This chapter shall not be construed to authorize the unlicensed practice of mortuary science as provided in chapter 156.

2008 Acts, ch 1051, §16, 22

CHAPTER 144D

PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

Referred to in §633.635

Legislative findings; 2012 Acts, ch 1008, §1

144D.1 Definitions.
144D.2 Physician orders for scope of treatment (POST) form.
144D.3 Compliance with POST form.
144D.4 General provisions.

144D.1 Definitions.

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

1. *"Advanced registered nurse practitioner"* means an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E.

2. *"Department"* means the department of public health.

3. *"Emergency medical care provider"* means emergency medical care provider as defined in section 147A.1.

4. *"Health care facility"* means health care facility as defined in section 135C.1, a hospice

program as defined in section 135J.1, an elder group home as defined in section 231B.1, and an assisted living program as defined in section 231C.2.

5. *"Health care provider"* means an individual, including an emergency medical care provider and an individual providing home and community-based services, and including a home health agency, licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

6. *"Home health agency"* means home health agency as defined in 42 C.F.R. pt. 484.

7. *"Hospital"* means hospital as defined in section 135B.1.

8. *"Legal representative"* means an individual authorized to execute a POST form on behalf of a patient who is not competent to do so, in the order of priority set out in section 144A.7, subsection 1, and guided by the express or implied intentions of the patient or, if such intentions are unknown, by the patient's best interests given the patient's overall medical condition and prognosis.

9. *"Patient"* means an individual who is frail and elderly or who has a chronic, critical medical condition or a terminal illness and for which a physician orders for scope of treatment form is consistent with the individual's goals of care.

10. *"Physician"* means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

11. *"Physician assistant"* means a person licensed as a physician assistant under chapter 148C.

12. *"Physician orders for scope of treatment form"* or *"POST form"* means a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient's preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any valid advance directive.

2012 Acts, ch 1008, §2; 2016 Acts, ch 1073, §60
Referred to in §135P.1

144D.2 Physician orders for scope of treatment (POST) form.

1. The POST form shall be a uniform form based upon the national physician orders for life-sustaining treatment paradigm form. The form shall have all of the following characteristics:

a. The form shall include the patient's name and date of birth.

b. The form shall be signed and dated by the patient or the patient's legal representative.

c. The form shall be signed and dated by the patient's physician, advanced registered nurse practitioner, or physician assistant.

d. If preparation of the form was facilitated by an individual other than the patient's physician, advanced registered nurse practitioner, or physician assistant, the facilitator shall also sign and date the form.

e. The form shall include the patient's wishes regarding the care of the patient, including but not limited to all of the following:

(1) The administration of cardiopulmonary resuscitation.

(2) The level of medical interventions in the event of a medical emergency.

(3) The use of medically administered nutrition by tube.

f. The form shall be easily distinguishable to facilitate recognition by health care providers, hospitals, and health care facilities.

g. An incomplete section on the form shall imply the patient's wishes for full treatment for the type of treatment addressed in that section.

2. The department shall prescribe the uniform POST form and shall post the form on the department's internet site for public availability.

2012 Acts, ch 1008, §3; 2013 Acts, ch 90, §257; 2021 Acts, ch 182, §66
Subsection 1, paragraph e, subparagraph (4) stricken

144D.3 Compliance with POST form.

1. A POST form executed in this state or another state or jurisdiction in compliance with the law of that state or jurisdiction shall be deemed valid and enforceable in this state to the

extent the form is consistent with the laws of this state, and may be accepted by a health care provider, hospital, or health care facility.

2. A health care provider, hospital, or health care facility may comply with an executed POST form, notwithstanding that the physician, advanced registered nurse practitioner, or physician assistant who signed the POST form does not have admitting privileges at the hospital or health care facility providing health care or treatment.

3. A POST form may be revoked at any time and in any manner by which the patient or a patient's legal representative is able to communicate the patient's intent to revoke, without regard to the patient's mental or physical condition. A revocation is only effective as to the health care provider, hospital, or health care facility upon communication to the health care provider, hospital, or health care facility by the patient, the patient's legal representative, or by another to whom the revocation was communicated.

4. In the absence of actual notice of the revocation of a POST form, a health care provider, hospital, health care facility, or any other person who complies with a POST form shall not be subject to civil or criminal liability or professional disciplinary action for actions taken under this chapter which are in accordance with reasonable medical standards. A health care provider, hospital, health care facility, or other person against whom criminal or civil liability or professional disciplinary action is asserted because of conduct in compliance with this chapter may interpose the restriction on liability in this subsection as an absolute defense.

5. A health care provider, hospital, or health care facility that is unwilling to comply with an executed POST form based on policy, religious beliefs, or moral convictions shall take all reasonable steps to transfer the patient to another health care provider, hospital, or health care facility.

2012 Acts, ch 1008, §4; 2012 Acts, ch 1138, §50

144D.4 General provisions.

1. If an individual is a qualified patient as defined in section 144A.2, the individual's declaration executed under chapter 144A shall control health care decision making for the individual in accordance with chapter 144A. If an individual has not executed a declaration pursuant to chapter 144A, health care decision making relating to life-sustaining procedures for the individual shall be governed by section 144A.7. A POST form shall not supersede a declaration executed pursuant to chapter 144A.

2. If an individual has executed a durable power of attorney for health care pursuant to chapter 144B, the individual's durable power of attorney for health care shall control health care decision making for the individual in accordance with chapter 144B. A POST form shall not supersede a durable power of attorney for health care executed pursuant to chapter 144B.

3. If the individual's physician has issued an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A, the POST form shall not supersede the out-of-hospital do-not-resuscitate order.

4. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to an executed POST form and in accordance with this chapter does not, for any purpose, constitute a suicide, homicide, or dependent adult abuse.

5. The executing of a POST form does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter notwithstanding any term of the policy to the contrary.

6. A health care provider, hospital, health care facility, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a POST form as a condition of being insured for, or receiving, health care services.

7. This chapter does not create a presumption concerning the intention of an individual who has not executed a POST form with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

8. This chapter shall not be interpreted to affect the right of an individual to make decisions regarding use of life-sustaining procedures as long as the individual is able to

do so, nor to impair or supersede any right or responsibility that any person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of this chapter are cumulative.

9. This chapter shall not be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

10. A POST form executed between July 1, 2008, and June 30, 2012, as part of the patient autonomy in health care decisions pilot project created pursuant to 2008 Iowa Acts, ch. 1188, §36, as amended by 2010 Iowa Acts, ch. 1192, §58, shall remain effective until revoked or until a new POST form is executed pursuant to this chapter.

2012 Acts, ch 1008, §5; 2012 Acts, ch 1133, §95; 2014 Acts, ch 1026, §143

CHAPTER 144E

EXPERIMENTAL TREATMENTS FOR TERMINALLY ILL PERSONS

144E.1 Title.
144E.2 Definitions.
144E.3 Manufacturer rights.
144E.4 Treatment coverage.
144E.5 Heirs not liable for treatment debts.
144E.6 Provider recourse.
144E.7 State interference.
144E.8 Private cause of action.
144E.9 Assisting suicide.

144E.1 Title.

This chapter shall be known and may be cited as the *"Right to Try Act"*.

2017 Acts, ch 130, §1

144E.2 Definitions.

As used in this chapter:

1. *"Eligible patient"* means an individual who meets all of the following conditions:

a. Has a terminal illness, attested to by the patient's treating physician.

b. Has considered and rejected or has tried and failed to respond to all other treatment options approved by the United States food and drug administration.

c. Has received a recommendation from the individual's physician for an investigational drug, biological product, or device.

d. Has given written informed consent for the use of the investigational drug, biological product, or device.

e. Has documentation from the individual's physician that the individual meets the requirements of this subsection.

2. *"Investigational drug, biological product, or device"* means a drug, biological product, or device that has successfully completed phase 1 of a United States food and drug administration-approved clinical trial but has not yet been approved for general use by the United States food and drug administration and remains under investigation in a United States food and drug administration-approved clinical trial.

3. *"Terminal illness"* means a progressive disease or medical or surgical condition that entails significant functional impairment, that is not considered by a treating physician to be reversible even with administration of treatments approved by the United States food and drug administration, and that, without life-sustaining procedures, will result in death.

4. *"Written informed consent"* means a written document that is signed by the patient, a parent of a minor patient, or a legal guardian or other legal representative of the patient and attested to by the patient's treating physician and a witness and that includes all of the following:

a. An explanation of the products and treatments approved by the United States food and drug administration for the disease or condition from which the patient suffers.

b. An attestation that the patient concurs with the patient's treating physician in believing

that all products and treatments approved by the United States food and drug administration are unlikely to prolong the patient's life.

c. Clear identification of the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

d. A description of the best and worst potential outcomes of using the investigational drug, biological product, or device and a realistic description of the most likely outcome. The description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by use of the proposed investigational drug, biological product, or device. The description shall be based on the treating physician's knowledge of the proposed investigational drug, biological product, or device in conjunction with an awareness of the patient's condition.

e. A statement that the patient's health plan or third-party administrator and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device, unless they are specifically required to do so by law or contract.

f. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment with the investigational drug, biological product, or device and that care may be reinstated if this treatment ends and the patient meets hospice eligibility requirements.

g. A statement that the patient understands that the patient is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that this liability extends to the patient's estate unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

2017 Acts, ch 130, §2

144E.3 Manufacturer rights.

1. A manufacturer of an investigational drug, biological product, or device may make available and an eligible patient may request the manufacturer's investigational drug, biological product, or device under this chapter. This chapter does not require a manufacturer of an investigational drug, biological product, or device to provide or otherwise make available the investigational drug, biological product, or device to an eligible patient.

2. A manufacturer described in subsection 1 may do any of the following:

a. Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

b. Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, or device.

2017 Acts, ch 130, §3

144E.4 Treatment coverage.

1. This chapter does not expand the coverage required of an insurer under Title XIII, subtitle 1.

2. A health plan, third-party administrator, or governmental agency may provide coverage for the cost of an investigational drug, biological product, or device, or the cost of services related to the use of an investigational drug, biological product, or device under this chapter.

3. This chapter does not require any governmental agency to pay costs associated with the use, care, or treatment of a patient with an investigational drug, biological product, or device.

4. This chapter does not require a hospital licensed under chapter 135B or other health care facility to provide new or additional services.

2017 Acts, ch 130, §4

144E.5 Heirs not liable for treatment debts.

If a patient dies while being treated by an investigational drug, biological product, or device, the patient's heirs are not liable for any outstanding debt related to the treatment or lack of insurance due to the treatment, unless otherwise required by law.

2017 Acts, ch 130, §5

144E.6 Provider recourse.

1. To the extent consistent with state law, the board of medicine created under chapter 147 shall not revoke, fail to renew, suspend, or take any action against a physician's license based solely on the physician's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device.

2. To the extent consistent with federal law, an entity responsible for Medicare certification shall not take action against a physician's Medicare certification based solely on the physician's recommendation that a patient have access to an investigational drug, biological product, or device.

2017 Acts, ch 130, §6

144E.7 State interference.

An official, employee, or agent of this state shall not block or attempt to block an eligible patient's access to an investigational drug, biological product, or device. Counseling, advice, or a recommendation consistent with medical standards of care from a licensed physician is not a violation of this section.

2017 Acts, ch 130, §7

144E.8 Private cause of action.

1. This chapter shall not create a private cause of action against a manufacturer of an investigational drug, biological product, or device or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product, or device for any harm done to the eligible patient resulting from the investigational drug, biological product, or device, if the manufacturer or other person or entity is complying in good faith with the terms of this chapter and has exercised reasonable care.

2. This chapter shall not affect any mandatory health care coverage for participation in clinical trials under Title XIII, subtitle 1.

2017 Acts, ch 130, §8

144E.9 Assisting suicide.

This chapter shall not be construed to allow a patient's treating physician to assist the patient in committing or attempting to commit suicide as prohibited in section 707A.2.

2017 Acts, ch 130, §9

CHAPTER 144F

CAREGIVER ADVISE, RECORD, ENABLE (CARE) ACT

144F.1 Definitions.
144F.2 Discharge policies — opportunity to designate lay caregiver.
144F.3 Notification of lay caregiver of discharge.
144F.4 Aftercare assistance instructions to lay caregiver.
144F.5 Hospital discharge process — evidence-based practices.
144F.6 Construction of chapter relative to other health care directives.
144F.7 Limitations.

144F.1 Definitions.

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

1. *"Aftercare assistance"* means any assistance provided by a lay caregiver to a patient following discharge of the patient that involves tasks directly related to the patient's condition at the time of discharge, does not require a licensed professional, and is determined to be appropriate by the patient's discharging physician or other licensed health care professional.

2. *"Discharge"* means the exit or release of a patient from inpatient care in a hospital to the residence of the patient.

3. *"Facility"* means a health care facility as defined in section 135C.1, an elder group home as defined in section 231B.1, or an assisted living program as defined in section 231C.2.

4. *"Hospital"* means a licensed hospital as defined in section 135B.1.

5. *"Lay caregiver"* means an individual, eighteen years of age or older, who is designated as a lay caregiver under this chapter by a patient or the patient's legal representative, and who is willing and able to perform aftercare assistance for the patient at the patient's residence following discharge.

6. *"Legal representative"* means, in order of priority, an attorney in fact under a durable power of attorney for health care pursuant to chapter 144B or, if no durable power of attorney for health care has been executed pursuant to chapter 144B or if the attorney in fact is unavailable, a legal guardian appointed pursuant to chapter 232D or 633.

7. *"Patient"* means an individual who is receiving or who has received inpatient medical care in a hospital.

8. *"Residence"* means the dwelling that a patient considers to be the patient's home. *"Residence"* does not include any rehabilitation facility, hospital, or facility.

2019 Acts, ch 18, §1; 2020 Acts, ch 1062, §25; 2020 Acts, ch 1063, §62

144F.2 Discharge policies — opportunity to designate lay caregiver.

1. *a.* A hospital shall adopt and maintain evidence-based discharge policies and procedures. At a minimum, the policies and procedures shall provide for an assessment of the patient's ability for self-care after discharge and, as part of the assessment, shall provide a patient, or if applicable the patient's legal representative, with an opportunity to designate one lay caregiver prior to discharge of the patient.

b. A legal representative who is an agent under a durable power of attorney for health care pursuant to chapter 144B shall be given the opportunity to designate a lay caregiver in lieu of the patient's designation of a lay caregiver only if, consistent with chapter 144B, in the judgment of the attending physician, the patient is unable to make the health care decision. A legal representative who is a guardian shall be given the opportunity to designate a lay caregiver in lieu of the patient's designation of a lay caregiver to the extent consistent with the powers and duties granted the guardian pursuant to sections 232D.401 and 232D.402 or section 633.635.

2. If a patient or the patient's legal representative declines to designate a lay caregiver, the hospital shall document the declination in the patient's medical record and the hospital shall be deemed to be in compliance with this section.

3. If a patient or the patient's legal representative designates a lay caregiver, the hospital shall do all of the following:

a. Record in the patient's medical record the designation of the lay caregiver, in accordance with the hospital's policies and procedures, which may include information such as the relationship of the lay caregiver to the patient, and the name, telephone number, and address of the lay caregiver.

b. (1) Request written consent from the patient or the patient's legal representative to release medical information to the lay caregiver in accordance with the hospital's established procedures for releasing a patient's personal health information and in compliance with all applicable state and federal laws.

(2) If a patient or the patient's legal representative declines to consent to the release of medical information to the lay caregiver, the hospital is not required to provide notice to the lay caregiver under section 144F.3 or to consult with or provide information contained in the patient's discharge plan to the lay caregiver under section 144F.4.

4. A patient or the patient's legal representative may change the designation of a lay caregiver if the lay caregiver becomes incapacitated.

5. The designation of an individual as a lay caregiver under this section does not obligate the individual to perform any aftercare assistance for the patient.

6. This section shall not be construed to require a patient or the patient's legal representative to designate a lay caregiver.

2019 Acts, ch 18, §2; 2021 Acts, ch 80, §77
Referred to in §144F.3, 144F.4
Subsection 1, paragraph b amended

144F.3 Notification of lay caregiver of discharge.

If a lay caregiver is designated under section 144F.2, the hospital shall, in accordance with the hospital's established policies and procedures, attempt to notify the lay caregiver of the discharge of the patient as soon as practicable.

2019 Acts, ch 18, §3
Referred to in §144F.2

144F.4 Aftercare assistance instructions to lay caregiver.

1. If a lay caregiver is designated under section 144F.2, as soon as practicable prior to discharge of a patient, a hospital shall attempt to do all of the following:

a. Consult with the patient's lay caregiver to prepare the lay caregiver for the aftercare assistance the lay caregiver may provide.

b. Issue a discharge plan that describes the aftercare assistance needs of the patient and offer to provide the lay caregiver with instructions for the aftercare assistance tasks described in the discharge plan and the opportunity for the lay caregiver to ask questions regarding such tasks.

2. The inability of a hospital to consult with a patient's lay caregiver shall not interfere with, delay, or otherwise affect the medical care provided to the patient or the patient's discharge.

2019 Acts, ch 18, §4
Referred to in §144F.2

144F.5 Hospital discharge process — evidence-based practices.

A hospital's discharge process may incorporate established evidence-based practices, including but not limited to any of the following:

1. The standards for accreditation adopted by the joint commission on the accreditation of health care organizations or any other nationally recognized hospital accreditation organization.

2. The conditions of participation for hospitals adopted by the centers for Medicare and Medicaid services of the United States department of health and human services.

2019 Acts, ch 18, §5

144F.6 Construction of chapter relative to other health care directives.

Nothing in this chapter shall be construed to interfere with the authority or responsibilities of an agent operating under a valid durable power of attorney for health care pursuant to chapter 144B or of the powers and duties granted to a guardian pursuant to section 232D.401, 232D.402, or 633.635.

2019 Acts, ch 18, §6; 2020 Acts, ch 1063, §63; 2021 Acts, ch 80, §78
Section amended

144F.7 Limitations.

1. Nothing in this chapter shall be construed to create a private right of action against a hospital, a hospital employee, or any consultant or contractor with whom a hospital has a contractual relationship, or to limit or otherwise supersede or replace existing rights or remedies under any other provision of law.

2. Nothing in this chapter shall delay the appropriate discharge or transfer of a patient.

3. Nothing in this chapter shall be construed to interfere with or supersede a health care provider's instructions regarding a Medicare-certified home health agency or any other post-acute care provider.

4. Nothing in this chapter shall be construed to grant decision-making authority to a lay

caregiver to determine the type of provider or provider of the patient's post-hospital care as specified in the patient's discharge plan.

2019 Acts, ch 18, §7

CHAPTER 144G

WITHDRAWAL OF LIFE-SUSTAINING PROCEDURES — MINORS

144G.1 Withdrawal of life-sustaining procedures from minor child — court intervention.

144G.1 Withdrawal of life-sustaining procedures from minor child — court intervention.

1. A court of law or equity shall not have the authority to require the withdrawal of life-sustaining procedures from a minor child over the objection of the minor child's parent or guardian, unless there is conclusive medical evidence that the minor child has died and any electronic brain, heart, or respiratory monitoring activity exhibited to the contrary is a false artifact.

2. For the purposes of this section:

a. *"Life-sustaining procedure"* means the same as defined in section 144A.2.

b. *"Minor"* means the same as specified in section 599.1.

2020 Acts, ch 1110, §1

CHAPTER 145

RESERVED

CHAPTER 145A

AREA HOSPITALS

Referred to in §21.5, 27.1, 97B.52A, 331.361, 331.382, 347.14, 347.25, 476B.1

Consolidation of hospital service; see chapter 348

145A.1 Consolidation for purpose.
145A.2 Definitions.
145A.3 Official planning — maximum levy.
145A.4 Plans.
145A.5 Order of approval.
145A.6 Petition of protest.
145A.7 Special election.
145A.8 Effect on other subdivisions.
145A.9 Continuance or abandonment.
145A.10 Board of hospital trustees.
145A.11 Terms of members.
145A.12 Operation and management.
145A.13 Political status.
145A.14 Budget for operation.
145A.15 Treasurer of hospital.
145A.16 Funds to aid hospital.
145A.17 Indebtedness and bonds.
145A.18 Taxes.
145A.19 Special tax.
145A.20 Revenue bonds.
145A.21 Amendment of plan of merger — procedures — qualifications.
145A.22 Actions subject to contest of elections — filing actions — limitation.

145A.1 Consolidation for purpose.

Any of the political subdivisions of this state may consolidate to acquire and operate an area hospital for the purpose of providing hospital service for all residents of such area.

[C71, 73, 75, 77, 79, 81, §145A.1]

145A.2 Definitions.

As used in this chapter, unless the context indicates otherwise:

1. *"Area hospital"* means a hospital established and operated by a merged area.
2. *"Board"* means the board of trustees of an area hospital.
3. *"Merged area"* means a public corporation formed by the residents of two or more contiguous or noncontiguous political subdivisions which have merged resources to establish and operate an area hospital.
4. *"Officials"* means the respective governing bodies of political subdivisions.
5. *"Political subdivision"* means any county, township, school district or city.

[C71, 73, 75, 77, 79, 81, §145A.2]

85 Acts, ch 123, §1, 2

Referred to in §476.95

145A.3 Official planning — maximum levy.

The officials of a political subdivision may plan the formation of a public corporation as a merged area to establish and operate an area hospital. In planning for an area hospital, a county board of supervisors may exclude from the merged area any township of the county which the board of supervisors determines would not sufficiently benefit by the merger and the portion of the county not so excluded shall constitute one public corporation for the purposes of this chapter. Plans for an area hospital shall include the maximum amount to be levied for debt service and operation and maintenance of the area hospital in the portion of the merged area within each political subdivision taking part in the merger. However, the maximum tax rates for the various political subdivisions may vary as the officials determine, based upon the need for hospital service of the residents of each political subdivision, the proximity of the residents to the proposed location of the hospital, the property values within the subdivision, and the expected service benefits to the residents of each subdivision by the proposed area hospital.

[C71, 73, 75, 77, 79, 81, §145A.3]

85 Acts, ch 123, §3

Referred to in §145A.21, 347A.3

145A.4 Plans.

Officials of the various subdivisions may expend public funds for the purpose of formulating plans and in carrying out plans for a merged area and may arrive at an equitable distribution of costs to be paid by each participating political subdivision.

[C71, 73, 75, 77, 79, 81, §145A.4]

Referred to in §145A.21, 347A.3

145A.5 Order of approval.

When a plan is approved, the officials approving the plan shall jointly issue an order of approval. The order shall specify the area to be merged, the maximum rate of tax to be levied for debt service and operation and maintenance of the proposed area hospital in the portion of the merged area within each political subdivision, the proposed location of the hospital building, the estimated cost of the establishment of the hospital, and any other details concerning the establishment and operation of the hospital the officials deem pertinent. The order shall be published in one or more newspapers which have general circulation within the merged area once each week for three consecutive weeks, but the newspapers selected need not be published in the merged area. The published order shall contain a notice to the residents of each subdivision of the proposed merged area that if the residents fail to protest as provided in this chapter, the order shall be deemed approved upon the expiration of a sixty-day period following the date of the last published notice.

[C71, 73, 75, 77, 79, 81, §145A.5]

85 Acts, ch 123, §4

Referred to in §145A.21, 347A.3

145A.6 Petition of protest.

The plans formulated for the area hospital shall be deemed approved unless, within sixty days after the third and final publication of the order, a petition protesting the proposed plan containing the signatures of at least five percent of the registered voters of any political subdivision within the proposed merged area is filed with the respective officials of the protesting petitioners.

[C71, 73, 75, 77, 79, 81, §145A.6]

2001 Acts, ch 56, §8

Referred to in §145A.21

145A.7 Special election.

When a protesting petition is received, the officials receiving the petition shall call a special election of all registered voters of that political subdivision upon the question of approving or rejecting the order setting out the proposed merger plan. The election shall be held on a date specified in section 39.2, subsection 4, paragraph *"a"* or *"b"*, as applicable. The vote will be taken by ballot in the form provided by sections 49.43 through 49.47, and the election shall be initiated and held as provided in chapter 49. A majority vote of those registered voters voting at the special election shall be sufficient to approve the order and thus include the political subdivision within the merged area.

[C71, 73, 75, 77, 79, 81, §145A.7]

2001 Acts, ch 56, §9; 2008 Acts, ch 1115, §31, 71; 2021 Acts, ch 80, §79

Referred to in §145A.21

Section amended

145A.8 Effect on other subdivisions.

A protest petition filed in one political subdivision shall have no effect upon the other political subdivisions of the proposed merged area; and in the portion of the proposed area where no protest petition is filed within sixty days after the last published notice, the residents of that portion of the area shall be deemed to have approved the proposed plan, and shall not take part in any special election.

[C71, 73, 75, 77, 79, 81, §145A.8]

Referred to in §145A.21

145A.9 Continuance or abandonment.

If the voters at the special election approve by a majority vote the proposed plan, then the plan may be carried out as originally proposed. However, if the voters of any political subdivision within the proposed area reject the plan as set out in the original order, then said original order shall be wholly nullified.

[C71, 73, 75, 77, 79, 81, §145A.9]

Referred to in §145A.21

145A.10 Board of hospital trustees.

Upon acceptance of a plan, the officials of the merged area acting as a committee of the whole shall appoint a board of hospital trustees. The board of trustees shall then meet, elect a chairperson and adopt such rules for the organization of the board as may be necessary. The number and composition of the board shall be determined by the committee appointing the board; but as a matter of public policy the committee is directed to apportion the board into area districts in such a way that the residents of all of the merged area will be represented as nearly equally as possible on the board.

[C71, 73, 75, 77, 79, 81, §145A.10]

145A.11 Terms of members.

The terms of members of the board shall be four years, except that members of the initial board shall determine their respective terms by lot so that the terms of one-half of the members, as nearly as may be, shall expire at the next general election. The remaining initial terms shall expire at the following general election. The successors of the initial board shall be chosen from area districts at regular elections, and shall be nominated and elected in the same manner as county hospital trustees as provided in section 347.25, except

that nomination papers on behalf of a candidate shall be signed by not less than twenty-five eligible electors from the area district.

[C71, 73, 75, 77, 79, 81, §145A.11]

145A.12 Operation and management.

The board shall govern the operation and management of the area hospital and may do all things necessary to establish and operate the hospital. The board has all the general powers, duties, and responsibilities of the trustees of county public hospitals as set out in sections 347.13 and 347.14 and may enter into contracts for the operation and management of area hospital facilities.

[C71, 73, 75, 77, 79, 81, §145A.12]

85 Acts, ch 123, §5

145A.13 Political status.

A merged area as a public corporation formed under this chapter may exercise the powers granted under this chapter, and may sue and be sued, purchase and sell property, incur indebtedness in accordance with constitutional limitations, and exercise all the powers granted by law and other powers incident to public corporations of like character and not inconsistent with the laws of this state.

[C71, 73, 75, 77, 79, 81, §145A.13]

85 Acts, ch 123, §6

145A.14 Budget for operation.

The board shall prepare an annual budget designating the proposed expenditures for operation of the area hospital and payment of bonded indebtedness, and the amount to be raised by taxation, following the requirements of chapter 24. The board shall prorate the amount to be raised for operations by local taxation among the respective political subdivisions forming a part of the merged area in the proportion that the product of the value of taxable property and the maximum tax levy rate in each political subdivision bears to the total product of the value of taxable property and the maximum tax levy rate in the entire merged area, as set out in the published order of merger. The board of hospital trustees shall certify the amount so determined to the respective levying officials of the affected counties, and the officials shall levy a tax sufficient to raise the annual budget. Taxes collected pursuant to the levy shall be paid by the respective county treasurers to the treasurer of the area hospital in the same manner that school taxes are paid to local school districts.

[C71, 73, 75, 77, 79, 81, §145A.14]

85 Acts, ch 123, §7

Referred to in §145A.18, 347A.3

145A.15 Treasurer of hospital.

If the area hospital is located within the corporate limits of any city, the city treasurer shall act as treasurer of the area hospital; and if the area hospital is located outside the limits of any city, the county treasurer shall act as the treasurer of the area hospital; provided, however, the board may appoint some other person to serve as treasurer. The board may require that the treasurer furnish appropriate bond for faithful performance of the treasurer's duties.

[C71, 73, 75, 77, 79, 81, §145A.15]

Referred to in §331.552

145A.16 Funds to aid hospital.

In addition to revenue derived by tax levy, the board of hospital trustees of a merged area shall be authorized to receive and expend:

1. Federal funds which may be available by federal laws, rules and regulations.
2. State aid which may be available by state laws and rules.
3. Fees and expenses charged to persons using the facilities of the hospital.
4. Donations and gifts which may be accepted by the hospital trustees and expended in

accordance with the terms of the gift without compliance with the local budget law, chapter 24.

[C71, 73, 75, 77, 79, 81, §145A.16]

2004 Acts, ch 1086, §41

145A.17 Indebtedness and bonds.

Boards of hospital trustees may by resolution acquire sites and buildings by purchase, lease, construction, or otherwise, for use by area hospitals and may by resolution contract indebtedness on behalf of the merged area and issue bonds bearing interest at a rate not exceeding the rate of interest permitted by chapter 74A, to raise funds in accordance with chapter 75 for the purpose of acquiring the sites and buildings.

[C71, 73, 75, 77, 79, 81, §145A.17]

85 Acts, ch 123, §8

Referred to in §145A.18

145A.18 Taxes.

Taxes for the payment of bonds issued under section 145A.17 shall be levied in accordance with chapter 76 and in the same proportion as provided in section 145A.14. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes.

[C71, 73, 75, 77, 79, 81, §145A.18]

85 Acts, ch 123, §9

145A.19 Special tax.

In addition to the tax authorized in connection with the annual budget and with the issuance of bonds, the voters in any merged area may at any regular election vote a special tax for a period not to exceed five years for the purchase of grounds, purchase or construction of buildings, purchase of equipment, and for the purpose of maintaining, remodeling, improving, or expanding the hospital area. Such a tax shall not exceed one-fourth of the maximum levy of each political subdivision as set out in the published order of merger, but the total tax levy for annual budget, bonds, and special purposes shall not exceed the maximum levy as proposed in the published order of merger.

[C71, 73, 75, 77, 79, 81, §145A.19]

145A.20 Revenue bonds.

In addition to any other provisions of this chapter and for the purpose of acquiring, constructing, equipping, enlarging, or improving a hospital building or any part of a hospital building, merged areas may issue revenue bonds and the board has all the powers and duties of a county board of supervisors as provided in chapter 331, subchapter IV, part 4, and section 347A.3.

[C71, 73, 75, 77, 79, 81, §145A.20]

83 Acts, ch 101, §25; 85 Acts, ch 123, §10; 2018 Acts, ch 1041, §127

Referred to in §347A.3

145A.21 Amendment of plan of merger — procedures — qualifications.

A plan of merger once approved may be amended. An amendment shall be formulated and approved in the same manner and subject to the same limitations as provided in sections 145A.3 through 145A.9 for the formulation and approval of an original plan of merger. However, an amendment to a plan of merger shall not in any way impair the obligation of or source of payment for bonds or other indebtedness duly contracted prior to the effective date of the amendment to the plan of merger.

85 Acts, ch 123, §11

145A.22 Actions subject to contest of elections — filing actions — limitation.

A special election called to approve or reject an original plan of merger or an amendment to an approved plan of merger is subject to the provisions for contest of elections for public measures set forth in chapter 57. Except as provided with respect to election contests, after one hundred twenty days following the third and final publication of the order of approval

of the plan or amendment to the plan of merger, an action shall not be filed to contest the regularity of the proceedings with respect to a plan of merger or amendment to a plan of merger. After one hundred twenty days the organization of the merged area is conclusively presumed to have been lawful.

85 Acts, ch 123, §12

CHAPTER 145B

DOGS FOR SCIENTIFIC RESEARCH

Repealed by 2008 Acts, ch 1058, §24

CHAPTER 146

ABORTIONS — REFUSAL TO PERFORM

Referred to in §135.1, 135.11, 135L.1

146.1 Liability of persons relating to performance of abortions.
146.2 Liability of hospitals refusing to perform abortions.

146.1 Liability of persons relating to performance of abortions.

An individual who may lawfully perform, assist, or participate in medical procedures which will result in an abortion shall not be required against that individual's religious beliefs or moral convictions to perform, assist, or participate in such procedures. A person shall not discriminate against any individual in any way, including but not limited to employment, promotion, advancement, transfer, licensing, education, training or the granting of hospital privileges or staff appointments, because of the individual's participation in or refusal to participate in recommending, performing, or assisting in an abortion procedure. For the purposes of this chapter, "*abortion*" means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus. Abortion does not include medical care which has as its primary purpose the treatment of a serious physical condition requiring emergency medical treatment necessary to save the life of a mother.

[C77, 79, 81, §146.1]

Referred to in §146D.1, 707.8A

146.2 Liability of hospitals refusing to perform abortions.

A hospital, which is not controlled, maintained and supported by a public authority, shall not be required to permit the performance of an abortion. The refusal to permit such procedures shall not be grounds for civil liability to any person nor a basis for any disciplinary or other recriminatory action against the hospital.

[C77, 79, 81, §146.2]

CHAPTER 146A

ABORTION PREREQUISITES

Referred to in §146B.2, 146C.2

146A.1 Prerequisites for abortion — licensee discipline.

146A.1 Prerequisites for abortion — licensee discipline.

1. A physician performing an abortion shall obtain written certification from the pregnant woman of all of the following at least twenty-four hours prior to performing an abortion:

a. That the woman has undergone an ultrasound imaging of the unborn child that displays the approximate age of the unborn child.

b. That the woman was given the opportunity to see the unborn child by viewing the ultrasound image of the unborn child.

c. That the woman was given the option of hearing a description of the unborn child based on the ultrasound image and hearing the heartbeat of the unborn child.

d. (1) That the woman has been provided information regarding all of the following, based upon the materials developed by the department of public health pursuant to subparagraph (2):

(a) The options relative to a pregnancy, including continuing the pregnancy to term and retaining parental rights following the child's birth, continuing the pregnancy to term and placing the child for adoption, and terminating the pregnancy.

(b) The indicators, contra-indicators, and risk factors including any physical, psychological, or situational factors related to the abortion in light of the woman's medical history and medical condition.

(2) The department of public health shall make available to physicians, upon request, all of the following information:

(a) Geographically indexed materials designed to inform the woman about public and private agencies and services available to assist a woman through pregnancy, at the time of childbirth, and while the child is dependent. The materials shall include a comprehensive list of the agencies available, categorized by the type of services offered, and a description of the manner by which the agency may be contacted.

(b) Materials that encourage consideration of placement for adoption. The materials shall inform the woman of the benefits of adoption, including the requirements of confidentiality in the adoption process, the importance of adoption to individuals and society, and the state's interest in promoting adoption by preferring adoption over abortion.

(c) Materials that contain objective information describing the methods of abortion procedures commonly used, the medical risks commonly associated with each such procedure, and the possible detrimental physical and psychological effects of abortion.

2. Compliance with the prerequisites of this section shall not apply to an abortion performed in a medical emergency.

3. A physician who violates this section is subject to licensee discipline pursuant to section 148.6.

4. This section shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is performed, or to prohibit the sale, use, prescription, or administration of a measure, drug, or chemical designed for the purposes of contraception.

5. The board of medicine shall adopt rules pursuant to chapter 17A to administer this section.

6. As used in this section:

a. "*Medical emergency*" means a situation in which an abortion is performed to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, but not including psychological conditions, emotional conditions, familial conditions, or the woman's age; or when continuation of the pregnancy will create

a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.

b. "Unborn child" means an individual organism of the species homo sapiens from fertilization to live birth.

2015 Acts, ch 137, §75, 162, 163; 2017 Acts, ch 108, §1, 7; 2018 Acts, ch 1132, §2; 2020 Acts, ch 1110, §2

Referred to in §146C.1
Legislative intent; 2017 Acts, ch 108, §5

CHAPTER 146B

ABORTION — POSTFERTILIZATION AGE

Legislative intent; 2017 Acts, ch 108, §5

146B.1 Definitions.
146B.2 Determination of postfertilization age — certain abortions prohibited — exceptions — reporting requirements — penalties.
146B.3 Civil actions and penalties.

146B.1 Definitions.

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

1. *"Abortion"* means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus.

2. *"Attempt to perform an abortion"* means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performing of an abortion.

3. *"Department"* means the department of public health.

4. *"Fertilization"* means the fusion of a human spermatozoon with a human ovum.

5. *"Major bodily function"* includes but is not limited to functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

6. *"Medical emergency"* means a situation in which an abortion is performed to preserve the life of the pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy, or when continuation of the pregnancy will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman.

7. *"Medical facility"* means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical center, or other institution or location where medical care is provided to any person.

8. *"Perform"*, *"performed"*, or *"performing"*, relative to an abortion, means the use of any means, including medical or surgical, to terminate the pregnancy of a woman known to be pregnant with the intent other than to produce a live birth or to remove a dead fetus.

9. *"Physician"* means a person licensed under chapter 148.

10. *"Postfertilization age"* means the age of the unborn child as calculated from fertilization.

11. *"Probable postfertilization age"* means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age of the unborn child at the time the abortion is to be performed.

12. *"Reasonable medical judgment"* means a medical judgment made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

13. *"Unborn child"* means an individual organism of the species homo sapiens from fertilization until live birth.

2017 Acts, ch 108, §2, 7
Referred to in §146C.2

146B.2 Determination of postfertilization age — certain abortions prohibited — exceptions — reporting requirements — penalties.

1. Except in the case of a medical emergency, in addition to compliance with the prerequisites of chapter 146A, an abortion shall not be performed or be attempted to be performed unless the physician performing the abortion has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making such a determination, a physician shall make such inquiries of the pregnant woman and perform or cause to be performed such medical examinations and tests the physician considers necessary in making a reasonable medical judgment to accurately determine the postfertilization age of the unborn child.

2. *a.* A physician shall not perform or attempt to perform an abortion upon a pregnant woman when it has been determined, by the physician performing the abortion or by another physician upon whose determination that physician relies, that the probable postfertilization age of the unborn child is twenty or more weeks unless, in the physician's reasonable medical judgment, any of the following applies:

(1) The pregnant woman has a condition which the physician deems a medical emergency.

(2) The abortion is necessary to preserve the life of an unborn child.

b. If an abortion is performed under this subsection, the physician shall terminate the human pregnancy in the manner which, in the physician's reasonable medical judgment, provides the best opportunity for an unborn child to survive, unless, in the physician's reasonable medical judgment, termination of the human pregnancy in that manner would pose a greater risk than any other available method of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function. A greater risk shall not be deemed to exist if it is based on a claim or diagnosis that the pregnant woman will engage in conduct which would result in the pregnant woman's death or in substantial and irreversible physical impairment of a major bodily function.

3. A physician who performs or attempts to perform an abortion shall report to the department, on a schedule and in accordance with forms and rules adopted by the department, all of the following:

a. If a determination of probable postfertilization age of the unborn child was made, the probable postfertilization age determined and the method and basis of the determination.

b. If a determination of probable postfertilization age of the unborn child was not made, the basis of the determination that a medical emergency existed.

c. If the probable postfertilization age of the unborn child was determined to be twenty or more weeks, the basis of the determination of a medical emergency, or the basis of the determination that the abortion was necessary to preserve the life of an unborn child.

d. The method used for the abortion and, in the case of an abortion performed when the probable postfertilization age was determined to be twenty or more weeks, whether the method of abortion used was one that, in the physician's reasonable medical judgment, provided the best opportunity for an unborn child to survive or, if such a method was not used, the basis of the determination that termination of the human pregnancy in that manner would pose a greater risk than would any other available method of the death of the pregnant woman or of the substantial and irreversible physical impairment of a major bodily function.

4. *a.* By June 30, annually, the department shall issue a public report providing statistics for the previous calendar year, compiled from the reports for that year submitted in accordance with subsection 3. The department shall ensure that none of the information included in the public reports could reasonably lead to the identification of any woman upon whom an abortion was performed.

b. (1) A physician who fails to submit a report by the end of thirty days following the due date shall be subject to a late fee of five hundred dollars for each additional thirty-day period or portion of a thirty-day period the report is overdue.

(2) A physician required to report in accordance with subsection 3 who has not submitted a report or who has submitted only an incomplete report more than one year following the due date, may, in an action brought in the manner in which actions are brought to enforce chapter 148, be directed by a court of competent jurisdiction to submit a complete report within a time period stated by court order or be subject to contempt of court.

(3) A physician who intentionally or recklessly falsifies a report required under this section is subject to a civil penalty of one hundred dollars.

5. Any medical facility in which a physician is authorized to perform an abortion shall implement written medical policies and procedures consistent with the requirements and prohibitions of this chapter.

6. The department shall adopt rules to implement this section.

2017 Acts, ch 108, §3, 7
Referred to in §146B.3

146B.3 Civil actions and penalties.

1. Failure of a physician to comply with any provision of section 146B.2, with the exception of the late filing of a report or failure to submit a complete report in compliance with a court order, is grounds for licensee discipline under chapter 148.

2. A woman upon whom an abortion has been performed in violation of this chapter may maintain an action against the physician who performed the abortion in intentional or reckless violation of this chapter for actual damages.

3. A woman upon whom an abortion has been attempted in violation of this chapter may maintain an action against the physician who attempted the abortion in intentional or reckless violation of this chapter for actual damages.

4. A cause of action for injunctive relief to prevent a physician from performing abortions may be maintained against a physician who has intentionally violated this chapter by the woman upon whom the abortion was performed or attempted, by a parent or guardian of the woman if the woman is less than eighteen years of age at the time the abortion was performed or attempted, by a current or former licensed health care provider of the woman, by a county attorney with appropriate jurisdiction, or by the attorney general.

5. If the plaintiff prevails in an action brought under this section, the plaintiff shall be entitled to an award for reasonable attorney fees.

6. If the defendant prevails in an action brought under this section and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the defendant shall be entitled to an award for reasonable attorney fees.

7. Damages and attorney fees shall not be assessed against the woman upon whom an abortion was performed or attempted except as provided in subsection 6.

8. In a civil proceeding or action brought under this chapter, the court shall rule whether the anonymity of any woman upon whom an abortion has been performed or attempted shall be preserved from public disclosure if the woman does not provide consent to such disclosure. The court, upon motion or on its own motion, shall make such a ruling and, upon determining that the woman's anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard the woman's identity from public disclosure. Each such order shall be accompanied by specific written findings explaining why the anonymity of the woman should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable less restrictive alternative exists. In the absence of written consent of the woman upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under this section shall do so under a pseudonym. This subsection shall not be construed to conceal the identity of the plaintiff or of witnesses from the defendant or from attorneys for the defendant.

9. This chapter shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is performed or attempted.

2017 Acts, ch 108, §4, 7

CHAPTER 146C

ABORTION — DETECTABLE FETAL HEARTBEAT

146C.1 Definitions.
146C.2 Abortion prohibited — detectable fetal heartbeat.

146C.1 Definitions.

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

1. *"Abortion"* means the termination of a human pregnancy with the intent other than to produce a live birth or to remove a dead fetus.

2. *"Fetal heartbeat"* means cardiac activity, the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

3. *"Medical emergency"* means the same as defined in section 146A.1.

4. *"Medically necessary"* means any of the following:

a. The pregnancy is the result of a rape which is reported within forty-five days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician.

b. The pregnancy is the result of incest which is reported within one hundred forty days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician.

c. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

d. The attending physician certifies that the fetus has a fetal abnormality that in the physician's reasonable medical judgment is incompatible with life.

5. *"Physician"* means a person licensed under chapter 148.

6. *"Reasonable medical judgment"* means a medical judgment made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

7. *"Unborn child"* means the same as defined in section 146A.1.

2018 Acts, ch 1132, §3

146C.2 Abortion prohibited — detectable fetal heartbeat.

1. Except in the case of a medical emergency or when the abortion is medically necessary, a physician shall not perform an abortion unless the physician has first complied with the prerequisites of chapter 146A and has tested the pregnant woman as specified in this subsection, to determine if a fetal heartbeat is detectable.

a. In testing for a detectable fetal heartbeat, the physician shall perform an abdominal ultrasound, necessary to detect a fetal heartbeat according to standard medical practice and including the use of medical devices, as determined by standard medical practice and specified by rule of the board of medicine.

b. Following the testing of the pregnant woman for a detectable fetal heartbeat, the physician shall inform the pregnant woman, in writing, of all of the following:

(1) Whether a fetal heartbeat was detected.

(2) That if a fetal heartbeat was detected, an abortion is prohibited.

c. Upon receipt of the written information, the pregnant woman shall sign a form acknowledging that the pregnant woman has received the information as required under this subsection.

2. *a.* A physician shall not perform an abortion upon a pregnant woman when it has been determined that the unborn child has a detectable fetal heartbeat, unless, in the physician's reasonable medical judgment, a medical emergency exists, or when the abortion is medically necessary.

b. Notwithstanding paragraph *"a"*, if a physician determines that the probable postfertilization age, as defined in section 146B.1, of the unborn child is twenty or more weeks, the physician shall not perform an abortion upon a pregnant woman when it has been determined that the unborn child has a detectable fetal heartbeat, unless in the physician's

reasonable medical judgment the pregnant woman has a condition which the physician deems a medical emergency, as defined in section 146B.1, or the abortion is necessary to preserve the life of an unborn child.

3. A physician shall retain in the woman's medical record all of the following:

a. Documentation of the testing for a fetal heartbeat as specified in subsection 1 and the results of the fetal heartbeat test.

b. The pregnant woman's signed form acknowledging that the pregnant woman received the information as required under subsection 1.

4. This section shall not be construed to impose civil or criminal liability on a woman upon whom an abortion is performed in violation of this section.

5. The board of medicine shall adopt rules pursuant to chapter 17A to administer this section.

2018 Acts, ch 1132, §4

CHAPTER 146D

FETAL BODY PARTS

146D.1 Fetal body parts — actions prohibited — penalties.

146D.1 Fetal body parts — actions prohibited — penalties.

1. A person shall not knowingly acquire, provide, receive, otherwise transfer, or use a fetal body part in this state, regardless of whether the acquisition, provision, receipt, transfer, or use is for valuable consideration.

2. Subsection 1 shall not apply to any of the following:

a. Diagnostic or remedial tests, procedures, or observations which have the sole purpose of determining the life or health of the fetus in order to provide that information to the pregnant woman or to preserve the life or health of the fetus or pregnant woman.

b. The actions of a person taken in furtherance of the final disposition of a fetal body part.

c. The pathological study of body tissue, including genetic testing, for diagnostic or forensic purposes.

d. A fetal body part if the fetal body part results from a spontaneous termination of pregnancy or stillbirth and is willingly donated for the purpose of medical research.

3. A person who violates this section is guilty of a class "C" felony.

4. For the purposes of this section:

a. *"Abortion"* means as defined in section 146.1.

b. *"Fetal body part"* means a cell, tissue, organ, or other part of a fetus that is terminated by an abortion. *"Fetal body part"* does not include any of the following:

(1) Cultured cells or cell lines derived from a spontaneous termination of pregnancy or stillbirth and willingly donated for the purposes of medical research.

(2) A cell, tissue, organ, or other part of a fetus that is terminated by an abortion that occurred prior to July 1, 2018.

(3) All cells and tissues external to the fetal body proper.

c. *"Final disposition"* means the disposition of fetal body parts by burial, interment, entombment, cremation, or incineration.

d. *"Valuable consideration"* means any payment including but not limited to payment associated with the transportation, processing, preservation, quality control, or storage of fetal body parts.

2018 Acts, ch 1132, §1

SUBTITLE 3

HEALTH-RELATED PROFESSIONS

Referred to in §135.11, 142D.2, 514F.2

CHAPTER 147

GENERAL PROVISIONS, HEALTH-RELATED PROFESSIONS

Referred to in §135.11A, 135.61, 135G.1, 144E.6, 148.2A, 148.14, 148A.1, 148B.2, 148C.1, 148C.10, 148C.13, 148E.1, 148E.7, 148E.8, 148F.3, 148G.1, 148G.5, 148G.8, 148H.4, 148H.6, 149.1, 151.1A, 152.1, 152.4, 152.11, 152A.1, 152B.1, 152B.11, 152C.1, 152D.1, 152D.5, 153.12, 153.33, 154.1, 154B.1, 154B.6, 154C.1, 154C.4, 154C.7, 154D.1, 154D.3, 154D.4, 154E.1, 154E.2, 154E.3, 155.1, 155.4, 155.9, 155A.6, 155A.6A, 155A.6B, 155A.12, 155A.23, 155A.40, 225C.6, 235A.15, 235B.6, 257.11, 272C.1, 272C.2A, 272C.2B, 272C.6, 280.16, 489.1101, 496C.2, 514C.28, 514C.34, 519A.2, 614.1, 707A.1

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DEFINITIONS

147.1 Definitions.

For the purpose of this subtitle:

1. *"Board"* means one of the boards enumerated in section 147.13 or any other board established in this subtitle whose members are appointed by the governor to license applicants and impose licensee discipline as authorized by law.

2. *"Department"* means the department of public health.

3. *"Licensed"* or *"certified"*, when applied to a physician and surgeon, podiatric physician, osteopathic physician and surgeon, genetic counselor, physician assistant, psychologist, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, orthotist, prosthetist, pedorthist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, behavior analyst, assistant behavior analyst, marital and family therapist, mental health counselor, respiratory care and polysomnography practitioner, polysomnographic technologist, social worker, massage therapist, athletic trainer, acupuncturist, nursing home administrator, hearing aid specialist, or sign language interpreter or transliterator means a person licensed under this subtitle.

4. *"Peer review"* means evaluation of professional services rendered by a person licensed to practice a profession.

5. *"Peer review committee"* means one or more persons acting in a peer review capacity who also serve as an officer, director, trustee, agent, or member of any of the following:

a. A state or local professional society of a profession for which there is peer review.

b. Any organization approved to conduct peer review by a society as designated in paragraph *"a"* of this subsection.

c. The medical staff of any licensed hospital.

d. A board enumerated in section 147.13 or any other board established in this subtitle which is appointed by the governor to license applicants and impose licensee discipline as authorized by law.

e. The board of trustees of a licensed hospital when performing a function relating to the reporting required by section 147.135, subsection 3.

f. A health care entity, including but not limited to a group medical practice, that provides health care services and follows a formal peer review process for the purpose of furthering quality health care.

6. *"Profession"* means medicine and surgery, podiatry, osteopathic medicine and surgery, genetic counseling, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapist assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, applied behavior analysis, marital and family therapy, mental health counseling, polysomnography, social work, dietetics, massage therapy, athletic training, acupuncture, nursing home administration, practice as a hearing aid specialist, sign language interpreting or transliterating, orthotics, prosthetics, or pedorthics.

[C24, 27, 31, 35, 39, §**2438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.1]

84 Acts, ch 1075, §6; 85 Acts, ch 168, §1; 86 Acts, ch 1211, §13; 87 Acts, ch 91, §6; 88 Acts, ch 1225, §2; 89 Acts, ch 89, §4, 5; 91 Acts, ch 229, §1; 92 Acts, ch 1205, §13; 94 Acts, ch 1132, §10; 95 Acts, ch 41, §8; 95 Acts, ch 108, §3; 96 Acts, ch 1036, §3, 4; 96 Acts, ch 1109, §1; 96 Acts, ch 1219, §20; 98 Acts, ch 1053, §2, 3; 2000 Acts, ch 1053, §1; 2000 Acts, ch 1148, §1; 2004 Acts, ch 1175, §419, 420, 433; 2007 Acts, ch 10, §26, 27; 2008 Acts, ch 1088, §1; 2012 Acts, ch 1101, §1; 2015 Acts, ch 30, §60; 2015 Acts, ch 57, §1; 2015 Acts, ch 70, §2; 2018 Acts, ch 1052, §1, 12; 2018 Acts, ch 1106, §2, 14

Referred to in §148F.4

LICENSES

147.2 License required.

1. A person shall not engage in the practice of medicine and surgery, podiatry, osteopathic medicine and surgery, genetic counseling, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, occupational therapy, occupational therapy assisting, orthotics, prosthetics, pedorthics, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, applied behavior analysis, marital and family therapy or mental health counseling, massage therapy, mortuary science, polysomnography, athletic training, acupuncture, nursing home administration, or sign language interpreting or transliterating, or shall not practice as a physician assistant or a hearing aid specialist, unless the person has obtained a license for that purpose from the board for the profession.

2. For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3 shall be considered to have obtained a license to practice nursing.

[C97, §2582, 2588; S13, §2575-a28, -a31, -a36, 2582, 2583-a, -d, -r, 2600-o4; SS15, §2588; C24, 27, 31, 35, 39, §**2439;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.2]

85 Acts, ch 168, §2; 88 Acts, ch 1225, §3; 96 Acts, ch 1035, §1; 96 Acts, ch 1036, §5; 98 Acts, ch 1050, §1, 5; 2000 Acts, ch 1008, §1; 2000 Acts, ch 1053, §2; 2000 Acts, ch 1185, §1; 2004 Acts, ch 1045, §1; 2004 Acts, ch 1175, §421, 433; 2005 Acts, ch 53, §1; 2007 Acts, ch 10, §28; 2008 Acts, ch 1009, §1, 5; 2008 Acts, ch 1088, §2; 2012 Acts, ch 1101, §2; 2015 Acts, ch 57, §2; 2015 Acts, ch 70, §3, 18; 2018 Acts, ch 1052, §2, 12; 2018 Acts, ch 1106, §3, 14

Referred to in §148.6, 148G.1, 148G.6

147.3 Qualifications.

An applicant for a license to practice a profession under this subtitle is not ineligible because of age, citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information.

[S13, §2575-a29, -a37, 2583-a, -1, 2600-d; C24, 27, 31, 35, 39, §**2440, 2567;** C46, 50, 54, 58, 62, 66, §147.3, 153.3; C71, 73, §147.3, 153.5; C75, 77, 79, 81, §147.3]

84 Acts, ch 1075, §7; 85 Acts, ch 168, §3; 88 Acts, ch 1225, §4; 94 Acts, ch 1132, §11; 96 Acts, ch 1036, §6; 98 Acts, ch 1053, §4; 2008 Acts, ch 1088, §3; 2020 Acts, ch 1103, §11, 31

Referred to in §152.7

147.4 Grounds for refusing.

A board may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended.

[C97, §2578; S13, §2575-a33, -a41, 2578, 2583-c; C24, 27, 31, 35, 39, §**2441;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.4]

90 Acts, ch 1086, §1; 2008 Acts, ch 1088, §4

Grounds for revocation, see §147.55

147.5 Certificate of license.

1. Every license to practice a profession shall be in the form of a certificate under the seal of the board. Such license shall be issued in the name of the board.

2. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

[C97, §2576, 2577, 2591; S13, §2575-a30, -a38, 2576, 2583-k, 2600-d; C24, 27, 31, 35, 39, §**2442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.5]

2000 Acts, ch 1008, §2; 2000 Acts, ch 1140, §30; 2005 Acts, ch 53, §2; 2007 Acts, ch 10, §29; 2008 Acts, ch 1088, §5

147.6 Certificate presumptive evidence.

Every license issued under this subtitle shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

[C97, §2576; S13, §2575-a30, -a38, 2576, 2583-k, 2600-d; C24, 27, 31, 35, 39, §**2443;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.6]

94 Acts, ch 1132, §12; 96 Acts, ch 1036, §7; 98 Acts, ch 1053, §5

147.7 Display of license.

1. A board may require every person licensed by the board to display the license and evidence of current renewal publicly in a manner prescribed by the board.

2. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3. A person licensed in another state and recognized for licensure in this state pursuant to either compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

[C97, §2591; S13, §2600-o1; C24, 27, 31, 35, 39, §**2444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.7]

90 Acts, ch 1086, §2; 94 Acts, ch 1132, §13; 96 Acts, ch 1036, §8; 98 Acts, ch 1053, §6; 2000 Acts, ch 1008, §3; 2005 Acts, ch 53, §3; 2006 Acts, ch 1010, §54; 2008 Acts, ch 1088, §6

147.8 Record of licenses.

A board shall keep the following information available for public inspection for each person licensed by the board:

1. Name.
2. Address of record.
3. The number of the license.
4. The date of issuance of the license.

[C97, §2591; S13, §2575-a40, 2583-a, -k, 2600-d; C24, 27, 31, 35, 39, §**2445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.8]

96 Acts, ch 1128, §5; 2008 Acts, ch 1088, §7; 2009 Acts, ch 41, §50

147.9 Change of address.

Every person licensed pursuant to this chapter shall notify the board which issued the license of a change in the person's address of record within a time period established by board rule.

[C97, §2591; C24, 27, 31, 35, 39, §**2446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.9]

90 Acts, ch 1086, §3; 94 Acts, ch 1132, §14; 96 Acts, ch 1036, §9; 98 Acts, ch 1053, §7; 2008 Acts, ch 1088, §8

147.10 Renewal.

1. Every license to practice a profession shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee. Each board shall establish rules for license renewal and concomitant fees. Application for renewal shall be made to the board accompanied by the required fee at least thirty days prior to the expiration of such license.

2. Each board may by rule establish a grace period following expiration of a license in which the license is not invalidated. Each board may assess a reasonable penalty for renewal of a license during the grace period. Failure of a licensee to renew a license within the grace period shall cause the license to become inactive or lapsed. A licensee whose license is inactive or lapsed shall not engage in the practice of the profession until the license is reactivated or reinstated.

[C97, §2590; S13, §2575-a39, 2589-d; C24, 27, 31, §2447; C35, §2447, 2573-g2 – 2573-g4; C39, §**2447, 2573.02 – 2573.04;** C46, 50, 54, 58, 62, 66, §147.10, 153.11 – 153.12; C71, 73, §147.10, 153.9, 153.10; C75, 77, 79, 81, §147.10]

2002 Acts, ch 1108, §12; 2008 Acts, ch 1088, §9

Referred to in §147.11, 148.6

147.11 Reactivation and reinstatement.

1. A licensee who allows the license to become inactive or lapsed by failing to renew the license, as provided in section 147.10, may reactivate the license upon payment of a reactivation fee and compliance with other terms established by board rule.

2. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with board rule and must apply for and be granted reactivation of the license in accordance with board rule prior to practicing the profession.

[C24, 27, 31, 35, 39, §**2448;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.11]

2007 Acts, ch 10, §30; 2008 Acts, ch 1088, §10; 2009 Acts, ch 41, §51

HEALTH PROFESSION BOARDS

147.12 Health profession boards.

1. The governor shall appoint, subject to confirmation by the senate, a board for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

2. If a person who has been appointed by the governor to serve on a board has ever been disciplined in a contested case by the board to which the person has been appointed, all board statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.

[C97, §2576, 2584; S13, §2575-a29, -a37, 2576, 2583-a, -h, 2600-b; SS15, §2584; C24, 27, 31, 35, 39, §**2449;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.12]

88 Acts, ch 1128, §2; 94 Acts, ch 1132, §15; 96 Acts, ch 1036, §10; 98 Acts, ch 1053, §8; 2007 Acts, ch 10, §31; 2008 Acts, ch 1088, §11

Referred to in §147.13, 148.2A, 155A.2A
Confirmation, see §2.32
Board of medicine alternate members, see §148.2A
Board of pharmacy alternate members, see §155A.2A

147.13 Designation of boards.

The boards provided in section 147.12 shall be designated as follows:

1. For medicine and surgery, osteopathic medicine and surgery, acupuncture, and genetic counseling, the board of medicine.
2. For physician assistants, the board of physician assistants.
3. For psychology, the board of psychology.
4. For podiatry, the board of podiatry.
5. For chiropractic, the board of chiropractic.
6. For physical therapy and occupational therapy, the board of physical and occupational therapy.
7. For nursing, the board of nursing.
8. For dentistry, dental hygiene, and dental assisting, the dental board.
9. For optometry, the board of optometry.
10. For speech pathology and audiology, the board of speech pathology and audiology.
11. For cosmetology arts and sciences, the board of cosmetology arts and sciences.
12. For barbering, the board of barbering.
13. For pharmacy, the board of pharmacy.
14. For mortuary science, the board of mortuary science.
15. For social work, the board of social work.
16. For applied behavior analysis, marital and family therapy, and mental health counseling, the board of behavioral science.
17. For dietetics, the board of dietetics.
18. For respiratory care and polysomnography, the board of respiratory care and polysomnography.
19. For massage therapy, the board of massage therapy.

20. For athletic training, the board of athletic training.
21. For interpreting, the board of sign language interpreters and transliterators.
22. For hearing aid specialists, the board of hearing aid specialists.
23. For nursing home administration, the board of nursing home administrators.
24. For orthotics, prosthetics, and pedorthics, the board of podiatry.

[C24, 27, 31, 35, 39, §**2450;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.13]

84 Acts, ch 1075, §8; 85 Acts, ch 168, §4; 88 Acts, ch 1225, §5; 91 Acts, ch 229, §2; 92 Acts, ch 1205, §14; 93 Acts, ch 86, §12; 96 Acts, ch 1036, §11; 98 Acts, ch 1053, §9; 2000 Acts, ch 1002, §1; 2004 Acts, ch 1175, §422, 433; 2006 Acts, ch 1155, §3, 15; 2007 Acts, ch 10, §32; 2007 Acts, ch 218, §197; 2008 Acts, ch 1088, §12, 141; 2009 Acts, ch 41, §52; 2012 Acts, ch 1101, §3; 2015 Acts, ch 57, §3; 2015 Acts, ch 70, §4; 2018 Acts, ch 1052, §3, 12; 2018 Acts, ch 1106, §4, 14

Referred to in §147.1, 147.82, 232.69, 235B.16, 280.13C, 422.7(27)

147.14 Composition of boards — quorum.

1. The board members shall consist of the following:

a. For barbering, three members licensed to practice barbering, and two members who are not licensed to practice barbering and who shall represent the general public.

b. For medicine, five members licensed to practice medicine and surgery, two members licensed to practice osteopathic medicine and surgery, and three members not licensed to practice either medicine and surgery or osteopathic medicine and surgery, and who shall represent the general public.

c. For nursing, four registered nurses, two of whom shall be actively engaged in practice, two of whom shall be nurse educators from nursing education programs; of these, one in higher education and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems.

d. For dentistry, five members licensed to practice dentistry, two members licensed to practice dental hygiene, and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. The two dental hygienist board members and one dentist board member shall constitute a dental hygiene committee of the board as provided in section 153.33A.

e. For pharmacy, five members licensed to practice pharmacy, one member registered as a certified pharmacy technician as defined by the board by rule, and two members who are not licensed to practice pharmacy or registered as a certified pharmacy technician and who shall represent the general public.

f. For optometry, five members licensed to practice optometry and two members who are not licensed to practice optometry and who shall represent the general public.

g. For psychology, five members who are licensed to practice psychology and two members not licensed to practice psychology and who shall represent the general public. Of the five members who are licensed to practice psychology, one member shall be primarily engaged in graduate teaching in psychology or primarily engaged in research psychology, three members shall be persons who render services in psychology, and one member shall represent areas of applied psychology and may be affiliated with training institutions and shall devote a major part of the member's time to rendering service in psychology.

h. For chiropractic, five members licensed to practice chiropractic and two members who are not licensed to practice chiropractic and who shall represent the general public.

i. For speech pathology and audiology, five members licensed to practice speech pathology or audiology at least two of whom shall be licensed to practice speech pathology and at least two of whom shall be licensed to practice audiology, and two members who are not licensed to practice speech pathology or audiology and who shall represent the general public.

j. For physical therapy and occupational therapy, three members licensed to practice physical therapy, two members licensed to practice occupational therapy, and two members

who are not licensed to practice physical therapy or occupational therapy and who shall represent the general public.

k. For dietetics, one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics, one licensed dietitian representing community nutrition services, and two members who are not licensed dietitians and who shall represent the general public.

l. For the board of physician assistants, five members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than fifty thousand, one member licensed to practice medicine and surgery who supervises a physician assistant, one member licensed to practice osteopathic medicine and surgery who supervises a physician assistant, and two members who are not licensed to practice either medicine and surgery or osteopathic medicine and surgery or licensed as a physician assistant and who shall represent the general public. At least one of the physician or osteopathic physician members shall be in practice in a county with a population of less than fifty thousand.

m. For behavioral science, three members licensed to practice marital and family therapy, all of whom shall be practicing marital and family therapists; three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental health counselors; two licensed behavior analysts; one licensed assistant behavior analyst; and three members who are not licensed to practice marital and family therapy, applied behavior analysis, or mental health counseling and who shall represent the general public.

n. For cosmetology arts and sciences, a total of seven members, three who are licensed cosmetologists, one who is a licensed electrologist, esthetician, or nail technologist, one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences, and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the general public.

o. For respiratory care and polysomnography, one licensed physician with training in respiratory care, two respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and who are recommended by the society for respiratory care, one polysomnographic technologist who has practiced polysomnography for a minimum of six years immediately preceding appointment to the board and who is recommended by the Iowa sleep society, and one member not licensed to practice medicine, osteopathic medicine, polysomnography, or respiratory care who shall represent the general public.

p. For mortuary science, four members licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public.

q. For massage therapists, four members licensed to practice massage therapy and three members who are not licensed to practice massage therapy and who shall represent the general public.

r. For athletic trainers, three members licensed to practice athletic training, three members licensed to practice medicine and surgery, and one member not licensed to practice athletic training or medicine and surgery and who shall represent the general public.

s. For podiatry, five members licensed to practice podiatry, two members licensed to practice orthotics, prosthetics, or pedorthics, and two members who are not so licensed and who shall represent the general public.

t. For social work, a total of seven members, five who are licensed to practice social work, with at least one from each of three levels of licensure described in section 154C.3, subsection 1, and one employed in the area of children's social work, and two who are not licensed social workers and who shall represent the general public.

u. For sign language interpreting and transliterating, four members licensed to practice interpreting and transliterating, three of whom shall be practicing interpreters and transliterators at the time of appointment to the board and at least one of whom is employed in an educational setting; and three members who are consumers of interpreting

or transliterating services as defined in section 154E.1, each of whom shall be deaf or hard of hearing.

v. For hearing aid specialists, three licensed hearing aid specialists and two members who are not licensed hearing aid specialists who shall represent the general public. No more than two members of the board shall be employees of, or specialists principally for, the same hearing aid manufacturer.

w. For nursing home administrators, a total of nine members, four who are licensed nursing home administrators, one of whom is the administrator of a nonproprietary nursing home; three licensed members of any profession concerned with the care and treatment of chronically ill or elderly patients who are not nursing home administrators or nursing home owners; and two members of the general public who are not licensed under chapter 155, have no financial interest in any nursing home, and who shall represent the general public.

2. A majority of the members of a board constitutes a quorum.

[C97, §2564, 2576, 2584; S13, §2564, 2575-a29, -a30, -a37, -a38, 2576, 2583-a, -h, -i, 2600-b, -c; SS15, §2584; C24, 27, 31, 35, 39, §**2451, 2452, 2475;** C46, 50, 54, 58, 62, 66, §147.14, 147.15, 147.38; C71, 73, §147.14, 147.15, 147.38, 153.1; C75, 77, 79, 81, §147.14]

84 Acts, ch 1075, §9; 85 Acts, ch 168, §5; 86 Acts, ch 1003, §1; 86 Acts, ch 1022, §1; 88 Acts, ch 1134, §29; 88 Acts, ch 1225, §6, 7; 91 Acts, ch 229, §3; 92 Acts, ch 1183, §2; 92 Acts, ch 1205, §15, 16; 96 Acts, ch 1035, §2, 3, 13; 96 Acts, ch 1036, §12; 96 Acts, ch 1148, §1, 2; 98 Acts, ch 1002, §1, 2; 98 Acts, ch 1010, §1; 98 Acts, ch 1053, §10; 99 Acts, ch 19, §1; 99 Acts, ch 96, §14; 2004 Acts, ch 1175, §423, 433; 2005 Acts, ch 3, §36; 2007 Acts, ch 10, §33; 2007 Acts, ch 218, §188; 2008 Acts, ch 1032, §26; 2008 Acts, ch 1088, §13; 2009 Acts, ch 56, §2; 2009 Acts, ch 133, §47; 2010 Acts, ch 1069, §18; 2012 Acts, ch 1101, §4; 2015 Acts, ch 57, §4; 2015 Acts, ch 70, §5; 2018 Acts, ch 1106, §5, 14; 2018 Acts, ch 1141, §1; 2020 Acts, ch 1102, §6

Referred to in §148.2A, 154F.1, 155A.2A
Board of medicine alternate members, see §148.2A
Board of pharmacy alternate members, see §155A.2A

147.15 Reserved.

147.16 Board members.

1. Each licensed board member shall be actively engaged in the practice or the instruction of the board member's profession and shall have been so engaged for a period of five years just preceding the board member's appointment, the last two of which shall be in this state.

2. However, each licensed physician assistant member of the board of physician assistants shall be actively engaged in practice as a physician assistant and shall have been so engaged for a period of three years just preceding the member's appointment, the last year of which shall be in this state.

[C97, §2584; S13, §2583-a, -h, 2600-b; SS15, §2584; C24, 27, 31, 35, 39, §**2453;** C46, 50, 54, 58, 62, 66, §147.16; C71, 73, §147.16, 153.1; C75, 77, 79, 81, §147.16; 81 Acts, ch 65, §1]

88 Acts, ch 1225, §8; 2007 Acts, ch 10, §34

147.17 Reserved.

147.18 Disqualifications. Repealed by 2008 Acts, ch 1088, §79.

147.19 Terms of office.

The board members shall serve three-year terms, which shall commence and end as provided by section 69.19. Any vacancy in the membership of a board shall be filled by appointment of the governor subject to senate confirmation. A member shall serve no more than nine years in total on the same board.

[C97, §2564, 2576, 2584; S13, §2564, 2575-a29, -a37, 2576, 2583-a, -h, 2600-b; SS15, §2584; C24, 27, 31, 35, 39, §**2456, 2458**; C46, 50, 54, 58, 62, 66, §147.19, 147.21; C71, 73, §147.19, 147.21, 153.1; C75, 77, 79, 81, §147.19]

2007 Acts, ch 10, §36; 2008 Acts, ch 1088, §14

Referred to in §148.2A, 155A.2A
Confirmation, see §2.32

Board of medicine alternate members, see §148.2A
Board of pharmacy alternate members, see §155A.2A

147.20 Nomination of board members.

The regular state association or society for each profession may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations.

[S13, §2583-a, -h, 2600-b; C24, 27, 31, 35, 39, §**2457;** C46, 50, 54, 58, 62, 66, §147.20; C71, 73, §147.20, 153.1; C75, 77, 79, 81, §147.20]

2007 Acts, ch 10, §37

147.21 Examination information.

1. The public members of a board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

2. A member of the board shall not disclose information relating to any of the following:

a. The contents of the examination.

b. The examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

3. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

[C75, 77, 79, 81, §147.21]

83 Acts, ch 101, §26; 2008 Acts, ch 1088, §15

Referred to in §152.12, 157.3B

147.22 Officers.

Each board shall annually select a chairperson and a vice chairperson from its own membership.

[C97, §2576, 2585; S13, §2576, 2583-i, 2585, 2600-c; C24, 27, 31, 35, 39, §**2459;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.22]

2007 Acts, ch 10, §38; 2008 Acts, ch 1088, §16

147.23 Reserved.

147.24 Compensation.

Members of a board shall receive actual expenses for their duties as a member of the board. Each member of each board shall also be eligible to receive compensation as provided in section 7E.6, within the limits of funds available.

[C97, §2574; S13, §2574, 2575-a34, -a44, 2583-a, -p, 2600-g; C24, 27, 31, 35, 39, §**2461;** C46, 50, 54, 58, 62, 66, §147.24; C71, 73, §147.24, 153.3; C75, 77, 79, 81, §147.24]

86 Acts, ch 1245, §1141; 2007 Acts, ch 10, §39; 2008 Acts, ch 1088, §17

147.25 System of health personnel statistics — fee.

1. A board may establish a system to collect, maintain, and disseminate health personnel statistical data regarding board licensees, including but not limited to number of licensees, employment status, location of practice or place of employment, areas of professional specialization and ages of licensees, and other pertinent information bearing on the availability of trained and licensed personnel to provide services in this state.

2. In addition to any other fee provided by law, a fee may be set by the respective boards for each license and renewal of a license to practice a profession, which fee shall be based on the annual cost of collecting information for use by the board in the administration of the system of health personnel statistics established by this section. The fee shall be retained by

the respective board in the manner in which license and renewal fees are retained in section 147.82.

[C75, 77, 79, 81, §147.25]

84 Acts, ch 1075, §10; 85 Acts, ch 168, §6; 88 Acts, ch 1225, §9; 2006 Acts, ch 1155, §4, 15; 2007 Acts, ch 10, §40, 184; 2008 Acts, ch 1088, §18

147.26 Supplies and examination quarters. Repealed by 2008 Acts, ch 1088, §79.

147.27 Reserved.

147.28 National organization.

Each board may maintain a membership in the national organization of the regulatory boards of its profession to be paid from board funds.

[C27, 31, 35, §2465-b1; C39, §**2465.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.28]

2007 Acts, ch 10, §42; 2008 Acts, ch 1088, §19

147.28A Scope of practice review committees — future repeal. Repealed by its own terms; 2005 Acts, ch 175, §84.

EXAMINATIONS

147.29 Applications. Repealed by 2008 Acts, ch 1088, §78.

147.30 Time and place of examinations. Repealed by 2008 Acts, ch 1088, §78. See §147.34.

147.31 and 147.32 Reserved.

147.33 Professional schools.

A dean of a college or university which provides instruction or training in a profession shall supply information or data related to the college or university upon request of a board.

[C24, 27, 31, 35, 39, §**2470;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.33]

2007 Acts, ch 10, §44; 2008 Acts, ch 1088, §20

147.34 Examinations.

1. Each board shall by rule prescribe the examination or examinations required for licensure for the profession and the manner in which an applicant shall complete the examination process. A board may develop and administer the examination, may designate a national, uniform, or other examination as the prescribed examination, or may contract for such services. Dentists shall pass an examination approved by a majority of the dentist members of the dental board.

2. When a board administers an examination, the board shall provide adequate public notice of the time and place of the examination to allow candidates to comply with the provisions of this subtitle. Administration of examinations, including location, frequency, and reexamination, may be determined by the board.

3. Applicants who fail the examination once shall be allowed to take the examination at the next authorized time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. An applicant who has failed an examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board prescribes a national or uniform examination, the board shall only be required to provide the examination

grade and such other information concerning the applicant's examination results which are available to the board.

[C97, §2576, 2582, 2589, 2597; S13, §2575-a29, -a37, 2576, 2582, 2583-a, -i, -k, 2589-a, 2600-c, -d; SS15, §2589-a; C24, 27, 31, 35, 39, §**2471, 2567, 2572, 2573;** C46, 50, 54, 58, 62, 66, §147.34, 153.3, 153.8, 153.9; C71, 73, §147.34, 153.2, 153.6, 153.8; C75, 77, 79, 81, §147.34]

94 Acts, ch 1132, §17; 96 Acts, ch 1036, §14; 98 Acts, ch 1053, §12; 2007 Acts, ch 10, §45; 2008 Acts, ch 1088, §21

Referred to in §153.21, 155.3, 156.4

147.35 Names of eligible candidates. Repealed by 2008 Acts, ch 1088, §79.

147.36 Rules.

Each board may establish rules for any of the following:

1. The qualifications required for applicants seeking to take examinations.
2. The denial of applicants seeking to take examinations.
3. The conducting of examinations.
4. The grading of examinations and passing upon the technical qualifications of applicants, as shown by such examinations.
5. The minimum scores required for passing standardized examinations.

[C97, §2584; S13, §2575-a38, 2583-a, -i, 2600-e; SS15, §2584; C24, 27, 31, 35, 39, §**2473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.36]

92 Acts, ch 1183, §3; 2007 Acts, ch 10, §47; 2008 Acts, ch 1088, §22

147.37 Identity of candidate concealed.

The identity of the person taking an examination shall not be disclosed during the examination process and in practice the identity of the candidate shall be concealed to the extent possible.

[C97, §2576; S13, §2576, 2583-a; C24, 27, 31, 35, 39, §**2474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.37]

2007 Acts, ch 10, §48; 2008 Acts, ch 1088, §23

147.38 Reserved.

147.39 through 147.42 Repealed by 2008 Acts, ch 1088, §79.

147.43 Preservation of records. Repealed by 2008 Acts, ch 1088, §78.

RECIPROCAL LICENSES

147.44 Reciprocal agreements.

A board may enter into a reciprocal agreement with a licensing authority of another state for the purpose of recognizing licenses issued by the other state, provided that such licensing authority imposes licensure requirements substantially equivalent to those imposed in this state. The board may establish by rule the conditions for the recognition of such licenses and the process for licensing such individuals to practice in this state.

[C97, §2582; S13, §2582; C24, 27, 31, 35, 39, §**2481;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.44]

94 Acts, ch 1132, §19; 96 Acts, ch 1036, §16; 98 Acts, ch 1053, §14; 2007 Acts, ch 10, §53; 2008 Acts, ch 1088, §24

Referred to in §148.3, 152.8, 153.36, 155.11, 157.3, 158.3

147.45 through 147.47 Repealed by 2008 Acts, ch 1088, §79.

147.48 Termination of reciprocal agreements.

If the requirements for a license in any state with which this state has a reciprocal agreement are changed by any law or rule of the authorities in that state so that such

requirements are no longer substantially equivalent to those existing in this state, the agreement shall be deemed terminated and licenses issued in that state shall not be recognized as a basis of granting a license in this state until a new agreement has been negotiated.

[C24, 27, 31, 35, 39, §**2485;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.48]

2007 Acts, ch 10, §57; 2008 Acts, ch 1088, §25

Referred to in §152.8, 153.36, 155.11, 157.3, 158.3

147.49 License of another state.

A board shall, upon presentation of a license to practice a profession issued by the duly constituted authority of another state with which this state has established reciprocal relations, and subject to the rules of the board for such profession, license the applicant to practice in this state, unless under the rules of the board a practical or jurisprudence examination is required. The board of medicine may accept in lieu of the examination prescribed in section 148.3 a license to practice medicine and surgery or osteopathic medicine and surgery, issued by the duly constituted authority of another state, territory, or foreign country. Endorsement may be accepted in lieu of further written examination without regard to the existence or nonexistence of a reciprocal agreement, but shall not be in lieu of the standards and qualifications prescribed by section 148.3.

[C97, §2582; S13, §2575-a30, -a39, 2582, 2583-l, 2589-b, 2600-m; C24, 27, 31, 35, 39, §**2486;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.49]

2007 Acts, ch 10, §58; 2008 Acts, ch 1088, §26

Referred to in §152.8, 153.36, 155.11, 157.3, 158.3

147.50 Practical examinations. Repealed by 2008 Acts, ch 1088, §79.

147.51 and 147.52 Repealed by 2008 Acts, ch 1088, §78.

147.53 Power to adopt rules.

Each board entering into a reciprocal agreement shall adopt necessary rules, not inconsistent with law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

[C24, 27, 31, 35, 39, §**2490;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.53]

2007 Acts, ch 10, §60; 2008 Acts, ch 1088, §27

Referred to in §152.8, 153.36, 155.11

147.54 Change of residence. Repealed by 2008 Acts, ch 1088, §78.

LICENSEE DISCIPLINE

147.55 Grounds.

A licensee's license to practice a profession shall be revoked or suspended, or the licensee otherwise disciplined by the board for that profession, when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetence.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Fraud in representations as to skill or ability.
6. Use of untruthful or improbable statements in advertisements.
7. Willful or repeated violations of the provisions of this chapter, chapter 272C, or a board's enabling statute.

8. Other acts or offenses as specified by board rule.

1. [C97, §2578; S13, §2575-a33, -a41, 2578, 2583-c, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(1)]

2. [C97, §2578; S13, §2578, 2583-c, -m; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(2)]

3. [C97, §2578; S13, §2575-a33, -a41, 2578, 2583-m, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(3)]

4. [C97, §2578; S13, §2575-a41, 2578, 2583-c, -m, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(4)]

5. [C97, §2578; S13, §2578, 2583-c; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(6)]

6. [C97, §2578; S13, §2578, 2583-c, 2600-o5; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.55(7)]

7. [C97, §2596; S13, §2575-a33, -a41; C24, 27, 31, 35, 39, §**2492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §147.55(9); C79, 81, §147.55(8)]

2008 Acts, ch 1088, §28; 2009 Acts, ch 133, §48; 2020 Acts, ch 1103, §12, 31

Referred to in §148.6, 148.7, 148A.7, 148E.8, 148H.7, 152.10, 152D.6, 153.36, 155.4, 155A.12, 156.9, 272C.3, 272C.4

147.56 Lyme disease treatment — exemption from discipline.

A person licensed by a board under this subtitle shall not be subject to discipline under this chapter or the board's enabling statute based solely on the licensee's recommendation or provision of a treatment method for Lyme disease or other tick-borne disease if the recommendation or provision of such treatment meets all the following criteria:

1. The treatment is provided after an examination is performed and informed consent is received from the patient.
2. The licensee identifies a medical reason for recommending or providing the treatment.
3. The treatment is provided after the licensee informs the patient about other recognized treatment options and describes to the patient the licensee's education, experience, and credentials regarding the treatment of Lyme disease or other tick-borne disease.
4. The licensee uses the licensee's own medical judgment based on a thorough review of all available clinical information and Lyme disease or other tick-borne disease literature to determine the best course of treatment for the individual patient.
5. The treatment will not, in the opinion of the licensee, result in the direct and proximate death of or serious bodily injury to the patient.

2017 Acts, ch 16, §1, 2

147.57 Reserved.

147.58 through 147.71 Repealed by 2008 Acts, ch 1088, §78.

USE OF TITLES AND DEGREES

147.72 Professional titles and abbreviations.

Any person licensed to practice a profession under this subtitle may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

[S13, §2575-a28, -a31, 2583-q; C24, 27, 31, 35, 39, §**2509;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.72]

94 Acts, ch 1132, §22; 96 Acts, ch 1036, §19; 98 Acts, ch 1053, §17

Referred to in §147.73

147.73 Titles used by holder of degree.

Nothing in section 147.72 shall be construed:

1. As authorizing any person licensed to practice a profession under this subtitle to use or assume any degree or abbreviation of the degree unless such degree has been conferred upon the person by an institution of learning accredited by the appropriate board, or by some recognized state or national accredited agency.

2. As prohibiting any holder of a degree conferred by an institution of learning accredited by the appropriate board created in this chapter, or by some recognized state or national accrediting agency, from using the title which such degree authorizes the holder to use, but the holder shall not use such degree or abbreviation in any manner which might mislead the public as to the holder's qualifications to treat human ailments.

[C24, 27, 31, 35, 39, §**2510;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.73]

94 Acts, ch 1132, §23; 96 Acts, ch 1036, §20; 98 Acts, ch 1053, §18; 2008 Acts, ch 1088, §30

147.74 Professional titles or abbreviations — false use prohibited.

1. Any person who falsely claims by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, advertisements, the internet, or other written or electronic means, to be a practitioner of a profession other than the one under which the person holds a license or who fails to use the designations provided in this section shall be guilty of a simple misdemeanor.

2. A physician or surgeon may use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "M. D."

3. An osteopathic physician and surgeon may use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "D. O.", or the words "osteopathic physician and surgeon".

4. A chiropractor may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters, "D. C." or the word, "chiropractor".

5. A dentist may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "D. D. S.", or "D. M. D.", or the word "dentist" or "dental surgeon". A dental hygienist may use the words "registered dental hygienist" or the letters "R. D. H." after the person's name. A dental assistant may use the words "registered dental assistant" or the letters "R. D. A." after the person's name.

6. A podiatric physician may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "D. P. M." or the words "podiatric physician".

7. A graduate of a school accredited by the board of optometry may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "O. D."

8. A physical therapist registered or licensed under chapter 148A may use the words "physical therapist" after the person's name or signify the same by the use of the letters "P. T." after the person's name. A physical therapist with an earned doctoral degree from an accredited school, college, or university may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "physical therapist". An occupational therapist registered or licensed under chapter 148B may use the words "occupational therapist" after the person's name or signify the same by the use of the letters "O. T." after the person's name. An occupational therapist with an earned doctoral degree from an accredited school, college, or university may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "occupational therapist".

9. A physical therapist assistant licensed under chapter 148A may use the words "physical therapist assistant" after the person's name or signify the same by use of the letters "P. T. A." after the person's name. An occupational therapy assistant licensed under chapter 148B may use the words "occupational therapy assistant" after the person's name or signify the same by use of the letters "O. T. A." after the person's name.

10. A psychologist who possesses a doctoral degree may use the prefix "Dr." or "Doctor" but shall add after the person's name the word "psychologist".

11. A speech pathologist with an earned doctoral degree in speech pathology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "speech pathologist". An audiologist with an earned doctoral degree in audiology

obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the word "audiologist".

12. A bachelor social worker licensed under chapter 154C may use the words "licensed bachelor social worker" or the letters "L. B. S. W." after the person's name. A master social worker licensed under chapter 154C may use the words "licensed master social worker" or the letters "L. M. S. W." after the person's name. An independent social worker licensed under chapter 154C may use the words "licensed independent social worker", or the letters "L. I. S. W." after the person's name.

13. A marital and family therapist licensed under chapter 154D and this chapter may use the words "licensed marital and family therapist" after the person's name or signify the same by the use of the letters "L. M. F. T." after the person's name. A marital and family therapist licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "licensed marital and family therapist".

14. A mental health counselor licensed under chapter 154D and this chapter may use the words "licensed mental health counselor" after the person's name. A mental health counselor licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "licensed mental health counselor".

15. *a.* A behavior analyst licensed under chapter 154D may use the letters "LBA" after the person's name.

b. An assistant behavior analyst licensed under chapter 154D may use the letters "LABA" after the person's name.

16. A pharmacist who possesses a doctoral degree recognized by the accreditation council for pharmacy education from a college of pharmacy approved by the board of pharmacy or a doctor of philosophy degree in an area related to pharmacy may use the prefix "Doctor" or "Dr." but shall add after the person's name the word "pharmacist" or "Pharm. D."

17. A physician assistant licensed under chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "P. A." after the person's name.

18. A massage therapist licensed under chapter 152C may use the words "licensed massage therapist" or the initials "L. M. T." after the person's name.

19. An acupuncturist licensed under chapter 148E may use the words "licensed acupuncturist" or the abbreviation "L. Ac." after the person's name.

20. A respiratory care practitioner licensed under chapter 152B and this chapter may use the title "respiratory care practitioner" or the letters "R. C. P." after the person's name.

21. An athletic trainer licensed under chapter 152D and this chapter may use the words "licensed athletic trainer" or the letters "LAT" after the person's name.

22. A registered nurse licensed under chapter 152 may use the words "registered nurse" or the letters "R. N." after the person's name. A licensed practical nurse licensed under chapter 152 may use the words "licensed practical nurse" or the letters "L. P. N." after the person's name. An advanced registered nurse practitioner licensed under chapter 152 or 152E may use the words "advanced registered nurse practitioner" or the letters "A.R.N.P." after the person's name.

23. A sign language interpreter or transliterator licensed under chapter 154E and this chapter may use the title "licensed sign language interpreter" or the letters "L. I." after the person's name.

24. *a.* An orthotist licensed under chapter 148F may use the words "licensed orthotist" after the person's name or signify the same by the use of the letters "L.O." after the person's name.

b. A pedorthist licensed under chapter 148F may use the words "licensed pedorthist" after the person's name or signify the same by the use of the letters "L.ped." after the person's name.

c. A prosthetist licensed under chapter 148F may use the words "licensed prosthetist" after the person's name or signify the same by the use of the letters "L.P." after the person's name.

25. A genetic counselor licensed under chapter 148H may use the words "genetic counselor" or "licensed genetic counselor" or corresponding abbreviations after the person's name.

26. A person who is licensed to engage in the practice of polysomnography shall have the right to use the title "polysomnographic technologist" or the letters "P.S.G.T." after the person's name. No other person may use that title or letters or any other words or letters indicating that the person is a polysomnographic technologist.

27. No other practitioner licensed to practice a profession under any of the provisions of this subtitle shall be entitled to use the prefix "Dr." or "Doctor" unless the licensed practitioner possesses an earned doctoral degree. Such a practitioner shall reference the degree held after the person's name.

[C31, 35, §2510-d1; C39, §**2510.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.74; 81 Acts, ch 66, §1]

84 Acts, ch 1075, §11; 87 Acts, ch 215, §40; 88 Acts, ch 1225, §10; 90 Acts, ch 1168, §27; 91 Acts, ch 228, §1; 91 Acts, ch 229, §4; 92 Acts, ch 1137, §7; 92 Acts, ch 1183, §4; 93 Acts, ch 86, §13; 95 Acts, ch 108, §4; 96 Acts, ch 1035, §4; 96 Acts, ch 1036, §21; 98 Acts, ch 1053, §19; 99 Acts, ch 101, §1; 2000 Acts, ch 1053, §3; 2001 Acts, ch 58, §7; 2003 Acts, ch 93, §1, 14; 2004 Acts, ch 1045, §2; 2004 Acts, ch 1175, §424, 433; 2007 Acts, ch 10, §61; 2007 Acts, ch 215, §246; 2008 Acts, ch 1088, §31; 2012 Acts, ch 1101, §5; 2014 Acts, ch 1019, §1; 2015 Acts, ch 70, §6; 2018 Acts, ch 1052, §4, 12; 2018 Acts, ch 1106, §6, 14

Referred to in §148A.7

147.75 Itinerants. Repealed by 2008 Acts, ch 1088, §78.

147.76 Rules.

The boards for the various professions shall adopt all necessary and proper rules to administer and interpret this chapter and chapters 148 through 158, except chapter 148D.

[C77, 79, 81, §147.76]

89 Acts, ch 83, §28; 92 Acts, ch 1097, §4; 2007 Acts, ch 10, §62; 2008 Acts, ch 1088, §32

147.77 through 147.79 Reserved.

FEES

147.80 Establishment of fees — administrative costs.

1. Each board may by rule establish fees for the following based on the costs of sustaining the board and the actual costs of the service:

a. Examinations.

b. Licensure, certification, or registration.

c. Renewal of licensure, certification, or registration.

d. Renewal of licensure, certification, or registration during the grace period.

e. Reinstatement or reactivation of licensure, certification, or registration.

f. Issuance of a certified statement that a person is licensed, registered, or has been issued a certificate to practice in this state.

g. Issuance of a duplicate license, registration, or certificate, which shall be so designated on its face. A board may require satisfactory proof that the original license, registration, or certificate issued by the board has been lost or destroyed.

h. Issuance of a renewal card.

i. Verification of licensure, registration, or certification.

j. Returned checks.

k. Inspections.

2. Each board shall annually prepare estimates of projected revenues to be generated by the fees received by the board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to the board. Each board shall annually review and adjust its schedule of fees to cover projected expenses.

3. The board of medicine, the board of pharmacy, the dental board, and the board of nursing shall retain individual executive officers pursuant to section 135.11B, but shall make every effort to share administrative, clerical, and investigative staff to the greatest extent possible.

[C97, §2576, 2597, 2590; S13, §2575-a30, -a38, -a39, 2582, 2583-a, -l, 2589-d, 2600-d; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.80; 81 Acts, ch 2, §10(5), ch 5, §4(5)]

1. [C97, §2597; S13, §2600-d, -m; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(1, 2, 7); C66, 71, 73, §147.80(1, 7); C75, 77, 79, 81, §147.80(1)]

2. [C97, §2590; S13, §2589-b, -d; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(5 – 7); C66, 71, 73, §147.80(1, 7); C75, 77, 79, 81, §147.80(2)]

3. [C97, §2576; S13, §2576, 2582, 2583-a; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(1 – 4); C66, 71, 73, §147.80(2, 7); C75, 77, 79, 81, §147.80(3)]

4. [C75, 77, 79, 81, §147.80(4)]

6. [C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(5)]

7. [C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(6)]

8. [C66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(7)]

10. [S13, §2583-l, -n; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(3, 4, 7); C75, 77, 79, 81, §147.80(8)]

11. [C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(5 – 7); C75, 77, 79, 81, §147.80(9)]

12. [S13, §2575-a38, -a39; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(5 – 7); C75, 77, 79, 81, §147.80(10)]

13. [S13, §2575-a30; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, §147.80(5 – 7); C66, §147.80(6, 7, 16, 17); C71, 73, §147.80(6, 7, 19, 20); C75, 77, 79, 81, §147.80(11)]

14. [C66, §147.80(19); C71, 73, §147.80(22); C75, 77, 79, 81, §147.80(12)]

15. [C27, §2516(5 – 7); C31, 35, 39, §**2516(5 – 7, 11, 13);** C46, 50, 54, 58, 62, §147.80(5 – 7, 11, 13); C66, 71, 73, §147.80(5 – 7, 10, 11); C75, 77, 79, 81, §147.80(13)]

16. [C27, 31, 35, 39, §**2516;** C46, 50, 54, §147.80(5 – 7, 12, 13); C58, 62, 66, §147.80(5 – 7, 12 – 14); C71, 73, §147.80(5 – 7, 12 – 17); C75, 77, 79, 81, §147.80(14)]

17. [C77, 79, 81, §147.80(15)]

18. [C81, §147.80(16)]

19. [C81, §147.80(17)]

24. [S13, §2600-n; C24, 27, 31, 35, 39, §**2516;** C46, 50, 54, 58, 62, 66, 71, 73, §147.80(8); C75, §147.80(15); C77, 79, §147.80(16); C81, §147.80(18)]

25. [C66, 71, 73, §147.80(18); C75, §147.80(16); C77, 79, §147.80(17); C81, §147.80(19)]

84 Acts, ch 1075, §12; 85 Acts, ch 168, §7; 85 Acts, ch 246, §1; 88 Acts, ch 1225, §11; 89 Acts, ch 240, §1; 91 Acts, ch 228, §2; 91 Acts, ch 229, §5; 92 Acts, ch 1183, §5; 92 Acts, ch 1205, §17; 93 Acts, ch 86, §14; 96 Acts, ch 1036, §22; 98 Acts, ch 1053, §20; 2000 Acts, ch 1002, §2; 2000 Acts, ch 1053, §4; 2001 Acts, ch 24, §31; 2001 Acts, ch 58, §8; 2003 Acts, ch 93, §2, 14; 2004 Acts, ch 1175, §425, 433; 2005 Acts, ch 175, §85; 2006 Acts, ch 1155, §5, 15; 2007 Acts, ch 10, §63; 2007 Acts, ch 218, §199, 200; 2008 Acts, ch 1088, §33; 2009 Acts, ch 133, §49; 2019 Acts, ch 85, §60

Referred to in §147.82, 148F.3, 154A.13, 155A.43, 157.4, 157.8, 157.11, 158.4, 158.7, 158.9

147.81 Reserved.

147.82 Fee retention.

All fees collected by a board listed in section 147.13 or by the department for the bureau of professional licensure, and fees collected pursuant to sections 124.301 and 147.80 and chapter 155A by the board of pharmacy, shall be retained by each board or by the department for the bureau of professional licensure. The moneys retained by a board shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by a board pursuant to this section

shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by a board pursuant to this section are not subject to reversion to the general fund of the state.

[C97, §2583; S13, §2575-a44, 2583-a, -s; C24, 27, 31, 35, 39, §**2518;** C46, 50, 54, 58, 62, 66, §147.82; C71, 73, §147.82, 153.4; C75, 77, 79, 81, §147.82]

2005 Acts, ch 175, §86; 2006 Acts, ch 1155, §6, 15; 2006 Acts, ch 1184, §86; 2007 Acts, ch 10, §184; 2008 Acts, ch 1088, §34

Referred to in §147.25, 153.37, 155A.43

VIOLATIONS — CRIMES — PUNISHMENT

147.83 Injunction.

Any person engaging in any business or in the practice of any profession for which a license is required by this subtitle without such license may be restrained by permanent injunction.

[C24, 27, 31, 35, 39, §**2519;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.83]

94 Acts, ch 1132, §24; 96 Acts, ch 1036, §23; 98 Acts, ch 1053, §21

Referred to in §154C.2, 156.16

Injunctions, R.C.P. 1.1501 – 1.1511

147.84 Forgeries.

Any person who files or attempts to file with a board any false or forged diploma, certificate or affidavit of identification or qualification, or other document shall be guilty of a fraudulent practice.

[C97, §2580, 2595; S13, §2583-d; C24, 27, 31, 35, 39, §**2520;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.84]

2008 Acts, ch 1088, §35

Referred to in §148.6

See also §714.8, chapter 715A

147.85 Fraud.

Any person who presents to a board a diploma or certificate of which the person is not the rightful owner, for the purpose of procuring a license, or who falsely impersonates anyone to whom a license has been issued by the board shall be guilty of a serious misdemeanor.

[C97, §2580, 2581, 2595; S13, §2575-a45, 2581, 2583-c, -d; C24, 27, 31, 35, 39, §**2521;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.85]

2008 Acts, ch 1088, §36; 2009 Acts, ch 133, §50

Referred to in §148.6

147.86 Penalties.

Any person violating any provision of this subtitle, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is otherwise provided, shall be guilty of a serious misdemeanor.

[C97, §2580, 2581, 2588, 2590, 2591, 2595; S13, §2575-a35, -a45, 2581, 2583-d, -r, 2589-d, 2600-o4; SS15, §2588; C24, 27, 31, 35, 39, §**2522;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.86]

92 Acts, ch 1183, §6; 94 Acts, ch 1023, §12; 94 Acts, ch 1132, §25; 96 Acts, ch 1036, §24; 98 Acts, ch 1053, §22; 2015 Acts, ch 30, §61

Referred to in §147.107, 147.108, 147.109, 147.114

ENFORCEMENT PROVISIONS

147.87 Enforcement.

A board shall enforce the provisions of this chapter and the board's enabling statute and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of a board shall furnish the board or

the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

[C24, 27, 31, 35, 39, §**2523;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.87]

90 Acts, ch 1204, §19; 94 Acts, ch 1132, §26; 96 Acts, ch 1036, §25; 98 Acts, ch 1053, §23; 2007 Acts, ch 10, §64; 2008 Acts, ch 1088, §37; 2009 Acts, ch 41, §53

Referred to in §152.10, 153.36, 156.9

Continuing education and regulation, chapter 272C

147.88 Inspections and investigations.

The department of inspections and appeals may perform inspections and investigations as required by this subtitle, except inspections and investigations for the board of medicine, board of pharmacy, board of nursing, and the dental board. The department of inspections and appeals shall employ personnel related to the inspection and investigative functions.

[C31, 35, §2523-c1; C39, §**2523.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.88]

90 Acts, ch 1204, §20; 94 Acts, ch 1132, §27; 96 Acts, ch 1036, §26; 98 Acts, ch 1053, §24; 2007 Acts, ch 10, §65; 2007 Acts, ch 218, §201; 2008 Acts, ch 1088, §38

Referred to in §152.10, 153.36

147.89 Report of violators.

Every licensee and member of a board shall report to the board the name of any person without the required license if the licensee or member of the board has reason to believe the person is practicing the profession without a license.

[C24, 27, 31, 35, 39, §**2524;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.89]

2007 Acts, ch 10, §66; 2008 Acts, ch 1088, §39; 2009 Acts, ch 41, §54

Referred to in §152.10, 153.36

147.90 Rules and forms. Repealed by 2008 Acts, ch 1088, §78.

147.91 Publications.

Each board shall provide access to the laws and rules regulating the board to the public upon request and shall make this information available through the internet.

[C24, 27, 31, 35, 39, §**2526;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.91]

90 Acts, ch 1204, §22; 2001 Acts, ch 58, §9; 2007 Acts, ch 10, §67; 2008 Acts, ch 1088, §40

Referred to in §153.36

147.92 Attorney general.

Upon request of a board the attorney general shall institute in the name of the state the proper proceedings against any person charged by the board with violating any provision of this or the following chapters of this subtitle.

[S13, §2600-o7; C24, 27, 31, 35, 39, §**2527;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.92]

94 Acts, ch 1132, §29; 94 Acts, ch 1173, §8; 96 Acts, ch 1036, §28; 98 Acts, ch 1053, §26; 2008 Acts, ch 1088, §41

Referred to in §153.36

147.93 Prima facie evidence.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, internet site, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession.

[S13, §2575-a28, -a31, 2600-o; C24, 27, 31, 35, 39, §**2528;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.93]

94 Acts, ch 1132, §30; 96 Acts, ch 1036, §29; 98 Acts, ch 1053, §27; 2008 Acts, ch 1088, §42; 2013 Acts, ch 90, §257

147.94 through 147.96 Repealed by 2008 Acts, ch 1088, §79.

147.97 Reserved.

147.98 through 147.100 Repealed by 2008 Acts, ch 1088, §79.

147.101 Reserved.

147.102 through 147.103A Repealed by 2008 Acts, ch 1088, §79.

147.104 Records. Repealed by 2008 Acts, ch 1088, §78.

147.105 Reserved.

ANATOMIC PATHOLOGY
SERVICES BILLING

147.106 Anatomic pathology services — billing.

1. A physician or a clinical laboratory located in this state or in another state that provides anatomic pathology services to a patient in this state shall present or cause to be presented a claim, bill, or demand for payment for such services only to the following persons:

a. The patient who is the recipient of the services.

b. The insurer or other third-party payor responsible for payment of the services.

c. The hospital that ordered the services.

d. The public health clinic or nonprofit clinic that ordered the services.

e. The referring clinical laboratory, other than the laboratory of a physician's office or group practice, that ordered the services. A laboratory of a physician's office or group practice that ordered the services may be presented a claim, bill, or demand for payment if a physician in the physician's office or group practice is performing the professional component of the anatomic pathology services.

f. A governmental agency or a specified public or private agent, agency, or organization that is responsible for payment of the services on behalf of the recipient of the services.

2. Except as provided under subsections 5 and 6, a clinical laboratory or a physician providing anatomic pathology services to patients in this state shall not, directly or indirectly, charge, bill, or otherwise solicit payment for such services unless the services were personally rendered by the clinical laboratory or the physician or under the direct supervision of the clinical laboratory or the physician in accordance with section 353 of the federal Public Health Service Act, 42 U.S.C. §263a.

3. A person to whom a claim, bill, or demand for payment for anatomic pathology services is submitted is not required to pay the claim, bill, or demand for payment if the claim, bill, or demand for payment is submitted in violation of this section.

4. This section shall not be construed to mandate the assignment of benefits for anatomic pathology services as defined in this section.

5. This section does not prohibit claims or charges presented to a referring clinical laboratory, other than a laboratory of a physician's office or group practice unless in accordance with subsection 1, paragraph *"e"*, by another clinical laboratory when samples are transferred between laboratories for the provision of anatomic pathology services.

6. This section does not prohibit claims or charges for anatomic pathology services presented on behalf of a public health clinic or nonprofit clinic that ordered the services provided that the clinic is identified on the claim or charge presented.

7. A violation of this section by a physician shall subject the physician to the disciplinary provisions of section 272C.3, subsection 2.

8. As used in this section:

a. "Anatomic pathology services" includes all of the following:

(1) Histopathology or surgical pathology, meaning the gross and microscopic examination and histologic processing of organ tissue performed by a physician or under the supervision of a physician.

(2) Cytopathology, meaning the examination of cells from fluids, aspirates, washings, brushings, or smears, including the Pap test examination, performed by a physician or under the supervision of a physician.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician, and the examination of peripheral blood smears performed by a physician or under the supervision of a physician upon the request of an attending or treating physician or technologist that a blood smear be reviewed by a physician.

(4) Subcellular pathology and molecular pathology services performed by a physician or under the supervision of a physician.

(5) Bloodbanking services performed by a physician or under the supervision of a physician.

b. *"Physician"* means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state or in another state.

2005 Acts, ch 10, §1; 2005 Acts, ch 179, §120; 2006 Acts, ch 1185, §73, 74; 2008 Acts, ch 1088, §95

DRUG AND LENS DISPENSING, SUPPLYING, AND PRESCRIBING

147.107 Drug dispensing, supplying, and prescribing — limitations.

1. A person, other than a pharmacist, physician, dentist, podiatric physician, prescribing psychologist, or veterinarian who dispenses as an incident to the practice of the practitioner's profession, shall not dispense prescription drugs or controlled substances.

2. *a.* A prescriber who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the dispensing is determined by the practitioner in the practitioner's physical presence. However, the physical presence requirement does not apply when a practitioner is utilizing an automated dispensing system. When using an automated dispensing system, the practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the practitioner and shall be determined in accordance with rules adopted by the board of medicine, the dental board, the board of podiatry, and the board of psychology for their respective licensees.

b. A prescriber who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall report the fact that they dispense prescription drugs with the practitioner's respective board at least biennially.

c. A prescriber who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall provide the patient with a prescription, if requested, that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription orally, electronically, or by facsimile in accordance with section 155A.27 to a pharmacy of the patient's choice.

d. A pharmacist who dispenses prescription drugs, including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions only when verification of the accuracy and completeness of the dispensing is determined by the pharmacist in the pharmacist's physical presence. The pharmacist's verification of the accuracy of the prescription drug dispensed shall not be required when verified by a certified pharmacy technician in a technician product verification program as defined in section 155A.3. The pharmacist's physical presence shall not be required when the pharmacist is remotely supervising pharmacy personnel operating in a licensed telepharmacy site or when utilizing an automated dispensing system that utilizes an internal quality control assurance plan. When utilizing a technician product verification program, or when remotely supervising pharmacy personnel operating at a licensed telepharmacy site, the pharmacist shall utilize an internal quality control assurance plan, in accordance with rules adopted

by the board of pharmacy, that ensures accuracy for dispensing. Automated dispensing verification, technician product verification, and telepharmacy practice accuracy and completeness remains the responsibility of the pharmacist and shall be determined in accordance with rules adopted by the board of pharmacy.

3. A registered nurse may supply, when pharmacist services are not reasonably available or when it is in the best interests of the patient, on the direct order of the supervising physician, a quantity of properly packaged and labeled prescription drugs, controlled substances, or contraceptive devices necessary to complete a course of therapy. However, a remote clinic, staffed by a registered nurse, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices.

4. A physician assistant may prescribe, dispense, order, administer, or procure prescription drugs, controlled substances, or medical devices necessary to complete a course of therapy pursuant to section 148C.4.

5. Notwithstanding subsection 1 and any other provision of this section to the contrary, a physician may delegate the function of prescribing drugs, controlled substances, and medical devices for which the supervising physician has sufficient training or experience to a physician assistant licensed pursuant to chapter 148C after the supervising physician determines the physician assistant's proficiency and competence. Rules relating to the authority of physician assistants to prescribe drugs, controlled substances, and medical devices pursuant to this subsection shall be adopted by the board of physician assistants, after consultation with the board of medicine and the board of pharmacy.

6. Health care providers shall consider the instructions of the physician assistant to be instructions of the supervising physician if the instructions concern duties delegated to the physician assistant by a supervising physician.

7. Notwithstanding subsection 1, a family planning clinic may dispense birth control drugs and devices upon the order of a physician. Subsections 2 and 3 do not apply to a family planning clinic under this subsection.

8. Notwithstanding subsection 1, but subject to the limitations contained in subsections 2 and 3, a registered nurse who is licensed as an advanced registered nurse practitioner may prescribe substances or devices, including controlled substances or devices, if the nurse is engaged in the practice of a nursing specialty regulated under rules adopted by the board of nursing in consultation with the board of medicine and the board of pharmacy.

9. Notwithstanding section 147.86, a person, including a pharmacist, who violates this section is guilty of a simple misdemeanor.

84 Acts, ch 1006, §1; 88 Acts, ch 1232, §1; 91 Acts, ch 238, §1; 91 Acts, ch 239, §1; 92 Acts, ch 1163, §37; 92 Acts, ch 1183, §10; 94 Acts, ch 1134, §1; 95 Acts, ch 108, §5; 2002 Acts, ch 1108, §13; 2003 Acts, ch 93, §3, 14; 2003 Acts, ch 108, §39; 2004 Acts, ch 1036, §8; 2004 Acts, ch 1101, §22; 2006 Acts, ch 1094, §1; 2007 Acts, ch 10, §78; 2007 Acts, ch 218, §202; 2008 Acts, ch 1016, §1; 2008 Acts, ch 1088, §43; 2015 Acts, ch 56, §3; 2016 Acts, ch 1093, §1; 2016 Acts, ch 1112, §3; 2018 Acts, ch 1142, §1; 2020 Acts, ch 1020, §1, 12; 2021 Acts, ch 68, §1

Referred to in §148G.1, 152B.1, 154.1, 155A.2, 155A.4, 155A.47

Subsection 2, paragraph d amended

147.108 Contact lens prescribing and dispensing.

1. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription, except when authorized orally under subsection 2, from a person licensed under chapter 148 or 154. The board of optometry shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

2. After contact lenses have been adequately adapted and the patient released from initial follow-up care by a person licensed under chapter 148 or 154, the patient may request a copy, at no cost, of the contact lens prescription from that licensed person. A person licensed under chapter 148 or 154 shall not withhold a contact lens prescription after the requirements of this section have been met. The prescription, at the option of the prescriber, may be given orally only to a person who is actively practicing and licensed under chapter 148, 154, or

155A. The contact lens prescription shall contain an expiration date, at the discretion of the prescriber, but not to exceed eighteen months. The contact lens prescription shall contain the necessary requirements of the ophthalmic lens, and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription may contain adapting and material guidelines and may also contain specific instructions for use by the patient. For the purpose of this section, *"ophthalmic lens"* means one which has been fabricated to fill the requirements of a particular contact lens prescription, including pharmaceutical-delivering contact lenses as defined in section 154.1, subsection 3.

3. A person who fills a contact lens prescription shall maintain a file of a valid prescription for a period of two years.

4. Notwithstanding section 147.86, a person who violates this section is guilty of a simple misdemeanor for a first violation. Subsequent violations are governed by section 147.86.

94 Acts, ch 1098, §1; 2004 Acts, ch 1036, §9; 2007 Acts, ch 10, §79; 2008 Acts, ch 1088, §96; 2010 Acts, ch 1010, §1; 2012 Acts, ch 1004, §1

147.109 Ophthalmic spectacle lens prescribing and dispensing.

1. A person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription from a person licensed under chapter 148 or 154. For the purpose of this section, *"ophthalmic spectacle lens"* means one which has been fabricated to fill the requirements of a particular spectacle lens prescription. The board of optometry shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

2. Upon completion of an eye examination, a person licensed under chapter 148 or 154 shall furnish the patient a copy of their ophthalmic spectacle lens prescription at no cost. The ophthalmic spectacle lens prescription shall contain an expiration date. The ophthalmic spectacle lens prescription shall contain the requirements of the ophthalmic spectacle lens and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

3. Upon request of a patient, a person licensed under chapter 148 or 154 shall provide the prescription of the patient, if the prescription has not expired, at no cost to another person licensed under chapter 148 or 154. The person licensed under chapter 148 or 154 shall accept the prescription and shall not require the patient to undergo an eye examination unless, due to observation or patient history, the licensee has reason to require an examination.

4. A dispenser shall maintain a file of a valid prescription for a period of two years.

5. Notwithstanding section 147.86, a person who violates this section is guilty of a simple misdemeanor for a first violation. Subsequent violations are governed by section 147.86.

94 Acts, ch 1098, §2; 2004 Acts, ch 1036, §10; 2007 Acts, ch 10, §80; 2008 Acts, ch 1088, §97

147.110 Reserved.

WOUNDS BY CRIMINAL VIOLENCE OR MOTOR VEHICLE

147.111 Report of treatment of wounds and other injuries.

1. A person licensed under the provisions of this subtitle who administers any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or a motor vehicle accident or crash, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application for treatment was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury.

2. A person certified under the provisions of chapter 147A who administers any treatment to any person suffering a gunshot or stab wound or other serious injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or a motor vehicle accident or crash, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, may report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or application for treatment was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious injury occurred, stating the name of the person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious injury.

3. Any provision of law or rule of evidence relating to a confidential communication is suspended for communications under this section.

[C31, 35, §2537-d1; C39, §**2537.7;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.111]

93 Acts, ch 100, §2; 94 Acts, ch 1132, §31; 96 Acts, ch 1036, §30; 98 Acts, ch 1053, §28; 99 Acts, ch 114, §8; 2010 Acts, ch 1127, §1

Referred to in §147.112, 331.653

147.112 Investigation and report by law enforcement agency.

The law enforcement agency who has received any report required by this chapter and who has any reason to believe that the person injured was involved in the commission of any crime, either as perpetrator or victim, shall at once commence an investigation into the circumstances of the gunshot or stab wound or other serious injury and make a report of the investigation to the county attorney in whose jurisdiction the gunshot or stab wound or other serious injury occurred. Law enforcement personnel shall not divulge any information received under the provisions of this section and section 147.111 to any person other than a law enforcing officer, and then only in connection with the investigation of the alleged commission of a crime.

[C31, 35, §2537-d2; C39, §**2537.8;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.112]

93 Acts, ch 100, §3; 99 Acts, ch 114, §9

Referred to in §331.653

"Serious injury" definition, see §702.18

147.113 Violations.

Any person failing to make the report required herein shall be guilty of a simple misdemeanor.

[C31, 35, §2537-d3; C39, §**2537.9;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §147.113]

BURN INJURIES

147.113A Report of burn injuries.

Any person licensed under the provisions of this subtitle who administers any treatment to a person suffering a burn which appears to be of a suspicious nature on the body, a burn to the upper respiratory tract, a laryngeal edema due to the inhalation of super-heated air, or a burn injury that is likely to result in death, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such burn or burn injury shall at once but not later than twelve hours after treatment was administered or application was made report the fact to law enforcement. The report shall be made to the law enforcement agency within whose jurisdiction the treatment was administered or application was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the burn or burn injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the burn or burn injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

2003 Acts, ch 134, §1

PELVIC EXAMINATIONS — INFORMED CONSENT

147.114 Prior informed consent relative to pelvic examinations — patient under anesthesia or unconscious — penalties.

1. A person licensed or certified to practice a profession, or a student undertaking a course of instruction or participating in a clinical training or residency program for a profession, shall not perform a pelvic examination on an anesthetized or unconscious patient unless one of the following conditions is met:

a. The patient or the patient's authorized representative provides prior written informed consent to the pelvic examination, and the pelvic examination is necessary for preventive, diagnostic, or treatment purposes.

b. The patient or the patient's authorized representative has provided prior written informed consent to a surgical procedure or diagnostic examination to be performed on the patient, and the performance of a pelvic examination is within the scope of care ordered for that surgical procedure or diagnostic examination.

c. The patient is unconscious and incapable of providing prior informed consent, and the pelvic examination is necessary for diagnostic or treatment purposes.

d. A court has ordered the performance of the pelvic examination for the purposes of collection of evidence.

2. A person who violates this section is subject to the penalty specified under section 147.86, and any professional disciplinary provisions, as applicable.

2017 Acts, ch 174, §111

147.115 through 147.134 Reserved.

MALPRACTICE

147.135 Peer review committees — nonliability — records and reports privileged and confidential.

1. A person shall not be civilly liable as a result of acts, omissions, or decisions made in connection with the person's service on a peer review committee. However, such immunity from civil liability shall not apply if an act, omission, or decision is made with malice.

2. As used in this subsection, *"peer review records"* means all complaint files, investigation files, reports, and other investigative information relating to licensee discipline or professional competence in the possession of a peer review committee or an employee of a peer review committee. As used in this subsection, *"peer review committee"* does not include licensing boards. Peer review records are privileged and confidential, are not subject to discovery, subpoena, or other means of legal compulsion for release to a person other than an affected licensee or a peer review committee, and are not admissible in evidence in a judicial or administrative proceeding other than a proceeding involving licensee discipline or a proceeding brought by a licensee who is the subject of a peer review record and whose competence is at issue. A person shall not be liable as a result of filing a report or complaint with a peer review committee or providing information to such a committee, or for disclosure of privileged matter to a peer review committee. A person present at a meeting of a peer review committee shall not be permitted to testify as to the findings, recommendations, evaluations, or opinions of the peer review committee in any judicial or administrative proceeding other than a proceeding involving licensee discipline or a proceeding brought by a licensee who is the subject of a peer review committee meeting and whose competence is at issue. Information or documents discoverable from sources other than the peer review committee do not become nondiscoverable from the other sources merely because they are made available to or are in the possession of a peer review committee. However, such information relating to licensee discipline may be disclosed to an appropriate licensing authority in any jurisdiction in which the licensee is licensed or has applied for a license. If such information indicates a crime has been committed, the information shall be reported

to the proper law enforcement agency. This subsection shall not preclude the discovery of the identification of witnesses or documents known to a peer review committee. Any final written decision and finding of fact by a licensing board in a disciplinary proceeding is a public record. Upon appeal by a licensee of a decision of a board, the entire case record shall be submitted to the reviewing court. In all cases where privileged and confidential information under this subsection becomes discoverable, admissible, or part of a court record the identity of an individual whose privilege has been involuntarily waived shall be withheld.

3. *a.* A full and confidential report concerning any final hospital disciplinary action approved by a hospital board of trustees that results in a limitation, suspension, or revocation of a physician's privilege to practice for reasons relating to the physician's professional competence or concerning any voluntary surrender or limitation of privileges for reasons relating to professional competence shall be made to the board of medicine by the hospital administrator or chief of medical staff within ten days of such action. The board of medicine shall investigate the report and take appropriate action. These reports shall be privileged and confidential as though included in and subject to the requirements for peer review committee information in subsection 2. Persons making these reports and persons participating in resulting proceedings related to these reports shall be immune from civil liability with respect to the making of the report or participation in resulting proceedings. As used in this subsection, "*physician*" means a person licensed pursuant to chapter 148.

b. Notwithstanding subsection 2, if the board of medicine conducts an investigation based on a complaint received or upon its own motion, a hospital pursuant to subpoena shall make available information and documents requested by the board, specifically including reports or descriptions of any complaints or incidents concerning an individual who is the subject of the board's investigation, even though the information and documents are also kept for, are the subject of, or are being used in peer review by the hospital. However, the deliberations, testimony, decisions, conclusions, findings, recommendations, evaluations, work product, or opinions of a peer review committee or its members and those portions of any documents or records containing or revealing information relating thereto shall not be subject to the board's request for information, subpoena, or other legal compulsion. All information and documents received by the board from a hospital under this section shall be confidential pursuant to section 272C.6, subsection 4.

[C77, 79, 81, §147.135]

86 Acts, ch 1211, §14; 90 Acts, ch 1086, §7; 2007 Acts, ch 10, §82; 2009 Acts, ch 133, §51

Referred to in §139A.22, 147.1, 147A.24

147.136 Scope of recovery.

1. Except as otherwise provided in subsection 2, in an action for damages for personal injury against a physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse licensed to practice that profession in this state, or against a hospital licensed for operation in this state, based on the alleged negligence of the practitioner in the practice of the profession or occupation, or upon the alleged negligence of the hospital in patient care, in which liability is admitted or established, the damages awarded shall not include actual economic losses incurred or to be incurred in the future by the claimant by reason of the personal injury, including but not limited to the cost of reasonable and necessary medical care, rehabilitation services, and custodial care, and the loss of services and loss of earned income, to the extent that those losses are replaced or are indemnified by insurance, or by governmental, employment, or service benefit programs or from any other source.

2. This section shall not bar recovery of economic losses replaced or indemnified by any of the following:

a. Benefits received under the medical assistance program under chapter 249A.

b. The assets of the claimant or of the members of the claimant's immediate family.

[C77, 79, 81, §147.136]

95 Acts, ch 108, §6; 2008 Acts, ch 1088, §141; 2011 Acts, ch 129, §85, 156; 2020 Acts, ch 1020, §2, 12

Referred to in §668.14, 668.14A

147.136A Noneconomic damage awards against health care providers.

1. For purposes of this section:

a. "Health care provider" means a hospital as defined in section 135B.1, a health care facility as defined in section 135C.1, a health facility as defined in section 135P.1, a physician or an osteopathic physician licensed under chapter 148, a physician assistant licensed and practicing under a supervising physician under chapter 148C, a podiatrist licensed under chapter 149, a chiropractor licensed under chapter 151, a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed under chapter 152 or 152E, a dentist licensed under chapter 153, an optometrist licensed under chapter 154, a pharmacist licensed under chapter 155A, a professional corporation under chapter 496C that is owned by persons licensed to practice a profession listed in this paragraph, or any other person or entity who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

b. "Noneconomic damages" means damages arising from pain, suffering, inconvenience, physical impairment, mental anguish, emotional pain and suffering, loss of chance, loss of consortium, or any other nonpecuniary damages.

c. "Occurrence" means the event, incident, or happening, and the acts or omissions incident thereto, which proximately caused injuries or damages for which recovery is claimed by the patient or the patient's representative.

2. The total amount recoverable in any civil action for noneconomic damages for personal injury or death, whether in tort, contract, or otherwise, against a health care provider shall be limited to two hundred fifty thousand dollars for any occurrence resulting in injury or death of a patient regardless of the number of plaintiffs, derivative claims, theories of liability, or defendants in the civil action, unless the jury determines that there is a substantial or permanent loss or impairment of a bodily function, substantial disfigurement, or death, which warrants a finding that imposition of such a limitation would deprive the plaintiff of just compensation for the injuries sustained.

3. The limitation on damages contained in this section shall not apply as to a defendant if that defendant's actions constituted actual malice.

2017 Acts, ch 107, §2, 5; 2018 Acts, ch 1041, §46

Referred to in §147.139, 147.140

Section applies to causes of action that accrue on or after July 1, 2017; 2017 Acts, ch 107, §5

147.137 Consent in writing.

A consent in writing to any medical or surgical procedure or course of procedures in patient care which meets the requirements of this section shall create a presumption that informed consent was given. A consent in writing meets the requirements of this section if it:

1. Sets forth in general terms the nature and purpose of the procedure or procedures, together with the known risks, if any, of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of any organ or limb, or disfiguring scars associated with such procedure or procedures, with the probability of each such risk if reasonably determinable.

2. Acknowledges that the disclosure of that information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner.

3. Is signed by the patient for whom the procedure is to be performed, or if the patient for any reason lacks legal capacity to consent, is signed by a person who has legal authority to consent on behalf of that patient in those circumstances.

[C77, 79, 81, §147.137]

147.138 Contingent fee of attorney reviewed by court.

In any action for personal injury or wrongful death against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse licensed under this chapter or against any hospital licensed under chapter 135B, based upon the alleged negligence of the licensee in the practice of that profession or occupation, or upon the alleged negligence of the hospital in patient care, the court shall determine the reasonableness of any contingent fee arrangement between the plaintiff and the plaintiff's attorney.

[C77, 79, 81, §147.138]

95 Acts, ch 108, §7; 2008 Acts, ch 1088, §141; 2020 Acts, ch 1020, §3, 12

147.139 Expert witness standards.

If the standard of care given by a health care provider, as defined in section 147.136A, is at issue, the court shall only allow a person the plaintiff designates as an expert witness to qualify as an expert witness and to testify on the issue of the appropriate standard of care or breach of the standard of care if all of the following are established by the evidence:

1. The person is licensed to practice in the same or a substantially similar field as the defendant, is in good standing in each state of licensure, and in the five years preceding the act or omission alleged to be negligent, has not had a license in any state revoked or suspended.

2. In the five years preceding the act or omission alleged to be negligent, the person actively practiced in the same or a substantially similar field as the defendant or was a qualified instructor at an accredited university in the same field as the defendant.

3. If the defendant is board-certified in a specialty, the person is certified in the same or a substantially similar specialty by a board recognized by the American board of medical specialties, the American osteopathic association, or the council on podiatric medical education.

4. *a.* If the defendant is a licensed physician or osteopathic physician under chapter 148, the person is a physician or osteopathic physician licensed in this state or another state.

b. If the defendant is a licensed podiatric physician under chapter 149, the person is a physician, osteopathic physician, or a podiatric physician licensed in this state or another state.

86 Acts, ch 1211, §16; 2008 Acts, ch 1088, §98; 2017 Acts, ch 107, §3, 5; 2018 Acts, ch 1172, §46

Referred to in §147.140

2017 amendment applies to causes of action that accrue on or after July 1, 2017; 2017 Acts, ch 107, §5

147.140 Expert witness — certificate of merit affidavit.

1. *a.* In any action for personal injury or wrongful death against a health care provider based upon the alleged negligence in the practice of that profession or occupation or in patient care, which includes a cause of action for which expert testimony is necessary to establish a prima facie case, the plaintiff shall, prior to the commencement of discovery in the case and within sixty days of the defendant's answer, serve upon the defendant a certificate of merit affidavit signed by an expert witness with respect to the issue of standard of care and an alleged breach of the standard of care. The expert witness must meet the qualifying standards of section 147.139.

b. A certificate of merit affidavit must be signed by the expert witness and certify the purpose for calling the expert witness by providing under the oath of the expert witness all of the following:

(1) The expert witness's statement of familiarity with the applicable standard of care.

(2) The expert witness's statement that the standard of care was breached by the health care provider named in the petition.

c. A plaintiff shall serve a separate certificate of merit affidavit on each defendant named in the petition.

2. An expert witness's certificate of merit affidavit does not preclude additional discovery

and supplementation of the expert witness's opinions in accordance with the rules of civil procedure.

3. The parties shall comply with the requirements of section 668.11 and all other applicable law governing certification and disclosure of expert witnesses.

4. The parties by agreement or the court for good cause shown and in response to a motion filed prior to the expiration of the time limits specified in subsection 1 may provide for extensions of the time limits. Good cause shall include but not be limited to the inability to timely obtain the plaintiff's medical records from health care providers when requested prior to filing the petition.

5. If the plaintiff is acting pro se, the plaintiff shall have the expert witness sign the certificate of merit affidavit or answers to interrogatories referred to in this section and the plaintiff shall be bound by those provisions as if represented by an attorney.

6. Failure to substantially comply with subsection 1 shall result, upon motion, in dismissal with prejudice of each cause of action as to which expert witness testimony is necessary to establish a prima facie case.

7. For purposes of this section, *"health care provider"* means the same as defined in section 147.136A.

2017 Acts, ch 107, §4, 5
Section applies to causes of action that accrue on or after July 1, 2017; 2017 Acts, ch 107, §5

147.141 through 147.150 Reserved.

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

147.151 and 147.152 Repealed by 2008 Acts, ch 1088, §79. See §154F.1, 154F.2.

147.153 through 147.156 Repealed by 2008 Acts, ch 1088, §78. See §154F.3 through 154F.6.

147.157 through 147.160 Reserved.

BASIC EMERGENCY MEDICAL CARE PROVIDERS

147.161 Repealed by 95 Acts, ch 41, §27. See chapter 147A.

OPIOID PRESCRIPTION RULES

147.162 Rules and directives relating to opioids.

1. Any board created under this chapter that licenses a prescribing practitioner shall adopt rules under chapter 17A establishing penalties for prescribing practitioners that prescribe opioids in dosage amounts exceeding what would be prescribed by a reasonably prudent prescribing practitioner engaged in the same practice.

2. For the purposes of this section, *"prescribing practitioner"* means a licensed health care professional with the authority to prescribe prescription drugs including opioids.

2018 Acts, ch 1138, §21

CHAPTER 147A

EMERGENCY MEDICAL CARE — TRAUMA CARE

Referred to in §68B.2A, 135.11, 135.24, 147.111, 272C.1, 321.267A, 422.12, 708.3A, 719.1, 719.1A

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SUBCHAPTER I

EMERGENCY MEDICAL CARE

147A.1 Definitions.

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

1. *"Department"* means the Iowa department of public health.
2. *"Director"* means the director of the Iowa department of public health.
3. *"Emergency medical care"* means such medical procedures as:

a. Administration of intravenous solutions.

b. Intubation.

c. Performance of cardiac defibrillation and synchronized cardioversion.

d. Administration of emergency drugs as provided by rule by the department.

e. Any other medical procedure approved by the department, by rule, as appropriate to be performed by emergency medical care providers who have been trained in that procedure.

4. *"Emergency medical care provider"* means an individual trained to provide emergency and nonemergency medical care at the emergency medical responder, emergency medical technician, advanced emergency medical technician, paramedic, or other certification levels adopted by rule by the department, who has been issued a certificate by the department, or a person practicing pursuant to chapter 147D.

5. *"Emergency medical services"* or *"EMS"* means an integrated medical care delivery

system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

6. *"Emergency medical services medical director"* means a physician licensed under chapter 148, who is responsible for overall medical direction of an emergency medical services program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties. An emergency medical services medical director who receives no compensation for the performance of the director's volunteer duties under this chapter shall be considered a state volunteer as provided in section 669.24 while performing volunteer duties as an emergency medical services medical director.

7. *"First responder"* means an emergency medical care provider, a registered nurse staffing an authorized service program under section 147A.12, a physician assistant staffing an authorized service program under section 147A.13, a fire fighter, or a peace officer as defined in section 801.4 who is trained and authorized to administer an opioid antagonist.

8. *"Licensed health care professional"* means the same as defined in section 280.16.

9. *"Opioid antagonist"* means a drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors, including but not limited to naloxone hydrochloride or any other similarly acting drug approved by the United States food and drug administration.

10. *"Opioid-related overdose"* means a condition affecting a person which may include extreme physical illness, a decreased level of consciousness, respiratory depression, a coma, or the ceasing of respiratory or circulatory function resulting from the consumption or use of an opioid, or another substance with which an opioid was combined.

11. *"Physician"* means an individual licensed under chapter 148.

12. *"Service program"* or *"service"* means any medical care ambulance service or nontransport service that has received authorization from the department under section 147A.5.

13. *"Training program"* means an Iowa college approved by the higher learning commission, an Iowa hospital authorized by the department, or a medical care ambulance service or nontransport service that has received authorization from the department to conduct emergency medical care services training.

[C79, 81, §147A.1]

84 Acts, ch 1287, §1; 86 Acts, ch 1245, §1142; 89 Acts, ch 89, §6; 93 Acts, ch 58, §7; 95 Acts, ch 41, §9; 99 Acts, ch 141, §21; 2008 Acts, ch 1088, §99; 2009 Acts, ch 56, §3; 2010 Acts, ch 1149, §6 – 8; 2015 Acts, ch 29, §114; 2016 Acts, ch 1061, §2; 2016 Acts, ch 1139, §72 – 75; 2019 Acts, ch 90, §2; 2021 Acts, ch 174, §61, 63

Referred to in §85.61, 97B.49B, 100B.14, 100B.31, 124.551, 135.190, 139A.2, 141A.1, 144A.2, 144D.1, 280.13C, 321.423, 422.12, 708.3A, 724.6

Subsection 13 amended

147A.1A Lead agency.

The department is designated as the lead agency for coordinating and implementing the provision of emergency medical services in this state. The department shall be the state EMS authority for the purposes of chapter 147D.

93 Acts, ch 58, §2; 2019 Acts, ch 90, §3

147A.2 Council established — terms of office.

1. An EMS advisory council shall be appointed by the director. Membership of the council shall be comprised of individuals nominated from, but not limited to, the following state or national organizations: Iowa osteopathic medical association, Iowa medical society, American college of emergency physicians, Iowa physician assistant society, Iowa academy of family physicians, university of Iowa hospitals and clinics, American academy of emergency medicine, American academy of pediatrics, Iowa EMS association, Iowa firefighters association, Iowa professional fire fighters, EMS education programs committee, Iowa nurses association, Iowa hospital association, and the Iowa state association of counties. The council shall also include at least two at-large members who are volunteer emergency medical care providers and a representative of a private service program.

2. The EMS advisory council shall advise the director and develop policy

recommendations concerning the regulation, administration, and coordination of emergency medical services in the state.

95 Acts, ch 41, §10; 98 Acts, ch 1100, §18; 2001 Acts, ch 74, §5; 2010 Acts, ch 1149, §9; 2011 Acts, ch 25, §18

147A.3 Meetings of the council — quorum.

Membership, terms of office, and quorum shall be determined by the director pursuant to chapter 135.

95 Acts, ch 41, §11; 2019 Acts, ch 85, §84

147A.4 Rulemaking authority.

1. *a.* The department shall adopt rules required or authorized by this subchapter pertaining to the operation of service programs which have received authorization under section 147A.5 to utilize the services of certified emergency medical care providers. These rules shall include but need not be limited to requirements concerning physician supervision, necessary equipment and staffing, and reporting by service programs which have received the authorization pursuant to section 147A.5.

b. The director, pursuant to rule, may grant exceptions and variances from the requirements of rules adopted under this subchapter for any service program. Exceptions or variations shall be reasonably related to undue hardships which existing services experience in complying with this subchapter or the rules adopted pursuant to this subchapter. Services requesting exceptions and variances shall be subject to other applicable rules adopted pursuant to this subchapter.

2. The department shall adopt rules required or authorized by this subchapter pertaining to the examination and certification of emergency medical care providers. These rules shall include but need not be limited to requirements concerning prerequisites, training, and experience for emergency medical care providers and procedures for determining when individuals have met these requirements. The department shall adopt rules to recognize the previous EMS training and experience of emergency medical care providers transitioning to the emergency medical responder, emergency medical technician, advanced emergency medical technician, and paramedic levels. The department may require additional training and examinations as necessary and appropriate to ensure that individuals seeking transition to another level have met the knowledge and skill requirements. All requirements for transition to another level, including fees, shall be adopted by rule.

3. The department shall establish the fee for the examination of the emergency medical care providers to cover the administrative costs of the examination program.

4. The department shall adopt rules required or authorized by this subchapter pertaining to the operation of training programs. These rules shall include but need not be limited to requirements concerning curricula, resources, facilities, and staff.

5. The department shall recognize the practice requirements of recognition of the emergency medical services personnel licensure interstate compact, chapter 147D, and shall adopt rules necessary for the implementation of the compact.

[C79, 81, §147A.4; 82 Acts, ch 1005, §1, 2]

84 Acts, ch 1287, §4; 86 Acts, ch 1245, §1143; 89 Acts, ch 89, §7; 93 Acts, ch 58, §3; 95 Acts, ch 41, §12, 28; 99 Acts, ch 141, §22; 2009 Acts, ch 133, §198; 2010 Acts, ch 1149, §10; 2019 Acts, ch 90, §4

Referred to in §147A.6

147A.5 Applications for emergency medical care services — approval — denial, probation, suspension, or revocation.

1. A service program in this state that desires to provide emergency medical care in the out-of-hospital setting shall apply to the department for authorization to establish a program for delivery of the care at the scene of an emergency, during transportation to a hospital, during transfer from one medical care facility to another or to a private residence, or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

2. The department shall approve an application submitted in accordance with subsection 1 when the department is satisfied that the program proposed by the application will be operated in compliance with this subchapter and the rules adopted pursuant to this subchapter.

3. The department may deny an application for authorization, or may place on probation, suspend or revoke the authorization of, or otherwise discipline a service program with an existing authorization if the department finds that the service program has not been or will not be operated in compliance with this subchapter and the rules adopted pursuant to this subchapter, or that there is insufficient assurance of adequate protection for the public. The authorization denial or period of probation, suspension, or revocation, or other disciplinary action shall be effected and may be appealed as provided by section 17A.12.

[C79, 81, §147A.5]

84 Acts, ch 1287, §5; 86 Acts, ch 1245, §1144; 89 Acts, ch 89, §8; 95 Acts, ch 41, §13; 2010 Acts, ch 1149, §11

Referred to in §147A.1, 147A.4

147A.6 Emergency medical care provider certificates — fees and renewal.

1. The department, upon initial application and receipt of the prescribed initial application fee, shall issue a certificate to an individual who has met all of the requirements for emergency medical care provider certification established by the rules adopted under section 147A.4, subsection 2. All fees received pursuant to this section shall be retained by the department. The moneys retained by the department shall be used for any of the department's duties under this chapter, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by the department pursuant to this section shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by the department pursuant to this section are not subject to reversion to the general fund of the state.

2. The department, upon renewal application and receipt of the prescribed renewal application fee, shall issue a certificate to an individual who has met all of the requirements for emergency medical care provider certification established by the rules adopted under section 147A.4, subsection 2. All fees collected pursuant to this section shall be deposited in the emergency medical services fund established in section 135.25.

3. Emergency medical care provider certificates are valid for the multiyear period determined by the department, unless sooner suspended or revoked. The certificate shall be renewed upon application of the holder and receipt of the prescribed fee if the holder has satisfactorily completed continuing medical education programs as required by rule.

[C79, 81, §147A.6; 82 Acts, ch 1005, §3]

84 Acts, ch 1287, §6; 89 Acts, ch 89, §9; 93 Acts, ch 58, §7; 95 Acts, ch 41, §14; 97 Acts, ch 6, §1; 2019 Acts, ch 90, §5

Referred to in §232.68

147A.7 Denial, suspension, or revocation of certificates — hearing — appeal.

1. The department may deny an application for issuance or renewal of an emergency medical care provider certificate, or suspend or revoke the certificate when it finds that the applicant or certificate holder is guilty of any of the following acts or offenses:

a. Negligence in performing authorized services.

b. Failure to follow the directions of the supervising physician.

c. Rendering treatment not authorized under this subchapter.

d. Fraud in procuring certification.

e. Professional incompetency.

f. Knowingly making misleading, deceptive, untrue, or fraudulent representation in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Habitual intoxication or addiction to the use of drugs.

h. Fraud in representations as to skill or ability.

i. Willful or repeated violations of this subchapter or of rules adopted pursuant to this subchapter.

j. Having certification to practice as an emergency medical care provider revoked or suspended, or having other disciplinary action taken by a licensing or certifying authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

2. A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

3. A denial, suspension, or revocation under this section shall be effected, and may be appealed in accordance with the rules of the department established pursuant to chapter 272C.

[C79, 81, §147A.7]

84 Acts, ch 1287, §7; 89 Acts, ch 89, §10; 93 Acts, ch 58, §4, 7; 95 Acts, ch 41, §15, 16; 99 Acts, ch 141, §23; 2020 Acts, ch 1103, §13, 31

147A.8 Authority of certified emergency medical care provider.

An emergency medical care provider properly certified under this subchapter may:

1. Render emergency and nonemergency medical care, rescue, and lifesaving services in those areas for which the emergency medical care provider is certified, as defined and approved in accordance with the rules of the department, at the scene of an emergency, during transportation to a hospital or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel.

2. Function in any hospital or any other entity in which health care is ordinarily provided only when under the direct supervision, as defined by rules adopted pursuant to chapter 17A, of a physician, when the emergency care provider is any of the following:

a. Enrolled as a student or participating as a preceptor in a training program approved by the department or an agency authorized in another state to provide initial EMS education and approved by the department.

b. Fulfilling continuing education requirements as defined by rule.

c. Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under the direct supervision of a physician, physician assistant, or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the emergency medical care provider may perform without direct supervision emergency medical care procedures for which that individual is certified if the life of the patient is in immediate danger and such care is required to preserve the patient's life.

d. Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized service program, or in an individual capacity, to perform nonlifesaving procedures for which those individuals have been certified and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse, including when the registered nurse is not acting in the capacity of a physician designee, and where the procedure may be immediately abandoned without risk to the patient.

[C79, 81, §147A.8]

84 Acts, ch 1287, §8; 89 Acts, ch 89, §11; 93 Acts, ch 58, §5, 7; 93 Acts, ch 107, §1; 95 Acts, ch 41, §17; 99 Acts, ch 141, §24; 2000 Acts, ch 1009, §1; 2001 Acts, ch 58, §10; 2009 Acts, ch 41, §263; 2010 Acts, ch 1149, §12

147A.9 Remote supervision — emergency communication failure — authorization to initiate emergency procedures.

1. When voice contact or a telemetered electrocardiogram is monitored by a physician, physician's designee, or physician assistant, and direct communication is maintained, an emergency medical care provider may upon order of the monitoring physician or upon standing orders of a physician transmitted by the monitoring physician's designee or physician assistant perform any emergency medical care procedure for which that emergency medical care provider is certified.

2. If communications fail during an emergency or nonemergency situation, the emergency medical care provider may perform any emergency medical care procedure for which that individual is certified and which is included in written protocols if in the judgment of the emergency medical care provider the life of the patient is in immediate danger and such care is required to preserve the patient's life.

3. The department shall adopt rules to authorize medical care procedures which can be initiated in accordance with written protocols prior to the establishment of communication.

[C79, 81, §147A.9]

84 Acts, ch 1287, §9; 89 Acts, ch 89, §12; 93 Acts, ch 58, §6, 7; 93 Acts, ch 107, §2; 95 Acts, ch 41, §18; 99 Acts, ch 141, §25

147A.10 Exemptions from liability in certain circumstances.

1. A physician, physician's designee, advanced registered nurse practitioner, or physician assistant who gives orders, either directly or via communications equipment from some other point, or via standing protocols to an appropriately certified emergency medical care provider, registered nurse, or licensed practical nurse at the scene of an emergency, and an appropriately certified emergency medical care provider, registered nurse, or licensed practical nurse following the orders, are not subject to criminal liability by reason of having issued or executed the orders, and are not liable for civil damages for acts or omissions relating to the issuance or execution of the orders unless the acts or omissions constitute recklessness.

2. A physician, physician's designee, advanced registered nurse practitioner, physician assistant, registered nurse, licensed practical nurse, or emergency medical care provider shall not be subject to civil liability solely by reason of failure to obtain consent before rendering emergency medical, surgical, hospital or health services to any individual, regardless of age, when the patient is unable to give consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

3. An act of commission or omission of any appropriately certified emergency medical care provider, registered nurse, licensed practical nurse, or physician assistant, while rendering emergency medical care under the responsible supervision and control of a physician to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall not impose any liability upon the certified emergency medical care provider, registered nurse, licensed practical nurse, or physician assistant, the supervising physician, physician designee, advanced registered nurse practitioner, or any hospital, or upon the state, or any county, city or other political subdivision, or the employees of any of these entities; provided that this section shall not relieve any person of liability for civil damages for any act of commission or omission which constitutes recklessness.

[C79, 81, §147A.10]

84 Acts, ch 1287, §10; 89 Acts, ch 89, §13; 93 Acts, ch 107, §3; 95 Acts, ch 41, §19

Referred to in §147A.12

147A.11 Prohibited acts.

1. Any person not certified as required by this subchapter who claims to be an emergency medical care provider, or who uses any other term to indicate or imply that the person is an emergency medical care provider, or who acts as an emergency medical care provider without having obtained the appropriate certificate under this subchapter, is guilty of a class "D" felony.

2. An owner of an unauthorized service program in this state who operates or purports to operate a service program, or who uses any term to indicate or imply authorization without having obtained the appropriate authorization under this subchapter, is guilty of a class "D" felony.

3. Any person who imparts or conveys, or causes to be imparted or conveyed, or attempts to impart or convey false information concerning the need for assistance of a service program or of any personnel or equipment thereof, knowing such information to be false, is guilty of a serious misdemeanor.

[C79, 81, §147A.11]

84 Acts, ch 1287, §11; 89 Acts, ch 89, §14; 95 Acts, ch 41, §20; 2010 Acts, ch 1149, §13

147A.12 Registered nurse exception.

1. This subchapter does not restrict a registered nurse, licensed pursuant to chapter 152, from staffing an authorized service program provided the registered nurse can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when:

a. Documentation has been reviewed and approved at the local level by the medical director of the service program in accordance with the rules of the board of nursing developed jointly with the department.

b. Authorization has been granted to that service program by the department.

2. Section 147A.10 applies to a registered nurse in compliance with this section.

84 Acts, ch 1287, §12; 85 Acts, ch 129, §1; 89 Acts, ch 89, §15; 95 Acts, ch 41, §21; 2010 Acts, ch 1149, §14

Referred to in §147A.1, 233.1

147A.13 Physician assistant exception.

This subchapter does not restrict a physician assistant, licensed pursuant to chapter 148C, from staffing an authorized service program if the physician assistant can document equivalency through education and additional skills training essential in the delivery of out-of-hospital emergency care. The equivalency shall be accepted when:

1. Documentation has been reviewed and approved at the local level by the medical director of the service program in accordance with the rules of the board of physician assistants developed after consultation with the department.

2. Authorization has been granted to that service program by the department.

93 Acts, ch 107, §4; 95 Acts, ch 41, §22; 2007 Acts, ch 10, §85; 2010 Acts, ch 1149, §15

Referred to in §147A.1, 233.1

147A.14 Enforcement.

Investigators authorized by the department have the powers and status of peace officers when enforcing this chapter.

99 Acts, ch 141, §26

147A.15 Automated external defibrillator equipment — penalty.

Any person who damages, wrongfully takes or withholds, or removes any component of automated external defibrillator equipment located in a public or privately owned location, including batteries installed to operate the equipment, is guilty of a serious misdemeanor.

2006 Acts, ch 1184, §89

147A.16 Exception for care within scope of certification.

1. This subchapter does not apply to a registered member of the national ski patrol system, an industrial safety officer, a lifeguard, or a person employed or volunteering in a similar capacity in which the person provides on-site emergency medical care at a facility solely to the patrons or employees of that facility, provided that such person provides emergency medical care only within the scope of the person's training and certification and the person does not claim to be a certified emergency medical care provider or use any other term to indicate or imply that the person is a certified emergency medical care provider.

2. This subchapter does not apply to the national ski patrol system or any similar system

in which the system provides on-site emergency medical care at a facility solely to the patrons or employees of that facility, provided that such system does not provide transportation to a hospital or other medical facility and provided that such system does not use any term to indicate or imply authorization to transport patients to a hospital or other medical facility without having obtained proper authorization to transport patients to a hospital or other medical facility under this subchapter.

2006 Acts, ch 1078, §1

147A.17 Applications for emergency medical care services training programs — approval or denial — disciplinary actions.

1. An Iowa college approved by the higher learning commission, an Iowa hospital in this state, or a medical care ambulance service or nontransport service that desires to provide emergency medical care services training leading to certification as an emergency medical care provider shall apply to the department for authorization to establish a training program.

2. The department shall approve an application submitted in accordance with subsection 1 when the department is satisfied that the program proposed by the application will be operated in compliance with this subchapter and the rules adopted pursuant to this subchapter.

3. The department may deny an application for authorization, or may place on probation, suspend or revoke the authorization of, or otherwise discipline a training program with an existing authorization if the department finds reason to believe the program has not been or will not be operated in compliance with this subchapter and the rules adopted pursuant to this subchapter, or that there is insufficient assurance of adequate protection for the public. The authorization denial, period of probation, suspension, or revocation, or other disciplinary action shall be effected and may be appealed as provided by section 17A.12.

2010 Acts, ch 1149, §16; 2015 Acts, ch 29, §114; 2021 Acts, ch 174, §62, 63
Subsection 1 amended

147A.18 Possession and administration of an opioid antagonist — immunity.

1. *a.* Notwithstanding any other provision of law to the contrary, a licensed health care professional may prescribe an opioid antagonist in the name of a service program, law enforcement agency, or fire department to be maintained for use as provided in this section.

b. (1) Notwithstanding any other provision of law to the contrary, a pharmacist licensed under chapter 155A may, by standing order or through collaborative agreement, dispense, furnish, or otherwise provide an opioid antagonist in the name of a service program, law enforcement agency, or fire department to be maintained for use as provided in this section.

(2) A pharmacist who dispenses, furnishes, or otherwise provides an opioid antagonist pursuant to a valid prescription, standing order, or collaborative agreement shall provide instruction to the recipient in accordance with the protocols and instructions developed by the department under this section.

2. A service program, law enforcement agency, or fire department may obtain a prescription for and maintain a supply of opioid antagonists. A service program, law enforcement agency, or fire department that obtains such a prescription shall replace an opioid antagonist upon its use or expiration.

3. A first responder employed by a service program, law enforcement agency, or fire department that maintains a supply of opioid antagonists pursuant to this section may possess and provide or administer such an opioid antagonist to an individual if the first responder reasonably and in good faith believes that such individual is experiencing an opioid-related overdose.

4. The following persons, provided they have acted reasonably and in good faith, shall not be liable for any injury arising from the provision, administration, or assistance in the administration of an opioid antagonist as provided in this section:

a. A first responder who provides, administers, or assists in the administration of an opioid antagonist to an individual as provided in this section.

b. A service program, law enforcement agency, or fire department.

c. The prescriber of the opioid antagonist.

5. The department may adopt rules pursuant to chapter 17A to implement and administer this section.

2016 Acts, ch 1061, §3; 2016 Acts, ch 1139, §71 – 75

147A.19 Reserved.

SUBCHAPTER II

STATEWIDE TRAUMA CARE SYSTEM

147A.20 Short title.

This subchapter may be cited as the *"Iowa Trauma Care System Development Act"*.

95 Acts, ch 40, §1

147A.21 Definitions.

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

1. *"Categorization"* means a preliminary determination by the department that a hospital or emergency care facility is capable of providing trauma care in accordance with criteria adopted pursuant to chapter 17A for level I, II, III, and IV care capabilities.
2. *"Department"* means the Iowa department of public health.
3. *"Director"* means the director of public health.
4. *"Emergency care facility"* means a physician's office, clinic, or other health care center which provides emergency medical care in conjunction with other primary care services.
5. *"Hospital"* means a facility licensed under chapter 135B, or a comparable emergency care facility located and licensed in another state.
6. *"Trauma"* means a single or multisystem life-threatening or limb-threatening injury, or an injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.
7. *"Trauma care facility"* means a hospital or emergency care facility which provides trauma care and has been verified by the department as having level I, II, III, or IV care capabilities and issued a certificate of verification pursuant to section 147A.23, subsection 2, paragraph *"c"*.
8. *"Trauma care system"* means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.
9. *"Verification"* means a formal process by which the department certifies a hospital or emergency care facility's capacity to provide trauma care in accordance with criteria established for level I, II, III, and IV trauma care facilities.

95 Acts, ch 40, §2

147A.22 Legislative findings and intent — purpose.

The general assembly finds the following:

1. Trauma is a serious health problem in the state of Iowa and is the leading cause of death of younger Iowans. The death and disability associated with traumatic injury contributes to the significant medical expenses and lost work, and adversely affects the productivity of Iowans.
2. Optimal trauma care is limited in many parts of the state. With health care delivery in transition, access to quality trauma and emergency medical care continues to challenge our rural communities.
3. The goal of a statewide trauma care system is to coordinate the medical needs of the injured person with an integrated system of optimal and cost-effective trauma care. The result of a well-coordinated statewide trauma care system is to reduce the incidences of inadequate trauma care and preventable deaths, minimize human suffering, and decrease the costs associated with preventable mortality and morbidity.

4. The development of the Iowa trauma care system will achieve these goals while meeting the unique needs of the rural residents of the state.

95 Acts, ch 40, §3

147A.23 Trauma care system development.

1. The department is designated as a lead agency in this state responsible for the development of a statewide trauma care system.

2. The department, in consultation with the trauma system advisory council, shall develop, coordinate, and monitor a statewide trauma care system. This system shall include, but not be limited to, the following:

a. The categorization of all hospitals and emergency care facilities by the department as to their capacity to provide trauma care services. The categorization shall be determined by the department from self-reported information provided to the department by the hospital or emergency care facility. This categorization shall not be construed to imply any guarantee on the part of the department as to the level of trauma care services available at the hospital or emergency care facility.

b. The issuance of a certificate of verification of all categorized hospitals and emergency care facilities from the department at the level preferred by the hospital or emergency care facility. The standards and verification process shall be established by rule and may vary as appropriate by level of trauma care capability. To the extent possible, the standards and verification process shall be coordinated with other applicable accreditation and licensing standards.

c. Upon verification and the issuance of a certificate of verification, a hospital or emergency care facility agrees to maintain a level of commitment and resources sufficient to meet responsibilities and standards as required by the trauma care criteria established by rule under this subchapter. Verifications are valid for a period of three years or as determined by the department and are renewable. As part of the verification and renewal process, the department may conduct periodic on-site reviews of the services and facilities of the hospital or emergency care facility.

d. The department is responsible for the funding of the administrative costs of this subchapter. Any funds received by the department for this purpose shall be deposited in the emergency medical services fund established in section 135.25.

e. This section shall not be construed to limit the number and distribution of level I, II, III, and IV categorized and verified trauma care facilities in a community or region.

95 Acts, ch 40, §4

Referred to in §147A.21

147A.24 Trauma system advisory council established.

1. A trauma system advisory council is established. The following organizations or officials may recommend a representative to the council:

a. American academy of pediatrics.
b. American college of emergency physicians, Iowa chapter.
c. American college of surgeons, Iowa chapter.
d. Department of public health.
e. Governor's traffic safety bureau.
f. Iowa academy of family physicians.
g. Iowa emergency medical services association.
h. Iowa emergency nurses association.
i. Iowa hospital association representing rural hospitals.
j. Iowa hospital association representing urban hospitals.
k. Iowa medical society.
l. Iowa osteopathic medical society.
m. Iowa physician assistant society.
n. Iowa society of anesthesiologists.
o. Orthopedic system advisory council of the American academy of orthopedic surgeons, Iowa representative.

p. Rehabilitation services delivery representative.
q. Iowa's Medicare quality improvement organization.
r. State medical examiner.
s. Trauma nurse coordinator representing a trauma registry hospital.
t. University of Iowa, injury prevention research center.

2. The council shall consist of seven members to be appointed by the director from the recommendations of the organizations in subsection 1 for terms of two years. Vacancies on the council shall be filled for the remainder of the term of the original appointment. Members whose terms expire may be reappointed.

3. The voting members of the council shall elect a chairperson and a vice chairperson and other officers as the council deems necessary. The officers shall serve until their successors are elected and qualified.

4. The council shall do all of the following:

a. Advise the department on issues and strategies to achieve optimal trauma care delivery throughout the state.

b. Assist the department in the implementation of an Iowa trauma care plan.

c. Develop criteria for the categorization of all hospitals and emergency care facilities according to their trauma care capabilities. These categories shall be for levels I, II, III, and IV, based on the most current guidelines published by the American college of surgeons committee on trauma, the American college of emergency physicians, and the model trauma care plan of the United States department of health and human services' health resources and services administration.

d. Develop a process for the verification of the trauma care capacity of each facility and the issuance of a certificate of verification.

e. Develop standards for medical direction, trauma care, triage and transfer protocols, and trauma registries.

f. Promote public information and education activities for injury prevention.

g. Review the rules adopted under this subchapter and make recommendations to the director for changes to further promote optimal trauma care.

h. Develop, implement, and conduct trauma care system evaluation, quality assessment, and quality improvement.

5. Proceedings, records, and reports developed pursuant to this section constitute peer review records under section 147.135, and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital or emergency care facility under this subchapter shall be confidential pursuant to section 272C.6, subsection 4.

95 Acts, ch 40, §5; 98 Acts, ch 1100, §19; 2001 Acts, ch 74, §6; 2013 Acts, ch 129, §50 – 52; 2019 Acts, ch 85, §78

147A.25 System evaluation and quality improvement committee. Repealed by 2013 Acts, ch 129, §57.

147A.26 Trauma registry.

1. The department shall maintain a statewide trauma reporting system by which the trauma system advisory council and the department may monitor the effectiveness of the statewide trauma care system.

2. The data collected by and furnished to the department pursuant to this section are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under section 22.7, subsection 2. However, information which individually identifies patients shall not be disclosed and state and federal law regarding patient confidentiality shall apply.

3. To the extent possible, activities under this section shall be coordinated with other health data collection methods.

95 Acts, ch 40, §7; 96 Acts, ch 1079, §7; 2013 Acts, ch 129, §53

147A.27 Department to adopt rules.

The department shall adopt rules, pursuant to chapter 17A, to implement the Iowa trauma care system plan, which specify all of the following:

1. Standards for trauma care.
2. Triage and transfer protocols.
3. Trauma registry procedures and policies.
4. Trauma care education and training requirements.
5. Hospital and emergency care facility categorization criteria.
6. Procedures for approval, denial, probation, and revocation of certificates of verification.

95 Acts, ch 40, §8

147A.28 Prohibited acts.

A hospital or emergency care facility that imparts or conveys, or causes to be imparted or conveyed, that it is a trauma care facility, or that uses any other term to indicate or imply that the hospital or emergency care facility is a trauma care facility without having obtained a certificate of verification under this subchapter is subject to a civil penalty not to exceed one hundred dollars per day for each offense. In addition, the director may apply to the district court for a writ of injunction to restrain the use of the term "trauma care facility". However, nothing in this subchapter shall be construed to restrict a hospital or emergency facility from providing any services for which it is duly authorized.

95 Acts, ch 40, §9; 95 Acts, ch 209, §21

CHAPTER 147B

INTERSTATE MEDICAL LICENSURE COMPACT

147B.1 Interstate medical licensure compact.

147B.1 Interstate medical licensure compact.

1. *Purpose.*

a. In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards and provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice Act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located.

b. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

2. *Definitions.* In this compact:

a. *"Bylaws"* means those bylaws established by the interstate commission pursuant to subsection 11 for its governance, or for directing and controlling its actions and conduct.

b. *"Commissioner"* means the voting representative appointed by each member board pursuant to subsection 11.

c. *"Conviction"* means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

d. "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

e. "Interstate commission" means the interstate commission created pursuant to this section.

f. "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

g. "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

h. "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

i. "Member state" means a state that has enacted the compact.

j. "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

k. "Physician" means any person who satisfies all of the following:

(1) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation, or a medical school listed in the international medical education directory or its equivalent.

(2) Passed each component of the United States medical licensing examination or the comprehensive osteopathic medical licensing examination within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes.

(3) Successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association.

(4) Holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists.

(5) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board.

(6) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

(7) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(8) Has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

(9) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

l. "Practice of medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

m. "Rule" means a written statement by the interstate commission promulgated pursuant to subsection 12 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

n. "State" means any state, commonwealth, district, or territory of the United States.

o. "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

3. *Eligibility.*

a. A physician must meet the eligibility requirements as defined in subsection 2, paragraph *"k"*, to receive an expedited license under the terms and provisions of the compact.

b. A physician who does not meet the requirements of subsection 2, paragraph *"k"*, may obtain a license to practice medicine in a member state if the individual complies with all laws

and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

4. *Designation of state of principal license.*

a. A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(1) The state of primary residence for the physician, or

(2) The state where at least twenty-five percent of the practice of medicine occurs, or

(3) The location of the physician's employer, or

(4) If no state qualifies under subparagraph (1), subparagraph (2), or subparagraph (3), the state designated as state of residence for purposes of federal income tax.

b. A physician may redesignate a member state as the state of principal license at any time, as long as the state meets the requirements in paragraph *"a"*.

c. The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

5. *Application and issuance of expedited licensure.*

a. A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

b. Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source-verified by the state of principal license.

(2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. §731.202.

(3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

c. Upon verification in paragraph *"b"*, physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to paragraph *"a"*, including the payment of any applicable fees.

d. After receiving verification of eligibility under paragraph *"b"* and any fees under paragraph *"c"*, a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

e. An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

f. An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal license for a nondisciplinary reason, without redesignation of a new state of principal license.

g. The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

6. *Fees for expedited licensure.*

a. A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

b. The interstate commission is authorized to develop rules regarding fees for expedited licenses.

7. *Renewal and continued participation.*

a. A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician satisfies the following:

(1) Maintains a full and unrestricted license in a state of principal license.

(2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

(3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to nonpayment of fees related to a license.

(4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.

b. Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

c. The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

d. Upon receipt of any renewal fees collected in paragraph "*c*", a member board shall renew the physician's license.

e. Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

f. The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

8. *Coordinated information system.*

a. The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under subsection 5.

b. Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

c. Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

d. Member boards may report any nonpublic complaint, disciplinary, or investigatory information not required by paragraph "*c*" to the interstate commission.

e. Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

f. All information provided to the interstate commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

g. The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

9. *Joint investigations.*

a. Licensure and disciplinary records of physicians are deemed investigative.

b. In addition to the authority granted to a member board by its respective medical practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

c. A subpoena issued by a member state shall be enforceable in other member states.

d. Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

e. Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

10. *Disciplinary actions.*

a. Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the medical practice Act or regulations in that state.

b. If a license granted to a physician by the member board in the state of principal license is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice Act of that state.

c. If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided and either:

(1) Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice Act of that state, or

(2) Pursue separate disciplinary action against the physician under its respective medical practice Act, regardless of the action taken in other member states.

d. If a license granted to a physician by a member board is revoked, surrendered, or relinquished in lieu of discipline, or suspended, then any licenses issued to the physician by any other member boards shall be suspended, automatically and immediately without further action necessary by the other member boards, for ninety days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety-day suspension period in a manner consistent with the medical practice Act of that state.

11. *Interstate medical licensure compact commission.*

a. The member states hereby create the interstate medical licensure compact commission.

b. The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

c. The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

d. The interstate commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be one of the following:

(1) An allopathic or osteopathic physician appointed to a member board.

(2) An executive director, executive secretary, or similar executive of a member board.

(3) A member of the public appointed to a member board.

e. The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

f. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

g. Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of paragraph "*d*".

h. The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to result in one or more of the following:

(1) Relate solely to the internal personnel practices and procedures of the interstate commission.

(2) Discuss matters specifically exempted from disclosure by federal statute.

(3) Discuss trade secrets, commercial, or financial information that is privileged or confidential.

(4) Involve accusing a person of a crime, or formally censuring a person.

(5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Discuss investigative records compiled for law enforcement purposes.

(7) Specifically relate to the participation in a civil action or other legal proceeding.

i. The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

j. The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.

k. The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.

l. The interstate commission may establish other committees for governance and administration of the compact.

12. *Powers and duties of the interstate commission.* The interstate commission shall have power to perform the following functions:

a. Oversee and maintain the administration of the compact.

b. Promulgate rules which shall be binding to the extent and in the manner provided for in the compact.

c. Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules, and actions.

d. Enforce compliance with compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

e. Establish and appoint committees including but not limited to an executive committee as required by subsection 11, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties.

f. Pay, or provide for the payment of, the expenses related to the establishment, organization, and ongoing activities of the interstate commission.

g. Establish and maintain one or more offices.

h. Borrow, accept, hire, or contract for services of personnel.

i. Purchase and maintain insurance and bonds.

j. Employ an executive director who shall have such powers to employ, select, or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation.

k. Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

l. Accept donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same in a manner consistent with the conflict of interest policies established by the interstate commission.

m. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed.

n. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

o. Establish a budget and make expenditures.

p. Adopt a seal and bylaws governing the management and operation of the interstate commission.

q. Report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission.

r. Coordinate education, training, and public awareness regarding the compact, its implementation, and its operation.

s. Maintain records in accordance with the bylaws.

t. Seek and obtain trademarks, copyrights, and patents.

u. Perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

13. *Finance powers.*

a. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

b. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

c. The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

d. The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

14. *Organization and operation of the interstate commission.*

a. The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within twelve months of the first interstate commission meeting.

b. The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission.

c. Officers selected in paragraph *"b"* shall serve without remuneration from the interstate commission.

d. The officers and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities, provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this paragraph *"d"* shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such

interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

15. *Rulemaking functions of the interstate commission.*

a. The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

b. Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the model state administrative procedure Act of 2010, and subsequent amendments thereto.

c. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

16. *Oversight of interstate compact.*

a. The executive, legislative, and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

b. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact which may affect the powers, responsibilities, or actions of the interstate commission.

c. The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact, or promulgated rules.

17. *Enforcement of interstate compact.*

a. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

b. The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

c. The remedies herein shall not be the exclusive remedies of the interstate commission.

The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

18. *Default procedures.*

a. The grounds for default include but are not limited to failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

b. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall do the following:

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

(2) Provide remedial training and specific technical assistance regarding the default.

c. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges, and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

d. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

e. The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

f. The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

g. The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.

h. The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

19. *Dispute resolution.*

a. The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.

b. The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

20. *Member states, effective date, and amendment.*

a. Any state is eligible to become a member state of the compact.

b. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.

c. The governors of nonmember states, or their designees, shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

d. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

21. *Withdrawal.*

a. Once effective, the compact shall continue in force and remain binding upon each

and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

b. Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

c. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

d. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt of notice provided under paragraph "*c*".

e. The withdrawing state is responsible for all dues, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

f. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

g. The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

22. *Dissolution.*

a. The compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

b. Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

23. *Severability and construction.*

a. The provisions of the compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

b. The provisions of the compact shall be liberally construed to effectuate its purposes.

c. Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

24. *Binding effect of compact and other laws.*

a. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

b. All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

c. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

d. All agreements between the interstate commission and the member states are binding in accordance with their terms.

e. In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

2015 Acts, ch 138, §82, 161, 162

CHAPTER 147C

INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT

147C.1 Form of compact.

147C.1 Form of compact.

1. *Article I — Purpose.*

a. The purpose of this compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient is located at the time of the patient encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

b. This compact is designed to achieve all of the following objectives:

(1) Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses.

(2) Enhance the states' ability to protect the public's health and safety.

(3) Encourage the cooperation of member states in regulating multistate physical therapy practice.

(4) Support spouses of relocating military members.

(5) Enhance the exchange of licensure, investigative, and disciplinary information between member states.

(6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

2. *Article II — Definitions.*

a. "Active duty military" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. §1209 and 10 U.S.C. §1211.

b. "Adverse action" means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.

c. "Alternative program" means a nondisciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes but is not limited to substance abuse issues.

d. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient is located at the time of the patient encounter.

e. "Continuing competence" means a requirement, as a condition of license renewal, to provide evidence of participation in, and completion of, educational and professional activities relevant to practice or area of work.

f. "Data system" means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

g. "Encumbered license" means a license that a physical therapy licensing board has limited in any way.

h. "Executive board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

i. "Home state" means the member state that is the licensee's primary state of residence.

j. "Investigative information" means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

k. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

l. "Licensee" means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

m. "Member state" means a state that has enacted the compact.

n. *"Party state"* means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

o. *"Physical therapist"* means an individual who is licensed by a state to practice physical therapy.

p. *"Physical therapist assistant"* means an individual who is licensed by a state and who assists the physical therapist in selected components of physical therapy.

q. *"Physical therapy"*, *"physical therapy practice"*, and *"the practice of physical therapy"* mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

r. *"Physical therapy compact commission"* or *"commission"* means the national administrative body whose membership consists of all states that have enacted the compact.

s. *"Physical therapy licensing board"* or *"licensing board"* means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

t. *"Remote state"* means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

u. *"Rule"* means a regulation, principle, or directive promulgated by the commission that has the force of law.

v. *"State"* means any state, commonwealth, district, or territory of the United States that regulates the practice of physical therapy.

3. *Article III — State participation in the compact.*

a. To participate in the compact, a state must meet all of the following requirements:

(1) Participate fully in the commission's data system, including using the commission's unique identifier as defined in rules.

(2) Have a mechanism in place for receiving and investigating complaints about licensees.

(3) Notify the commission, in compliance with the terms of the compact and rules, of any adverse action or the availability of investigative information regarding a licensee.

(4) Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the federal bureau of investigation record search on criminal background checks and using the results in making licensure decisions in accordance with article III, paragraph *"b"*.

(5) Comply with the rules of the commission.

(6) Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the commission.

(7) Have continuing competence requirements as a condition for license renewal.

b. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the federal bureau of investigation for a criminal background check in accordance with 28 U.S.C. §534 and 42 U.S.C. §14616.

c. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the compact and rules.

d. Member states may charge a fee for granting a compact privilege.

4. *Article IV — Compact privilege.*

a. To exercise the compact privilege under the terms and provisions of the compact, the licensee shall meet all of the following requirements:

(1) Hold a license in the home state.

(2) Have no encumbrance on any state license.

(3) Be eligible for a compact privilege in any member state in accordance with article IV, paragraphs *"d"*, *"g"*, and *"h"*.

(4) Have not had any adverse action against any license or compact privilege within the previous two years.

(5) Notify the commission that the licensee is seeking the compact privilege within a remote state.

(6) Pay any applicable fees, including any state fee, for the compact privilege.

(7) Meet any jurisprudence requirements established by the remote state in which the licensee is seeking a compact privilege.

(8) Report to the commission adverse action taken by any nonmember state within thirty days from the date the adverse action is taken.

b. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of article IV, paragraph *"a"*, to maintain the compact privilege in the remote state.

c. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

d. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

e. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until all of the following occur:

(1) The home state license is no longer encumbered.

(2) Two years have elapsed from the date of the adverse action.

f. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of article IV, paragraph *"a"*, to obtain a compact privilege in any remote state.

g. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until all of the following occur:

(1) The specific period of time for which the compact privilege was removed has ended.

(2) All fines have been paid.

(3) Two years have elapsed from the date of the adverse action.

h. Once the requirements of article IV, paragraph *"g"*, have been met, the license must meet the requirements in article IV, paragraph *"a"*, to obtain a compact privilege in a remote state.

5. *Article V — Active duty military personnel or their spouses.* A licensee who is active duty military or is the spouse of an individual who is active duty military may designate any of the following as the home state:

a. Home of record.

b. Permanent change of station.

c. State of current residence if it is different than the permanent change of station state or home of record.

6. *Article VI — Adverse actions.*

a. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

b. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

c. Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

d. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

e. A remote state shall have the authority to do all of the following:

(1) Take adverse actions as set forth in article IV, paragraph *"d"*, against a licensee's compact privilege in the state.

(2) Issue subpoenas for both hearings and investigations that require the attendance and

testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located.

(3) If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

f. Joint investigations.

(1) In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

7. *Article VII — Establishment of the physical therapy compact commission.*

a. The compact member states hereby create and establish a joint public agency known as the physical therapy compact commission.

(1) The commission is an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

b. Membership, voting, and meetings.

(1) Each member state shall have and be limited to one delegate selected by that member state's licensing board.

(2) The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(4) The member state board shall fill any vacancy occurring in the commission.

(5) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

c. The commission shall have all of the following powers and duties:

(1) Establish the fiscal year of the commission.

(2) Establish bylaws.

(3) Maintain its financial records in accordance with the bylaws.

(4) Meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(5) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states.

(6) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected.

(7) Purchase and maintain insurance and bonds.

(8) Borrow, accept, or contract for services of personnel, including but not limited to employees of a member state.

(9) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(10) Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

(11) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety.

(12) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

(13) Establish a budget and make expenditures.

(14) Borrow money.

(15) Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws.

(16) Provide and receive information from, and cooperate with, law enforcement agencies.

(17) Establish and elect an executive board.

(18) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of physical therapy licensure and practice.

d. The executive board.

(1) The executive board shall have the power to act on behalf of the commission according to the terms of this compact.

(2) The executive board shall be comprised of the following nine members:

(a) Seven voting members who are elected by the commission from the current membership of the commission.

(b) One ex officio, nonvoting member from the recognized national physical therapy professional association.

(c) One ex officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

(3) The ex officio members will be selected by their respective organizations.

(4) The commission may remove any member of the executive board as provided in bylaws.

(5) The executive board shall meet at least annually.

(6) The executive board shall have all of the following duties and responsibilities:

(a) Recommend to the entire commission changes to the rules or bylaws, changes to this compact, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege.

(b) Ensure compact administration services are appropriately provided, contractual or otherwise.

(c) Prepare and recommend the budget.

(d) Maintain financial records on behalf of the commission.

(e) Monitor compact compliance of member states and provide compliance reports to the commission.

(f) Establish additional committees as necessary.

(g) Other duties as provided in rules or bylaws.

e. Meetings of the commission.

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in article IX.

(2) The commission or the executive board or other committees of the commission

may convene in a closed, nonpublic meeting if the commission or executive board or other committees of the commission must discuss all of the following:

(a) Noncompliance of a member state with its obligations under the compact.

(b) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.

(c) Current, threatened, or reasonably anticipated litigation.

(d) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

(e) Accusing any person of a crime or formally censuring any person.

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(h) Disclosure of investigative records compiled for law enforcement purposes.

(i) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact.

(j) Matters specifically exempted from disclosure by federal or member state statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

f. Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

g. Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph *"g"* shall be construed to protect any such person from suit

or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

8. *Article VIII — Data system.*

a. The commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

b. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including all of the following:

(1) Identifying information.

(2) Licensure data.

(3) Adverse actions against a license or compact privilege.

(4) Nonconfidential information related to alternative program participation.

(5) Any denial of application for licensure, and the reason for such denial.

(6) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

c. Investigative information pertaining to a licensee in any member state will only be available to other party states.

d. The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

e. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

f. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

9. *Article IX — Rulemaking.*

a. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

b. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

c. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

d. Prior to promulgation and adoption of a final rule or rules by the commission, and at

least thirty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking as follows:

(1) On the internet site of the commission or other publicly accessible platform.

(2) On the internet site of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

e. The notice of proposed rulemaking shall include all of the following:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.

(2) The text of the proposed rule or amendment and the reason for the proposed rule.

(3) A request for comments on the proposed rule from any interested person.

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

f. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

g. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by any of the following:

(1) At least twenty-five persons.

(2) A state or federal governmental subdivision or agency.

(3) An association having at least twenty-five members.

h. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings will be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

j. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

k. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

l. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to do any of the following:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or member state funds.

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(4) Protect public health and safety.

m. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions

shall be posted on the internet site of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

10. *Article X — Oversight, dispute resolution, and enforcement.*

a. Oversight.

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

b. Default, technical assistance, and termination.

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall do all of the following:

(a) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

c. Dispute resolution.

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

d. Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

11. *Article XI — Date of implementation of the interstate commission for physical therapy practice and associated rules, withdrawal, and amendment.*

a. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

b. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

c. Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

d. Nothing contained in this compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

e. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

12. *Article XII — Construction and severability.* This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2018 Acts, ch 1087, §1; 2018 Acts, ch 1172, §20

CHAPTER 147D

EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT

Referred to in §147A.1, 147A.1A, 147A.4

147D.1 Emergency medical services personnel licensure interstate compact.

147D.1 Emergency medical services personnel licensure interstate compact.

1. *Purpose.* In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services personnel, such as emergency medical technicians, advanced emergency medical technicians, and paramedics. This compact is intended to facilitate the day-to-day movement of emergency medical services personnel across state boundaries in the performance of their emergency medical services duties as assigned by an appropriate authority and authorize state emergency medical services offices to afford immediate legal recognition to emergency medical services personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of emergency medical services personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

a. Increase public access to emergency medical services personnel.

b. Enhance the states' ability to protect the public's health and safety, especially patient safety.

c. Encourage the cooperation of member states in the areas of emergency medical services personnel licensure and regulation.

d. Support licensing of military members who are separating from an active duty tour and their spouses.

e. Facilitate the exchange of information between member states regarding emergency medical services personnel licensure, adverse action, and significant investigatory information.

f. Promote compliance with the laws governing emergency medical services personnel practice in each member state.

g. Invest all member states with the authority to hold emergency medical services personnel accountable through the mutual recognition of member state licenses.

2. *Definitions.* In this compact:

a. *"Advanced emergency medical technician"* or *"AEMT"* means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national emergency medical services education standards and national emergency medical services scope of practice model.

b. *"Adverse action"* means any administrative, civil, equitable, or criminal action permitted by a state's laws which may be imposed against licensed emergency medical services personnel by a state emergency medical services authority or state court, including but not limited to actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions, and state court judgments enforcing adverse actions by the state emergency medical services authority.

c. *"Alternative program"* means a voluntary, nondisciplinary substance abuse recovery program approved by a state emergency medical services authority.

d. *"Certification"* means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

e. *"Commission"* means the national administrative body of which all states that have enacted the compact are members.

f. *"Emergency medical technician"* or *"EMT"* means an individual licensed with cognitive

knowledge and a scope of practice that corresponds to that level in the national emergency medical services education standards and national emergency medical services scope of practice model.

g. *"Home state"* means a member state where an individual is licensed to practice emergency medical services.

h. *"License"* means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic, or a level between EMT and paramedic.

i. *"Medical director"* means a physician licensed in a member state who is accountable for the care delivered by emergency medical services personnel.

j. *"Member state"* means a state that has enacted this compact.

k. *"Paramedic"* means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national emergency medical services education standards and national emergency medical services scope of practice model.

l. *"Privilege to practice"* means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

m. *"Remote state"* means a member state in which an individual is not licensed.

n. *"Restricted"* means the outcome of an adverse action that limits a license or the privilege to practice.

o. *"Rule"* means a written statement by the interstate commission promulgated pursuant to subsection 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

p. *"Scope of practice"* means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

q. *"Significant investigatory information"* means:

(1) Investigative information that a state emergency medical services authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(2) Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

r. *"State"* means any state, commonwealth, district, or territory of the United States.

s. *"State emergency medical services authority"* means the board, office, or other agency with the legislative mandate to license emergency medical services personnel.

3. *Home state licensure.*

a. Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

b. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

c. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(1) Currently requires the use of the national registry of emergency medical technicians examination as a condition of issuing initial licenses at the EMT and paramedic levels;

(2) Has a mechanism in place for receiving and investigating complaints about individuals;

(3) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

(4) No later than five years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation with the exception of federal employees who have suitability determination in

accordance with 5 C.F.R. §731.202 and submit documentation of such as promulgated in the rules of the commission; and

(5) Complies with the rules of the commission.

4. *Compact privilege to practice.*

a. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with subsection 3.

b. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(1) Be at least eighteen years of age;

(2) Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic, or state-recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

(3) Practice under the supervision of a medical director.

c. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

d. Except as provided in paragraph "c" of this subsection, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the commission.

e. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

f. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked the individual shall not be eligible to practice in any remote state until the individual's privilege to practice is restored.

5. *Conditions of practice in a remote state.* An individual may practice in a remote state under a privilege to practice only in the performance of the individual's emergency medical services duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

a. The individual originates a patient transport in a home state and transports the patient to a remote state;

b. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

c. The individual enters a remote state to provide patient care and/or transport within that remote state;

d. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

e. Other conditions as determined by rules promulgated by the commission.

6. *Relationship to emergency management assistance compact.* Upon a member state's governor's declaration of a state of emergency or disaster that activates the emergency management assistance compact, all relevant terms and provisions of the emergency management assistance compact shall apply and to the extent any terms or provisions of this compact conflict with the emergency management assistance compact, the terms of the emergency management assistance compact shall prevail with respect to any individual practicing in the remote state in response to such declaration.

7. *Veterans, service members separating from active duty military, and their spouses.*

a. Member states shall consider a veteran, active military service member, and member of the national guard and reserves separating from an active duty tour, and a spouse thereof, who holds a current, valid, unrestricted national registry of emergency medical technicians certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

b. Member states shall expedite the processing of licensure applications submitted by

veterans, active military service members, and members of the national guard and reserves separating from an active duty tour, and their spouses.

c. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of subsection 8.

8. *Adverse actions.*

a. A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

b. If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(1) All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state's and remote state's emergency medical services authority.

(2) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state's and remote state's emergency medical services authority.

c. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the commission in accordance with the rules of the commission.

d. A remote state may take adverse action on an individual's privilege to practice within that state.

e. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

f. A home state's emergency medical services authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

g. Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

9. *Additional powers invested in a member state's emergency medical services authority.* A member state's emergency medical services authority, in addition to any other powers granted under state law, is authorized under this compact to:

a. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's emergency medical services authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state emergency medical services authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

b. Issue cease and desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

10. *Establishment of the interstate commission for emergency medical services personnel practice.*

a. The compact states hereby create and establish a joint public agency known as the interstate commission for emergency medical services personnel practice.

(1) The commission is a body politic and an instrumentality of the compact states.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal

office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

b. Membership, voting, and meetings.

(1) Each member state shall have and be limited to one delegate. The responsible official of the state emergency medical services authority or his designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one board, office, or other agency with the legislative mandate to license emergency medical services personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

(2) Each delegate shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in subsection 12.

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

(a) Noncompliance of a member state with its obligations under the compact;

(b) The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees, or other matters related to the commission's internal personnel practices and procedures;

(c) Current, threatened, or reasonably anticipated litigation;

(d) Negotiation of contracts for the purchase or sale of goods, services, or real estate;

(e) Accusing any person of a crime or formally censuring any person;

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) Disclosure of investigatory records compiled for law enforcement purposes;

(i) Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or

(j) Matters specifically exempted from disclosure by federal or member state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

c. The commission shall, by a majority vote of the delegates, prescribe bylaws and rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including but not limited to:

(1) Establishing the fiscal year of the commission;

(2) Providing reasonable standards and procedures:

(a) For the establishment and meetings of other committees; and

(b) Governing any general or specific delegation of any authority or function of the commission;

(3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;

(4) Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(6) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;

(7) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations;

(8) The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any;

(9) The commission shall maintain its financial records in accordance with the bylaws; and

(10) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

d. The commission shall have the following powers:

(1) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;

(2) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state emergency medical services authority or other regulatory body responsible for emergency medical services personnel licensure to sue or be sued under applicable law shall not be affected;

(3) To purchase and maintain insurance and bonds;

(4) To borrow, accept, or contract for services of personnel, including but not limited to employees of a member state;

(5) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(6) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

(7) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety;

(8) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(9) To establish a budget and make expenditures;

(10) To borrow money;

(11) To appoint committees, including advisory committees comprised of members, state

regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(12) To provide and receive information from, and to cooperate with, law enforcement agencies;

(13) To adopt and use an official seal; and

(14) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of emergency medical services personnel licensure and practice.

e. Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

f. Qualified immunity, defense, and indemnification.

(1) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred, within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

11. *Coordinated database.*

a. The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

b. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Significant investigatory information;

(4) Adverse actions against an individual's license;

(5) An indicator that an individual's privilege to practice is restricted, suspended, or revoked;

(6) Nonconfidential information related to alternative program participation;

(7) Any denial of application for licensure, and the reason(s) for such denial; and

(8) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

c. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

d. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

e. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

12. *Rulemaking.*

a. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

b. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any member state.

c. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

d. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the internet site of the commission; and

(2) On the internet site of each member state emergency medical services authority or the publication in which each state would otherwise publish proposed rules.

e. The notice of proposed rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

f. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

g. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least twenty-five persons;

(2) A governmental subdivision or agency; or

(3) An association having at least twenty-five members.

h. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

j. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

k. If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

l. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of commission or member state funds;

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(4) Protect public health and safety.

m. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

13. *Oversight, dispute resolution, and enforcement.*

a. Oversight.

(1) The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.

(3) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

b. Default, technical assistance, and termination.

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

(a) Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(4) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

c. Dispute resolution.

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

d. Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

14. *Date of implementation of the interstate commission for emergency medical services personnel practice and associated rules, withdrawal, and amendment.*

a. The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

b. Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

c. Any member state may withdraw from this compact by enacting a statute repealing the same.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's emergency medical services authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

d. Nothing contained in this compact shall be construed to invalidate or prevent any emergency medical services personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

e. This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

15. *Construction and severability.* This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of emergency medical services agencies.

2019 Acts, ch 90, §1

Emergency management assistance compact, see §29C.1

CHAPTER 148

MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

Referred to in §85B.9, 124.555, 124E.2, 125.86, 135.24, 135.61, 135.105D, 135B.7, 135C.40, 135G.1, 135H.1, 135J.1, 135P.1, 136.1, 137.105, 142C.7, 144.29A, 146B.1, 146B.2, 146B.3, 146C.1, 147.76, 147.108, 147.109, 147.135, 147.136A, 147.139, 147A.1, 148A.3, 148H.1, 148H.4, 148H.6, 152.1, 154.1, 154.10, 154B.2, 157.13, 216.8C, 225C.6, 225D.1, 229.1, 232.68, 280.16, 321.34, 321.186, 321.186A, 321.375, 321.376, 321.445, 321.446, 321L.2, 505.8, 509.3, 514.7, 514.17, 514B.1, 514C.3, 514C.11, 514C.13, 514C.17, 514C.18, 514C.20, 514C.25, 514C.29, 514C.30, 514C.31, 514F.1, 613.15B, 702.8, 702.17, 707.7, 707C.4, 708.3A, 714H.4, 915.86

Enforcement, §147.87, 147.92
Penalty, §147.86
Licensing board and support staff;
location, meetings, and powers; see §135.11A – 135.12, 135.31
Utilization and cost control
review committee; §514F.1

148.1 Persons engaged in practice.
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148.14 Board of medicine investigators.

148.1 Persons engaged in practice.

For the purpose of this subtitle, the following classes of persons shall be deemed to be engaged in the practice of medicine and surgery or osteopathic medicine and surgery:

1. Persons who publicly profess to be physicians and surgeons or osteopathic physicians

and surgeons, or who publicly profess to assume the duties incident to the practice of medicine and surgery or osteopathic medicine and surgery.

2. Persons who prescribe, or prescribe and furnish, medicine for human ailments or treat the same by surgery.

3. Persons who act as representatives of any person in doing any of the things mentioned in this section.

[C97, §2579; C24, 27, 31, 35, 39, §**2538;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §148.1]
2008 Acts, ch 1088, §44; 2009 Acts, ch 41, §170, 264
Referred to in §148.2

148.2 Persons not engaged in practice.

Section 148.1 shall not be construed to include the following classes of persons:

1. Persons who advertise or sell patent or proprietary medicines.

2. Persons who advertise, sell, or prescribe natural mineral waters flowing from wells or springs.

3. Students of medicine and surgery or osteopathic medicine and surgery who have completed at least two years' study in a medical school or a college of osteopathic medicine and surgery, approved by the board, and who prescribe medicine under the supervision of a licensed physician and surgeon or licensed osteopathic physician and surgeon, or who render gratuitous service to persons in case of emergency.

4. Licensed podiatric physicians, chiropractors, physical therapists, nurses, dentists, optometrists, and pharmacists who are exclusively engaged in the practice of their respective professions.

5. Physicians and surgeons or osteopathic physicians and surgeons of the United States army, navy, air force, marines, public health service, or other uniformed service when acting in the line of duty in this state, and holding a current, active permanent license in good standing in another state, district, or territory of the United States, or physicians and surgeons or osteopathic physicians and surgeons licensed in another state, when incidentally called into this state in consultation with a physician and surgeon or osteopathic physician and surgeon licensed in this state.

[C97, §2579, 2581; S13, §2581; C24, 27, 31, 35, 39, §**2539;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §148.2]

96 Acts, ch 1034, §68; 2006 Acts, ch 1184, §90; 2007 Acts, ch 10, §86; 2008 Acts, ch 1088, §45

148.2A Board of medicine — alternate members.

1. As used in this chapter, *"board"* means the board of medicine established in chapter 147.

2. Notwithstanding sections 17A.11, 69.16, 69.16A, 147.12, 147.14, and 147.19, the board may have a pool of up to ten alternate members, including members licensed to practice under this chapter and members not licensed to practice under this chapter, to substitute for board members who are disqualified or become unavailable for any other reason for contested case hearings.

a. The board may recommend, subject to approval by the governor, up to ten people to serve in a pool of alternate members.

b. A person serves in the pool of alternate members at the discretion of the board; however, the length of time an alternate member may serve in the pool shall not exceed nine years. A person who serves as an alternate member may later be appointed to the board and may serve nine years, in accordance with sections 147.12 and 147.19. A former board member may serve in the pool of alternate members.

c. An alternate member licensed under this chapter shall hold an active license and shall have been actively engaged in the practice of medicine and surgery or osteopathic medicine and surgery in the preceding three years, with the two most recent years of practice being in Iowa.

d. When a sufficient number of board members are unavailable to hear a contested case, the board may request alternate members to serve.

e. Notwithstanding section 17A.11, section 147.14, subsection 2, and section 272C.6, subsection 5:

(1) An alternate member is deemed a member of the board only for the hearing panel for which the alternate member serves.

(2) A hearing panel containing alternate members must include at least six people.

(3) At least half of the members of a hearing panel containing alternate members shall be current members of the board.

(4) At least half of the members of a hearing panel containing alternate members shall be licensed to practice under this chapter.

(5) A decision of a hearing panel containing alternate members is considered a final decision of the board.

f. An alternate member shall not receive compensation in excess of that authorized by law for a board member.

92 Acts, ch 1183, §11; 2007 Acts, ch 10, §87; 2008 Acts, ch 1088, §46; 2009 Acts, ch 133, §52; 2014 Acts, ch 1106, §21

Referred to in §148.7

148.2B Executive director.

The salary of the executive director of the board shall be established by the governor with approval of the executive council pursuant to section 8A.413, subsection 3, under the pay plan for exempt positions in the executive branch of government.

2008 Acts, ch 1088, §47

148.3 License to practice.

1. An applicant for a license to practice medicine and surgery or osteopathic medicine and surgery shall present to the board all of the following:

a. Evidence of a diploma issued by a medical college or college of osteopathic medicine and surgery approved by the board, or other evidence of equivalent medical education approved by the board. The board may accept, in lieu of a diploma from a medical college or college of osteopathic medicine and surgery approved by the board, all of the following:

(1) A diploma issued by a medical college or college of osteopathic medicine and surgery which has been neither approved nor disapproved by the board.

(2) A valid standard certificate issued by the educational commission for foreign medical graduates or similar accrediting agency.

b. Evidence of having passed an examination prescribed by the board which shall include subjects which determine the applicant's qualifications to practice medicine and surgery or osteopathic medicine and surgery and which shall be given according to the methods deemed by the board to be the most appropriate and practicable. However, one or more examinations as prescribed by the board or any other national standardized examination which the board approves may be administered to any or all applicants in lieu of or in conjunction with other examinations which the board prescribes. The board may establish necessary achievement levels on all examinations for a passing grade and adopt rules relating to examinations.

c. Satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the board. An applicant who holds a valid certificate issued by the educational commission for foreign medical graduates shall submit satisfactory evidence of successful completion of two years of such training.

2. An application for a license shall be made to the board of medicine. All license and renewal fees shall be paid to the board.

3. The board shall give priority to the processing of applications for licensure submitted by physicians and surgeons and osteopathic physicians and surgeons whose practice will primarily involve provision of service to underserved populations, including but not limited to minorities or low-income persons, or who live in rural areas.

4. The issuance of reciprocal agreements pursuant to section 147.44 is not required and is subject to the discretion of the board.

1. [C97, §2582; S13, §2582; C24, 27, 31, 35, 39, §**2540;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §148.3; 82 Acts, ch 1005, §4]

2. [C97, §2576; S13, §2576; C24, 27, 31, 35, 39, §**2540;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §148.3]

3. [C27, 31, 35, 39, §**2540;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §148.3]

90 Acts, ch 1086, §9, 10; 92 Acts, ch 1183, §12; 2004 Acts, ch 1168, §7; 2007 Acts, ch 10, §88; 2008 Acts, ch 1088, §48; 2009 Acts, ch 41, §55; 2009 Acts, ch 133, §53; 2010 Acts, ch 1069, §19; 2010 Acts, ch 1163, §2

Referred to in §147.49, 148.8A, 148.11A, 272C.2C

148.4 Certificates of national board. Repealed by 2008 Acts, ch 1088, §79.

148.5 Resident physician license.

A physician, who is a graduate of a medical school or college of osteopathic medicine and surgery and is serving as a resident physician who is not otherwise licensed to practice medicine and surgery or osteopathic medicine and surgery in this state, shall be required to obtain from the board a license to practice as a resident physician. The license shall be designated "Resident Physician License" and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery, in an institution approved for such training by the board. A license shall be valid for a duration as determined by the board. The fee for each license shall be set by the board to cover the administrative costs of issuing the license. The board shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. Requirements of the law pertaining to regular permanent licensure shall not be mandatory for a resident physician license except as specifically designated by the board. The granting of a resident physician license does not in any way indicate that the person licensed is necessarily eligible for regular permanent licensure, or that the board in any way is obligated to license the individual.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §148.5]

90 Acts, ch 1086, §11; 92 Acts, ch 1183, §14; 2000 Acts, ch 1140, §32; 2007 Acts, ch 10, §90; 2008 Acts, ch 1088, §49

148.6 Licensee discipline — criminal penalty.

1. The board, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board may discipline a licensee who is guilty of any of the following acts or offenses:

a. Knowingly making misleading, deceptive, untrue, or fraudulent representation in the practice of the physician's profession.

b. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

c. Having the license to practice medicine and surgery or osteopathic medicine and surgery revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

d. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice medicine and surgery or osteopathic medicine and surgery.

e. Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

f. Being guilty of a willful or repeated departure from, or the failure to conform to,

the minimal standard of acceptable and prevailing practice of medicine and surgery or osteopathic medicine and surgery in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without this state.

g. Inability to practice medicine and surgery or osteopathic medicine and surgery with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

(1) The board may, upon probable cause, compel a physician to submit to a mental or physical examination by designated physicians or to submit to alcohol or drug screening within a time specified by the board.

(2) A person licensed to practice medicine and surgery or osteopathic medicine and surgery who makes application for the renewal of a license, as required by section 147.10, gives consent to submit to a mental or physical examination as provided by this paragraph "*g*" when directed in writing by the board. All objections shall be waived as to the admissibility of an examining physicians' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a physician in another proceeding and shall be confidential, except for other actions filed against a physician to revoke or suspend a license.

h. Willful or repeated violation of lawful rule or regulation adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

3. A person violating the provisions of section 147.2, 147.84, or 147.85, shall upon conviction be guilty of a class "D" felony.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §148.6]

90 Acts, ch 1086, §12 – 14; 92 Acts, ch 1183, §15; 2007 Acts, ch 10, §91; 2008 Acts, ch 1088, §50; 2009 Acts, ch 133, §54; 2020 Acts, ch 1103, §14, 31

Referred to in §146A.1, 148.7, 148H.7, 272C.3, 272C.4, 272C.5

Service of notice, R.C.P. 1.305 and 1.306

148.7 Procedure for licensee discipline.

A proceeding for the revocation or suspension of a license to practice medicine and surgery or osteopathic medicine and surgery or to discipline a person licensed to practice medicine and surgery or osteopathic medicine and surgery shall be substantially in accord with the following procedure:

1. The board may, upon its own motion or upon receipt of a complaint in writing, order an investigation. The board may, upon its own motion, order a hearing. A written notice of the time and place of the hearing together with a statement of the charges shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action or by restricted certified mail.

2. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing as provided in this section.

3. *a.* The hearing shall be before a member or members designated by the board or before an administrative law judge appointed by the board according to the requirements of section 17A.11, subsection 1. The presiding board member or administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The presiding board member or administrative law judge shall issue subpoenas at the request and on behalf of the licensee.

b. The administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The administrative law judge shall prepare and file with the board the administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections, and rulings of the administrative law judge.

4. Disciplinary hearings held pursuant to section 272C.6, subsection 1, shall be heard by the board, or by a panel of not less than six members, at least three of whom are board members, and the remaining appointed pursuant to section 148.2A, with no more than three of the six being public members. Notwithstanding chapters 17A and 21, a disciplinary hearing shall be open to the public at the discretion of the licensee.

5. A record of the proceedings shall be kept. The licensee shall have the opportunity to appear personally and by an attorney, with the right to produce evidence on the licensee's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

6. If a person refuses to obey a subpoena issued by the presiding member or administrative law judge or to answer a proper question during the hearing, the presiding member or administrative law judge may invoke the aid of a court of competent jurisdiction or judge of this court in requiring the attendance and testimony of the person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

7. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and the licensee's attorney shall have the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it.

8. If a majority of the members of the board vote in favor of finding the licensee guilty of an act or offense specified in section 147.55 or 148.6, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

a. Suspend the licensee's license to practice the profession for a period to be determined by the board.

b. Revoke the licensee's license to practice the profession.

c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the physician on probation. The probation ordered may be vacated upon noncompliance. The board may restore and reissue a license to practice medicine and surgery or osteopathic medicine and surgery, but may impose a disciplinary or corrective measure which the board might originally have imposed. A copy of the board's order, findings of fact, and decision, shall be served on the licensee in the manner of service of an original notice or by certified mail return receipt requested.

9. Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

10. The board's order revoking or suspending a license to practice medicine and surgery or osteopathic medicine and surgery or to discipline a licensee shall remain in force and effect until the appeal is finally determined and disposed of upon its merit.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §148.7]

88 Acts, ch 1109, §16; 90 Acts, ch 1086, §15; 92 Acts, ch 1183, §16, 17; 98 Acts, ch 1202, §31, 46; 2003 Acts, ch 44, §114; 2007 Acts, ch 10, §92; 2008 Acts, ch 1088, §51

Referred to in §272C.5

Manner of service, R.C.P. 1.302 – 1.315

148.8 Voluntary surrender of license.

The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. A voluntary surrender, when accepted, has the same force and effect as an order of revocation.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §148.8]

92 Acts, ch 1183, §18; 2007 Acts, ch 10, §93

Referred to in §272C.5

148.8A Relinquishment of a license — failure to renew or reinstate.

A person's license to practice medicine and surgery or osteopathic medicine and surgery shall be deemed relinquished if the person fails to apply for renewal or reinstatement of the license within five years after its expiration. A license shall not be reinstated, reissued, or

restored once it is relinquished. The person may apply for a new license pursuant to section 148.3 and applicable administrative rules.

2015 Acts, ch 41, §1
Referred to in §272C.5

148.9 Reinstatement.

Any person whose license has been suspended may apply to the board for reinstatement at any time and the board may hold a hearing on any such petition and may order reinstatement and impose terms and conditions thereof and issue a certificate of reinstatement.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §148.9]

2007 Acts, ch 10, §94; 2008 Acts, ch 1088, §52
Referred to in §272C.5

148.10 Temporary license.

1. The board may, in its discretion, issue a temporary license authorizing the licensee to practice medicine and surgery or osteopathic medicine and surgery in a specific location or locations and for a specified period of time if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the license, which shall be substantially equivalent to those required for licensure under this chapter. The board shall determine in each instance those eligible for the license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure are mandatory for the temporary license except as specifically designated by the board. The granting of a temporary license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure or that the board in any way is obligated to so license the person.

2. The temporary license shall be issued for a period not to exceed one year and may be renewed, but a person shall not practice medicine and surgery or osteopathic medicine and surgery in excess of three years while holding a temporary license. The fee for the license and the fee for renewal of the license shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the licenses.

[C66, 71, 73, 75, 77, 79, 81, §148.10]

87 Acts, ch 128, §1; 2004 Acts, ch 1167, §5; 2007 Acts, ch 10, §95; 2007 Acts, ch 215, §248; 2008 Acts, ch 1088, §53

148.11 Special license to practice medicine and surgery or osteopathic medicine and surgery.

1. Whenever the need exists, the board may issue a special license. The special license shall authorize the licensee to practice medicine and surgery or osteopathic medicine and surgery under the policies and standards applicable to the health care services of a medical or osteopathic medical school academic staff member or as otherwise specified in the special license.

2. A person applying for a special license shall:

a. Be a physician in a professional specialty.

b. Present a diploma issued by a medical or osteopathic medical college.

c. Present evidence of an unrestricted license to practice medicine and surgery or osteopathic medicine and surgery which has been issued by a foreign state or territory or an alien country.

d. Present a letter of recommendation from the dean of a medical or osteopathic medical school in this state indicating that the applicant has been invited to serve on the academic staff of the medical or osteopathic medical school.

e. Present letters of recommendation from universities, other educational institutions, or research facilities that indicate the noteworthy professional attainment by the applicant.

f. Present biographical background information concerning the applicant's education and qualifications.

3. The board shall establish a fee for initial issuance and renewal of a special license. The board shall establish rules for granting and renewing a special license consistent with those for permanent licenses.

4. A special license issued under this section shall automatically expire upon the special licensee discontinuing service on the academic staff of a medical or osteopathic medical school in this state. An expired special license shall not be renewed. However, a former special licensee may reapply for a special license.

[C77, 79, 81, §148.11]

2007 Acts, ch 10, §96; 2008 Acts, ch 1088, §54

148.11A Administrative medicine license.

1. As used in this section:

a. "Administrative medicine" means administration or management utilizing the medical and clinical knowledge, skill, and judgment of a person licensed to practice medicine and surgery or osteopathic medicine and surgery and capable of affecting the health and safety of the public or any person.

b. "Administrative medicine license" means a license issued by the board pursuant to this section.

2. An application for an administrative medicine license shall be made to the board. An applicant for an administrative medicine license shall meet all of the requirements established in section 148.3 and any additional requirements established by the board by rule. The board shall also adopt rules governing the initial issuance and renewal of administrative medicine licenses and establishing fees therefor. All license and renewal fees shall be paid to the board.

3. *a.* A physician with an administrative medicine license may do any of the following:

(1) Advise public or private organizations on health care matters.

(2) Authorize or deny payments for care.

(3) Organize or direct research programs.

(4) Review care provided for quality.

(5) Perform other similar duties that do not require direct patient care.

b. An administrative medicine license does not convey the authority to do any of the following, unless the person is otherwise licensed to perform such duties:

(1) Practice clinical medicine.

(2) Examine, care for, or treat patients.

(3) Prescribe medications including controlled substances.

(4) Delegate medical acts or prescriptive authority to others.

4. A person issued an administrative medicine license is subject to the same laws and rules governing the practice of medicine as a person issued a license to practice medicine and surgery or osteopathic medicine and surgery under this chapter unless otherwise provided by the board by rule.

2015 Acts, ch 41, §2

148.12 Voluntary agreements.

The board, after due notice and hearing, may issue an order to revoke, suspend, or restrict a license to practice medicine and surgery or osteopathic medicine and surgery, or to issue a restricted license on application if the board determines that a physician licensed to practice medicine and surgery or osteopathic medicine and surgery or an applicant for licensure has entered into a voluntary agreement to restrict the practice of medicine and surgery or osteopathic medicine and surgery in another state, district, territory, country, or an agency of the federal government. A certified copy of the voluntary agreement shall be considered prima facie evidence.

86 Acts, ch 1211, §17; 92 Acts, ch 1183, §19; 2005 Acts, ch 89, §14; 2007 Acts, ch 10, §97; 2008 Acts, ch 1088, §55

148.13 Authority of board as to supervising physicians and review of contested cases under chapter 148C — rules.

1. The board of medicine shall adopt rules setting forth in detail its criteria and procedures for determining the ineligibility of a physician to serve as a supervising physician under chapter 148C. The rules shall provide that a physician may serve as a supervising

physician under chapter 148C until such time as the board of medicine determines, following normal disciplinary procedures, that the physician is ineligible to serve in that capacity.

2. The board of medicine shall establish by rule specific procedures for consulting with and considering the advice of the board of physician assistants in determining whether to initiate a disciplinary proceeding under chapter 17A against a licensed physician in a matter involving the supervision of a physician assistant.

3. In exercising their respective authorities, the board of medicine and the board of physician assistants shall cooperate with the goal of encouraging the utilization of physician assistants in a manner that is consistent with the provision of quality health care and medical services for the citizens of Iowa.

4. The board of medicine shall adopt rules requiring a physician serving as a supervising physician to notify the board of medicine of the identity of a physician assistant the physician is supervising, and of any change in the status of the supervisory relationship.

88 Acts, ch 1225, §14; 2003 Acts, ch 93, §4, 5, 14; 2007 Acts, ch 10, §98

148.13A Board authority over physicians supervising certain psychologists.

The board of medicine shall, in consultation with the board of psychology, establish by rule all of the following:

1. Specific minimum standards for the appropriate supervision of a psychologist prescribing medication pursuant to a conditional prescription certificate under chapter 154B. Such standards shall include requiring a physician serving as a supervising licensed physician to notify the board of medicine of the identity of the psychologist the physician is supervising and any change in the status of the supervisory relationship.

2. The process for initiating and conducting disciplinary proceedings under chapter 17A if a licensed physician fails to adequately supervise a psychologist prescribing psychotropic medications pursuant to a prescription certificate under chapter 154B. The rule shall take into account the deliberations of the board in making such a determination.

2016 Acts, ch 1112, §4
Referred to in §154B.10

148.13B Requirements for prescription certificates for psychologists — joint rules.

1. The board of medicine and the board of psychology shall adopt joint rules in regard to the following:

a. Education and training requirements for prescription certificates pursuant to sections 154B.10 and 154B.11.

b. Specific minimum standards for the terms, conditions, and framework governing the collaborative practice agreement and for governing the limitations on the prescriptions eligible to be prescribed and populations eligible to be prescribed to as specified in section 154B.1, subsection 2.

2. The board of medicine shall consult with the university of Iowa Carver college of medicine and clinical and counseling psychology doctoral programs at regents institutions in the development of the rules pertaining to education and training requirements in sections 154B.10 and 154B.11.

3. The joint rules, and any amendments thereto, adopted by the board of medicine and the board of psychology pursuant to this section and section 154B.14 shall only be adopted by agreement of both boards through a joint rule-making process.

2016 Acts, ch 1112, §5
Referred to in §154B.14

148.14 Board of medicine investigators.

The board of medicine may appoint investigators, who shall not be members of the board, and whose compensation shall be determined pursuant to chapter 8A, subchapter IV. Investigators appointed by the board have the powers and status of peace officers when enforcing this chapter, chapter 147, and chapter 272C.

2008 Acts, ch 1088, §56; 2009 Acts, ch 133, §55

CHAPTER 148A

PHYSICAL THERAPY

Referred to in §135.24, 135.61, 147.74, 147.76, 514C.30, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86

148A.1	Definitions — referral — authorization.	148A.4	Requirements to practice.
148A.2	Who engaged in practice.	148A.5	Limitations.
148A.3	Persons not included.	148A.6	Physical therapist assistant.
		148A.7	False use of titles prohibited.

148A.1 Definitions — referral — authorization.

1. *a.* As used in this chapter, *"board"* means the board of physical and occupational therapy created under chapter 147.

b. As used in this chapter, *"physical therapy"* is that branch of science that deals with the evaluation and treatment of human capabilities and impairments. Physical therapy uses the effective properties of physical agents including, but not limited to, mechanical devices, heat, cold, air, light, water, electricity, and sound, and therapeutic exercises, and rehabilitative procedures to prevent, correct, minimize, or alleviate a physical impairment. Physical therapy includes the interpretation of performances, tests, and measurements, the establishment and modification of physical therapy programs, treatment planning, consultative services, instructions to the patients, and the administration and supervision attendant to physical therapy facilities.

2. Physical therapy evaluation and treatment may be rendered by a physical therapist with or without a referral from a physician, podiatric physician, dentist, or chiropractor, except that a hospital may require that physical therapy evaluation and treatment provided in the hospital shall be done only upon prior review by and authorization of a member of the hospital's medical staff.

[C66, 71, 73, 75, 77, 79, 81, §148A.1]

84 Acts, ch 1268, §1; 86 Acts, ch 1238, §7; 87 Acts, ch 65, §3; 88 Acts, ch 1002, §1; 95 Acts, ch 108, §8; 2007 Acts, ch 10, §99

Referred to in §148A.3

148A.2 Who engaged in practice.

For the purpose of this chapter the following classes of persons shall be deemed to be engaged in the practice of physical therapy:

1. Persons who treat human ailments by physical therapy as defined in this chapter.

2. Persons who publicly profess to be physical therapists or who publicly profess to perform the functions incident to the practice of physical therapy.

[C66, 71, 73, 75, 77, 79, 81, §148A.2]

148A.3 Persons not included.

Section 148A.1 shall not be construed to include the following classes of persons:

1. Licensed physicians and surgeons, osteopathic physicians and surgeons, podiatric physicians, chiropractors, nurses, dentists, cosmetologists, and barbers, who are engaged in the practice of their respective professions.

2. Students of physical therapy who practice physical therapy under the supervision of a licensed physical therapist in connection with the regular course of instruction at a school of physical therapy.

3. Physical therapists of the United States army, navy, or public health service, or physical therapists licensed in another state, when incidentally called into this state in consultation with a physician and surgeon or physical therapists licensed in this state.

4. Nonprofessional workers not held out as physical therapists who are employed in hospitals, clinics, offices or health care facilities as defined in section 135C.1 working under the supervision and direction of a physical therapist or physician licensed pursuant to chapter 148.

5. Massage therapists, massage technicians, masseurs and masseuses who administer body massage by Swedish or other massage technique, including modalities, in a massage establishment, health club, athletic club or school athletic department, but in no instance shall they designate themselves as physical therapists.

[C66, 71, 73, 75, 77, 79, 81, §148A.3]

84 Acts, ch 1268, §2; 96 Acts, ch 1034, §68; 2008 Acts, ch 1088, §100

148A.4 Requirements to practice.

Each applicant for a license to practice physical therapy shall:

1. Complete a course of study in, and hold a diploma or certificate issued by, a school of physical therapy accredited by the American physical therapy association or another appropriate accrediting body, and meet requirements as established by rules of the board.

2. Have passed an examination administered by the board.

[C66, 71, 73, 75, 77, 79, 81, §148A.4]

83 Acts, ch 101, §27; 84 Acts, ch 1268, §3; 2007 Acts, ch 10, §100

148A.5 Limitations.

A license to practice physical therapy does not authorize the licensee to practice operative surgery or osteopathic or chiropractic manipulation, or to administer or prescribe any drug or medicine included in materia medica.

88 Acts, ch 1002, §2

148A.6 Physical therapist assistant.

1. A licensed physical therapist assistant is required to function under the direction and supervision of a licensed physical therapist to perform physical therapy procedures delegated and supervised by the licensed physical therapist in a manner consistent with the rules adopted by the board. Selected and delegated tasks of physical therapist assistants may include but are not limited to therapeutic procedures and related tasks, routine operational functions, documentation of treatment progress, and the use of selected physical agents. The ability of the licensed physical therapist assistant to perform the selected and delegated tasks shall be assessed on an ongoing basis by the supervising physical therapist. The licensed physical therapist assistant shall not interpret referrals, perform initial evaluation or reevaluations, initiate physical therapy treatment programs, change specified treatment programs, or discharge a patient from physical therapy services.

2. Each applicant for a license to practice as a physical therapist assistant shall:

a. Successfully complete a course of study for the physical therapist assistant accredited by the commission on accreditation in education of the American physical therapy association, or another appropriate accrediting body, and meet other requirements established by the rules of the board.

b. Have passed an examination administered by the board.

3. This section does not prevent a person not licensed as a physical therapist assistant from performing services ordinarily performed by a physical therapy aide, assistant, or technician, provided that the person does not represent to the public that the person is a licensed physical therapist assistant, or use the title "physical therapist assistant" or the letters "P.T.A.", and provided that the person performs services consistent with the supervision requirements of the board for persons not licensed as physical therapist assistants.

91 Acts, ch 228, §3; 2000 Acts, ch 1140, §33; 2004 Acts, ch 1068, §2; 2007 Acts, ch 10, §101

148A.7 False use of titles prohibited.

1. A person or business entity, including the employees, agents, or representatives of the business entity, shall not use in connection with that person's or business entity's business activity the words "physical therapy", "physical therapist", "licensed physical therapist", "registered physical therapist", "doctor of physical therapy", "physical therapist assistant", "licensed physical therapist assistant", "registered physical therapist assistant", or the letters "P. T.", "L. P. T.", "R. P. T.", "D. P. T.", "P. T. A.", "L. P. T. A.", "R. P. T. A.", or any other

words, abbreviations, or insignia indicating or implying that physical therapy is provided or supplied, unless such services are provided by or under the direction and supervision of a physical therapist licensed pursuant to this chapter.

2. Notwithstanding section 147.74, a person or the owner, officer, or agent of an entity that violates this section is guilty of a serious misdemeanor, and a license to practice shall be revoked or suspended pursuant to section 147.55.

3. This section shall not apply to the use of the term "physiotherapy" by a provider licensed under this chapter, chapter 151, or by an individual under the direction and supervision of a provider licensed under this chapter or chapter 151.

2004 Acts, ch 1068, §1; 2009 Acts, ch 133, §56

CHAPTER 148B

OCCUPATIONAL THERAPY

Referred to in §135.24, 147.74, 147.76, 514C.30, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86

148B.1	Title and purpose.	148B.6	Waiver of examination requirement.
148B.2	Definitions.	148B.7	Board of physical and occupational therapy — powers and duties.
148B.3	Persons and practices not affected.	148B.8	Unlawful practice.
148B.3A	Referral.	148B.9	False use of titles prohibited.
148B.4	Limited permit.		
148B.5	Requirements for licensure.		

148B.1 Title and purpose.

1. This chapter may be cited and referred to as the *"Occupational Therapy Practice Act"*.

2. The purpose of this chapter is to provide for the regulation of persons offering occupational therapy services to the public in order to safeguard the public health, safety and welfare.

[C81, §148B.1]
2021 Acts, ch 76, §150
Code editor directive applied

148B.2 Definitions.

As used in this chapter:

1. *"Board"* means the board of physical and occupational therapy created under chapter 147.

2. *"Occupational therapist"* means a person licensed under this chapter to practice occupational therapy.

3. *"Occupational therapy"* means the therapeutic use of occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. *"Occupational therapy"* includes but is not limited to providing assessment, design, fabrication, application, and fitting of selected orthotic devices and training in the use of prosthetic devices.

4. *"Occupational therapy assistant"* means a person licensed under this chapter to assist in the practice of occupational therapy.

[C81, §148B.2]

2007 Acts, ch 10, §102; 2012 Acts, ch 1101, §6

148B.3 Persons and practices not affected.

This chapter does not prevent or restrict the practice, services or activities of any of the following:

1. A person licensed in this state by any other law from engaging in the profession or occupation for which the person is licensed.

2. A person employed as an occupational therapist or occupational therapy assistant by the government of the United States, if that person provides occupational therapy solely under the direction or control of the organization by which the person is employed.

3. A person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program, if the activities and services constitute a part of a supervised course of study and the person is designated by a title which clearly indicates the person's status as a student or trainee.

4. A person fulfilling the supervised field work experience requirements of section 148B.5, if the activities and services constitute a part of the experience necessary to meet the requirements of that section.

5. A nonresident performing occupational therapy services in the state who is not licensed under this chapter, if the services are performed for not more than thirty days in a calendar year in association with an occupational therapist licensed under this chapter, and the nonresident meets either of the following requirements:

a. The nonresident is licensed under the law of another state which has licensure requirements at least as stringent as the requirements of this chapter.

b. The nonresident meets the requirements for certification as an occupational therapist registered (O.T.R.), or a certified occupational therapy assistant (C.O.T.A.) established by the national board for certification in occupational therapy.

[C81, §148B.3]

2012 Acts, ch 1101, §7, 8

148B.3A Referral.

Occupational therapy may be provided by an occupational therapist without referral from a physician, podiatric physician, dentist, or chiropractor, except that a hospital may require that occupational therapy provided in the hospital be performed only following prior review by and authorization of the performance of the occupational therapy by a member of the hospital medical staff.

2000 Acts, ch 1140, §34

148B.4 Limited permit.

1. A limited permit to practice occupational therapy may be granted to a person who has completed the academic and field work requirements for occupational therapists under this chapter and has not yet taken or received the results of the entry-level certification examination. A permit granted pursuant to this subsection shall be valid for a period of time as determined by the board by rule and shall allow the person to practice occupational therapy under the direction and appropriate supervision of an occupational therapist licensed under this chapter. The permit shall expire when the person is issued a license under section 148B.5 or if the person is notified that the person did not pass the examination. The limited permit shall not be renewed.

2. A limited permit to assist in the practice of occupational therapy may be granted to a person who has completed the academic and field work requirements for occupational therapy assistants under this chapter and has not yet taken or received the results of the entry-level certification examination. A permit granted pursuant to this subsection shall be valid for a period of time as determined by the board by rule and shall allow the person to assist in the practice of occupational therapy under the direction and appropriate supervision

of an occupational therapist licensed under this chapter. The permit shall expire when the person is issued a license under section 148B.5 or if the person is notified that the person did not pass the examination. The limited permit shall not be renewed.

[C81, §148B.4]

2012 Acts, ch 1101, §9

148B.5 Requirements for licensure.

An applicant applying for a license as an occupational therapist or as an occupational therapy assistant must file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

1. Successful completion of the academic requirements of an educational program in occupational therapy recognized by the board.

a. For an occupational therapist, the program must be one accredited by the accreditation council for occupational therapy education of the American occupational therapy association.

b. For an occupational therapy assistant, the program must be one approved by the American occupational therapy association.

2. Successful completion of a period of supervised field work experience at a recognized educational institution or a training program approved by the educational institution where the applicant met the academic requirements.

a. For an occupational therapist, a minimum of six months of supervised field work experience is required.

b. For an occupational therapy assistant, a minimum of two months of supervised field work experience is required.

3. Pass an examination, either in electronic or written form, satisfactory to the board and in accordance with rules.

[C81, §148B.5]

2000 Acts, ch 1140, §35; 2002 Acts, ch 1108, §14; 2004 Acts, ch 1167, §6

Referred to in §148B.3, 148B.4

148B.6 Waiver of examination requirement.

The board may waive the examination and grant a license:

1. To a person certified prior to January 1, 1981, as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by the American occupational therapy association.

2. To an applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure of this chapter.

[C81, §148B.6]

2012 Acts, ch 1101, §10

148B.7 Board of physical and occupational therapy — powers and duties.

The board shall adopt rules relating to professional conduct to carry out the policy of this chapter, including but not limited to rules relating to professional licensing and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state.

[C81, §148B.7]

2007 Acts, ch 10, §103

Referred to in §272C.3, 272C.4

148B.8 Unlawful practice.

1. A person shall not practice occupational therapy or assist in the practice of occupational therapy, provide occupational therapy services, hold oneself out as an occupational therapist or occupational therapy assistant or as being able to practice occupational therapy or assist in the practice of occupational therapy, or provide occupational therapy services in this state unless the person is licensed under this chapter.

2. It is unlawful for any person not licensed as an occupational therapist in this state or

whose license is suspended or revoked to use in connection with the person's name or place of business in this state the words "occupational therapist", "licensed occupational therapist", or any word, title, letters, or designation that implies that the person is an occupational therapist.

3. It is unlawful for any person not licensed as an occupational therapy assistant in this state or whose license is suspended or revoked to use in connection with the person's name or place of business in this state, the words "occupational therapy assistant", "licensed occupational therapy assistant", or any word, title, letters, or designation that implies that the person is an occupational therapy assistant.

2012 Acts, ch 1101, §11

148B.9 False use of titles prohibited.

A person or business entity, including the employees, agents, or representatives of the business entity, shall not use in connection with that person or business entity's business activity, the words "occupational therapy", "occupational therapist", "licensed occupational therapist", "doctor of occupational therapy", "occupational therapy assistant", "licensed occupational therapy assistant", or the letters "O.T.", "O.T./L.", "O.T.D.", "O.T.A.", "O.T.A./L.", or any words, abbreviations, or insignia indicating or implying that occupational therapy is provided or supplied unless such services are provided by or under the direction and supervision of an occupational therapist licensed pursuant to this chapter.

2012 Acts, ch 1101, §12

CHAPTER 148C

PHYSICIAN ASSISTANTS

Referred to in §124E.2, 135.24, 135.61, 135.105D, 135B.7, 135G.1, 135P.1, 136C.3, 137.105, 142C.7, 144.29A, 144D.1, 147.74, 147.76, 147.107, 147.136A, 147A.13, 148.13, 148H.4, 216.8C, 225C.6, 249A.4, 261.114, 261.116, 272C.1, 280.16, 321.34, 321.186, 321L.2, 514C.11, 514C.13, 702.8, 702.17, 708.3A, 714H.4

Enforcement, §147.87, 147.92
Penalty, general, §147.86
Drug dispensing, supplying, and prescribing; limitations, rules, see §147.107 and 91 Acts, ch 238, §2

148C.1 Definitions.
148C.2 Approved programs. Repealed by 2003 Acts, ch 93, §13, 14.
148C.3 Licensure.
148C.4 Services performed by physician assistants.
148C.5 Supervising physicians — board of medicine — rulemaking requirements.
148C.5A Initiating disciplinary proceedings — advice from board of medical examiners. Repealed by 2003 Acts, ch 93, §13, 14.
148C.6 Reserved.
148C.6A and 148C.7 Repealed by 2003 Acts, ch 93, §13, 14.
148C.8 Right to delegate.
148C.9 Eye examination restricted.
148C.10 Applicability of other provisions of law.
148C.11 Prohibition — crime.
148C.12 Annual report.
148C.13 Investigators for physician assistants.

148C.1 Definitions.

1. *"Approved program"* means a program for the education of physician assistants which has been accredited by the accreditation review commission on education for the physician assistant or its successor, or, if accredited prior to 2001, either by the committee on allied health education and accreditation, or the commission on accreditation of allied health education programs.

2. *"Board"* means the board of physician assistants created under chapter 147.

3. *"Collaboration"* means consultation with or referral to the appropriate physician or other health care professional by a physician assistant as indicated by the patient's condition;

the education, competencies, and experience of the physician assistant; and the standard of care.

4. *"Department"* means the department of public health.

5. *"Licensed physician assistant"* or *"licensed P.A."* means a person who is licensed by the board to practice as a physician assistant under the supervision of one or more physicians. *"Supervision"* does not require the personal presence of the supervising physician at the place where medical services are rendered except insofar as the personal presence is expressly required by this chapter or required by rules of the board adopted pursuant to this chapter.

6. *"Physician"* means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery. Notwithstanding this subsection, a physician supervising a physician assistant practicing in a federal facility or under federal authority shall not be required to obtain licensure beyond licensure requirements mandated by the federal government for supervising physicians.

7. *"Physician assistant"* or *"P.A."* means a person who meets the qualifications under this chapter and is licensed to practice medicine by the board.

8. *"Supervising physician"* means a physician who supervises the medical services provided by a physician assistant consistent with the physician assistant's education, training, or experience and who accepts ultimate responsibility for the medical care provided by the supervising physician-physician assistant team.

[C73, 75, 77, 79, §148B.1; C81, §148C.1]

88 Acts, ch 1225, §15; 2003 Acts, ch 93, §6 – 8, 14; 2004 Acts, ch 1101, §23; 2007 Acts, ch 10, §105; 2008 Acts, ch 1088, §141; 2020 Acts, ch 1020, §4, 12

Referred to in §321J.11, 462A.14A

148C.2 Approved programs. Repealed by 2003 Acts, ch 93, §13, 14.

148C.3 Licensure.

1. The board shall adopt rules to govern the licensure of physician assistants. An applicant for licensure shall submit the fee prescribed by the board and shall meet the requirements established by the board with respect to each of the following:

a. Academic qualifications, including evidence of graduation from an approved program. A physician assistant who is not a graduate of an approved program, but who passed the national commission on certification of physician assistants' national certifying examination prior to 1986, is exempt from this graduation requirement.

b. Evidence of passing the national commission on the certification of physician assistants' national certifying examination or an equivalent examination approved by the board.

c. Hours of continuing medical education necessary to become or remain licensed.

2. Rules shall be adopted by the board pursuant to this chapter requiring a licensed physician assistant to be supervised by physicians. The rules shall provide that not more than five physician assistants shall be supervised by a physician at one time. The rules shall also provide that a physician assistant shall notify the board of the identity of the physician assistant's supervising physician and of any change in the status of the supervisory relationship.

3. A licensed physician assistant shall perform only those services for which the licensed physician assistant is qualified by training or education and which are not prohibited by the board.

4. The board may issue a temporary license under special circumstances and upon conditions prescribed by the board. A temporary license shall not be valid for more than one year and shall not be renewed more than once.

5. The board may issue an inactive license under conditions prescribed by rules adopted by the board.

6. The board shall adopt rules pursuant to this section after consultation with the board of medicine.

[C73, 75, 77, 79, §148B.3; C81, §148C.3; 82 Acts, ch 1005, §5]

88 Acts, ch 1225, §17; 2003 Acts, ch 93, §9, 14; 2004 Acts, ch 1101, §24; 2007 Acts, ch 10, §106; 2012 Acts, ch 1037, §1; 2020 Acts, ch 1020, §5, 12

Referred to in §148C.4, 272C.2C

148C.4 Services performed by physician assistants.

1. A physician assistant may provide any legal medical service for which the physician assistant has been prepared by the physician assistant's education, training, or experience and is competent to perform. For the purposes of this section, *"legal medical service for which the physician assistant has been prepared by the physician assistant's education, training, or experience and is competent to perform"* includes but is not limited to making a pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a correctional institution listed in section 904.102, a Medicare-certified home health agency, or a Medicare-certified hospice program or facility.

2. *a.* Notwithstanding subsection 1, a physician assistant licensed pursuant to this chapter or authorized to practice in any other state or federal jurisdiction who voluntarily and gratuitously, and other than in the ordinary course of the physician assistant's employment or practice, responds to a need for medical care created by an emergency or a state or local disaster may render such care that the physician assistant is able to provide without supervision as described in this section or with such supervision as is available.

b. A physician who supervises a physician assistant providing medical care pursuant to this subsection shall not be required to meet the requirements of rules adopted pursuant to section 148C.3, subsection 2, relating to supervision by physicians. A physician providing physician assistant supervision pursuant to this subsection or a physician assistant, who voluntarily and gratuitously, and other than in the ordinary course of the physician assistant's employment or practice, responds to a need for medical care created by an emergency or a state or local disaster shall not be subject to criminal liability by reason of having issued or executed the orders for such care, and shall not be liable for civil damages for acts or omissions relating to the issuance or execution of the orders unless the acts or omissions constitute recklessness.

3. The degree of collaboration between a physician assistant and the appropriate member of a health care team shall be determined at the practice level, and may involve decisions made by the medical group, hospital service, supervising physician, or employer of the physician assistant, or the credentialing and privileging system of a licensed health care facility. A physician shall be accessible at all times for consultation with a physician assistant unless the physician assistant is providing emergency medical services pursuant to 645 IAC 327.1(1)(n). The supervising physician shall have ultimate responsibility for determining the medical care provided by the supervising physician-physician assistant team.

[C73, 75, 77, 79, §148B.4; C81, §148C.4]

88 Acts, ch 1225, §18; 2001 Acts, ch 113, §1; 2003 Acts, ch 93, §10, 14; 2009 Acts, ch 41, §263; 2017 Acts, ch 96, §2; 2020 Acts, ch 1020, §6, 7, 12; 2021 Acts, ch 80, §80

Referred to in §147.107, 489.1102, 489.1105, 496C.4, 496C.7

Subsection 1 amended

148C.5 Supervising physicians — board of medicine — rulemaking requirements.

1. If the board commences a contested case hearing against a physician assistant by delivering a statement of charges and notice of hearing to the physician assistant, the board shall deliver a copy of the statement of charges and notice of hearing to the physician assistant's supervising physician.

2. The board shall adopt rules pursuant to chapter 17A to establish specific procedures for consulting with and sharing information with the board of medicine regarding complaints that a physician assistant may have been inadequately supervised by the physician assistant's supervising physician.

3. The board shall not amend or rescind any of the following rules unless, prior to the

submission of such an amendment or rescission to the administrative rules coordinator, the board consults with and receives approval from the board of medicine to make such a submission:

a. 645 IAC 326.1 regarding the following terms:

(1) "Physician".

(2) "Physician assistant".

(3) "Supervising physician".

(4) "Supervision".

b. 645 IAC 326.2(1)(f).

c. 645 IAC 326.4(6).

d. 645 IAC 326.8.

e. 645 IAC 327.1(1)(v).

f. 645 IAC 327.4(1)(b)(2) – (4).

g. 645 IAC 327.4(2).

2017 Acts, ch 60, §1, 5; 2021 Acts, ch 80, §81
Subsection 3 amended

148C.5A Initiating disciplinary proceedings — advice from board of medical examiners. Repealed by 2003 Acts, ch 93, §13, 14.

148C.6 Reserved.

148C.6A and 148C.7 Repealed by 2003 Acts, ch 93, §13, 14.

148C.8 Right to delegate.

Nothing in this chapter affects or limits a physician's existing right to delegate various medical tasks to aides, assistants or others acting under the physician's supervision or direction, including orthopedic physician assistant technologists. Such aides, assistants, orthopedic physician assistant technologists, and others who perform only those tasks which can be so delegated shall not be required to qualify as physician assistants under this chapter.

[C73, 75, 77, 79, §148B.8; C81, §148C.8]

88 Acts, ch 1225, §22; 2015 Acts, ch 29, §114

148C.9 Eye examination restricted.

A physician assistant shall not be permitted to prescribe lenses, prisms, or contact lenses for the aid, relief, or correction of human vision. A physician assistant shall not be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where such services are rendered.

[C73, 75, 77, 79, §148B.9; C81, §148C.9]

88 Acts, ch 1225, §23

148C.10 Applicability of other provisions of law.

The provisions of chapter 147, not otherwise inconsistent with the provisions of this chapter, shall apply to the provisions of this chapter.

[C73, 75, 77, 79, §148B.10; C81, §148C.10]

148C.11 Prohibition — crime.

A person not licensed as required by this chapter who practices as a physician assistant is guilty of a serious misdemeanor.

[82 Acts, ch 1005, §7]

88 Acts, ch 1225, §24; 2003 Acts, ch 93, §11, 14

148C.12 Annual report.

By January 31 of each year the board and the board of medicine shall provide to the general assembly and the governor a joint report detailing the boards' collaborative efforts and team building practices.

2007 Acts, ch 10, §184; 2007 Acts, ch 218, §189

148C.13 Investigators for physician assistants.

1. The board may appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provisions of law relating to physician assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV.

2. Investigators authorized by the board have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

2008 Acts, ch 1088, §57

CHAPTER 148D

RESIDENT PHYSICIANS

Referred to in §144.29A, 147.76, 708.3A

Enforcement, §147.87, 147.92
Penalty, §147.86

148D.1	Definitions.	148D.3 through 148D.5	Reserved.
148D.2	Establishment.	148D.6	Use of funds.

148D.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Affiliated"* means established or developed by the college of medicine.

2. *"College of medicine"* means the university of Iowa college of medicine.

3. *"Family practice unit"* means the community facility or classroom for the teaching of ambulatory health care skills within a residency program.

4. The *"medical profession"* means medical and osteopathic physicians.

5. *"Residency program"* means a community based family practice residency education program presently in existence or established under this chapter.

[C75, 77, 79, §148C.1; C81, §148D.1]

86 Acts, ch 1245, §2051; 2001 Acts, ch 74, §7

148D.2 Establishment.

1. A statewide medical education system is established for the purpose of training resident physicians in family practice. The dean of the college of medicine is responsible for implementing the development and expansion of residency programs in cooperation with the medical profession, hospitals, and clinics located throughout the state. The head of the department of family practice in the college of medicine shall determine where affiliated residency programs shall be established, giving consideration to communities in the state where the population, hospital facilities, number of physicians and interest in medical education indicate the potential success of the residency programs. The medical education systems shall provide financial support for residents in training in accredited affiliated residency programs and shall establish positions for a director, assistant director, and other faculty in the programs.

2. To assure continued growth, development, and academic essentials in ongoing programs, nonaffiliated residency programs which are accredited by a recognized national accrediting organization, shall be funded under this chapter at a level commensurate with the support of the affiliated residency programs having a comparable number of residents in training or, if there are no affiliated residency programs having a comparable number of

residents in training, then a nonaffiliated program shall be funded in an amount determined on a pro rata capitation basis for each resident in training, equivalent to the per capita funding for each resident in training in an affiliated program having the nearest number of residents in training. As used in this subsection, *"support"* means both cash grants and the value of service directly provided to affiliated residency programs by the college of medicine.

[C75, 77, 79, §148C.2; C81, §148D.2]

88 Acts, ch 1134, §30; 2018 Acts, ch 1041, §47

148D.3 through 148D.5 Reserved.

148D.6 Use of funds.

1. Moneys appropriated for the residency program shall be in addition to all the income of the state university of Iowa, and shall not be used to supplant funds for other programs under the administration of the college of medicine.

2. The allocation of state funds for a residency program shall not exceed fifty percent of the total cost of the program and shall be used for:

a. The salaries of the director, assistant director and other faculty and auxiliary personnel on the community level.

b. The stipends for the residents in training.

c. The initial construction or remodeling of a facility which serves as a family practice unit within a residency program.

d. The purchase of equipment for use in the family practice unit.

e. Travel expenses for consultative visits by faculty.

3. No more than twenty percent of the appropriation for each fiscal year for affiliated programs shall be authorized for expenditures made in support of the faculty and staff of the college of medicine who are associated with the affiliated residency program.

4. No funds appropriated under this chapter shall be used to subsidize the cost of care incurred by patients.

5. Allocations for the renovation or construction of a family practice unit shall not exceed thirty-five thousand dollars per program.

[C75, 77, 79, §148C.6; C81, §148D.6]

CHAPTER 148E

ACUPUNCTURE

Referred to in §147.74, 147.76

Enforcement, §147.87, 147.92
Penalty, §147.86

148E.1 Definitions.
148E.2 License required — renewal.
148E.3 Scope of chapter.
148E.4 Standard of care.
148E.5 Use and disposal of needles.
148E.6 Display of certificate and disclosure of information to patients.
148E.7 Duties of board.
148E.8 License revocation or suspension.
148E.9 Accident and health insurance coverage.
148E.10 Repealed by 2000 Acts, ch 1053, §14.

148E.1 Definitions.

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

1. *"Acupuncture"* means a form of health care developed from traditional and modern oriental medical concepts that employs oriental medical diagnosis and treatment, and adjunctive therapies and diagnostic techniques, for the promotion, maintenance, and restoration of health and the prevention of disease.

2. *"Acupuncturist"* means a person who is engaged in the practice of acupuncture.

3. *"Board"* means the board of medicine established in chapter 147.

4. *"Practice of acupuncture"* means the insertion of acupuncture needles and the application of moxibustion to specific areas of the human body based upon oriental medical diagnosis as a primary mode of therapy. Adjunctive therapies within the scope of acupuncture may include manual, mechanical, thermal, electrical, and electromagnetic treatment, and the recommendation of dietary guidelines and therapeutic exercise based on traditional oriental medicine concepts.

93 Acts, ch 86, §1; 2000 Acts, ch 1053, §5; 2007 Acts, ch 10, §107

148E.2 License required — renewal.

1. In order to obtain a license to practice acupuncture, an applicant shall present evidence to the board of all of the following:

a. Current active status as a diplomate in acupuncture of the national commission for the certification of acupuncturists.

b. Successful completion of a three-year postsecondary training program or acupuncture college program which is accredited by, in candidacy for accreditation by, or which meets the standards of the accreditation commission for acupuncture and oriental medicine.

c. Successful completion of a course in clean needle technique approved by the national certification commission for acupuncture and oriental medicine.

2. Notwithstanding subsection 1, a license to practice acupuncture shall be granted by the board to a resident of this state who has successfully completed an acupuncture degree program approved by the board, or an apprenticeship or tutorial program approved by the board, on or before July 1, 2001.

3. A license granted pursuant to this section shall be renewed every two years. Renewal shall require evidence of current active membership in the national commission for the certification of acupuncturists.

93 Acts, ch 86, §2; 2000 Acts, ch 1053, §6; 2016 Acts, ch 1011, §36

Referred to in §148E.6

148E.3 Scope of chapter.

This chapter does not apply to the following:

1. A person otherwise licensed to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry who is exclusively engaged in the practice of the person's profession.

2. A student practicing acupuncture under the direct supervision of a licensed acupuncturist as part of a course of study approved by the board.

93 Acts, ch 86, §3; 2000 Acts, ch 1053, §7; 2000 Acts, ch 1232, §49; 2008 Acts, ch 1088, §141

148E.4 Standard of care.

A person licensed under this chapter shall be held to the same standard of care as a person licensed to practice medicine and surgery or osteopathic medicine and surgery.

93 Acts, ch 86, §4; 2000 Acts, ch 1053, §8; 2008 Acts, ch 1088, §141

148E.5 Use and disposal of needles.

An acupuncturist shall use only presterilized, disposable needles, and shall provide for adequate disposal of used needles.

93 Acts, ch 86, §5; 2000 Acts, ch 1053, §9

148E.6 Display of certificate and disclosure of information to patients.

An acupuncturist shall display the license issued pursuant to section 148E.2 in a conspicuous place in the acupuncturist's place of business. An acupuncturist shall provide to each patient upon initial contact with the patient the following information in written form:

1. The name, business address, and business telephone number of the acupuncturist.
2. A fee schedule.
3. A listing of the acupuncturist's education, experience, degrees, certificates, or

credentials related to acupuncture awarded by professional acupuncture organizations, the length of time required to obtain the degrees or credentials, and experience.

4. A statement indicating any license, certificate, or registration in a health care occupation which was revoked by any local, state, or national health care agency.

5. A statement that the acupuncturist is complying with statutes and rules adopted by the board, including a statement that only presterilized, disposable needles are used by the acupuncturist.

6. A statement indicating that the practice of acupuncture is regulated by the board.

7. A statement indicating that a license to practice acupuncture does not authorize a person to practice medicine and surgery in this state, and that the services of an acupuncturist must not be regarded as diagnosis and treatment by a person licensed to practice medicine and must not be regarded as medical opinion or advice.

93 Acts, ch 86, §6; 2000 Acts, ch 1053, §10
Referred to in §148E.8

148E.7 Duties of board.

The board shall adopt rules consistent with this chapter and chapter 147 which are necessary for the performance of its duties.

93 Acts, ch 86, §7; 2000 Acts, ch 1053, §11

148E.8 License revocation or suspension.

In addition to the grounds for revocation or suspension referred to in section 147.55, a license to practice acupuncture shall be revoked or suspended when the acupuncturist is guilty of any of the following acts or offenses:

1. Failure to provide information as required in section 148E.6 or provision of false information to patients.

2. Acceptance of remuneration for referral of a patient to other health professionals.

3. Offering of or giving of remuneration for the referral of patients, not including paid advertisements or marketing services.

4. Failure to comply with this chapter, rules adopted pursuant to this chapter, or applicable provisions of chapter 147.

5. Engaging in sexual activity or genital contact with a patient while acting or purporting to act within the scope of practice, whether or not the patient consented to the sexual activity or genital contact.

6. Disclosure of confidential information regarding the patient.

93 Acts, ch 86, §8; 2000 Acts, ch 1053, §12

148E.9 Accident and health insurance coverage.

This chapter shall not be construed to require accident and health insurance coverage for acupuncture services under an existing or future contract or policy for insurance issued or issued for delivery in this state, unless otherwise provided by the contract or policy.

93 Acts, ch 86, §9; 2000 Acts, ch 1053, §13

148E.10 Repealed by 2000 Acts, ch 1053, §14.

CHAPTER 148F

ORTHOTICS, PROSTHETICS, AND PEDORTHICS

Referred to in §147.74, 147.76

148F.1 Title and purpose.
148F.2 Definitions.
148F.3 Duties of the board.
148F.4 Persons and practices not affected.
148F.5 Qualifications for licensure as orthotist, prosthetist, or pedorthist.
148F.6 Assistants and technicians.
148F.7 Limitation on provision of care and services.
148F.8 Penalties.
148F.9 Transition period.

148F.1 Title and purpose.

1. This chapter may be cited and referred to as the *"Orthotics, Prosthetics, and Pedorthics Practice Act"*.

2. The purpose of this chapter is to provide for the regulation of persons offering orthotic, prosthetic, and pedorthic services to the public in order to safeguard the public health, safety, and welfare.

2012 Acts, ch 1101, §13

148F.2 Definitions.

As used in this chapter:

1. *"Board"* means the board of podiatry.

2. *"Orthosis"* means a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction, or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. *"Orthosis"* does not include fabric or elastic supports, corsets, arch supports, low temperature plastic splints, trusses, elastic hose, canes, crutches, soft cervical collars, dental appliances, or other similar devices carried in stock and sold as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility.

3. *"Orthotic and prosthetic education program"* means a course of instruction accredited by the commission on accreditation of allied health education programs, consisting of both of the following:

a. A basic curriculum of college level instruction in math, physics, biology, chemistry, and psychology.

b. A specific curriculum in orthotic or prosthetic courses, including but not limited to:

(1) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management.

(2) Subject matter related to pediatric and geriatric problems.

(3) Instruction in acute care techniques, such as immediate and early post-surgical prosthetics and fracture bracing techniques.

(4) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses.

4. *"Orthotic and prosthetic scope of practice"* means a list of tasks, with relative weight given to such factors as importance, criticality, and frequency, based on nationally accepted standards of orthotic and prosthetic care as outlined by the American board for certification in orthotics, prosthetics, and pedorthics, incorporated.

5. *"Orthotics"* means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatric physician for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

6. *"Orthotist"* means a health care professional, specifically educated and trained in

orthotic patient care, who measures, designs, fabricates, fits, or services orthoses and may assist in the formulation of the order and treatment plan of orthoses for the support or correction of disabilities caused by neuromusculoskeletal diseases, injuries, or deformities.

7. *"Pedorthic device"* means therapeutic shoes, such as diabetic shoes and inserts, shoe modifications made for therapeutic purposes, below-the-ankle partial foot prostheses, and foot orthoses for use at the ankle or below. The term also includes subtalar-control foot orthoses designed to manage the function of the anatomy by controlling the range of motion of the subtalar joint. Excluding pedorthic devices which are footwear, the proximal height of a custom pedorthic device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. *"Pedorthic device"* does not include nontherapeutic inlays or footwear regardless of method of manufacture; unmodified, nontherapeutic over-the-counter shoes; or prefabricated foot care products.

8. *"Pedorthic education program"* means an educational program approved by the national commission on orthotic and prosthetic education consisting of all of the following:

a. A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics.

b. A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, subject matter related to pediatric and geriatric problems, and lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices.

9. *"Pedorthic scope of practice"* means a list of tasks with relative weight given to such factors as importance, criticality, and frequency based on nationally accepted standards of pedorthic care as outlined by the American board for certification in orthotics, prosthetics, and pedorthics, incorporated.

10. *"Pedorthics"* means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device under an order from a licensed physician or podiatric physician for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

11. *"Pedorthist"* means a health care professional, specifically educated and trained in pedorthic patient care, who measures, designs, fabricates, fits, or services pedorthic devices and may assist in the formulation of the order and treatment plan of pedorthic devices for the support or correction of disabilities caused by neuromusculoskeletal diseases, injuries, or deformities.

12. *"Prosthesis"* means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including an artificial limb, hand, or foot.

13. *"Prosthetics"* means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician.

14. *"Prosthetist"* means a health care professional, specifically educated and trained in prosthetic patient care, who measures, designs, fabricates, fits, or services prostheses and may assist in the formulation of the order and treatment plan of prostheses for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.

15. *"Residency"* means an approved supervised program of a minimum duration of one year to acquire practical clinical training in orthotics or prosthetics in a patient care setting.

16. *"Resident"* means a person who has completed an education program in either orthotics or prosthetics and is continuing the person's clinical education in a residency accredited by the national commission on orthotic and prosthetic education.

2012 Acts, ch 1101, §14; 2013 Acts, ch 32, §1 – 4

148F.3 Duties of the board.

The board shall administer this chapter. The board's duties shall include but are not limited to the following:

1. Adoption of rules to administer and interpret this chapter, chapter 147, and chapter 272C with respect to the education and licensing of orthotists, prosthetists, and pedorthists.

2. Adoption of rules to establish accepted standards of orthotic and prosthetic scope of practice, including the classification of devices and supervision of nonlicensed caregivers. Any changes to the nationally accepted standards by the American board for certification in orthotics, prosthetics and pedorthics which impact scope of practice may be approved by the board along with the adoption of rules as required in this section.

3. Adoption of rules relating to professional conduct and licensing and the establishment of ethical and professional standards of practice.

4. Acting on matters concerning licensure and the process of applying for, granting, suspending, imposing supervisory or probationary conditions upon, reinstating, revoking, or renewing a license.

5. Establishing and collecting licensure fees as provided in section 147.80.

6. Developing continuing education requirements as a condition of license renewal.

7. Evaluating requirements for licensure in other states to determine if reciprocity may be granted.

8. Adoption of rules providing temporary licensing for persons providing orthotic, prosthetic, and pedorthic care in this state prior to July 1, 2012. A temporary license is good for no more than one year.

2012 Acts, ch 1101, §15; 2021 Acts, ch 76, §36
Subsection 8 amended

148F.4 Persons and practices not affected.

This chapter does not prevent or restrict the practice, services, or activities of any of the following:

1. A person licensed in this state by any other law from engaging in the profession or occupation for which the person is licensed, including but not limited to persons set out in section 147.1, subsections 3 and 6.

2. A person employed as an orthotics, prosthetics, or pedorthics practitioner by the government of the United States if that person practices solely under the direction or control of the organization by which the person is employed.

3. A person pursuing a course of study leading to a degree or certificate in orthotics, prosthetics, or pedorthics in an educational program accredited or approved according to rules adopted by the board, if the activities and services constitute a part of a supervised course of study and the person is designated by a title which clearly indicates the person's status as a student, resident, or trainee.

2012 Acts, ch 1101, §16

148F.5 Qualifications for licensure as orthotist, prosthetist, or pedorthist.

1. To qualify for a license to practice orthotics or prosthetics, a person shall meet the following requirements:

a. Possess a baccalaureate degree from a college or university.

b. Have completed the amount of formal training, including but not limited to an orthotic and prosthetic education program, and clinical practice established and approved by the board.

c. Complete a clinical residency in the professional area for which a license is sought in accordance with standards, guidelines, or procedures for residencies established and approved by the board. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of orthotics or prosthetics or a person certified as a certified orthotist, certified prosthetist, or certified prosthetist orthotist whose practice is located outside the state.

d. Pass all written, practical, and oral examinations that are required and approved by the board.

e. Be qualified to practice in accordance with accepted standards of orthotic and prosthetic care as established by the board.

2. To qualify for a license to practice pedorthics, a person shall meet the following requirements:

a. Submit proof of a high school diploma or its equivalent.

b. Have completed the amount of formal training, including but not limited to a pedorthic education program, and clinical practice established and approved by the board.

c. Complete a qualified clinical experience program in pedorthics that has a minimum of one thousand hours of pedorthic patient care experience in accordance with any standards, guidelines, or procedures established and approved by the board. The majority of training must be devoted to services performed under the supervision of a licensed orthotist or licensed practitioner of pedorthics or a person certified as a certified pedorthist whose practice is located outside the state.

d. Pass all examinations that are required and approved by the board.

e. Be qualified to practice in accordance with accepted standards of pedorthic care as established by the board.

3. The standards and requirements for licensure established by the board shall be substantially equal to or in excess of standards commonly accepted in the professions of orthotics, prosthetics, or pedorthics, as applicable. The board shall adopt rules as necessary to set the standards and requirements.

4. A person may be licensed in more than one discipline.

2012 Acts, ch 1101, §17; 2013 Acts, ch 32, §5

Referred to in §148F.9

148F.6 Assistants and technicians.

1. *a.* A person shall not work as an assistant to an orthotist or prosthetist or provide fabrication of orthoses or prostheses unless the work or fabrication is performed under the supervision of a licensed orthotist or licensed prosthetist. A person shall not provide patient care services regulated by this chapter unless provided under the supervision of a licensed orthotist or licensed prosthetist.

b. An assistant may perform orthotic or prosthetic procedures and related tasks in the management of patient care. An assistant may also fabricate, repair, and maintain orthoses and prostheses.

2. A technician may assist a person licensed under this chapter with fabrication of orthoses, prostheses, or pedorthic devices but shall not provide direct patient care.

2012 Acts, ch 1101, §18; 2014 Acts, ch 1042, §1

148F.7 Limitation on provision of care and services.

A licensed orthotist, prosthetist, or pedorthist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician, a licensed podiatric physician, an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E, or a physician assistant who has been delegated the authority to order the services of an orthotist, prosthetist, or pedorthist by the assistant's supervising physician.

2012 Acts, ch 1101, §19; 2013 Acts, ch 32, §6

148F.8 Penalties.

1. If any person, company, or other entity violates a provision of this chapter, the attorney general may petition for an order enjoining the violation or for an order enforcing compliance with this chapter. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person, company, or other entity has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided in this chapter.

2. If a person practices as an orthotist, prosthetist, or pedorthist or represents the person as such without being licensed under the provisions of this chapter, then any other licensed

orthotist, pedorthist, or prosthetist, any interested party, or any person injured by the person may petition for relief as provided in subsection 1.

3. If a company or other entity holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this chapter on its staff to provide those services, then any other licensed orthotist, prosthetist, or pedorthist or any interested party or injured person may petition for relief as provided in subsection 1.

2012 Acts, ch 1101, §20

148F.9 Transition period.

1. Through June 30, 2014, a person certified as an orthotist, prosthetist, or pedorthist by the American board for certification in orthotics, prosthetics, and pedorthics, incorporated, or holding similar certification from other accrediting bodies, may apply for and may be issued an initial license to practice orthotics, prosthetics, or pedorthics under the provisions of this chapter without meeting the requirements of section 148F.5, upon proof of current certification in good standing and payment of the required licensure fees.

2. Through June 30, 2014, a person not certified as described in subsection 1 who has practiced continuously for at least thirty hours per week on average for at least five of seven years in an accredited and bonded facility as an orthotist, prosthetist, or pedorthist may file an application with the board to continue to practice orthotics, prosthetics, or pedorthics. The practice described under this subsection shall only be required to have been performed in an accredited and bonded facility if the facility is required to be accredited and bonded by Medicare. The five years of continuous practice must occur between July 1, 2007, and July 1, 2014. A person applying under this subsection may be issued an initial license to practice orthotics, prosthetics, or pedorthics under the provisions of this chapter without meeting the requirements of section 148F.5, upon payment of the licensure fees required by the department and after the board has reviewed the application.

3. On or after July 1, 2014, an applicant for licensure as an orthotist, prosthetist, or pedorthist shall meet the requirements of section 148F.5.

4. The board shall adopt rules to administer this section.

2013 Acts, ch 32, §7

CHAPTER 148G

POLYSOMNOGRAPHY

Referred to in §147.76, 272C.1

148G.1 Definitions.
148G.2 Practice of polysomnography.
148G.3 Location of services.
148G.4 Scope of chapter.
148G.5 Rulemaking.
148G.6 Licensing requirements.
148G.7 Persons exempt from licensing requirement.
148G.8 Licensing sanctions.

148G.1 Definitions.

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

1. *"Board"* means the board of respiratory care and polysomnography established in chapter 147.

2. *"Direct supervision"* means that the respiratory care and polysomnography practitioner or the polysomnographic technologist providing supervision must be present where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

3. *"General supervision"* means that the polysomnographic procedure is provided under a physician's or qualified health care professional prescriber's overall direction and control,

but the physician's or qualified health care professional prescriber's presence is not required during the performance of the procedure.

4. *"Physician"* means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery and who is board certified and who is actively involved in the sleep medicine center or laboratory.

5. *"Polysomnographic student"* means a person who is enrolled in a program approved by the board and who may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as a part of the person's educational program.

6. *"Polysomnographic technician"* means a person who has graduated from a program approved by the board, but has not yet received an accepted national credential awarded from an examination program approved by the board and who may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to thirty days following graduation while awaiting credentialing examination scheduling and results.

7. *"Polysomnographic technologist"* means a person licensed by the board to engage in the practice of polysomnography under the general supervision of a physician or a qualified health care professional prescriber.

8. *"Practice of polysomnography"* means as described in section 148G.2.

9. *"Qualified health care practitioner"* means an individual who is licensed under section 147.2, and who holds a credential listed on the board of registered polysomnographic technologists list of accepted allied health credentials.

10. *"Qualified health care professional prescriber"* means a physician assistant operating under the prescribing authority granted in section 147.107 or an advanced registered nurse practitioner operating under the prescribing authority granted in section 147.107.

11. *"Sleep-related services"* means acts performed by polysomnographic technicians, polysomnographic students, and other persons permitted to perform those services under this chapter, in a setting described in this chapter that would be considered the practice of polysomnography if performed by a respiratory care and polysomnography practitioner or a polysomnographic technologist.

2015 Acts, ch 70, §7

148G.2 Practice of polysomnography.

The practice of polysomnography consists of but is not limited to the following tasks as performed for the purpose of polysomnography, under the general supervision of a licensed physician or qualified health care professional prescriber:

1. Monitoring, recording, and evaluating physiologic data during polysomnographic testing and review during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying any of the following techniques, equipment, or procedures:

a. Noninvasive continuous, bilevel positive airway pressure, or adaptive servo-ventilation titration on spontaneously breathing patients using a mask or oral appliance; provided, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

b. Supplemental low-flow oxygen therapy of less than six liters per minute, utilizing a nasal cannula or incorporated into a positive airway pressure device during a polysomnogram.

c. Capnography during a polysomnogram.

d. Cardiopulmonary resuscitation.

e. Pulse oximetry.

f. Gastroesophageal pH monitoring.

g. Esophageal pressure monitoring.

h. Sleep stage recording using surface electroencephalography, surface electrooculography, and surface submental electromyography.

i. Surface electromyography.

j. Electrocardiography.

k. Respiratory effort monitoring, including thoracic and abdominal movement.

l. Plethysmography blood flow monitoring.
m. Snore monitoring.
n. Audio and video monitoring.
o. Body movement monitoring.
p. Nocturnal penile tumescence monitoring.
q. Nasal and oral airflow monitoring.
r. Body temperature monitoring.

2. Monitoring the effects that a mask or oral appliance used to treat sleep disorders has on sleep patterns; provided, however, that the mask or oral appliance shall not extend into the trachea or attach to an artificial airway.

3. Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted.

4. Analyzing and scoring data collected during the monitoring described in this section for the purpose of assisting a physician in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction.

5. Implementation of a written or verbal order from a physician or qualified health care professional prescriber to perform polysomnography.

6. Education of a patient regarding the treatment regimen that assists the patient in improving the patient's sleep.

7. Use of any oral appliance used to treat sleep-disordered breathing while under the care of a licensed polysomnographic technologist during the performance of a sleep study, as directed by a licensed dentist.

2015 Acts, ch 70, §8
Referred to in §148G.1

148G.3 Location of services.

The practice of polysomnography shall take place only in a facility that is accredited by a nationally recognized sleep medicine laboratory or center accrediting agency, in a facility operated by a hospital or a hospital licensed under chapter 135B, or in a patient's home pursuant to rules adopted by the board; provided, however, that the scoring of data and the education of patients may take place in another setting.

2015 Acts, ch 70, §9

148G.4 Scope of chapter.

Nothing in this chapter shall be construed to limit or restrict a health care practitioner licensed in this state from engaging in the full scope of practice of the individual's profession.

2015 Acts, ch 70, §10

148G.5 Rulemaking.

The board shall adopt rules necessary for the implementation and administration of this chapter and the applicable provisions of chapters 147 and 272C.

2015 Acts, ch 70, §11

148G.6 Licensing requirements.

1. Beginning January 1, 2017, a person seeking licensure as a respiratory care and polysomnography practitioner or as a polysomnographic technologist shall apply to the board and pay the fees established by the board for the type of license for which the applicant is applying. Beginning with the March 31, 2016, license renewal period, a person licensed as a respiratory care practitioner who seeks a respiratory care and polysomnography practitioner license shall make such application with the application for license renewal and pay the fees established by the board. The fees established by the board for a respiratory care and polysomnography practitioner license shall not exceed one hundred twenty percent of the cost of a respiratory care practitioner license issued pursuant to chapter 152B or a polysomnographic technologist license issued pursuant to this section. The application for a

respiratory care and polysomnography practitioner license must meet the requirements of this section. Upon receipt of an application, the board shall conduct a background check of the applicant. An application for either type of licensure shall show that the applicant is of good moral character and is at least eighteen years of age, and shall include proof that the person has satisfied one of the following educational requirements:

a. Graduation from a polysomnographic educational program that is accredited by the committee on accreditation for polysomnographic technologist education or an equivalent program as determined by the board.

b. Graduation from a respiratory care educational program that is accredited by the commission on accreditation for respiratory care or by a committee on accreditation for the commission on accreditation of allied health education programs, and any of the following:

(1) Completion of the curriculum for a polysomnographic certificate established and accredited by the commission on accreditation of allied health education programs as an extension of the respiratory care program.

(2) Obtaining the sleep disorder specialist credential from the national board for respiratory care.

(3) Obtaining the registered polysomnographic technologist credential from the board of registered polysomnographic technologists.

(4) Completing or obtaining any other certificate or credential program as recognized by the board.

c. Graduation from an electroneurodiagnostic technologist educational program that is accredited by the committee on accreditation for education in electroneurodiagnostic technology or by a committee on accreditation for the commission on accreditation of allied health education programs, and completion of the curriculum for a polysomnographic certificate established and accredited by the commission on accreditation of allied health education programs as an extension of the electroneurodiagnostic educational program or an equivalent program as determined by the board.

2. Notwithstanding subsection 1, beginning January 1, 2017, the board shall issue a license to perform polysomnography to an individual who holds an active license under section 147.2 in a profession other than polysomnography and who is in good standing with the board for that profession upon application to the board demonstrating any of the following:

a. Successful completion of an educational program in polysomnography approved by the board.

b. Successful completion of an examination in polysomnography approved by the board.

c. Verification from the medical director of the individual's current employer or the medical director's designee that the individual has completed on-the-job training in the field of polysomnography, along with written verification from the medical director of the individual's current employer or the medical director's designee that the individual is competent to perform polysomnography.

3. Notwithstanding subsection 1, beginning January 1, 2017, a person who is working in the field of sleep medicine on January 1, 2017, may apply to the board for a license to perform polysomnography. The board shall issue a license to the person, without examination, provided the application contains verification that the person has completed five hundred hours of paid clinical or nonclinical polysomnographic work experience within the three years prior to submission of the application. The application shall also contain verification from the medical director of the person's current employer or the medical director's designee that the person is competent to perform polysomnography.

4. A person who is working in the field of sleep medicine on January 1, 2017, who is not otherwise eligible to obtain a license pursuant to this section shall have until January 1, 2018, to achieve a passing score on an examination as designated by the board. The board shall allow the person to attempt the examination and be awarded a license as a polysomnographic technologist by meeting or exceeding the passing point established by the board. After January 1, 2018, only persons licensed as respiratory care and polysomnography practitioners or as polysomnographic technologists pursuant to this chapter, or excepted from the requirements of this chapter may perform sleep-related services.

5. The fees assessed by the board shall be sufficient to cover all costs associated with the administration of this chapter.

2015 Acts, ch 70, §12

148G.7 Persons exempt from licensing requirement.

1. The following persons may provide sleep-related services without being licensed as a respiratory care and polysomnography practitioner or as a polysomnographic technologist under this chapter:

a. A qualified health care practitioner may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to six months while gaining the clinical experience necessary to meet the admission requirements for a polysomnographic credentialing examination. The board may grant a one-time extension of up to six months.

b. A polysomnographic student may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as a part of the student's educational program while actively enrolled in a polysomnographic educational program that is accredited by the commission on accreditation of allied health education programs or an equivalent program as determined by the board.

2. Before providing any sleep-related services, a polysomnographic technician or polysomnographic student who is obtaining clinical experience shall give notice to the board that the person is working under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist in order to gain the experience to be eligible to sit for a national certification examination. The person shall wear a badge that appropriately identifies the person while providing such services.

2015 Acts, ch 70, §13

148G.8 Licensing sanctions.

The board may impose sanctions for violations of this chapter as provided in chapters 147 and 272C.

2015 Acts, ch 70, §14

CHAPTER 148H

GENETIC COUNSELING

Referred to in §147.74, 147.76

148H.1	Definitions.	148H.4	Scope of chapter.
148H.2	Scope of practice.	148H.5	Continuing education.
148H.3	Qualifications for licensure — provisional licensure.	148H.6	Rules — authority of board.
		148H.7	Licensee discipline.

148H.1 Definitions.

1. *"Active candidate status"* means a person has met the requirements established by the American board of genetic counseling or its equivalent or successor organization to take the American board of genetic counseling certification examination in general genetics and genetic counseling or its equivalent or successor examination and has been granted this designation by the American board of genetic counseling or its equivalent or successor organization.

2. *"Board"* means the board of medicine.

3. *"Genetic counseling"* means the provision of services by an individual who qualifies for a license under this chapter.

4. *"Genetic counseling intern"* means a student enrolled in a genetic counseling program accredited by the accreditation council for genetic counseling or its equivalent or successor

organization, or the American board of medical genetics and genomics or its equivalent or successor organization.

5. *"Genetic counselor"* means an individual who is licensed under this chapter to engage in the practice of genetic counseling.

6. *"Qualified supervisor"* means any person who is a genetic counselor licensed under this chapter, a physician licensed under chapter 148, or an advanced registered nurse practitioner licensed under chapter 152.

7. *"Supervision"* means supervision by a qualified supervisor who has the overall responsibility of assessing the work of a provisional licensee, provided that an annual supervision contract signed by the qualified supervisor and the provisional licensee is on file with both parties. *"Supervision"* does not require the qualified supervisor's presence during the performance of services.

2018 Acts, ch 1052, §5, 12; 2018 Acts, ch 1172, §21

148H.2 Scope of practice.

A person licensed under this chapter may do any of the following:

1. Obtain and evaluate individual, family, and medical histories to determine genetic risk for genetic and medical conditions and diseases in a patient, the patient's offspring, and other family members.

2. Discuss the features, history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases.

3. Identify, order, and coordinate genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment of a patient.

4. Refer a patient to a specialty or subspecialty department as necessary for the purpose of collaborating on diagnosis and treatment involving multiple body systems and general medical management.

5. Integrate genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases.

6. Explain the clinical implications of genetic laboratory tests and other diagnostic studies and their results.

7. Evaluate the responses of a patient or patient's family to the condition or risk of recurrence and provide patient-centered genetic counseling and anticipatory guidance.

8. Identify and utilize community resources that provide medical, educational, financial, and psychosocial support and advocacy.

9. Provide written documentation of medical, genetic, and counseling information for families and health care professionals.

2018 Acts, ch 1052, §6, 12

148H.3 Qualifications for licensure — provisional licensure.

1. Each applicant for licensure under this chapter shall:

a. Submit an application form as prescribed by the board.

b. Provide satisfactory evidence of certification as a genetic counselor by the American board of genetic counseling or its equivalent or successor organization, the American board of medical genetics and genomics or its equivalent or successor organization, or as a medical geneticist by the American board of medical genetics and genomics or its equivalent or successor organization.

2. A license shall be issued for a two-year period and shall be renewed upon the filing of a renewal application as prescribed by the board.

3. A licensee shall maintain active certification as a genetic counselor by the American board of genetic counseling or its equivalent or successor organization, the American board of medical genetics and genomics or its equivalent or successor organization, or as a medical geneticist by the American board of medical genetics and genomics, or its equivalent or successor organization.

4. *a.* The board may issue a provisional license to an applicant who meets all of the requirements for licensure except for the certification component and who has been granted

active candidate status by the American board of genetic counseling or its equivalent or successor organization.

b. The applicant shall submit a provisional license application form prescribed by the board as determined by the board.

c. A provisional license shall expire upon the earlier of issuance of a full license by the board or the loss of active candidate status from the American board of genetic counseling or its equivalent or successor organization by the holder of the provisional license.

d. A person with a provisional license shall only practice genetic counseling under the supervision of a qualified supervisor.

2018 Acts, ch 1052, §7, 12

148H.4 Scope of chapter.

This chapter shall not be construed to apply to any of the following:

1. A physician or surgeon or an osteopathic physician or surgeon licensed under chapter 148, a registered nurse or an advanced registered nurse practitioner licensed under chapter 152, a physician assistant licensed under chapter 148C, or other persons licensed under chapter 147 when acting within the scope of the person's profession and doing work of a nature consistent with the person's education and training.

2. A person who is certified by the American board of medical genetics and genomics or its equivalent or successor organization as a doctor of philosophy and is not a genetic counselor licensed pursuant to this chapter.

3. A person employed as a genetic counselor by the federal government or an agency thereof if the person provides genetic counseling services solely under the direction and control of the entity by which the person is employed.

4. A genetic counseling intern.

2018 Acts, ch 1052, §8, 12

148H.5 Continuing education.

An applicant for renewal of a license under this chapter shall submit satisfactory evidence to the board that in the period since the license was issued or last renewed, the applicant has completed thirty hours of national society of genetic counselors or its equivalent or successor organization or American board of medical genetics and genomics or its equivalent or successor organization continuing education units as approved by the board.

2018 Acts, ch 1052, §9, 12

148H.6 Rules — authority of board.

The board shall adopt rules consistent with this chapter and chapters 147 and 148 which are necessary for the performance of its duties under this chapter. The board may consult with genetic counselors during an investigative or disciplinary proceeding as it deems necessary.

2018 Acts, ch 1052, §10, 12

148H.7 Licensee discipline.

1. In addition to the grounds for revocation or suspension referred to in section 147.55 and in accordance with the disciplinary process established for the board by section 148.6, the board may discipline a person licensed under this chapter who is guilty of any of the following acts or offenses:

a. Having been adjudged mentally ill or incompetent by a court of competent jurisdiction.

b. Engaging in unethical or unprofessional conduct including but not limited to negligence or incompetence in the course of professional practice.

c. Violating any lawful order, rule, or regulation rendered or adopted by the board.

d. Having been refused issuance of or disciplined in connection with a license issued by any other jurisdiction.

2. A genetic counselor whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the board shall promptly deliver the original license to the board.

3. A provisional licensee who loses active candidate status with the American board of

genetic counseling or its equivalent or successor organization shall surrender the provisional license to the board immediately.

2018 Acts, ch 1052, §11, 12; 2020 Acts, ch 1103, §15, 31

CHAPTER 149

PODIATRY

Referred to in §124E.2, 135.24, 135.61, 135B.7, 135P.1, 147.76, 147.136A, 147.139, 321.34, 321L.2, 514.17, 514.18, 514C.13, 514F.1, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86
Utilization and cost control review committee; §514F.1

149.1	Persons engaged in practice — definitions.	149.5	Amputations — anesthesia — prescription drugs.
149.2	Exceptions.	149.6	Title or abbreviation.
149.3	License.	149.7	Temporary license.
149.4	Approved school.		

149.1 Persons engaged in practice — definitions.

1. For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of podiatry:

a. Persons who publicly profess to be podiatric physicians or who publicly profess to assume the duties incident to the practice of podiatry.

b. Persons who diagnose, prescribe, or prescribe and furnish medicine for ailments of the human foot, or treat such ailments by medical, mechanical, or surgical treatments.

2. As used in this chapter:

a. *"Board"* means the board of podiatry, created under chapter 147.

b. *"Human foot"* means the ankle and soft tissue which insert into the foot as well as the foot.

c. *"Podiatric physician"* means a physician or surgeon licensed under this chapter to engage in the practice of podiatric medicine and surgery.

[C24, 27, 31, 35, 39, §**2542;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §149.1]

88 Acts, ch 1199, §2; 95 Acts, ch 108, §9; 2007 Acts, ch 10, §108; 2009 Acts, ch 133, §199

Referred to in §149.5

149.2 Exceptions.

This chapter shall not apply to the following:

1. Physicians and surgeons or osteopathic physicians and surgeons who are authorized to practice in this state and are not licensed podiatric physicians.

2. Podiatric physicians licensed to practice in the state prior to July 4, 1937.

3. Nothing herein shall affect or alter the existing right now held by retailers, manufacturers or others to sell corrective shoes, arch supports, drugs or medicines for use on feet.

[C24, 27, 31, 35, 39, §**2543;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §149.2]

88 Acts, ch 1199, §3; 96 Acts, ch 1034, §68; 2008 Acts, ch 1088, §141

149.3 License.

Every applicant for a license to practice podiatry shall:

1. Be a graduate of an accredited school of podiatry.

2. Present an official transcript issued by a school of podiatry approved by the board.

3. Pass an examination as determined by the board by rule.

4. Have successfully completed a residency as determined by the board by rule. This

subsection applies to all applicants who graduate from a school of podiatry on or after January 1, 1995.

[C24, 27, 31, 35, 39, §**2544;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §149.3]

89 Acts, ch 43, §1; 92 Acts, ch 1212, §5; 2006 Acts, ch 1184, §91; 2007 Acts, ch 10, §109; 2007 Acts, ch 126, §36

Referred to in §272C.2C

149.4 Approved school.

A school of podiatry shall not be approved by the board as a school of recognized standing unless the school:

1. Requires for graduation or the receipt of any podiatric degree the completion of a course of study covering a period of at least eight months in each of four calendar years.

2. A school of podiatry shall not be approved by the board which does not have as an additional entrance requirement two years study in a recognized college, university, or academy.

[C24, 27, 31, 35, 39, §**2545;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §149.4]

90 Acts, ch 1253, §2; 2007 Acts, ch 10, §110

149.5 Amputations — anesthesia — prescription drugs.

1. A license to practice podiatry shall not authorize the licensee to amputate the human foot.

2. A licensed podiatric physician may do all of the following:

a. Administer local anesthesia.

b. Administer conscious sedation in a hospital or an ambulatory surgical center.

c. Prescribe and administer drugs for the treatment of human foot ailments as provided in section 149.1.

[C24, 27, 31, 35, 39, §**2546;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §149.5]

88 Acts, ch 1199, §4; 95 Acts, ch 108, §10; 2003 Acts, ch 22, §1; 2009 Acts, ch 133, §200

149.6 Title or abbreviation.

Every licensee shall be designated as a licensed podiatric physician and shall not use any title or abbreviation without the designation "practice limited to the foot," nor mislead the public in any way as to the limited field or practice.

[C24, 27, 31, 35, 39, §**2547;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §149.6]

88 Acts, ch 1199, §5; 95 Acts, ch 108, §11

Titles and degrees, §147.72 – 147.74

149.7 Temporary license.

1. The board may issue a temporary license authorizing the licensee to practice podiatry if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the temporary license, which shall be substantially equivalent to those required for permanent licensure under this chapter. The board shall determine in each instance the applicant's eligibility for the temporary license, whether or not an examination shall be given, and the type of examination. The requirements of the law pertaining to permanent licensure shall not be mandatory for temporary licensure except as specifically designated by the board. The granting of a temporary license does not in any way indicate that the person licensed is necessarily eligible for permanent licensure, and the board is not obligated to issue a permanent license to the person.

2. The board shall determine the duration of time a person is qualified to practice podiatry while holding a temporary license. The fee for this license shall be set by the board, and if extended beyond one year, a renewal fee per year shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the temporary licenses.

[82 Acts, ch 1040, §1]

87 Acts, ch 128, §2; 2006 Acts, ch 1184, §92, 93; 2007 Acts, ch 10, §111; 2009 Acts, ch 56, §4

CHAPTER 150

OSTEOPATHY

Repealed by 2008 Acts, ch 1088, §80

CHAPTER 150A

OSTEOPATHIC MEDICINE AND SURGERY

Repealed by 2008 Acts, ch 1088, §80; see chapter 148

CHAPTER 151

CHIROPRACTIC

Referred to in §135.24, 135.61, 135P.1, 147.76, 147.136A, 148A.7, 261.73, 272C.3, 272C.4, 321.34, 321.445, 321L.2, 509.3, 514.7, 514B.1, 514C.13, 514C.29, 514F.1, 514F.2, 514I.6, 702.17, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86
Utilization and cost control review committee; §514F.1

151.1 "Chiropractic" defined.
151.1A Board defined.
151.2 Persons not engaged in.
151.3 License.
151.4 Approved college.
151.5 Operative surgery — drugs.
151.6 Display of word "chiropractor".
151.7 Probation — advertising restrictions. Repealed by 99 Acts, ch 141, §42.
151.8 Training in procedures used in practice.
151.9 Revocation or suspension of license.
151.10 Education requirements.
151.11 Rules.
151.12 Temporary certificate.

151.1 "Chiropractic" defined.

For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of chiropractic:

1. Persons publicly professing to be chiropractors or publicly professing to assume the duties incident to the practice of chiropractic.

2. Persons who treat human ailments by the adjustment of the neuromusculoskeletal structures, primarily, by hand or instrument, through spinal care.

3. Persons utilizing differential diagnosis and procedures related thereto, withdrawing or ordering withdrawal of the patient's blood for diagnostic purposes, performing or utilizing routine laboratory tests, performing physical examinations, rendering nutritional advice, utilizing chiropractic physiotherapy procedures, all of which are subject to and authorized by section 151.8.

[C24, 27, 31, 35, 39, §**2555;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §151.1]
83 Acts, ch 83, §1, 2; 99 Acts, ch 141, §27
Referred to in §151.2, 151.10, 151.11

151.1A Board defined.

As used in this chapter, *"board"* means the board of chiropractic created under chapter 147.
2007 Acts, ch 10, §119

151.2 Persons not engaged in.

Section 151.1 shall not be construed to include the following classes of persons:

1. Licensed physicians and surgeons, licensed osteopathic physicians and surgeons, and physical therapists who are exclusively engaged in the practice of their respective professions.

2. Physicians and surgeons of the United States army, navy, or public health service when

acting in the line of duty in this state, or to chiropractors licensed in another state, when incidentally called into this state in consultation with a chiropractor licensed in this state.

3. Students of chiropractic who have entered upon a regular course of study in a chiropractic college approved by the board, who practice chiropractic under the direction of a licensed chiropractor and in accordance with the rules of the board.

[C24, 27, 31, 35, 39, §**2556;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §151.2]

2007 Acts, ch 10, §120; 2008 Acts, ch 1088, §58

151.3 License.

Every applicant for a license to practice chiropractic shall do all of the following:

1. Present satisfactory evidence that the applicant possesses a preliminary education equal to the requirements for graduation from an accredited high school or other secondary school.

2. Present a diploma issued by a college of chiropractic approved by the board.

3. Pass an examination prescribed by the board.

[C24, 27, 31, 35, 39, §**2557;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §151.3]

83 Acts, ch 83, §3; 2007 Acts, ch 10, §121; 2008 Acts, ch 1088, §59

151.4 Approved college.

1. A college of chiropractic shall not be approved by the board as a college of recognized standing unless the college requires for graduation or for the receipt of any chiropractic degree the completion of a course of study covering a period of four academic years.

2. An approved college of chiropractic may include but is not limited to offerings of courses of study in procedures for withdrawing a patient's blood, performing or utilizing laboratory tests, and performing physical examinations for diagnostic purposes. A chiropractor, employed by an approved college of chiropractic and who has been trained to withdraw blood may withdraw blood and instruct, and supervise a student in the withdrawing of blood.

[C24, 27, 31, 35, 39, §**2558;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §151.4]

83 Acts, ch 83, §4; 2007 Acts, ch 10, §122; 2008 Acts, ch 1088, §60

Referred to in §261.71, 261.73

151.5 Operative surgery — drugs.

A license to practice chiropractic shall not authorize the licensee to practice operative surgery or administer or prescribe prescription drugs or controlled substances which can only be prescribed by persons authorized by law.

[C24, 27, 31, 35, 39, §**2559;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §151.5]

2008 Acts, ch 1088, §61

Drug dispensing, supplying, and prescribing, see §147.107

151.6 Display of word "chiropractor".

Every licensee shall place upon all signs used by the licensee, and display prominently in the licensee's office the word "chiropractor".

[C24, 27, 31, 35, 39, §**2560;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §151.6]

Titles and degrees, §147.72 – 147.74

151.7 Probation — advertising restrictions. Repealed by 99 Acts, ch 141, §42.

151.8 Training in procedures used in practice.

1. A chiropractor shall not use in the chiropractor's practice the procedures otherwise authorized by law unless the chiropractor has received training in their use by a college of chiropractic offering courses of instructions approved by the board or by curriculum taught on a postgraduate level approved by the board.

2. Any chiropractor licensed as of July 1, 1974, may use the procedures authorized by law if the chiropractor files with the board an affidavit that the chiropractor has completed the necessary training and is fully qualified in these procedures and possesses that degree of proficiency and will exercise that care which is common to physicians in this state.

3. A chiropractor using the additional procedures and practices authorized by this chapter shall be held to the standard of care applicable to any other health care practitioner in this state.

[C75, 77, 79, 81, §151.8]

83 Acts, ch 83, §5; 2007 Acts, ch 10, §123; 2008 Acts, ch 1088, §62

Referred to in §151.1

151.9 Revocation or suspension of license.

A license or certificate to practice as a chiropractor may be revoked or suspended when the licensee or certificate holder is guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Fraud in representations as to skill or ability.
6. Use of untruthful or improbable statements in advertisements.
7. Willful or repeated violations of the provisions of this chapter or chapter 272C.

[C79, 81, §151.9]

2008 Acts, ch 1088, §63; 2018 Acts, ch 1026, §52; 2020 Acts, ch 1103, §16, 31

151.10 Education requirements.

A person who is an applicant for a license to practice chiropractic shall only be required to be tested for the adjunctive procedures specified in section 151.1, subsection 3 which the person chooses to utilize. A person licensed to practice chiropractic shall only be required to complete continuing education requirements for the adjunctive procedures specified in section 151.1, subsection 3 which the person chooses to utilize. A person who is an applicant for a license to practice chiropractic or a person licensed to practice chiropractic shall not be required to utilize any of the adjunctive procedures specified in section 151.1, subsection 3 to obtain a license or continue to practice chiropractic, respectively.

83 Acts, ch 83, §6

151.11 Rules.

The board shall adopt rules necessary to administer section 151.1, to protect the health, safety, and welfare of the public, including rules governing the practice of chiropractic and defining any terms, whether or not specified in section 151.1, subsection 3. Such rules shall not be inconsistent with the practice of chiropractic and shall not expand the scope of practice of chiropractic or authorize the use of procedures not authorized by this chapter. These rules shall conform with chapter 17A.

83 Acts, ch 83, §7; 2007 Acts, ch 10, §124

151.12 Temporary certificate.

1. The board may, in its discretion, issue a temporary certificate for one year authorizing the certificate holder to practice chiropractic if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the certificate, which shall be substantially equivalent to those required for licensure under this chapter. No requirements of the law pertaining to regular permanent licensure are mandatory for the temporary certificate except as specifically designated by the board. The granting of a temporary certificate does not in any way indicate that the person is eligible for regular licensure or that the board is obligated to issue the person a regular license.
2. The fee for the temporary certificate shall be based on the administrative costs of issuing the certificates.

86 Acts, ch 1127, §1; 2006 Acts, ch 1184, §94; 2007 Acts, ch 10, §125; 2007 Acts, ch 126, §37; 2007 Acts, ch 215, §250; 2008 Acts, ch 1088, §64

CHAPTER 152

NURSING

Referred to in §124E.2, 125.2, 135.24, 135.61, 135B.7, 135G.1, 135J.1, 135P.1, 137.105, 142C.7, 144.29A, 144D.1, 147.74, 147.76, 147.136A, 147A.12, 148F.7, 148H.1, 148H.4, 216.8C, 225C.6, 229.1, 249A.4, 261.114, 261.116, 280.16, 321.34, 321.186, 321L.2, 514.21, 514C.11, 514C.13, 514F.1, 514F.6, 622.10, 702.8, 702.17, 708.3A, 714H.4, 915.46

Enforcement, §147.87, 147.92
Penalty, §147.86
Licensing board and support staff;
location, meetings, and powers; see §135.11A – 135.12, 135.31
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152.1 Definitions.

As used in this chapter:

1. *"Advanced registered nurse practitioner"* means a person who is currently licensed as a registered nurse under this chapter or chapter 152E who is licensed by the board of nursing as an advanced registered nurse practitioner.

2. *"Board"* means the board of nursing, created under chapter 147.

3. As used in this section, *"nursing diagnosis"* means to identify and use discriminatory judgment concerning physical and psychosocial signs and symptoms essential to determining effective nursing intervention.

4. *"Physician"* means a person licensed in this state to practice medicine and surgery, osteopathic medicine and surgery, or a person licensed in this state to practice dentistry or podiatry when acting within the scope of the license. A physician licensed to practice medicine and surgery or osteopathic medicine and surgery in a state bordering this state shall be considered a physician for purposes of this chapter unless previously determined to be ineligible for such consideration by the board of medicine.

5. The *"practice of a licensed practical nurse"* means the practice of a natural person who is licensed by the board to do all of the following:

a. Perform services in the provision of supportive or restorative care under the supervision of a registered nurse or a physician.

b. Perform additional acts under emergency or other conditions which require education and training and which are recognized by the medical and nursing professions and are approved by the board, as being proper to be performed by a licensed practical nurse.

c. Make the pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, a Medicare-certified hospice program or facility, or an assisted living facility or residential care facility, with notice of the death to a physician, advanced registered nurse practitioner, or physician assistant.

6. The *"practice of nursing"* means the practice of a registered nurse, a licensed practical nurse, or an advanced registered nurse practitioner. It does not mean any of the following:

a. The practice of medicine and surgery and the practice of osteopathic medicine and surgery, as defined in chapter 148, or the practice of pharmacy as defined in chapter 155A, except practices which are recognized by the medical and nursing professions and approved by the board as proper to be performed by a registered nurse.

b. The performance of nursing services by an unlicensed student enrolled in a nursing education program if performance is part of the course of study. Individuals who have been licensed as registered nurses, licensed practical or vocational nurses, or advanced registered

nurse practitioners in any state or jurisdiction of the United States are not subject to this exemption.

c. The performance of services by unlicensed workers employed in offices, hospitals, or health care facilities, as defined in section 135C.1, under the supervision of a physician or a nurse licensed under this chapter, or employed in the office of a psychologist, podiatric physician, optometrist, chiropractor, speech pathologist, audiologist, or physical therapist licensed to practice in this state, and when acting while within the scope of the employer's license.

d. The practice of a nurse licensed in another state and employed in this state by the federal government if the practice is in discharge of official employment duties.

e. The care of the sick rendered in connection with the practice of the religious tenets of any church or order by the adherents thereof which is not performed for hire, or if performed for hire by those who depend upon prayer or spiritual means for healing in the practice of the religion of their church or denomination, so long as they do not otherwise engage in the practice of nursing as practical nurses.

7. The *"practice of the profession of a registered nurse"* means the practice of a natural person who is licensed by the board to do all of the following:

a. Formulate nursing diagnosis and conduct nursing treatment of human responses to actual or potential health problems through services, such as case finding, referral, health teaching, health counseling, and care provision which is supportive to or restorative of life and well-being.

b. Execute regimen prescribed by a physician, an advanced registered nurse practitioner, or a physician assistant.

c. Supervise and teach other personnel in the performance of activities relating to nursing care.

d. Perform additional acts or nursing specialties which require education and training under emergency or other conditions which are recognized by the medical and nursing professions and are approved by the board as being proper to be performed by a registered nurse.

e. Make the pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a correctional institution listed in section 904.102, a Medicare-certified home health agency, a Medicare-certified hospice program or facility, an assisted living facility, or a residential care facility, with notice of the death to a physician, advanced registered nurse practitioner, or physician assistant.

f. Apply to the abilities enumerated in paragraphs *"a"* through *"e"* of this subsection scientific principles, including the principles of nursing skills and of biological, physical, and psychosocial sciences.

[S13, §2575-a28, -a31, -a32; C24, 27, 31, 35, 39, §**2561, 2562;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §152.1, 152.2; C77, 79, 81, §152.1]

87 Acts, ch 215, §41; 91 Acts, ch 100, §1; 95 Acts, ch 108, §12; 2001 Acts, ch 113, §2 – 4; 2003 Acts, ch 78, §4, 5; 2004 Acts, ch 1168, §8; 2007 Acts, ch 10, §126; 2007 Acts, ch 159, §29, 30; 2008 Acts, ch 1088, §101, 102; 2015 Acts, ch 56, §4 – 8; 2017 Acts, ch 96, §1

Referred to in §509.3, 514.7, 514B.1

152.2 Executive director.

The board shall retain a full-time executive director, who shall be appointed pursuant to section 135.11B. The executive director shall be a registered nurse. The governor, with the approval of the executive council pursuant to section 8A.413, subsection 3, under the pay plan for exempt positions in the executive branch of government, shall set the salary of the executive director.

[C35, §2537-g1; C39, §**2537.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §147.105; C77, 79, 81, §152.2]

2003 Acts, ch 145, §197; 2008 Acts, ch 1031, §106; 2019 Acts, ch 85, §61; 2020 Acts, ch 1063, §64

Referred to in §152E.2

152.3 Director's duties.

The duties of the executive director shall be as follows:

1. To receive all applications to be licensed for the practice of nursing.
2. To collect and receive all fees.
3. To keep all records pertaining to the licensing of nurses, including a record of all board proceedings.
4. To perform such other duties as may be prescribed by the board.
5. To appoint assistants to the director and persons necessary to administer this chapter. Any appointments shall be merit appointments made pursuant to chapter 8A, subchapter IV.

[C35, §2537-g2, -g3; C39, §**2537.2, 2537.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §147.106, 147.107; C77, 79, 81, §152.3]

88 Acts, ch 1134, §31; 2003 Acts, ch 145, §198, 286; 2006 Acts, ch 1155, §8, 9, 15

152.4 Appropriations.

The board may apply appropriated funds to:

1. The administration and enforcement of the provisions of this chapter and chapters 147, 152E, and 272C.
2. The elevation of the standards of the schools of nursing.
3. The promotion of educational and professional standards of nurses in this state.
4. The collection, analysis, and dissemination of nursing workforce data.

[C35, §2537-g3; C39, §**2537.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §147.107; C77, 79, 81, §152.4]

2015 Acts, ch 56, §9

152.5 Education programs.

1. All programs preparing a person to be a registered nurse or a licensed practical nurse shall be approved by the board. The board shall not recognize a program unless it:

a. Is of recognized standing.

b. Has provisions for adequate physical and clinical facilities and other resources with which to conduct a sound education program.

c. Requires, for graduation of a registered nurse applicant, the completion of at least a two academic year course of study.

d. Requires, for graduation of a licensed practical nurse applicant, the completion of at least a one academic year course of study as prescribed by the board.

2. All postlicense formal academic nursing education programs shall also be approved by the board.

[S13, §2575-a29; C24, 27, 31, 35, 39, §**2564;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §152.4; C77, 79, 81, §152.5]

95 Acts, ch 79, §1; 2006 Acts, ch 1008, §1; 2015 Acts, ch 56, §10

Referred to in §152.5A, 152.7, 235A.15, 235B.6, 261.116

152.5A Student record checks.

1. For the purposes of this section:

a. *"Comprehensive preliminary background check"* means the same as defined in section 135C.1.

b. *"Nursing program"* means a nursing program that is approved by the board pursuant to section 152.5.

c. *"Student"* means a person applying for, enrolled in, or returning to the clinical education component of a nursing program.

2. Prior to a student beginning or returning to a nursing program, the nursing program shall do one of the following in substantial conformance with the provisions of section 135C.33:

a. Request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the student in this state.

b. Access the single contact repository to perform the required record checks.

3. *a.* If a program accesses the single contact repository to perform the required record checks pursuant to subsection 2, the program may utilize a third-party vendor to perform a comprehensive preliminary background check to allow a student to provisionally participate in the clinical education component of the nursing program pending completion of the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, subject to all of the following:

(1) If the comprehensive preliminary background check determines that the student being considered for provisional participation has been convicted of a crime, but the crime does not constitute a felony as defined in section 701.7 and is not a crime specified pursuant to chapter 708, 708A, 709, 709A, 710, 710A, 711, or 712, or pursuant to section 726.3, 726.7, or 726.8.

(2) If the comprehensive preliminary background check determines the student being considered for provisional participation does not have a record of founded child abuse or dependent adult abuse, or if an exception pursuant to section 135C.33, subsection 4, is applicable to the student.

(3) If the program has requested an evaluation in accordance with section 135C.33, subsection 2, paragraph *"a"*, to determine whether the crime warrants prohibition of the student's provisional participation.

b. The provisional participation under this subsection 3 may continue until such time as the required record checks through the single contact repository and the evaluation by the department of human services, as applicable, are completed.

4. If a student has a criminal record or a record of founded child or dependent adult abuse, upon request of the nursing program, the department of human services shall perform an evaluation to determine whether the record warrants prohibition of the student's involvement in a clinical education component of a nursing program involving children or dependent adults. The department of human services shall utilize the criteria provided in section 135C.33 in performing the evaluation and shall report the results of the evaluation to the nursing program. The department of human services has final authority in determining whether prohibition of the student's involvement in a clinical education component is warranted.

2015 Acts, ch 56, §11; 2020 Acts, ch 1029, §6

Referred to in §235A.15, 235B.6

Department of inspections and appeals to post list of third-party vendors eligible to conduct comprehensive preliminary background checks; 2020 Acts, ch 1029, §7

152.6 Licenses — professional abbreviations.

The board may license a natural person to practice as a registered nurse, as a licensed practical nurse, or as an advanced registered nurse practitioner. However, only a person currently licensed as a registered nurse in this state may use that title and the letters "R.N." after the person's name; only a person currently licensed as a licensed practical nurse in this state may use that title and the letters "L.P.N." after the person's name; and only a person currently licensed as an advanced registered nurse practitioner may use that title and the letters "A.R.N.P." after the person's name. For purposes of this section, *"currently licensed"* includes persons licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

[C50, 54, 58, 62, 66, 71, 73, 75, §152.5; C77, 79, 81, §152.6]

2000 Acts, ch 1008, §4; 2005 Acts, ch 53, §4; 2014 Acts, ch 1019, §2; 2015 Acts, ch 56, §12

Referred to in §272C.2C

152.7 Applicant qualifications.

1. In addition to the provisions of section 147.3, an applicant to be licensed for the practice of nursing shall have the following qualifications:

a. Be a graduate of an accredited high school or the equivalent.

b. Pass an examination as prescribed by the board.

c. Complete a course of study approved by the board pursuant to section 152.5.

2. An applicant to be licensed as an advanced registered nurse practitioner shall have the following qualifications:

a. Hold a current license as a registered nurse.

b. Satisfactory completion of a formal advanced practice educational program of study in a nursing specialty area approved by the board.

c. Hold an advanced level certification by a recognized national certifying body.

3. For purposes of licensure pursuant to the nurse licensure compact contained in section 152E.1, the compact administrator may refuse to accept a change in the qualifications for licensure as a registered nurse or as a licensed practical or vocational nurse by a licensing authority in another state which is a party to the compact which substantially modifies that state's qualifications for licensure in effect on July 1, 2000. For purposes of licensure pursuant to the advanced practice registered nurse compact contained in section 152E.3, the compact administrator may refuse to accept a change in the qualifications for licensure as an advanced practice registered nurse by a licensing authority in another state which is a party to the compact which substantially modifies that state's qualifications for licensure in effect on July 1, 2005. A refusal to accept a change in a party state's qualifications for licensure may result in submitting the issue to an arbitration panel or in withdrawal from the respective compact, at the discretion of the compact administrator.

[S13, §2575-a29, -a30; C24, 27, 31, 35, 39, §**2563;** C46, 50, 54, 58, 62, 66, 71, 73, 75, §152.3; C77, 79, 81, §152.7]

95 Acts, ch 79, §2; 2000 Acts, ch 1008, §5; 2000 Acts, ch 1140, §37; 2000 Acts, ch 1232, §50; 2005 Acts, ch 53, §5; 2006 Acts, ch 1030, §15; 2007 Acts, ch 22, §37; 2015 Acts, ch 56, §13

Referred to in §152.8

152.8 Reciprocity.

Notwithstanding the provisions of sections 147.44, 147.48, 147.49, and 147.53, the following shall apply regarding applicants for nurse licensure possessing a license from another state:

1. A license possessed by an applicant from a state which has not adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 shall be recognized by the board under conditions specified which indicate that the licensee meets all the qualifications required under section 152.7. If a foreign license is recognized, the board may issue a license by endorsement without an examination being required. Recognition shall be based on whether the foreign licensee is qualified to practice nursing. The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure by endorsement. The board shall determine the length of time a temporary license shall remain effective.

2. A license possessed by an applicant and issued by a state which has adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 shall be recognized pursuant to the provisions of that section.

[C35, §2537-g3; C39, §**2537.3;** C46, 50, 54, 58, 62, §147.107; C66, 71, 73, 75, §147.107, 152.7; C77, 79, 81, §152.8]

2000 Acts, ch 1008, §6; 2005 Acts, ch 53, §6; 2008 Acts, ch 1088, §103

152.9 Temporary license.

The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure by endorsement. The board shall determine the length of time a temporary license shall remain effective.

[C77, 79, 81, §152.9]

94 Acts, ch 1123, §1

152.9A Limited nursing authorization.

The board may issue a limited authorization to a nurse to complete the clinical component of a nurse refresher course. The board shall determine the length of time a limited nursing authorization shall remain effective.

2018 Acts, ch 1092, §1

152.10 License revocation or suspension.

1. Notwithstanding sections 147.87 through 147.89, the board may restrict, suspend,

or revoke a license to practice nursing or place the licensee on probation. The board may also prescribe by rule conditions of license reinstatement. The board shall adopt rules of procedure by which to restrict, suspend, or revoke a license. These procedures shall conform to the provisions of chapter 17A.

2. In addition to the grounds stated in section 147.55, the following are grounds for suspension or revocation under subsection 1 of this section:

a. Willful violation of the rules of the board.

b. Continued practice while knowingly having an infectious or contagious disease which could be harmful to a patient's welfare.

c. (1) Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence of such fact.

(2) Having a license to practice nursing as a registered nurse or licensed practical nurse revoked or suspended, or having other disciplinary action taken, by a licensing authority in another state which has adopted the nurse licensure compact contained in section 152E.1 or the advanced practice registered nurse compact contained in section 152E.3 and which has communicated information relating to such action pursuant to the coordinated licensure information system established by the compact. If the action taken by the licensing authority occurs in a jurisdiction which does not afford the procedural protections of chapter 17A, the licensee may object to the communicated information and shall be afforded the procedural protections of chapter 17A.

d. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice nursing.

e. Being adjudicated mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license, unless the board orders otherwise.

f. Being guilty of willful or repeated departure from or the failure to conform to the minimum standard of acceptable and prevailing practice of nursing; however, actual injury to a patient need not be established.

g. (1) Inability to practice nursing with reasonable skill and safety by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

(2) The board may, upon probable cause, request a licensee to submit to an appropriate medical evaluation by a designated health care provider. If requested by the licensee, the licensee may also designate a health care provider for an independent medical evaluation. Refusal or failure of a licensee to complete such evaluations shall constitute an admission of any allegations relating to such condition. All objections shall be waived as to the admissibility of the examining health care provider's testimony or evaluation reports on the grounds that they constitute privileged communication. The medical testimony or evaluation reports shall not be used against a registered nurse, licensed practical nurse, or advanced registered nurse practitioner in another proceeding and shall be confidential. At reasonable intervals, a registered nurse, licensed practical nurse, or advanced registered nurse practitioner shall be afforded an opportunity to demonstrate that the registered nurse, licensed practical nurse, or advanced registered nurse practitioner can resume the competent practice of nursing with reasonable skill and safety to patients.

[C77, 79, 81, §152.10]

2000 Acts, ch 1008, §7; 2005 Acts, ch 53, §7; 2008 Acts, ch 1088, §104; 2015 Acts, ch 56, §14; 2020 Acts, ch 1103, §17, 31; 2021 Acts, ch 80, §82

Referred to in §272C.3, 272C.4, 272C.5

Subsection 1 amended

152.11 Investigators for nurses.

The board of nursing may appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provisions of law related to those licensed to practice nursing. The amount of compensation for the investigators shall be determined

pursuant to chapter 8A, subchapter IV. Investigators authorized by the board of nursing have the powers and status of peace officers when enforcing this chapter and chapters 147, 152E, and 272C.

93 Acts, ch 41, §1; 2003 Acts, ch 145, §199; 2018 Acts, ch 1026, §53
Referred to in §272C.5

152.12 Examination information.

Notwithstanding section 147.21, individual pass or fail examination results made available from the authorized national testing agency may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country, and the board-approved education program, for purposes of verifying accuracy of national data and determining program approval.

97 Acts, ch 159, §22; 2008 Acts, ch 1088, §105; 2012 Acts, ch 1021, §47

CHAPTER 152A

DIETETICS

Referred to in §147.76, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86

152A.1 Definitions.
152A.2 License requirements.
152A.3 Exemptions.

152A.1 Definitions.

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

1. *"Board"* means the board of dietetics created under chapter 147.
2. *"Licensed dietitian"* or *"dietitian"* means a person who holds a valid license to practice dietetics pursuant to this chapter.

85 Acts, ch 168, §8; 2007 Acts, ch 10, §127

152A.2 License requirements.

1. An applicant shall be issued a license to practice dietetics by the board when the applicant satisfies all of the following:

a. Possesses a baccalaureate degree or postbaccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or food systems management, or in an equivalent major course of study which meets minimum academic requirements as established by the accreditation council for education in nutrition and dietetics of the academy of nutrition and dietetics and approved by the board.

b. Completes an accredited competency-based supervised experience program approved by the accreditation council for education in nutrition and dietetics of the academy of nutrition and dietetics and approved by the board.

c. Satisfactorily completes the commission on dietetic registration of the academy of nutrition and dietetics examination approved by the board.

2. Renewal of a license granted under this chapter shall not be approved unless the applicant has satisfactorily completed the continuing education requirements for the license as prescribed by the board.

85 Acts, ch 168, §9; 2014 Acts, ch 1006, §1

152A.3 Exemptions.

The following are not subject to this chapter:

1. Licensed physicians and surgeons, nurses, chiropractors, dentists, dental hygienists, pharmacists or physical therapists who make dietetic or nutritional assessments, or give

dietetic or nutritional advice in the normal practice of their profession or as otherwise authorized by law.

2. Dietetics students who engage in clinical practice under the supervision of a dietitian as part of a dietetic education program or a competency-based supervised experience program approved by the accreditation council for education in nutrition and dietetics of the academy of nutrition and dietetics.

3. Dietitians who serve in the armed forces or the public health service of the United States or are employed by the United States department of veterans affairs, provided their practice is limited to that service or employment.

4. Dietitians who are licensed in another state, United States possession, or country, or have received at least a baccalaureate degree and are in this state for the purpose of:

a. Consultation, provided the practice in this state is limited to consultation.

b. Conducting a teaching clinical demonstration in connection with a program of basic clinical education, graduate education, or postgraduate education which is sponsored by a dietetic education program or a competency-based supervised experience program approved by the accreditation council for education in nutrition and dietetics of the academy of nutrition and dietetics.

5. Individuals who do not call themselves dietitians but routinely, in the course of doing business, market or distribute weight loss programs or sell nutritional products and provide explanations for customers regarding the use of the programs or products relative to normal nutritional needs.

6. Individuals who provide routine education and advice regarding normal nutritional requirements and sources of nutrients, including, but not limited to, persons who provide information as to the use and sale of food and food materials including dietary supplements.

85 Acts, ch 168, §10; 2009 Acts, ch 26, §9; 2014 Acts, ch 1006, §2, 3

CHAPTER 152B

RESPIRATORY CARE

Referred to in §135.24, 147.74, 147.76, 148G.6, 272C.1, 714H.4

Enforcement, §147.87, 147.92

152B.1	Definitions.	152B.9	Injunction.
152B.2	Respiratory care as a practice defined.	152B.10	Liability.
152B.3	Performance of respiratory care.	152B.11	Continuing education.
152B.4	Location of respiratory care.	152B.12	Suspension and revocation of licenses.
152B.5	Respiratory care students.	152B.13	Board of respiratory care. Repealed by 2010 Acts, ch 1163, §8.
152B.6	Board duties.	152B.14	Licensure through examination.
152B.7	Representation.		
152B.7A	Exceptions.		
152B.8	Penalty.		

152B.1 Definitions.

As used in this chapter, unless otherwise defined or the context otherwise requires:

1. *"Board"* means the board of respiratory care and polysomnography created under chapter 147.

2. *"Department"* means the Iowa department of public health.

3. *"Formal training"* means a supervised, structured educational activity that includes preclinical didactic and laboratory activities and clinical activities approved by an accrediting agency recognized by the board, and including an evaluation of competence through a standardized testing mechanism that is determined by the board to be both valid and reliable.

4. *"Qualified health care professional prescriber"* means a physician assistant operating under the prescribing authority granted in section 147.107 or an advanced registered nurse practitioner operating under the prescribing authority granted in section 147.107.

5. *"Qualified medical director"* means a licensed physician or surgeon who is a member of a hospital's or health care facility's active medical staff and who has special interest and knowledge in the diagnosis and treatment of respiratory problems, is qualified by special training or experience in the management of acute and chronic respiratory disorders, is responsible for the quality, safety, and appropriateness of the respiratory care services provided, and is readily accessible to the respiratory care practitioners to assure their competency.

6. *"Respiratory care"* includes "respiratory therapy" or "inhalation therapy".

7. *"Respiratory care education program"* means a course of study leading to eligibility for registration or certification in respiratory care which is recognized or approved by the board.

8. *"Respiratory care practitioner"* or *"practitioner"* means a person who meets all of the following:

a. Is qualified in the practice of cardiorespiratory care and has the knowledge and skill necessary to administer respiratory care as defined in section 152B.3.

b. Is capable of serving as a resource to the physician or surgeon in relation to the technical aspects of cardiorespiratory care and to safe and effective methods for administering respiratory care modalities.

c. Is able to function in situations of unsupervised patient contact requiring individual judgment.

d. Is capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

9. *"Respiratory therapist"* means a person who has successfully completed a respiratory care education program for training respiratory therapists and has passed the registry examination for respiratory therapists administered by the national board for respiratory care or a respiratory therapy licensure examination approved by the board.

10. *"Respiratory therapy technician"* means a person who has successfully completed a respiratory care education program for training therapists and has passed the certification examination for respiratory therapy technicians administered by the national board for respiratory care or a respiratory therapist technicians' licensure examination approved by the board.

85 Acts, ch 151, §1
CS85, §135F.1
90 Acts, ch 1193, §1
C93, §152B.1
96 Acts, ch 1036, §31; 2007 Acts, ch 10, §128; 2012 Acts, ch 1041, §1; 2013 Acts, ch 90, §30; 2015 Acts, ch 70, §15

152B.2 Respiratory care as a practice defined.

1. *a. "Respiratory care as a practice"* means a health care profession, under medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems' functions, and includes all of the following:

(1) Direct and indirect pulmonary care services that are safe and of comfort, aseptic, preventative, and restorative to the patient.

(2) Direct and indirect respiratory care services including but not limited to the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a licensed physician or surgeon or a qualified health care professional prescriber.

(3) Observation and monitoring of signs and symptoms, general behavior, reactions, general physical response to respiratory care treatment and diagnostic testing.

(4) Determination of whether the signs, symptoms, behavior, reactions, or general response exhibit abnormal characteristics.

(5) Implementation based on observed abnormalities, of appropriate reporting, referral, or respiratory care protocols or changes in treatment regimen.

b. *"Respiratory care as a practice"* does not include the delivery, assembly, setup, testing, or demonstration of respiratory care equipment in the home upon the order of a licensed physician or surgeon or a qualified health care professional prescriber. As used in this paragraph, *"demonstration"* does not include the actual teaching, administration, or performance of the respiratory care procedures.

2. *"Respiratory care protocols"* as used in this section means policies and procedures developed by an organized health care system through consultation, when appropriate, with administrators, licensed physicians and surgeons, qualified health care professional prescribers, licensed registered nurses, licensed physical therapists, licensed respiratory care practitioners, and other licensed health care practitioners.

85 Acts, ch 151, §2
CS85, §135F.2
90 Acts, ch 1193, §2
C93, §152B.2
97 Acts, ch 68, §1; 2012 Acts, ch 1041, §2 – 4; 2012 Acts, ch 1138, §51; 2013 Acts, ch 90, §31
Referred to in §152B.5, 152B.7A, 152B.11

152B.3 Performance of respiratory care.

1. The performance of respiratory care shall be in accordance with the prescription of a licensed physician or surgeon or a qualified health care professional prescriber and includes but is not limited to the diagnostic and therapeutic use of the following:

a. Administration of medical gases, aerosols, and humidification, not including general anesthesia.

b. Environmental control mechanisms and paramedical therapy.

c. Pharmacologic agents relating to respiratory care procedures.

d. Mechanical or physiological ventilatory support.

e. Bronchopulmonary hygiene.

f. Cardiopulmonary resuscitation.

g. Maintenance of the natural airways.

h. Insertion without cutting tissues and maintenance of artificial airways.

i. Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures, and flows, collection of specimens of blood, and collection of specimens from the respiratory tract.

j. Analysis of blood gases and respiratory secretions.

k. Pulmonary function testing.

l. Hemodynamic and physiologic measurement and monitoring of cardiac function as it relates to cardiopulmonary pathophysiology.

m. Invasive procedures that relate to respiratory care.

2. A respiratory care practitioner may transcribe and implement a written or verbal order from a licensed physician or surgeon or a qualified health care professional prescriber pertaining to the practice of respiratory care.

3. This chapter does not authorize a respiratory care practitioner to practice medicine, surgery, or other medical practices except as provided in this section.

85 Acts, ch 151, §3
CS85, §135F.3
C93, §152B.3
2009 Acts, ch 41, §263; 2012 Acts, ch 1041, §5, 6; 2012 Acts, ch 1138, §52, 53
Referred to in §152B.1, 152B.5, 152B.7A, 152B.11

152B.4 Location of respiratory care.

The practice of respiratory care may be performed in a hospital as defined in section 135B.1, subsection 3, and other settings where respiratory care is to be provided in accordance with a prescription of a licensed physician or surgeon or a qualified health care

professional prescriber. Respiratory care may be provided during transportation of a patient and under circumstances where an emergency necessitates respiratory care.

85 Acts, ch 151, §4
CS85, §135F.4
C93, §152B.4
2012 Acts, ch 1041, §7; 2012 Acts, ch 1138, §54

152B.5 Respiratory care students.

1. Respiratory care services may be rendered by a student enrolled in a respiratory therapy training program when these services are incidental to the student's course of study.

2. A student enrolled in a respiratory therapy training program who is employed in an organized health care system may render services defined in sections 152B.2 and 152B.3 under the direct and immediate supervision of a respiratory care practitioner for a limited period of time as determined by rule. The student shall be identified as a "student respiratory care practitioner".

85 Acts, ch 151, §5
CS85, §135F.5
90 Acts, ch 1193, §3
C93, §152B.5
2005 Acts, ch 89, §15

152B.6 Board duties.

The board shall administer and implement this chapter. The board's duties in these areas shall include, but are not limited to, the following:

1. The adoption, publication and amendment of rules, in accordance with chapter 17A, necessary for the administration and enforcement of this chapter.

2. The establishment of a system for the licensure of respiratory care practitioners and the establishment and collection of licensure fees.

3. The designation of licensure examinations for respiratory care practitioners.

85 Acts, ch 151, §6
CS85, §135F.6
90 Acts, ch 1193, §4
C93, §152B.6
96 Acts, ch 1036, §32; 2006 Acts, ch 1155, §10, 15
Referred to in §152B.12

152B.7 Representation.

A person who is qualified as a respiratory care practitioner and is licensed by the board may use the title "respiratory care practitioner" or the letters R.C.P. after the person's name to indicate that the person is a qualified respiratory care practitioner licensed by the board. No other person is entitled to use the title or letters or any other title or letters that indicate or imply that the person is a respiratory care practitioner, nor may a person make any representation, orally or in writing, expressly or by implication, that the person is a licensed respiratory care practitioner.

85 Acts, ch 151, §7
CS85, §135F.7
90 Acts, ch 1193, §5
C93, §152B.7
96 Acts, ch 1036, §33

152B.7A Exceptions.

1. A person shall not practice respiratory care or represent oneself to be a respiratory care practitioner unless the person is licensed under this chapter.

2. This chapter does not prohibit any of the following:

a. The practice of respiratory care which is an integral part of the program of study by students enrolled in an accredited respiratory therapy training program approved by the

board in those situations where that care is provided under the direct supervision of an appropriate clinical instructor recognized by the educational program.

b. Respiratory care services rendered in the course of an emergency.

c. Care administered in the course of assigned duties of persons in the military services.

3. This chapter is not intended to limit, preclude, or otherwise interfere with the practice of other health care providers not otherwise licensed under this chapter who are licensed and certified by this state to administer respiratory care procedures.

4. An individual who passes an examination that includes the content of one or more of the functions included in sections 152B.2 and 152B.3 shall not be prohibited from performing such procedures for which they were tested, as long as the testing body offering the examination is approved by the board.

96 Acts, ch 1036, §34; 97 Acts, ch 68, §2

152B.8 Penalty.

A person who violates a provision of this chapter is guilty of a simple misdemeanor.

85 Acts, ch 151, §8
CS85, §135F.8
C93, §152B.8

152B.9 Injunction.

The board may apply to a court for the issuance of an injunction or other appropriate restraining order against a person who is engaging in a violation of this chapter.

85 Acts, ch 151, §9
CS85, §135F.9
C93, §152B.9
96 Acts, ch 1036, §35

152B.10 Liability.

A respiratory care practitioner who in good faith renders emergency care at the scene of an emergency is not liable for civil damages as a result of acts or omissions by the person rendering the emergency care. This section does not grant immunity from liability for civil damages when the respiratory care practitioner is grossly negligent.

85 Acts, ch 151, §10
CS85, §135F.10
C93, §152B.10

152B.11 Continuing education.

1. After July 1, 1991, a respiratory care practitioner shall submit evidence satisfactory to the board that during the year preceding renewal of licensure the practitioner has completed continuing education courses as prescribed by the board. In lieu of the continuing education, a person may successfully complete the most current version of the licensure examination.

2. Persons who are not licensed under this chapter but who perform respiratory care as defined by sections 152B.2 and 152B.3 shall comply with the continuing education requirements of this section. The board shall adopt rules for the administration of this requirement.

3. Except for those licensed by the board, this section does not apply to persons who are licensed to practice a health profession covered by chapter 147, when the licensee's performance of respiratory care practices falls within the scope of practice, as permitted by their respective licensing boards.

85 Acts, ch 151, §11
CS85, §135F.11
90 Acts, ch 1193, §6
C93, §152B.11
95 Acts, ch 41, §23; 96 Acts, ch 1036, §36; 97 Acts, ch 68, §3; 2017 Acts, ch 54, §76

152B.12 Suspension and revocation of licenses.
The board may suspend, revoke or impose probationary conditions upon a license issued pursuant to rules adopted in accordance with section 152B.6.
85 Acts, ch 151, §12
CS85, §135F.12
90 Acts, ch 1193, §7
C93, §152B.12
96 Acts, ch 1036, §37

152B.13 Board of respiratory care. Repealed by 2010 Acts, ch 1163, §8.

152B.14 Licensure through examination.
The board shall issue a license to practice respiratory care to an applicant who has passed an examination administered by the state or a national agency approved by the board.
96 Acts, ch 1036, §39; 2005 Acts, ch 89, §16

CHAPTER 152C

MASSAGE THERAPY

Referred to in §147.74, 147.76, 261B.11, 272C.1, 423.2, 710A.1, 710A.2, 710A.2B, 710A.7

Enforcement, §147.87, 147.92
Penalty, general, §147.86

152C.1 Definitions.
152C.2 Massage therapy advisory board created — duties. Repealed by 98 Acts, ch 1053, §43.
152C.3 Requirements for licensure.
152C.4 Practicing as a massage therapist without a license — employment of person not licensed — civil penalty.
152C.5 Practice or use of title — license required.
152C.5A Massage therapy modalities study.
152C.5B License and government-issued identification — peace officer request.
152C.5C Announcements to the public.
152C.6 Enforcement. Repealed by 2017 Acts, ch 122, §23.
152C.7 Suspension and revocation of licenses.
152C.7A Temporary exemptions.
152C.8 Transition provisions. Repealed by 2008 Acts, ch 1088, §79.
152C.9 Exemptions.

152C.1 Definitions.
As used in this chapter, unless the context otherwise requires:
1. *"Board"* means the board of massage therapy created under chapter 147.
2. *"Massage therapist"* means a person licensed to practice the health care service of the healing art of massage therapy under this chapter.
3. *"Massage therapy"* means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus system for the purpose of enhancing health, muscle relaxation, increasing range of motion, reducing stress, relieving pain, or improving circulation.
4. *"Reflexology"* means manipulation of the soft tissues of the human body which is restricted to the hands, feet, or ears, performed by persons who do not hold themselves out to be massage therapists or to be performing massage therapy.
92 Acts, ch 1137, §1; 98 Acts, ch 1053, §29, 30; 2000 Acts, ch 1185, §2, 3; 2004 Acts, ch 1065, §1, 2; 2007 Acts, ch 10, §130
Referred to in §152C.5, 152C.7A

152C.2 Massage therapy advisory board created — duties. Repealed by 98 Acts, ch 1053, §43.

152C.3 Requirements for licensure.

1. The board shall adopt rules pursuant to chapter 17A establishing a procedure for licensing of massage therapists. License requirements shall include the following:

a. Completion of a curriculum of massage education at a school approved by the board which requires for admission a diploma from an accredited high school or the equivalent and requires completion of at least six hundred hours of supervised academic instruction. However, educational requirements under this paragraph are subject to reduction by the board if, after public notice and hearing, the board determines that the welfare of the public may be adequately protected with fewer hours of education.

b. Passage of an examination given or approved by the board.

c. Payment of a reasonable fee required by the board which shall compensate and be retained by the board for the costs of administering this chapter.

2. In addition to provisions for licensure, the rules shall include the following:

a. Requirements regarding completion of at least twelve hours of continuing education annually regarding subjects concerning massage and related techniques or the health and safety of the public, subject to reduction by the board if, after public notice and hearing, the board determines that the welfare of the public may be adequately protected with fewer hours.

b. Requirements for issuance of a reciprocal license to licensees of states with license requirements equal to or exceeding those of this chapter. The rules shall provide for issuance of a temporary reciprocal license for licensees of states with lower requirements.

3. A massage therapist licensed pursuant to this chapter shall be issued a license number and a license certificate.

92 Acts, ch 1137, §3; 93 Acts, ch 71, §1; 98 Acts, ch 1053, §31 – 33; 2011 Acts, ch 57, §1
Referred to in §152C.5, 152C.7

152C.4 Practicing as a massage therapist without a license — employment of person not licensed — civil penalty.

1. The board, or its authorized agents, may inspect any facility that advertises or offers the services of massage therapy. The board may, by order, impose a civil penalty upon a person who practices as a massage therapist without a license issued under this chapter or a person or business that employs an individual who is not licensed under this chapter. The penalty shall not exceed one thousand dollars for each offense. Each day of a continued violation after an order or citation by the board constitutes a separate offense, with the maximum penalty not to exceed ten thousand dollars. In determining the amount of a civil penalty, the board may consider the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to or resulting in the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The welfare or best interest of the public.

2. Before issuing an order or citation under this section, the board shall provide written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted as provided in chapter 17A. The board may, in connection with a proceeding under this section, issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

3. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19. The board shall notify the attorney general of the failure to pay a civil penalty within thirty days after entry of an order pursuant to subsection 1, or within ten days following final judgment in favor of the board if an order has been stayed pending appeal. The attorney general may commence an action to recover the

amount of the penalty, including reasonable attorney fees and costs. An action to enforce an order under this section may be joined with an action for an injunction.

92 Acts, ch 1137, §4; 98 Acts, ch 1053, §34; 2000 Acts, ch 1185, §4

152C.5 Practice or use of title — license required.

1. The practice of massage therapy as defined in section 152C.1 is strictly prohibited by unlicensed individuals. It is a serious misdemeanor for a person to engage in or offer to engage in the practice of massage therapy, or use in connection with the person's name, the initials "L. M. T." or the words "licensed massage therapist", "massage therapist", "masseur", "masseuse", or any other word or title that implies or represents that the person practices massage therapy, unless the person possesses a license issued under the provisions of section 152C.3.

2. It shall be an affirmative defense to a prosecution for a violation of subsection 1, in addition to any other affirmative defenses for which the defendant might be eligible, that the defendant is a victim of a crime that is a violation of section 710A.2.

92 Acts, ch 1137, §5; 2000 Acts, ch 1185, §5; 2019 Acts, ch 106, §1

152C.5A Massage therapy modalities study.

The Iowa department of public health, with input from the board, shall conduct a study regarding the modalities associated with the practice of massage therapy. The study shall be conducted with the input of licensed massage therapists, reflexologists, and unlicensed persons practicing modalities related to massage therapy. The objective of the study shall be to determine which modalities shall be included under the definition of massage therapy and require licensure, and shall include, but not be limited to, a recommendation regarding the licensure of reflexologists. The study shall focus on the health, safety, and welfare of the public regarding each of the modalities reviewed. The department shall submit a report summarizing the results of the study and making recommendations regarding modality inclusion to the general assembly by January 15, 2004.

2003 Acts, ch 70, §1

Referred to in §152C.7A

152C.5B License and government-issued identification — peace officer request.

1. For purposes of this section, unless the context otherwise requires:

a. "Government-issued identification" means any of the following:

(1) An unexpired driver's license issued by any state, territory, or district of the United States.

(2) An unexpired identification card issued by any state, territory, or district of the United States.

(3) An unexpired United States passport.

(4) A naturalization certificate issued by the United States citizenship and immigration services.

(5) An unexpired permanent resident card, also known as a green card, issued by the United States citizenship and immigration services.

(6) An unexpired employment authorization document issued by the United States citizenship and immigration services.

b. "Peace officer" means any of the following:

(1) Sheriffs and their regular deputies who are subject to mandated law enforcement training.

(2) Marshals and police officers of cities.

(3) Peace officer members of the department of public safety as defined in chapter 80.

(4) Special security officers employed by board of regents institutions as set forth in section 262.13.

(5) Such employees of the department of transportation as are designated peace officers by resolution of the department under section 321.477.

(6) Employees of an aviation authority designated as peace officers by the authority under section 330A.8, subsection 16.

2. A person licensed or who purports to be licensed under this chapter shall, upon the request of any peace officer investigating a complaint of illegal services, present a copy of the person's valid Iowa massage therapist license and a government-issued identification to the peace officer. A person who violates this subsection commits a serious misdemeanor.

2021 Acts, ch 123, §1
Referred to in §710A.1, 710A.2, 710A.3
NEW section

152C.5C Announcements to the public.

1. For purposes of this section, *"announcement to the public"* means the use of any print media, broadcast media, subscription internet site, internet site available to the public, or any other means to do any of the following:

a. Advertise or market massage therapy services.

b. Provide a site for clients to post reviews.

c. Offer a virtual marketplace at which goods or services may be offered or clients may be solicited.

2. A person shall not do any of the following in an announcement to the public:

a. Represent that another person is licensed under this chapter when the person knows, or has reason to know, that the other person is not licensed.

b. Falsely represent the person's self as licensed under this chapter.

c. Offer the services of massage therapy if paragraph *"a"* or *"b"* of this subsection applies.

d. Offer, or imply the offer of, services that violate state law.

3. A person who violates subsection 2 commits a serious misdemeanor.

2021 Acts, ch 123, §2
Referred to in §710A.3
NEW section

152C.6 Enforcement. Repealed by 2017 Acts, ch 122, §23.

152C.7 Suspension and revocation of licenses.

The board may suspend, revoke, or impose probationary conditions upon a license issued pursuant to rules adopted in accordance with section 152C.3.

92 Acts, ch 1237, §11; 98 Acts, ch 1053, §35

152C.7A Temporary exemptions.

An individual who is engaged exclusively in the practice of reflexology or an unlicensed individual who is practicing a modality related to massage therapy, and whose professional practice does not incorporate aspects that constitute massage therapy as defined in section 152C.1, shall not be subject to the licensure provisions of this chapter for a one-year period beginning July 1, 2003, and ending June 30, 2004. Beginning July 1, 2004, an individual who is engaged exclusively in the practice of reflexology or an unlicensed individual who is practicing a modality related to massage therapy shall be subject to licensure pursuant to this chapter unless, based upon the recommendations contained in the massage therapy modalities study as provided in section 152C.5A, the practice of reflexology or an unlicensed individual who is practicing a modality related to massage therapy is permanently exempted from massage therapy licensure.

2003 Acts, ch 70, §2

152C.8 Transition provisions. Repealed by 2008 Acts, ch 1088, §79.

152C.9 Exemptions.

This chapter shall not apply to the following persons:

1. Persons who are licensed to practice medicine or surgery, osteopathic medicine and surgery, chiropractic, cosmetology arts and sciences, or podiatry in this state; or athletic trainers, technicians, nurses, occupational therapists, physical therapists, or physician assistants licensed, certified, or registered in this state or acting under the prescription or

supervision of a person licensed to practice medicine or surgery or osteopathic medicine and surgery in this state.

2. Persons who are licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally present in this state to teach a course of instruction related to massage and bodywork therapy or to consult with a person licensed under subtitle 3 of this title.

3. Students enrolled in a program recognized by the board while completing a clinical requirement for graduation performed under the supervision of a person licensed under subtitle 3 of this title.

4. Persons giving massage and bodywork to members of their immediate family.

5. Persons practicing reflexology.

6. Persons engaged within the scope of practice of a profession with established standards and ethics utilizing touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement, provided that the practices performed or services rendered are not designated or implied to be massage therapy. Such practices include, but are not limited to, the Feldenkrais method, the Trager approach, and mind-body centering.

7. Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to that which is essential for palpitation and affectation of the human energy system, provided that the practices performed or services rendered are not designated or implied to be massage therapy.

8. Persons incidentally present in this state to provide services as part of an emergency response team working in conjunction with disaster relief officials.

2004 Acts, ch 1065, §3; 2008 Acts, ch 1088, §141

CHAPTER 152D

ATHLETIC TRAINING

Referred to in §147.74, 147.76, 272.2, 272C.1

Enforcement, §147.87, 147.92

152D.1	Definitions.	152D.6	License suspension and revocation.
152D.2	Licensing and practice requirements. Repealed by 2004 Acts, ch 1045, §11.	152D.7	Practice or use of title — license required.
152D.3	Requirements for licensure.	152D.8	Penalty.
152D.4	Scope of chapter.	152D.9	Transition provisions.
152D.5	Duties of the board.		

152D.1 Definitions.

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

1. *"Athlete"* means a person who participates in a sanctioned amateur or professional sport or other recreational sports activity.

2. *"Athletic injury"* means any of the following:

a. An injury or illness sustained by an athlete as a result of the athlete's participation in sports, games, or recreational sports activities.

b. An injury or illness that impedes or prevents an athlete from participating in sports, games, or recreational sports activities.

3. *"Athletic trainer"* means a person licensed under this chapter to practice athletic training under the direction of a licensed physician.

4. *"Athletic training"* means the practice of prevention, recognition, assessment, physical evaluation, management, treatment, disposition, and physical reconditioning of athletic injuries that are within the professional preparation and education of a licensed athletic trainer and under the direction of a licensed physician. The term *"athletic training"* includes

the organization and administration of educational programs and athletic facilities, and the education and counseling of the public on matters relating to athletic training.

5. *"Board"* means the board of athletic training created under chapter 147.

94 Acts, ch 1132, §1; 98 Acts, ch 1053, §36, 37; 2004 Acts, ch 1045, §3; 2007 Acts, ch 10, §131

152D.2 Licensing and practice requirements. Repealed by 2004 Acts, ch 1045, §11. See §152D.7.

152D.3 Requirements for licensure.

1. An applicant for a license to practice athletic training shall:

a. Be a graduate of an accredited college or university and comply with the minimum athletic training curriculum requirements established by the board.

b. Have successfully completed an examination prepared or selected by the board.

2. Application and renewal procedures, fees, and reciprocal agreements shall be provided in accordance with rules adopted by the board pursuant to chapter 17A.

94 Acts, ch 1132, §3; 95 Acts, ch 94, §2; 98 Acts, ch 1053, §38; 2004 Acts, ch 1045, §4

152D.4 Scope of chapter.

The provisions of this chapter do not apply to any of the following:

1. Persons otherwise licensed to practice medicine and surgery, osteopathic medicine and surgery, optometry, occupational therapy, nursing, chiropractic, podiatry, dentistry, or physical therapy, and licensed physician assistants who do not represent themselves to the public as athletic trainers.

2. Elementary or secondary school teachers, coaches, or authorized volunteers who do not hold themselves out to the public as athletic trainers.

3. Students of athletic training who practice athletic training under the supervision of a licensed athletic trainer in connection with the regular course of instruction at a school providing athletic training instruction.

4. An athletic trainer who is in this state temporarily with an individual or group that is participating in an athletic event and who is licensed, certified, or registered by another state or country, or certified as an athletic trainer by the board of certification of the national athletic trainers association or its successor organization.

94 Acts, ch 1132, §4; 2004 Acts, ch 1045, §5, 6; 2006 Acts, ch 1010, §55; 2008 Acts, ch 1088, §141

152D.5 Duties of the board.

The board shall:

1. Adopt rules consistent with this chapter and chapter 147 which are necessary for the performance of its duties.

2. Establish standards and guidelines for athletic trainers including minimum curriculum requirements.

3. Prepare and conduct, or prescribe, an examination for applicants for a license.

4. Establish a system for the collection of licensure fees.

94 Acts, ch 1132, §5; 98 Acts, ch 1053, §39; 2004 Acts, ch 1045, §7; 2006 Acts, ch 1155, §11, 15

152D.6 License suspension and revocation.

A license issued by the board under the provisions of this chapter may be suspended or revoked, or renewal denied by the board, for violation of any provision of this chapter or section 147.55, section 272C.10, or rules adopted by the board.

94 Acts, ch 1132, §6; 98 Acts, ch 1053, §40

152D.7 Practice or use of title — license required.

1. An individual licensed pursuant to this chapter shall be designated a licensed athletic trainer and may use the letters "LAT" after the individual's name.

2. It is unlawful for a person to engage in the practice of athletic training, or use in

connection with the person's name the title "athletic trainer", "licensed athletic trainer", "registered athletic trainer", the letters "AT", "AT,C", "LAT", "ATC/L", or "ATC-L", or other words, abbreviations, or insignia that imply or represent that the person practices athletic training, unless the person is licensed pursuant to this chapter.

3. The practice of physical reconditioning shall be carried out under the oral or written orders of a physician or physician assistant. A physician or physician assistant who issues an oral order must reduce the order to writing and provide a copy of the order to the athletic trainer within thirty days of the oral order.

2004 Acts, ch 1045, §8

152D.8 Penalty.

A person who violates a provision of this chapter is guilty of a serious misdemeanor.

94 Acts, ch 1132, §8; 2004 Acts, ch 1045, §9

152D.9 Transition provisions.

1. Applicants for licensure under this chapter who have not passed a licensure examination administered or approved by the board by July 1, 2004, shall be issued a temporary license to practice athletic training for a period of three years, commencing on July 1, 2004, provided that the applicant satisfies all of the following requirements:

a. Submits a letter of recommendation to the board from the applicant's most recent employer.

b. Submits letters of recommendation to the board from two licensed physicians attesting to the competency of the applicant.

c. Presents satisfactory evidence to the board that the applicant possesses current cardiopulmonary resuscitation and first aid certification.

d. Presents satisfactory evidence to the board demonstrating that the applicant possesses a baccalaureate degree from an accredited college or university.

2. An applicant issued a temporary license pursuant to this section shall pass a licensure examination administered or approved by the board on or before July 1, 2007, in order to remain licensed as an athletic trainer.

2004 Acts, ch 1045, §10

CHAPTER 152E

NURSE AND ADVANCED PRACTICE REGISTERED NURSE LICENSURE COMPACTS

Referred to in §124E.2, 125.2, 135.24, 135G.1, 135P.1, 137.105, 144D.1, 147.74, 147.76, 147.136A, 148F.7, 152.1, 152.4, 152.11, 225C.6, 229.1, 261.116, 280.16, 514F.6, 915.46

152E.1 Form of compact.
152E.2 Compact administrator.
152E.3 Form of advanced practice registered nurse compact.

152E.1 Form of compact.

1. *Article I — Findings and declaration of purpose.*

a. The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.

(2) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

(3) The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.

(4) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.

(5) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states.

(6) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

b. The general purposes of this compact are to:

(1) Facilitate the states' responsibility to protect the public's health and safety.

(2) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.

(3) Facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse actions.

(4) Promote compliance with the laws governing the practice of nursing in each jurisdiction.

(5) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

(6) Decrease redundancies in the consideration and issuance of nurse licenses.

(7) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

2. *Article II — Definitions.* As used in this compact:

a. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

b. "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

c. "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

d. "Current significant investigative information" means either of the following:

(1) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(2) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

f. "Home state" means the party state which is the nurse's primary state of residence.

g. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

h. "Multistate license" means a license to practice as a registered or a licensed practical or vocational nurse issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

i. "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in a remote state.

j. "Nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each party state's practice laws.

k. "Party state" means any state that has adopted this compact.

l. "Remote state" means a party state other than the home state.

m. "Single-state license" means a nurse license issued by a party state that authorizes

practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

n. *"State"* means a state, territory, or possession of the United States and the District of Columbia.

o. *"State practice laws"* means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. *"State practice laws"* does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

3. *Article III — General provisions and jurisdiction.*

a. A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse or as a licensed practical or vocational nurse, under a multistate licensure privilege, in each party state.

b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

c. Each party state shall require all of the following for an applicant to obtain or retain a multistate license in the home state:

(1) Meets the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(2) Either of the following:

(a) Has graduated or is eligible to graduate from a licensing board-approved registered nurse or licensed practical or vocational nurse prelicensure education program.

(b) Has graduated from a foreign registered nurse or licensed practical or vocational nurse prelicensure program that meets both of the following requirements:

(i) Has been approved by the authorized accrediting body in the applicable country.

(ii) Has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

(3) Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening.

(4) Has successfully passed a national council licensure examination — registered nurse or national council licensure examination — practical nurse examination or recognized predecessor, as applicable.

(5) Is eligible for or holds an active, unencumbered license.

(6) Has submitted in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the federal bureau of investigation and the agency responsible for retaining that state's criminal records.

(7) Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law.

(8) Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.

(9) Is not currently enrolled in an alternative program.

(10) Is subject to self-disclosure requirements regarding current participation in an alternative program.

(11) Has a valid United States social security number.

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation, or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure

information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

e. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

f. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state. Nothing in this compact shall affect the requirements established by a party state for the issuance of a single-state license.

g. Any nurse holding a home state multistate license on the effective date of this compact may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

(1) A nurse who changes primary state of residence after this compact's effective date must meet all applicable requirements in article III, paragraph "*c*", to obtain a multistate license from a new home state.

(2) A nurse who fails to satisfy the multistate licensure requirements in article III, paragraph "*c*", due to a disqualifying event occurring after this compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the commission.

4. *Article IV — Applications for licensure in a party state.*

a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently participating in an alternative program.

b. A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

c. If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the commission.

(1) The nurse may apply for licensure in advance of a change in the primary state of residence.

(2) A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

d. If a nurse changes primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

5. *Article V — Additional authorities invested in party state licensing boards.*

a. In addition to the other powers conferred by state law, a licensing board shall have the authority to do all of the following:

(1) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

(a) Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

(b) For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(2) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

(3) Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(4) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(5) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the federal bureau of investigation for criminal background checks, receive the results of the federal bureau of investigation record search on criminal background checks, and use the results in making licensure decisions.

(6) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(7) Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

b. If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

c. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

6. *Article VI — Coordinated licensure information system and exchange of information.*

a. All party states shall participate in a coordinated licensure information system of all licensed registered nurses and licensed practical or vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

b. The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

c. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications with the reasons for such denials and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

d. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

f. Any personally identifiable information obtained from the coordinated licensure

information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

h. The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include but not be limited to the following:

(1) Identifying information.

(2) Licensure data.

(3) Information related to alternative program participation.

(4) Other information that may facilitate the administration of this compact, as determined by commission rules.

i. The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

7. *Article VII — Establishment of the interstate commission of nurse licensure compact administrators.*

a. The party states hereby create and establish a joint public entity known as the interstate commission of nurse licensure compact administrators.

(1) The commission is an instrumentality of the party states.

(2) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

b. Membership, voting, and meetings.

(1) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(2) Each administrator shall be entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(3) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(4) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in article VIII.

(5) The commission may convene in a closed, nonpublic meeting if the commission must discuss any of the following:

(a) Noncompliance of a party state with its obligations under this compact.

(b) The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures.

(c) Current, threatened, or reasonably anticipated litigation.

(d) Negotiation of contracts for the purchase or sale of goods, services, or real estate.

(e) Accusing any person of a crime or formally censuring any person.

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(h) Disclosure of investigatory records compiled for law enforcement purposes.

(i) Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact.

(j) Matters specifically exempted from disclosure by federal or state statute.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

c. The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including but not limited to any of the following:

(1) Establishing the fiscal year of the commission.

(2) Providing reasonable standards and procedures for both of the following:

(a) The establishment and meetings of other committees.

(b) Governing any general or specific delegation of any authority or function of the commission.

(3) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(4) Establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission.

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the commission.

(6) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

d. The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the internet site of the commission.

e. The commission shall maintain its financial records in accordance with the bylaws.

f. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

g. The commission shall have the following powers:

(1) To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all party states.

(2) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected.

(3) To purchase and maintain insurance and bonds.

(4) To borrow, accept, or contract for services of personnel, including but not limited to employees of a party state or nonprofit organizations.

(5) To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources.

(6) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and to

establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(7) To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.

(8) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety.

(9) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(10) To establish a budget and make expenditures.

(11) To borrow money.

(12) To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons.

(13) To provide and receive information from, and to cooperate with, law enforcement agencies.

(14) To adopt and use an official seal.

(15) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

h. Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule that is binding upon all party states.

(3) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

i. Qualified immunity, defense, and indemnification.

(1) The administrators, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph "*i*" shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(2) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and provided further that the actual or

alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

(3) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

8. *Article VIII — Rulemaking.*

a. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this compact.

b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

c. Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking on the internet site of the commission and on the internet site of each licensing board or the publication in which each state would otherwise publish proposed rules.

d. The notice of proposed rulemaking shall include all of the following:

(1) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.

(2) The text of the proposed rule or amendment, and the reason for the proposed rule.

(3) A request for comments on the proposed rule from any interested person.

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

e. Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

f. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

g. The commission shall publish the place, time, and date of the scheduled public hearing.

(1) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(2) Nothing in this article shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

h. If no one appears at the public hearing, the commission may proceed with promulgation of the proposed rule.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

j. The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

k. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this compact and in this article shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to do any of the following:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or party state funds.

(3) Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

l. The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the internet site of the commission. The revision shall be subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

9. *Article IX — Oversight, dispute resolution, and enforcement.*

a. Oversight.

(1) Each party state shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(2) The commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

b. Default, technical assistance, and termination.

(1) If the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall do both of the following:

(a) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(3) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

(4) A state whose membership in this compact has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact has been terminated unless agreed upon in writing between the commission and the defaulting state.

(6) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

c. Dispute resolution.

(1) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(3) In the event the commission cannot resolve disputes among party states arising under this compact:

(a) The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected

party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(b) The decision of a majority of the arbitrators shall be final and binding.

d. Enforcement.

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

10. *Article X — Effective date, withdrawal, and amendment.*

a. This compact shall become effective and binding on the earlier of the date of legislative enactment of this compact into law by no less than twenty-six states or December 31, 2018. All party states to this compact, that also were parties to the prior nurse licensure compact, superseded by this compact, shall be deemed to have withdrawn from said prior compact within six months after the effective date of this compact.

b. Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior nurse licensure compact until such party state has withdrawn from the prior nurse licensure compact.

c. Any party state may withdraw from this compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six months after enactment of the repealing statute.

d. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

e. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

f. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

g. Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, prior to the adoption of this compact by all states.

11. *Article XI — Construction and severability.*

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held to be contrary to the constitution of any party state, this compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2000 Acts, ch 1008, §8; 2000 Acts, ch 1232, §51 – 55; 2008 Acts, ch 1032, §201; 2017 Acts, ch 91, §1, 3

Referred to in §147.2, 147.5, 147.7, 152.6, 152.7, 152.8, 152.10, 152E.2, 272C.6

Strike and rewrite of section and enactment of new compact take effect July 21, 2017; Code editor received notice from the board of nursing of enactment of this compact by the twenty-sixth state on that date; in accordance with subsection 10, paragraph a, of this section, the state of Iowa shall be deemed to have withdrawn from the nurse licensure compact previously codified at this section within six months of July 21, 2017; 2017 Acts, ch 91, §1, 3.

152E.2 Compact administrator.

The executive director of the board of nursing, as provided for in section 152.2, shall serve as the compact administrator identified in article VII, paragraph *"b"*, of the nurse licensure compact contained in section 152E.1 and as the compact administrator identified in article VIII, paragraph *"a"*, of the advanced practice registered nurse compact contained in section 152E.3.

2000 Acts, ch 1008, §9; 2005 Acts, ch 53, §8; 2008 Acts, ch 1032, §201; 2017 Acts, ch 91, §2, 3

2017 amendment takes effect July 21, 2017; 2017 Acts, ch 91, §3

152E.3 Form of advanced practice registered nurse compact.

The advanced practice registered nurse compact is entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

1. *Article I — Findings and declaration of purpose.*

a. The party states find all of the following:

(1) The health and safety of the public are affected by the degree of compliance with advanced practice registered nurse licensure and practice requirements and the effectiveness of enforcement activities related to state advanced practice registered nurse license or authority to practice laws.

(2) Violations of advanced practice registered nurse licensure and practice and other laws regulating the practice of nursing may result in injury or harm to the public.

(3) The expanded mobility of advanced practice registered nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of advanced practice registered nurse licensure and practice requirements.

(4) New practice modalities and technology make compliance with individual state advanced practice registered nurse licensure and practice requirements difficult and complex.

(5) The current system of duplicative advanced practice registered nurse licensure and practice requirements for advanced practice registered nurses practicing in multiple states is cumbersome and redundant to both advanced practice registered nurses and states.

(6) Uniformity of advanced practice registered nurse requirements throughout the states promotes public safety and public health benefits.

(7) Access to advanced practice registered nurse services increases the public's access to health care, particularly in rural and underserved areas.

b. The general purposes of this compact are to:

(1) Facilitate the states' responsibilities to protect the public's health and safety.

(2) Ensure and encourage the cooperation of party states in the areas of advanced practice registered nurse licensure and practice requirements including promotion of uniform licensure requirements.

(3) Facilitate the exchange of information between party states in the areas of advanced practice registered nurse regulation, investigation, and adverse actions.

(4) Promote compliance with the laws governing advanced practice registered nurse practice in each jurisdiction.

(5) Invest all party states with the authority to hold an advanced practice registered nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

2. *Article II — Definitions.* As used in this compact:

a. "Advanced practice registered nurse" means a nurse anesthetist, nurse practitioner, nurse midwife, or clinical nurse specialist to the extent a party state licenses or grants authority to practice in that advanced practice registered nurse role and title.

b. "Advanced practice registered nurse licensure and practice requirements" means the regulatory mechanism used by a party state to grant legal authority to practice as an advanced practice registered nurse.

c. "Advanced practice registered nurse uniform license or authority to practice requirements" means those minimum uniform licensure, education, and examination

requirements as agreed to by the compact administrators and adopted by licensing boards for the recognized advanced practice registered nurse role and title.

d. "Adverse action" means a home or remote state action.

e. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.

f. "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on advanced practice registered nurse licensure or authority to practice and enforcement activities related to advanced practice registered nurse license or authority to practice laws, which is administered by a nonprofit organization composed of and controlled by state licensing boards.

g. "Current significant investigative information" means either of the following:

(1) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the advanced practice registered nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(2) Investigative information that indicates that the advanced practice registered nurse represents an immediate threat to public health and safety regardless of whether the advanced practice registered nurse has been notified and had an opportunity to respond.

h. "Home state" means the party state that is the advanced practice registered nurse's primary state of residence.

i. "Home state action" means any administrative, civil, equitable, criminal, or other action permitted by the home state's laws which is imposed on an advanced practice registered nurse by the home state's licensing board or other authority, including actions against an individual's license or authority to practice such as revocation, suspension, probation, or any other action which affects an advanced practice registered nurse's authorization to practice.

j. "Licensing board" means a party state's regulatory body responsible for advanced practice registered nurse licensure or authority to practice.

k. "Multistate advanced practice privilege" means current authority from a remote state permitting an advanced practice registered nurse to practice in that state in the same role and title as the advanced practice registered nurse is licensed or authorized to practice in the home state to the extent that the remote state laws recognize such advanced practice registered nurse role and title. A party state has the authority, in accordance with existing state due process laws, to take action against the advanced practice registered nurse's privilege, including revocation, suspension, probation, or any other action that affects an advanced practice registered nurse's multistate privilege to practice.

l. "Party state" means any state that has adopted this compact.

m. "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.

n. "Remote state" means a party state, other than the home state, where either of the following applies:

(1) Where the patient is located at the time advanced practice registered nurse care is provided.

(2) In the case of advanced practice registered nurse practice not involving a patient, in such party state where the recipient of advanced practice registered nurse care is located.

o. "Remote state action" means either of the following:

(1) Any administrative, civil, equitable, criminal, or other action permitted by a remote state's laws which is imposed on an advanced practice registered nurse by the remote state's licensing board or other authority, including actions against an individual's multistate advanced practice privilege in the remote state.

(2) Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards of remote states.

p. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

q. "State practice laws" means a party state's laws and regulations that govern advanced practice registered nurse practice, define the scope of advanced nursing practice, including prescriptive authority, and create the methods and grounds for imposing discipline. *"State*

practice laws" does not include the requirements necessary to obtain and retain advanced practice registered nurse licensure or authority to practice as an advanced practice registered nurse, except for qualifications or requirements of the home state.

r. *"Unencumbered"* means that a state has no current disciplinary action against an advanced practice registered nurse's license or authority to practice.

3. *Article III — General provisions and jurisdiction.*

a. All party states shall participate in the nurse licensure compact for registered nurses and licensed practical or vocational nurses in order to enter into the advanced practice registered nurse compact.

b. A state shall not enter the advanced practice registered nurse compact until the state adopts, at a minimum, the advanced practice registered nurse uniform license or authority to practice requirements for each advanced practice registered nurse role and title recognized by the state seeking to enter the advanced practice registered nurse compact.

c. Advanced practice registered nurse license or authority to practice issued by a home state to a resident in that state shall be recognized by each party state as authorizing a multistate advanced practice privilege to the extent that the role and title are recognized by each party state. To obtain or retain advanced practice registered nurse licensure and practice requirements as an advanced practice registered nurse, an applicant must meet the home state's qualifications for authority or renewal of authority as well as all other applicable state laws.

d. The advanced practice registered nurse multistate advanced practice privilege does not include prescriptive authority, and does not affect any requirements imposed by states to grant to an advanced practice registered nurse initial and continuing prescriptive authority according to state practice laws. However, a party state may grant prescriptive authority to an individual on the basis of a multistate advanced practice privilege to the extent permitted by state practice laws.

e. A party state may, in accordance with state due process laws, limit or revoke the multistate advanced practice privilege in the party state and may take any other necessary actions under the party state's applicable laws to protect the health and safety of the party state's citizens. If a party state takes action, the party state shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

f. An advanced practice registered nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is provided. The advanced practice registered nurse practice includes patient care and all advanced nursing practice defined by the party state's practice laws. The advanced practice registered nurse practice subjects an advanced practice registered nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state.

g. Individuals not residing in a party state may apply for an advanced practice registered nurse license or authority to practice as an advanced practice registered nurse under the laws of a party state. However, the authority to practice granted to these individuals shall not be recognized as granting the privilege to practice as an advanced practice registered nurse in any other party state unless explicitly agreed to by that party state.

4. *Article IV — Applications for advanced practice registered nurse licensure or authority to practice in a party state.*

a. (1) Once an application for an advanced practice registered nurse license or authority to practice is submitted, a party state shall ascertain, through the coordinated licensure information system, whether the applicant has held, or is the holder of, a nursing license or authority to practice issued by another state, whether the applicant has had a history of previous disciplinary action by any state, whether an encumbrance exists on any license or authority to practice, and whether any other adverse action by any other state has been taken against a license or authority to practice.

(2) This information may be used in approving or denying an application for an advanced practice registered nurse license or authority to practice.

b. An advanced practice registered nurse in a party state shall hold an advanced practice

registered nurse license or authority to practice in only one party state at a time, issued by the home state.

c. An advanced practice registered nurse who intends to change the nurse's primary state of residence may apply for an advanced practice registered nurse license or authority to practice in the new home state in advance of such change. However, a new license or authority to practice shall not be issued by a party state until after an advanced practice registered nurse provides evidence of change in the nurse's primary state of residence satisfactory to the new home state's licensing board.

d. (1) If an advanced practice registered nurse changes the nurse's primary state of residence by moving between two party states, and obtains an advanced practice registered nurse license or authority to practice from the new home state, the advanced practice registered nurse license or authority to practice from the former home state is no longer valid.

(2) If an advanced practice registered nurse changes the nurse's primary state of residence by moving from a nonparty state to a party state, and obtains an advanced practice registered nurse license or authority to practice from the new home state, the individual state license issued by the nonparty state is not affected and shall remain in full force if so provided by the laws of the nonparty state.

(3) If an advanced practice registered nurse changes the nurse's primary state of residence by moving from a party state to a nonparty state, the advanced practice registered nurse license or authority to practice issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

5. *Article V — Adverse actions.* In addition to the general provisions described in article III, the following provisions apply:

a. The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

b. The licensing board of a party state shall have the authority to complete any pending investigations for an advanced practice registered nurse who changes the nurse's primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

c. A remote state may take adverse action affecting the multistate advanced practice privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the advanced practice registered nurse license or authority to practice issued by the home state.

d. For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

e. The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

f. Nothing in this compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require advanced practice registered nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

g. All home state licensing board disciplinary orders, agreed to or otherwise, which limit the scope of the advanced practice registered nurse's practice or require monitoring of the

advanced practice registered nurse as a condition of the order shall include the requirements that the advanced practice registered nurse will limit the nurse's practice to the home state during the pendency of the order. This requirement may allow the advanced practice registered nurse to practice in other party states with prior written authorization from both the home state and party state licensing boards.

6. *Article VI — Additional authorities invested in party state licensing boards.* Notwithstanding any other powers, party state licensing boards shall have the authority to do all of the following:

a. If otherwise permitted by state law, recover from the affected advanced practice registered nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that advanced practice registered nurse.

b. Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses, or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located.

c. Issue cease and desist orders to limit or revoke an advanced practice registered nurse's privilege, license, or authority to practice in the state.

d. Promulgate uniform rules and regulations as provided for in article VIII, paragraph "*c*".

7. *Article VII — Coordinated licensure information system.*

a. All party states shall participate in a cooperative effort to create a coordinated database of all advanced practice registered nurses. This system shall include information on the advanced practice registered nurse licensure and practice requirements and disciplinary history of each advanced practice registered nurse, as contributed by party states, to assist in the coordination of the advanced practice registered nurse licensure or authority to practice and enforcement efforts.

b. Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate advanced practice privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

c. Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

d. Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that shall not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

e. Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

f. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

g. The compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

8. *Article VIII — Compact administration and interchange of information.*

a. The head of the licensing board, or the head's designee, of each party state shall be the administrator of this compact for the head's state.

b. The compact administrator of each party state shall furnish to the compact administrator of each other party state any information and documents including but not

limited to a uniform data set of investigations, identifying information, licensure data, and disclosable alternative program participation information to facilitate the administration of this compact.

c. Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this compact. These uniform rules shall be adopted by party states, under the authority invested under article VI, paragraph *"d"*.

9. *Article IX — Immunity.* A party state or the officers or employees or agents of a party state's licensing board who act in accordance with the provisions of this compact shall not be liable on account of any act or omission in good faith while engaged in the performance of their duties under this compact. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

10. *Article X — Entry into force, withdrawal, and amendment.*

a. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but such withdrawal shall not take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

b. Withdrawal shall not affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

c. This compact shall not be construed to invalidate or prevent any advanced practice registered nurse licensure or authority to practice agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

d. This compact may be amended by the party states. An amendment to this compact shall not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

11. *Article XI — Construction and severability.*

a. This compact shall be liberally construed so as to effectuate the purposes of the compact. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or the applicability of the compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of the compact to any government, agency, person, or circumstance shall not be affected by that action. If this compact shall be held contrary to the constitution of any state which is party to the compact, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

b. (1) In the event party states find a need for settling disputes arising under this compact, the party states may submit the issues in dispute to an arbitration panel which shall be comprised of an individual appointed by the compact administrator in the home state, an individual appointed by the compact administrator in the remote state or states involved, and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

(2) The decision of a majority of the arbitrators shall be final and binding.

2005 Acts, ch 53, §9; 2007 Acts, ch 22, §38; 2008 Acts, ch 1032, §201

Referred to in §147.2, 147.5, 147.7, 152.6, 152.7, 152.8, 152.10, 152E.2, 272C.6

CHAPTER 153

DENTISTRY

Referred to in §135.24, 135.61, 135B.7, 135P.1, 147.76, 147.136A, 272C.2C, 514.17, 514J.102, 714H.4

Penalty, §147.86
Licensing board and support staff; location, meetings, and powers; see §135.11A – 135.12, 135.31

153.1 through 153.11 Reserved.
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153.38 Dental assistants — scope of practice.
153.39 Dental assistants — registration requirements, renewal, revocation, or suspension.
153.40 Reserved.

153.1 through 153.11 Reserved.

153.12 Board defined.

As used in this chapter, *"board"* means the dental board created under chapter 147.

2007 Acts, ch 10, §132; 2007 Acts, ch 218, §204

153.13 "Practice of dentistry" defined.

For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.

2. Persons who perform examination, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background experience, and expertise are common to the practice of dentistry.

3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this subsection, *"tooth whitening"* means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

[S13, §2600-o; C24, 27, 31, 35, 39, §**2565;** C46, 50, 54, 58, 62, 66, §153.1; C71, 73, 75, 77, 79, 81, §153.13]

96 Acts, ch 1147, §1; 2009 Acts, ch 56, §5, 13
Referred to in §153.14

153.14 Persons not included.

Section 153.13 shall not be construed to include the following classes:

1. Students of dentistry who practice dentistry upon patients at clinics in connection with their regular course of instruction at an accredited dental college, students of dental hygiene who practice upon patients at clinics in connection with their regular course of instruction at state-approved schools, and students of dental assisting who practice upon patients at clinics

in connection with a regular course of instruction determined by the board pursuant to section 153.39.

2. Licensed physicians and surgeons or licensed osteopathic physicians and surgeons who extract teeth or treat diseases of the oral cavity, gums, teeth, or maxillary bones as an incident to the general practice of their profession.

3. Persons licensed to practice dental hygiene who are exclusively engaged in the practice of said profession.

4. Dentists and dental hygienists who are licensed in another state and who are active or reserve members of the United States military service when acting in the line of duty in this state.

5. Persons registered to practice as a dental assistant.

1, 2. [S13, §2600-l, -o; C24, 27, 31, 35, 39, §**2566;** C46, 50, 54, 58, 62, 66, §153.2; C71, 73, 75, 77, 79, 81, §153.14]

3. [C24, 27, 31, 35, 39, §**2566;** C46, 50, 54, 58, 62, 66, §153.2; C71, 73, 75, 77, 79, 81, §153.14]

89 Acts, ch 63, §1; 95 Acts, ch 16, §1; 2000 Acts, ch 1002, §3, 4; 2007 Acts, ch 10, §133; 2009 Acts, ch 133, §57; 2011 Acts, ch 129, §86, 156; 2021 Acts, ch 76, §37
Subsection 2 amended

153.15 Dental hygienists — scope of term.

1. A licensed dental hygienist may perform those services which are educational, therapeutic, and preventive in nature which attain or maintain optimal oral health as determined by the board. Services may include but are not necessarily limited to the following:

a. Complete oral prophylaxis.

b. Application of preventive agents to oral structures.

c. Exposure and processing of radiographs.

d. Administration of medicaments prescribed by a licensed dentist.

e. Obtaining and preparing nonsurgical, clinical and oral diagnostic tests for interpretation by the dentist.

f. Preparation of preliminary written records of oral conditions for interpretation by the dentist.

2. Such services, except educational services, shall be performed under supervision of a licensed dentist but nothing in this section shall be construed to authorize a dental hygienist to practice dentistry.

3. Educational services shall be limited to the following:

a. Assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups.

b. Conducting workshops and in-service training sessions on dental health for nurses, school personnel, institutional staff, community groups, and other agencies providing consultation and technical assistance for promotional, preventive, and educational services.

[C24, 27, 31, 35, 39, §**2571;** C46, 50, 54, 58, 62, 66, §153.7; C71, 73, 75, 77, 79, 81, §153.15]
2007 Acts, ch 10, §134; 2017 Acts, ch 41, §1; 2020 Acts, ch 1018, §1; 2021 Acts, ch 80, §83
Referred to in §153.23
Section amended

153.15A Dental hygienists — license requirements, renewal.

1. In addition to requirements adopted by rule by the board, in order to obtain a license as a dental hygienist, an applicant shall present evidence to the board of both of the following:

a. That the applicant possesses a degree or certificate of graduation from a college, university, or institution of higher education, accredited by a national agency recognized by the council on higher education accreditation or the United States department of education, in a program of dental hygiene with a minimum of two academic years of curriculum.

b. That the applicant possesses a valid certificate in a nationally recognized course in cardiopulmonary resuscitation.

2. In order to renew a license as a dental hygienist, a licensee shall furnish evidence of

valid annual certification for cardiopulmonary resuscitation which shall be credited toward the licensee's continuing education requirement.

92 Acts, ch 1121, §1; 2016 Acts, ch 1011, §37

153.16 Dental office where dentist is employed.

Every person who owns, operates, or controls a dental office in which anyone other than that person is practicing dentistry shall display the name of the other person in a conspicuous manner at the public entrance to said office.

[S13, §2600-o1; C24, 27, 31, 35, 39, §**2568;** C46, 50, 54, 58, 62, 66, §153.4; C71, 73, 75, 77, 79, 81, §153.16]

153.17 Unlawful practice.

Except as otherwise provided in this chapter, it shall be unlawful for any person to practice dentistry or dental surgery or dental hygiene in this state, other than:

1. Those who are now duly licensed dentists, under the laws of this state in force at the time of their licensure; and
2. Those who are now duly licensed dental hygienists under the laws of this state in force at the time of their licensure; and
3. Those who may hereafter be duly licensed as dentists or dental hygienists pursuant to the provisions of this chapter.

[C71, 73, 75, 77, 79, 81, §153.17]

2021 Acts, ch 80, §84

Unnumbered paragraph 1 amended

153.18 Employment of unlicensed dentist.

No person owning or conducting any place where dental work of any kind is done or contracted for, shall employ or permit any unlicensed dentist to practice dentistry in said place.

[S13, §2600-o2; C24, 27, 31, 35, 39, §**2569;** C46, 50, 54, 58, 62, 66, §153.5; C71, 73, 75, 77, 79, 81, §153.18]

153.19 Temporary permit — fees.

1. The board may, in its discretion, issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene in a specific location or locations and for a specified period of time if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the permit, which shall be substantially equivalent to those required for licensure under this chapter. The board shall determine in each instance those eligible for this permit, whether or not examinations shall be given, and the type of examinations. None of the requirements for regular licensure under this chapter are mandatory for a temporary permit except as specifically designated by the board. The issuance of a temporary permit shall not in any way indicate that the permit holder is necessarily eligible for regular licensure, nor is the board in any way obligated to so license the person.
2. A temporary permit shall be issued for a period determined by the board and may be renewed at the discretion of the board. The fee for a temporary permit and the fee for renewal shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the permits.

2002 Acts, ch 1108, §15; 2004 Acts, ch 1167, §7, 8

153.20 Drugs, medicine, and surgery.

A dentist shall have the right to prescribe and administer drugs or medicine, perform such surgical operations, administer general or local anesthetics and use such appliances as may be necessary to the proper practice of dentistry.

[C71, 73, 75, 77, 79, 81, §153.20]

153.21 License by credentials.

The board may issue a license under this chapter without examination to an applicant who furnishes satisfactory proof that the applicant meets all of the following requirements:

1. Holds a license from a similar dental board of another state, territory, or district of the United States under requirements equivalent or substantially equivalent to those of this state.

2. Has satisfied at least one of the following:

a. Passed an examination administered by a regional or national testing service, which examination has been approved by the dental board in accordance with section 147.34, subsection 1.

b. Has for three consecutive years immediately prior to the filing of the application in this state been in a legal practice of dentistry or dental hygiene in such other state, territory, or district of the United States.

3. Furnishes such other evidence as to the applicant's qualifications and lawful practice as the board may require.

[C71, 73, 75, 77, 79, 81, §153.21]

2002 Acts, ch 1108, §16; 2011 Acts, ch 80, §1

153.22 Resident license.

A dentist or dental hygienist who is serving only as a resident, intern, or graduate student and who is not licensed to practice in this state is required to obtain from the board a temporary or special license to practice as a resident, intern, or graduate student. The license shall be designated "Resident License" and shall authorize the licensee to serve as a resident, intern, or graduate student only, under the supervision of a licensed practitioner, in an institution approved for this purpose by the board. Such license shall be renewed at the discretion of the board. The fee for a resident license and the renewal fee shall be set by the board based upon the cost of issuance of the license. The board shall determine in each instance those eligible for a resident license, whether or not examinations shall be given, and the type of examination. None of the requirements for regular permanent licensure are mandatory for resident licensure except as specifically designated by the board. The issuance of a resident license shall not in any way indicate that the person so licensed is necessarily eligible for regular licensure or that the board is obligated to so license the person. The board may revoke a resident license at any time it shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the board.

[C71, 73, 75, 77, 79, 81, §153.22]

2002 Acts, ch 1108, §17; 2007 Acts, ch 10, §135

153.23 Retired volunteer license.

1. Upon application and qualification, the board may issue a retired volunteer license to a dentist or dental hygienist who has held an active license to practice dentistry or dental hygiene within the past five years, and who has retired from the practice of dentistry or dental hygiene, to enable the retired dentist or dental hygienist to provide volunteer dental or dental hygiene services. The board shall adopt rules to administer this section, including but not limited to rules providing eligibility requirements and services that may be performed pursuant to the license.

2. The board shall not charge an application or licensing fee for issuing or renewing a retired volunteer license. A retired volunteer license shall not be converted to a regular license with active or inactive status. A retired volunteer license shall not be considered to be an active license to practice dentistry or dental hygiene.

3. A person holding a retired volunteer license shall not charge a fee or receive compensation or remuneration in any form from any person or third-party payor including but not limited to an insurance company, health plan, or state or federal benefit program.

4. A person holding a retired volunteer license is subject to all rules and regulations governing the practice of dentistry or dental hygiene except those relating to the payment of fees, license renewal, and continuing education requirements.

5. A dental hygienist holding a retired volunteer license shall abide by the permitted scope

of practice of actively licensed dental hygienists described in section 153.15. However, a dental hygienist holding a retired volunteer license may perform screenings or educational programs without an actively licensed dentist present.

6. An applicant for a retired volunteer license who has surrendered, resigned, converted, or allowed a license to lapse or expire as the result of or in lieu of disciplinary action shall not be eligible for a retired volunteer license.

7. The board may waive the five-year requirement in subsection 1 if the applicant demonstrates that the applicant possesses sufficient knowledge and skills to practice safely and competently.

2015 Acts, ch 18, §1

153.24 Orthodontia-related services.

1. A licensee under the purview of the board who provides treatment for the correction of malpositions of human teeth or the initial use of orthodontic appliances shall not begin orthodontic treatment on a new patient unless one of the following conditions is met:

a. The licensee performs an initial in-person or teledentistry examination of the teeth and supporting structures of the new patient prior to beginning orthodontic treatment.

b. The new patient provides the licensee with the portion of the dental record taken within the prior six months of an in-person or teledentistry examination of the teeth and supporting structures of the new patient prior to the licensee beginning orthodontic treatment.

2. The examination required pursuant to subsection 1 shall include any appropriate conventional or digital radiographs or digital imaging that are necessary to develop a suitable orthodontic diagnosis and treatment plan.

3. For the purposes of this section, "*new patient*" means a person whom a licensee has not examined, for whom a licensee has not provided care, or for whom a licensee has not otherwise provided consultation during the two-year period immediately prior to the patient's most recent appointment.

2021 Acts, ch 127, §1
NEW section

153.25 through 153.30 Reserved.

153.31 Falsification in application for renewal.

A license to practice either dentistry or dental hygiene, or registration as a dental assistant, shall be revoked or suspended in the manner and upon the grounds elsewhere provided in this chapter, and also when the certificate accompanying the application of such licensee or registrant for renewal of license or registration filed with the board is not in all material respects true.

[C35, §2573-g15; C39, §**2573.15;** C46, 50, 54, 58, 62, 66, §153.24; C71, 73, 75, 77, 79, 81, §153.31]

2002 Acts, ch 1108, §18

153.32 Unprofessional conduct.

As to dentists and dental hygienists "*unprofessional conduct*" shall consist of any of the acts denominated as such elsewhere in this chapter, and also any other of the following acts:

1. Receiving any rebate, or other thing of value, directly or indirectly from any dental laboratory or dental technician.

2. Solicitation of professional patronage by agents or persons popularly known as "cappers" or "steerers", or profiting by the acts of those representing themselves to be agents of the licensee.

3. Receipt of fees on the assurance that a manifestly incurable disease can be permanently cured.

4. Division of fees or agreeing to split or divide the fees received for professional services with any person for bringing or referring a patient or assisting in the care or treatment of a patient without the consent of said patient or the patient's legal representative.

5. Willful neglect of a patient in a critical condition.

[C35, §2573-g16; C39, §**2573.16;** C46, 50, 54, 58, 62, 66, §153.25; C71, 73, 75, 77, 79, 81, §153.32]

153.33 Powers of board.

1. Subject to the provisions of this chapter, any provision of this subtitle to the contrary notwithstanding, the board shall exercise the following powers:

a. (1) To initiate investigations of and conduct hearings on all matters or complaints relating to the practice of dentistry, dental hygiene, or dental assisting or pertaining to the enforcement of any provision of this chapter, to provide for mediation of disputes between licensees or registrants and their patients when specifically recommended by the board, to revoke or suspend licenses or registrations, or the renewal thereof, issued under this or any prior chapter, to provide for restitution to patients, and to otherwise discipline licensees and registrants.

(2) Subsequent to an investigation by the board, the board may appoint a disinterested third party to mediate disputes between licensees or registrants and patients. Referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant.

b. To appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV. Investigators authorized by the board have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

c. To initiate in its own name or cause to be initiated in a proper court appropriate civil proceedings against any person to enforce the provisions of this chapter or this subtitle relating to the practice of dentistry, and the board may have the benefit of counsel in connection therewith. Any such judicial proceeding as may be initiated by the board shall be commenced and prosecuted in the same manner as any other civil action and injunctive relief may be granted therein without proof of actual damage sustained by any person but such injunctive relief shall not relieve the person so enjoined from criminal prosecution by the attorney general or county attorney for violation of any provision of this chapter or this subtitle relating to the practice of dentistry.

d. To adopt rules regarding infection control in dental practice which are consistent with standards of the federal Occupational Safety and Health Act of 1970, 29 U.S.C. §651 – 678, and recommendations of the centers for disease control.

e. To promulgate rules as may be necessary to implement the provisions of this chapter.

2. All employees needed to administer this chapter except the executive director shall be appointed pursuant to the merit system. The executive director shall be appointed pursuant to section 135.11B and shall be exempt from the merit system provisions of chapter 8A, subchapter IV.

3. In any investigation made or hearing conducted by the board on its own motion, or upon written complaint filed with the board by any person, pertaining to any alleged violation of this chapter or the accusation against any licensee or registrant, the following procedure and rules so far as material to such investigation or hearing shall obtain:

a. The accusation of such person against any licensee or registrant shall be reduced to writing, verified by some person familiar with the facts therein stated, and three copies thereof filed with the board.

b. If the board finds the charges sufficient, if true, to warrant suspension or revocation of license or registration, the board shall issue an order fixing a time and place for hearing and requiring the licensee or registrant to appear and answer to the charges. The order, together with a copy of the charges, shall be served upon the accused at least twenty days before the date fixed for hearing, either personally or by certified or registered mail, sent to the licensee's or registrant's last known post office address as shown by the records of the board.

c. At the time and place fixed in said notice for said hearing, or at any time and place to which the said hearing shall be adjourned, the board shall hear the matter and may take

evidence, administer oaths, take the deposition of witnesses, including the person accused, in the manner provided by law in civil cases, compel the appearance of witnesses before it in person the same as in civil cases by subpoena issued over the signature of the chairperson of the board and in the name of the state of Iowa, require answers to interrogatories, and compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation or relating to the hearing.

d. In all investigations and hearings pertaining to the suspension or revocation of licenses or registrations, the board and any person affected may have the benefit of counsel. Upon the request of the licensee or registrant or the licensee's or registrant's counsel, the board shall issue subpoenas for the attendance of witnesses in behalf of the licensee or registrant. The subpoenas when issued shall be delivered to the licensee or registrant or the licensee's or registrant's counsel. Such subpoenas for the attendance of witnesses shall be effective if served upon the person named in the subpoena anywhere within this state, provided that, at the time of such service, the fees provided by law for attendance of witnesses in civil cases in district court are paid or tendered to the person.

e. In case of disobedience of a subpoena lawfully served under this subsection, the board or any party to such hearing aggrieved thereby may invoke the aid of the district court in the county where the hearing is being conducted to require the attendance and testimony of such witnesses. The district court of the county within which the hearing is being conducted may, in case of contumacy or refusal to obey the subpoena, issue an order requiring the person to appear before the board, and, if so ordered, to give evidence touching the matter involved in the hearing. Any failure to obey such order of the court may be punished by the court as contempt.

f. If the licensee or registrant pleads guilty, or after hearing is found guilty by the board of any of the charges made, the board may suspend for a limited period or revoke the license or registration, and the last renewal of the license or registration, and shall enter the order on its records. The board shall notify the accused of the revocation or suspension of the person's license or registration, as the case may be, and the person shall immediately surrender that license or registration to the board. Any person whose license or registration has been revoked or suspended shall not practice dentistry, dental hygiene, or dental assisting within this state while the revocation or suspension is in force and effect.

g. The findings of fact made by the board acting within its power shall, in the absence of fraud, be conclusive, but the district court shall have power to review questions of law involved in any final decision or determination of the board if application is made by the aggrieved party within thirty days after such determination by certiorari, mandamus, or such other method of review or appeal permitted under the laws of this state, and to make such further orders in respect thereto as justice may require.

h. Pending the review and final disposition thereof by the district court, the action of the board suspending or revoking such license or registration shall not be stayed.

4. An inspector may be appointed by the dental board pursuant to the provisions of chapter 8A, subchapter IV.

5. *a.* The board may impose an administrative penalty of up to five hundred dollars on a licensee, registrant, or trainee of the board who does any of the following:

(1) Engages in a practice regulated by this chapter without a current license, registration, permit, or qualification.

(2) Employs a person without a current license, registration, permit, or qualification to engage in a practice regulated by this chapter.

(3) Fails to complete the continuing education required for renewal of a license or registration.

b. The assessment and payment of a penalty imposed pursuant to paragraph "*a*" shall not be considered a disciplinary action or reported as discipline and shall be confidential.

c. A licensee, registrant, or trainee may contest a penalty issued pursuant to paragraph "*a*" by initiating a contested case proceeding pursuant to chapter 17A.

d. This subsection shall not prohibit the board from imposing discipline on a licensee, registrant, or trainee for willful or repeated violations.

e. An administrative penalty collected pursuant to this subsection shall be deposited into the general fund of the state.

[C71, 73, 75, 77, 79, 81, §153.33]

90 Acts, ch 1112, §1; 92 Acts, ch 1121, §2; 93 Acts, ch 41, §2; 2002 Acts, ch 1108, §19, 20; 2003 Acts, ch 44, §38, 39; 2003 Acts, ch 145, §200; 2007 Acts, ch 10, §136; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §192; 2015 Acts, ch 36, §1; 2016 Acts, ch 1073, §61; 2017 Acts, ch 29, §43; 2019 Acts, ch 85, §62; 2020 Acts, ch 1018, §2; 2021 Acts, ch 80, §85, 86

Referred to in §272C.5
Subsection 3, paragraphs b, d, e, and f amended
Subsection 5, paragraph d amended

153.33A Dental hygiene committee.

1. A three-member dental hygiene committee of the board is created, consisting of the two dental hygienist members of the board and one dentist member of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee. The dentist member shall be elected to the committee annually by a majority vote of board members.

2. The committee shall have the authority to adopt recommendations regarding the practice, discipline, education, examination, and licensure of dental hygienists, subject to subsection 3, and shall carry out duties as assigned by the board. The committee shall have no regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or any other auxiliary dental personnel.

3. The board shall ratify recommendations of the committee at the first meeting of the board following adoption of the recommendations by the committee, or at a meeting of the board specifically called for the purpose of board review and ratification of committee recommendations. The board shall decline to ratify committee recommendations only if the board makes a specific finding that a recommendation exceeds the jurisdiction or expands the scope of the committee beyond the authority granted in subsection 2, creates an undue financial impact on the board, or is not supported by the record. The board shall pay the necessary expenses of the committee and of the board in implementing committee recommendations ratified by the board.

4. This section shall not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

98 Acts, ch 1010, §2; 2007 Acts, ch 10, §137

Referred to in §147.14

153.33B Executive director — duties.

A full-time executive director shall be appointed as provided under section 135.11B. The executive director shall not be a member of the board. The duties of the executive director shall be the following:

1. To receive all applications for the following:
a. Licensure as a dentist or dental hygienist.
b. Registration as a dental assistant.
c. Permission to administer sedation or anesthesia.
d. Any other activity for which an application to the board is required.
2. To collect and receive all fees.
3. To keep all records pertaining to licensure, registration, enforcement, and other board actions, including a record of all board proceedings.
4. To perform such other duties as may be prescribed by the board.
5. To appoint assistants to the director and other persons necessary to administer this chapter.

2015 Acts, ch 36, §2; 2020 Acts, ch 1063, §65

153.34 Discipline.

The board may issue an order to discipline a licensed dentist or dental hygienist, or registered dental assistant, for any of the grounds set forth in this chapter, chapter 272C,

or Title IV. Notwithstanding section 272C.3, licensee or registrant discipline may include a civil penalty not to exceed ten thousand dollars. Pursuant to this section, the board may discipline a licensee or registrant for any of the following reasons:

1. For fraud or deceit in procuring the license or registration or the renewal thereof to practice dentistry, dental hygiene, or dental assisting.
2. For being guilty of willful and gross malpractice or willful and gross neglect in the practice of dentistry, dental hygiene, or dental assisting.
3. For fraud in representation as to skill or ability.
4. For willful or repeated violations of this chapter, this subtitle, or the rules of the board.
5. For obtaining any fee by fraud or misrepresentation.
6. For having failed to pay license or registration fees as provided herein.
7. For gross immorality or dishonorable or unprofessional conduct in the practice of dentistry, dental hygiene, or dental assisting.
8. For failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, dental hygiene, or dental assisting.
9. For a violation of a law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which law relates to the practice of dentistry, dental hygiene, or dental assisting. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
10. The revocation or suspension of a license or registration to practice dentistry, dental hygiene, or dental assisting or other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.
11. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dentistry, dental hygiene, or dental assisting.
12. For an adjudication of mental incompetence by a court of competent jurisdiction. Such adjudication shall automatically suspend a license or registration for the duration of the license or registration unless the board orders otherwise.
13. Inability to practice dentistry, dental hygiene, or dental assisting with reasonable skill and safety by reason of illness, drunkenness, or habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials or as a result of a mental or physical condition. At reasonable intervals following suspension or revocation under this subsection, a dentist, dental hygienist, or dental assistant shall be afforded an opportunity to demonstrate that the dentist, dental hygienist, or dental assistant can resume the competent practice of dentistry, dental hygiene, or dental assisting with reasonable skill and safety to patients.
14. For being a party to or assisting in any violation of any provision of this chapter.
15. For a dental hygienist, the practice of dentistry by the dental hygienist; and for a dentist, permitting the practice of dentistry by a dental hygienist by the dentist under whose supervision the dental hygienist is operating.

[C71, 73, 75, 77, 79, 81, §153.34]

88 Acts, ch 1124, §1 – 4; 93 Acts, ch 41, §3; 2002 Acts, ch 1108, §21; 2007 Acts, ch 10, §138; 2009 Acts, ch 133, §192; 2010 Acts, ch 1069, §20; 2020 Acts, ch 1103, §18, 31

Referred to in §272C.3, 272C.4

153.35 Construction rule.

This chapter shall be deemed to be passed in the interest of the public health, safety and welfare of the people of this state, and its provisions shall be liberally construed to carry out its object and purposes.

[C71, 73, 75, 77, 79, 81, §153.35]

153.36 Exceptions to other statutes.

1. Sections 147.44, 147.48, 147.49, 147.53, and 147.55, and sections 147.87 through 147.92 shall not apply to the practice of dentistry.
2. In addition to the provisions of section 272C.2, subsection 4, a person licensed by the

board shall also be deemed to have complied with continuing education requirements of this state if, during periods that the person practiced the profession in another state or district, the person met all of the continuing education and other requirements of that state or district for the practice of the occupation or profession.

3. Notwithstanding the panel composition provisions in section 272C.6, subsection 1, the board's disciplinary hearing panels shall be comprised of three board members, at least two of which are licensed in the profession.

[C71, 73, 75, 77, 79, 81, §153.36]

97 Acts, ch 159, §23; 2007 Acts, ch 10, §139; 2009 Acts, ch 41, §56

153.37 Dental college and dental hygiene program faculty permits.

The board may issue a faculty permit entitling the holder to practice dentistry or dental hygiene within a college of dentistry or a dental hygiene program and affiliated teaching facilities as an adjunct to the faculty member's teaching position, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the board those bona fide members of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the board for a permit. The permit shall be for a period determined by the board and may be renewed at the discretion of the board. The fee for the faculty permit and the renewal shall be set by the board based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty and shall subject the holder to all provisions of this chapter.

[C79, 81, §153.37]

93 Acts, ch 41, §4; 2002 Acts, ch 1108, §22; 2007 Acts, ch 10, §140

153.38 Dental assistants — scope of practice.

A registered dental assistant may perform those services of assistance to a licensed dentist as determined by the board by rule. A registered dental assistant with additional education and training, as provided by the board by rule, may become certified to perform expanded functions or become qualified to participate in dental radiography. A registered dental assistant who has successfully completed expanded function training through the university of Iowa college of dentistry or a program certified by the commission on dental accreditation may place dental sealants on teeth. Services performed by a registered dental assistant shall be performed under supervision of a licensed dentist, but this section shall not be construed to authorize a dental assistant to practice dentistry or dental hygiene. The board shall not adopt rules that delegate to a dental assistant the administration of local anesthesia or the removal of plaque, stain, calculus, or hard natural material except by toothbrush, floss, or rubber cup coronal polish. Every licensed dentist who utilizes the services of a registered dental assistant for the purpose of assistance in the practice of dentistry shall be responsible for acts delegated to the registered dental assistant. A dentist shall delegate to a registered dental assistant only those acts which are authorized to be delegated to registered dental assistants by the board.

2000 Acts, ch 1002, §5; 2007 Acts, ch 10, §141; 2020 Acts, ch 1018, §3

153.39 Dental assistants — registration requirements, renewal, revocation, or suspension.

1. A person shall not practice on or after July 1, 2001, as a dental assistant unless the person has registered with the board and received a certificate of registration pursuant to this chapter.

2. Education requirements shall be determined by the board by rule, according to standards to be determined by the board. A person shall be registered upon the successful completion of either of the education and examination requirements established in paragraph *"a"* or *"b"*:

a. Successful completion of a course of study and examination approved by the board and sponsored by a board-approved postsecondary school.

b. Successful completion of on-the-job training and examination consisting of all of the following:

(1) Completion of on-the-job training as specified in rule.

(2) Successful completion of an examination process approved by the board. A written examination may be waived by the board pursuant to section 17A.9A, in practice situations where the written examination is deemed to be unnecessary or detrimental to the dentist's practice.

3. The education requirements in subsection 2, paragraphs *"a"* and *"b"* may include possession of a valid certificate in a nationally recognized course in cardiopulmonary resuscitation. Successful passage of an examination administered by the board under subsection 2, paragraph *"a"* or *"b"*, which shall include sections regarding infection control, hazardous materials, and jurisprudence, shall also be required.

4. The board shall establish continuing education requirements as a condition of renewing registration as a registered dental assistant, as well as standards for the suspension or revocation of registration.

5. A person employed as a dental assistant after July 1, 2005, shall have a twelve-month period following the person's first date of employment after July 1, 2005, to comply with the provisions of subsection 1.

2000 Acts, ch 1002, §6; 2002 Acts, ch 1108, §23; 2005 Acts, ch 28, §1, 2; 2007 Acts, ch 22, §39; 2009 Acts, ch 133, §201

Referred to in §153.14

153.40 Reserved.

For future text of this section effective upon receipt by the Iowa department of public health of federal funding to establish a mobile dental delivery system, see 2004 Acts, ch 1175, §227, 287

CHAPTER 153A

RESERVED

CHAPTER 154

OPTOMETRY

Referred to in §135.24, 135.61, 135P.1, 147.76, 147.108, 147.109, 147.136A, 321.186, 321.186A, 509.3, 514.7, 514B.1, 514C.13, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86

154.1	Board defined — optometry — licensed optometrists.	154.3	License.
		154.4 through 154.9	Reserved.
154.2	Scope of chapter.	154.10	Standard of care.

154.1 Board defined — optometry — licensed optometrists.

1. As used in this chapter, *"board"* means the board of optometry created under chapter 147.

2. For the purpose of this subtitle, the following classes of persons shall be deemed to be engaged in the practice of optometry:

a. Persons employing any means for the measurement of the visual power and visual efficiency of the human eye; persons engaged in the prescribing and adapting of lenses, prisms, and contact lenses; persons engaged in the using or employing of visual training or ocular exercise for the aid, relief, or correction of vision; and persons employing the use

of medicines and procedures for the purposes of diagnosis and treatment of diseases or conditions of the eye and adnexa.

b. Persons who allow the public to use any mechanical device for a purpose described in paragraph *"a"*.

c. Persons who publicly profess to be optometrists and to assume the duties incident to the profession.

3. *a.* An optometrist licensed under this chapter may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa pursuant to this subsection, and notwithstanding section 147.107, may without charge supply any diagnostic and therapeutic pharmaceutical agents to commence a course of therapy. A licensed optometrist may perform minor surgical procedures and use medications for the diagnosis and treatment of diseases, disorders, and conditions of the eye and adnexa. A license to practice optometry under this chapter does not authorize the performance of surgical procedures which require the use of injectable or general anesthesia, moderate sedation, penetration of the globe, or the use of ophthalmic lasers for the purpose of ophthalmic surgery within or upon the globe. The removal of pterygia and Salzmann's nodules, incisional corneal refractive surgery, and strabismus surgery are prohibited.

b. (1) A licensed optometrist may administer only the following injections:

(a) Sub-conjunctival injections for the medical treatment of the eye.

(b) Intra-lesional injections for the treatment of chalazia.

(c) Botulinum toxin to the muscles of facial expression innervated by the facial nerve, including for cosmetic purposes.

(d) Injections to counteract an anaphylactic reaction.

(2) A licensed optometrist shall not administer any injection prior to receiving approval from the board.

(3) The board shall not approve the use of injections other than to counteract an anaphylactic reaction unless the licensed optometrist demonstrates to the board sufficient educational or clinical training from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council for higher education accreditation or by the United States department of education, or clinical training equivalent to clinical training offered by such an institution. Training for the administration and side effects of injection treatment for chalazia and of botulinum toxin shall be required before a licensed optometrist may administer such injections. The board shall adopt rules regarding training required pursuant to this subparagraph and approve training providers.

c. A licensed optometrist may employ and, notwithstanding section 147.107, supply pharmaceutical-delivering contact lenses for the purpose of treatment of conditions of the human eye and adnexa. For purposes of this paragraph,*"pharmaceutical-delivering contact lenses"* means contact lenses that contain one or more therapeutic pharmaceutical agents authorized for employment by this section for the purpose of treatment of conditions of the human eye and adnexa and that deliver such agents into the wearer's eye.

d. A licensed optometrist may prescribe oral steroids for a period not to exceed fourteen days without consultation with a physician.

e. A licensed optometrist may be authorized, where reasonable and appropriate, by rule of the board, to employ new diagnostic and therapeutic pharmaceutical agents approved by the United States food and drug administration on or after July 1, 2002, for the diagnosis and treatment of the human eye and adnexa.

f. The board is not required to adopt rules relating to topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents. A licensed optometrist may remove superficial foreign bodies from the human eye and adnexa.

g. The therapeutic efforts of a licensed optometrist are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions, and diseases of the human eye and adnexa, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148.

h. A licensed optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board to use the agents and procedures authorized pursuant to this subsection.

4. Beginning July 1, 2012, all licensed optometrists shall meet requirements established by the board by rule to employ diagnostic and therapeutic pharmaceutical agents for the practice of optometry. All licensees practicing optometry in this state shall have demonstrated qualifications and obtained certification to use diagnostic and therapeutic pharmaceutical agents as a condition of license renewal.

[S13, §2583-g; C24, 27, 31, 35, 39, §**2574;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §154.1]

85 Acts, ch 248, §1; 87 Acts, ch 119, §1; 91 Acts, ch 9, §1; 2002 Acts, ch 1026, §1; 2007 Acts, ch 10, §142; 2007 Acts, ch 159, §1; 2007 Acts, ch 215, §251; 2008 Acts, ch 1088, §106; 2010 Acts, ch 1010, §2; 2010 Acts, ch 1163, §3; 2012 Acts, ch 1004, §2; 2020 Acts, ch 1109, §1; 2021 Acts, ch 80, §87

Referred to in §147.108
Subsection 3, paragraph a amended

154.2 Scope of chapter.

This chapter shall not be construed to include the following classes:

1. Merchants or dealers who sell glasses as merchandise in an established place of business and who do not profess to be optometrists or practice optometry as described in this chapter.

2. Licensed physicians and surgeons.

[S13, §2583-q; C24, 27, 31, 35, 39, §**2575;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §154.2]

2021 Acts, ch 80, §88

Subsection 1 amended

154.3 License.

Every applicant for a license to practice optometry shall:

1. Be a graduate of an accredited school of optometry and meet requirements as established by rules of the board.

2. Present an official transcript issued by an accredited school of optometry.

3. Pass an examination as determined by the board by rule.

[S13, §2583-l; C24, 27, 31, 35, 39, §**2576;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §154.3]

85 Acts, ch 248, §2; 86 Acts, ch 1237, §8; 87 Acts, ch 119, §2; 2006 Acts, ch 1184, §95; 2007 Acts, ch 10, §143; 2007 Acts, ch 159, §2; 2007 Acts, ch 215, §252

154.4 through 154.9 Reserved.

154.10 Standard of care.

A person licensed as an optometrist pursuant to this chapter shall be held to the same standard of care as is common to persons licensed under chapter 148 in this state.

[C81, §154.10]

85 Acts, ch 248, §3; 2007 Acts, ch 159, §3; 2008 Acts, ch 1088, §107; 2012 Acts, ch 1004, §3

CHAPTER 154A

HEARING AIDS

Referred to in §147.76, 154F.2, 216E.7, 272C.1, 272C.6

Enforcement, §147.87, 147.92

154A.1 Definitions.
154A.2 through 154A.6 Repealed by 2012 Acts, ch 1113, §15.
154A.7 Board meetings.
154A.8 and 154A.9 Repealed by 2012 Acts, ch 1113, §15.
154A.10 Issuance of licenses.
154A.11 Examinations. Repealed by 2012 Acts, ch 1113, §15.
154A.12 Scope of examination.
154A.13 Temporary permit.
154A.14 and 154A.15 Repealed by 2012 Acts, ch 1113, §15.
154A.16 Reserved.
154A.17 and 154A.18 Repealed by 2012 Acts, ch 1113, §15.
154A.19 Exceptions.
154A.20 Rights of purchaser.
154A.21 Notice of address.
154A.22 Receipt of fees. Repealed by 2006 Acts, ch 1155, §13, 15.
154A.23 Disciplinary orders — attorney general.
154A.24 Suspension or revocation.
154A.25 Prohibitions.
154A.26 Consumer protection.
154A.27 Penalties.

154A.1 Definitions.

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

1. *"Board"* means the board of hearing aid specialists.
2. *"Department"* means the Iowa department of public health.
3. *"Dispense"* or *"sell"* means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or hearing aid specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.
4. *"Hearing aid"* means a wearable instrument or device designed for or offered for the purpose of aiding or compensating for human hearing disorders, and any parts, attachments, or accessories, including earmold, but excluding batteries and cords.
5. *"Hearing aid fitting"* means the measurement of human hearing by any means for the purpose of selections, adaptations, and sales of hearing aids, the instruction and counseling pertaining to the selections, adaptations, and sales of hearing aids, demonstration of techniques in the use of hearing aids, and the making of earmold impressions as part of the fitting of hearing aids.
6. *"Hearing aid specialist"* means any person engaged in the fitting, dispensing, and sale of hearing aids and providing hearing aid services or maintenance, by means of procedures stipulated by this chapter or the board.
7. *"License"* means a license issued by the state under this chapter to a hearing aid specialist.
8. *"Person"* means a natural person.
9. *"Temporary permit"* means a permit issued while the applicant is in training to become a licensed hearing aid specialist.

[C75, 77, 79, 81, §154A.1]

2001 Acts, ch 58, §18; 2007 Acts, ch 10, §145; 2015 Acts, ch 57, §5 – 7; 2020 Acts, ch 1102, §7

154A.2 through 154A.6 Repealed by 2012 Acts, ch 1113, §15.

154A.7 Board meetings.

The board shall meet at least one time per year at the seat of government and may hold additional meetings as deemed necessary. Additional meetings shall be held at the call of the chairperson or a majority of the members of the board.

[C75, 77, 79, 81, §154A.7]

86 Acts, ch 1245, §1146; 2012 Acts, ch 1113, §10

154A.8 and 154A.9 Repealed by 2012 Acts, ch 1113, §15.

154A.10 Issuance of licenses.

An applicant may obtain a license, if the applicant:

1. Successfully passes the qualifying examination prescribed in section 154A.12.
2. Is free of contagious or infectious disease.
3. Pays the necessary fees set by the board.

[C75, 77, 79, 81, §154A.10]

2012 Acts, ch 1113, §11

154A.11 Examinations. Repealed by 2012 Acts, ch 1113, §15. See §147.34, 147.37.

154A.12 Scope of examination.

1. The examination required by this chapter shall be designed to demonstrate the applicant's adequate technical qualifications including but not limited to the following:

a. Evidence of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.

b. Evidence of knowledge of the medical and rehabilitation facilities that are available in the area served, for children and adults who have hearing problems.

c. Evidence of knowledge of situations in which it is commonly believed that a hearing aid is inappropriate.

2. The board shall not require the applicant to possess the degree of professional competence normally expected of physicians.

[C75, 77, 79, 81, §154A.12]

2000 Acts, ch 1140, §39; 2009 Acts, ch 41, §263; 2012 Acts, ch 1113, §12

Referred to in §154A.10

154A.13 Temporary permit.

A person who has not been licensed as a hearing aid specialist may obtain a temporary permit from the department upon completion of the application accompanied by the written verification of employment from a licensed hearing aid specialist. The department shall issue a temporary permit for one year which shall not be renewed or reissued. The fee for issuance of the temporary permit shall be set by the board in accordance with the provisions for establishment of fees in section 147.80. The temporary permit entitles an applicant to engage in the fitting or selection and sale of hearing aids under the supervision of a person holding a valid license.

[C75, 77, 79, 81, §154A.13]

2001 Acts, ch 58, §18; 2012 Acts, ch 1113, §13; 2015 Acts, ch 57, §8

154A.14 and 154A.15 Repealed by 2012 Acts, ch 1113, §15.

154A.16 Reserved.

154A.17 and 154A.18 Repealed by 2012 Acts, ch 1113, §15.

154A.19 Exceptions.

1. This chapter shall not prohibit a corporation, partnership, trust, association, or other organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it employs only licensed hearing aid specialists in the direct fitting or selection and sale of hearing aids. Such an organization shall file annually with the board a list of all licensed hearing aid specialists and persons holding temporary permits directly or indirectly employed by it. Such an organization shall also file with the board a statement on a form approved by the board that the organization submits itself to the rules and regulations of the board and the provisions of this chapter which the department deems applicable.

2. This chapter shall not apply to a person who engages in the practices covered by this chapter if this activity is part of the academic curriculum of an accredited institution of higher

education, or part of a program conducted by a public or charitable institution, or nonprofit organization, unless the institution or organization also dispenses or sells hearing aids.

3. This chapter shall not prevent any person from engaging in practices covered by this chapter, provided the person, or organization employing the person, does not dispense or sell hearing aids.

[C75, 77, 79, 81, §154A.19]

2001 Acts, ch 58, §18; 2015 Acts, ch 57, §9

154A.20 Rights of purchaser.

1. A hearing aid specialist shall deliver, to each person supplied with a hearing aid, a receipt which contains the licensee's signature and shows the licensee's business address and the number of the license, together with specifications as to the make, model, and serial number of the hearing aid furnished, and full terms of sale clearly stated, including the date of consummation of the sale of the hearing aid. If a hearing aid is sold which is not new, the receipt and the container must be clearly marked "used" or "reconditioned", with the terms of guarantee, if any.

2. The receipt shall bear the following statement in type no smaller than the largest used in the body copy portion of the receipt:

> The purchaser has been advised that any examination or representation made by a licensed hearing aid specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and, therefore, must not be regarded as medical opinion or advice.

3. Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid specialist or person holding a temporary permit shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual's best interests would be served if the individual would consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

a. Visible congenital or traumatic deformity of the ear.

b. History of, or active drainage from the ear within the previous ninety days.

c. History of sudden or rapidly progressive hearing loss within the previous ninety days.

d. Acute or chronic dizziness.

e. Unilateral hearing loss of sudden or recent onset within the previous ninety days.

f. Significant air-bone gap greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average.

g. Obstruction of the ear canal, by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

4. A copy of the written recommendation shall be retained by the licensed hearing aid specialist for the period of seven years. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensed hearing aid specialist for the period of seven years. Nothing in this section required to be performed by a licensed hearing aid specialist shall mean that the hearing aid specialist is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by this chapter.

5. No hearing aid shall be sold by any individual licensed under this chapter to a person twelve years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by a physician specializing in otolaryngology. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

6. A licensed hearing aid specialist shall, upon the consummation of a sale of a hearing aid, keep and maintain records in the specialist's office or place of business at all times and

each such record shall be kept and maintained for a seven-year period. These records shall include:

a. Results of test techniques as they pertain to fitting of the hearing aids.

b. A copy of the written receipt and the written recommendation.

[C75, 77, 79, 81, §154A.20]

2001 Acts, ch 58, §18; 2002 Acts, ch 1119, §17, 18; 2015 Acts, ch 57, §10; 2021 Acts, ch 76, §38

Subsection 2 amended

154A.21 Notice of address.

1. A licensee or person holding a temporary permit shall notify the department in writing of the address of the place where the licensee or permittee engages or intends to engage in business as a hearing aid specialist. The department shall keep a record of the place of business of licensees and persons holding temporary permits.

2. Any notice required to be given by the department to a licensee shall be adequately served if sent by certified mail to the address of the last place of business recorded.

[C75, 77, 79, 81, §154A.21]

2001 Acts, ch 58, §18; 2015 Acts, ch 57, §11

154A.22 Receipt of fees. Repealed by 2006 Acts, ch 1155, §13, 15.

154A.23 Disciplinary orders — attorney general.

The board shall forward a copy of all final disciplinary orders, with associated complaints, to the attorney general for consideration for prosecution or enforcement when warranted. The attorney general and all county attorneys shall assist the board and the department in the enforcement of the provisions of this chapter.

[C75, 77, 79, 81, §154A.23]

2001 Acts, ch 58, §18; 2002 Acts, ch 1119, §19; 2012 Acts, ch 1113, §14

Referred to in §272C.5

154A.24 Suspension or revocation.

The board may revoke or suspend a license or temporary permit permanently or for a fixed period for any of the following causes:

1. Procuring a license or temporary permit by fraud or deceit.

2. Unethical conduct in any of the following forms:

a. Obtaining a fee or making a sale by fraud or misrepresentation.

b. Knowingly employing, directly or indirectly, any suspended or unregistered person to perform any work covered by this chapter.

c. Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceptive, or untruthful.

d. Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type, if it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised.

e. Representing that the service or advice of a person licensed to practice medicine, or one who is certificated as a clinical audiologist by the board of speech pathology and audiology or its equivalent, will be used or made available in the fitting or selection, adjustment, maintenance, or repair of hearing aids when that is not true, or using the words “doctor”, “clinic”, “clinical audiologist”, “state approved”, or similar words, abbreviations, or symbols which tend to connote the medical or other professions, except where the title “certified hearing aid audiologist” has been granted by the national hearing aid society, or that the hearing aid specialist has been recommended by this state or the board when such is not accurate.

f. Habitual intemperance.

g. Permitting another person to use the license or temporary permit.

h. Advertising a manufacturer's product or using a manufacturer's name or trademark to imply a relationship with the manufacturer that does not exist.

i. Directly or indirectly giving or offering to give, or permitting or causing to be given, money or anything of value to a person who advises another in a professional capacity, as an inducement to influence the person or cause the person to influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid specialist, or to influence others to refrain from dealing in the products of competitors.

j. Conducting business while suffering from a contagious or infectious disease.

k. Engaging in the fitting or selection and sale of hearing aids under a false name or alias, with fraudulent intent.

l. Selling a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting or selection of hearing aids, except in cases of selling replacement hearing aids of the same make or model within one year of the original sale.

m. Gross incompetence or negligence in fitting or selection and selling of hearing aids.

n. Using an advertisement or other representation which has the effect of misleading or deceiving purchasers or prospective purchasers into the belief that any hearing aid or device, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle when such is not the fact.

o. Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle, and that in many cases of hearing loss, this type of instrument may not be suitable.

p. Stating or implying that the use of a hearing aid will restore normal hearing or preserve hearing or prevent or retard progressions of hearing disorders or any other false or misleading claim regarding the use or benefit of a hearing aid.

q. Representing or implying that a hearing aid is or will be "custom-made", "made to order", "prescription made", or in any other sense especially fabricated for an individual person when such is not the case.

r. Violating any of the provisions of section 714.16.

s. Such other acts or omissions as the board may determine to be unethical conduct.

[C75, 77, 79, 81, §154A.24]

90 Acts, ch 1073, §1; 2001 Acts, ch 58, §18; 2007 Acts, ch 10, §146; 2011 Acts, ch 129, §87, 156; 2015 Acts, ch 57, §12; 2020 Acts, ch 1102, §8; 2020 Acts, ch 1103, §19, 31

Referred to in §272C.3, 272C.4

154A.25 Prohibitions.

A person shall not:

1. Sell, barter, or offer to sell or barter a license or temporary permit.

2. Purchase or procure by barter a license or temporary permit with intent to use it as evidence of the holder's qualifications to engage in business as a hearing aid specialist.

3. Alter a license or temporary permit with fraudulent intent.

4. Use or attempt to use as a valid license a license or temporary permit which has been purchased, fraudulently obtained, counterfeited, or materially altered.

5. Willfully make a false statement in an application for a license or temporary permit or for renewal of a license or temporary permit.

[C75, 77, 79, 81, §154A.25]

2001 Acts, ch 58, §18; 2015 Acts, ch 57, §13

154A.26 Consumer protection.

Nothing in this chapter shall be construed to limit the right of a person who desires to file a complaint against a licensee or holder of a temporary permit from filing a complaint with the attorney general pursuant to the provisions of section 714.16.

[C75, 77, 79, 81, §154A.26]

154A.27 Penalties.
A violation of any provisions of this chapter is a simple misdemeanor.
[C75, 77, 79, 81, §154A.27]

CHAPTER 154B

PSYCHOLOGY

Referred to in §135.24, 135.61, 135L.3, 147.76, 148.13A, 216.8C, 225D.1, 228.9, 249A.15, 257.41, 514C.31, 622.10, 714H.4, 915.82, 915.86

Enforcement, §147.87, 147.92
Penalty, §147.86

154B.1	Definitions.	154B.10	Conditional prescription certificate.
154B.2	Practice not authorized.	154B.11	Prescription certificate.
154B.3	Persons not required to qualify.	154B.12	Prescribing practices.
154B.4	Acts prohibited.	154B.13	Board duties regarding prescription certificates and conditional prescription certificates.
154B.5	Scope of chapter.	154B.14	Requirements for prescription certificates — joint rules.
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154B.7	Health service provider in psychology.		
154B.8	Voluntary surrender of license.		
154B.9	Drugs — medicine.		

154B.1 Definitions.
As used in this chapter, unless the context otherwise requires:

1. *"Board"* means the board of psychology created under chapter 147.

2. *"Collaborative practice agreement"* means a written agreement between a prescribing psychologist and a licensed physician that establishes clinical protocols, practice guidelines, and care plans relevant to the scope of the collaborative practice. The practice guidelines may include limitations on the prescribing of psychotropic medications by psychologists and protocols for prescribing to special populations, including patients who are less than seventeen years of age or over sixty-five years of age, patients who are pregnant, patients with serious medical conditions including but not limited to heart disease, cancer, stroke, or seizures, and patients with developmental disabilities and intellectual disabilities.

3. *"Collaborative relationship"* means a cooperative working relationship between a prescribing psychologist or a psychologist with a conditional prescription certificate and a licensed physician in the provision of patient care, including diagnosis and cooperation in the management and delivery of physical and mental health care.

4. *"Conditional prescription certificate"* means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to this chapter.

5. *"Physician"* means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state who is board-certified in family medicine, internal medicine, pediatrics, psychiatry, or another specialty who prescribes medications for the treatment of a mental disorder to patients in the normal course of the person's clinical medical practice pursuant to joint rules adopted by the board of psychology and the board of medicine.

6. *"Practice of psychology"* means the application of established principles of learning, motivation, perception, thinking, and emotional relations to problems of behavior adjustment, group relations, and behavior modification, by persons trained in psychology for compensation or other personal gain. The application of principles includes but is not limited to counseling and the use of psychological remedial measures with persons, in groups or individually, with adjustment or emotional problems in the areas of work, family, school, and personal relationships; measuring and testing personality, intelligence,

aptitudes, public opinion, attitudes, and skills; and the teaching of such subject matter, and the conducting of research on the problems relating to human behavior.

7. *"Prescribing psychologist"* means a licensed psychologist who holds a valid prescription certificate.

8. *"Prescription certificate"* means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to this chapter.

9. *"Psychotropic medication"* means a medicine that shall not be dispensed or administered without a prescription and that has been explicitly approved by the federal food and drug administration for the treatment of a mental disorder, as defined by the most recent version of the diagnostic and statistical manual of mental disorders published by the American psychiatric association or the most recent version of the international classification of diseases. *"Psychotropic medication"* does not include narcotics.

[C75, 77, 79, 81, §154B.1]

2016 Acts, ch 1112, §6; 2017 Acts, ch 29, §44; 2018 Acts, ch 1026, §54

Referred to in §148.13B, 154B.14

154B.2 Practice not authorized.

This chapter shall not authorize the practice of medicine and surgery or the practice of osteopathic medicine and surgery by any person not licensed pursuant to chapter 148.

[C75, 77, 79, 81, §154B.2]

2008 Acts, ch 1088, §108

154B.3 Persons not required to qualify.

The provisions of this chapter shall not apply to the following persons:

1. School psychologists certified by the department of education practicing and functioning within the scope of their employment in either a public or private school or performing as certified school psychologists at any time in either private practice or the public sector, provided they use the title "certified school psychologist".

2. An employee of an accredited academic institution while performing the employee's teaching, training, and research duties.

3. An employee of a federal, state, county or local governmental institution or agency or nonprofit institution or agency, or a research facility, while performing duties of the office or position with such institution, agency, or facility.

4. A student of psychology, psychological intern or person preparing for the practice of psychology in a training institution or facility approved by the board, provided the person is designated by the title "psychological trainee" or any similar title, clearly indicating training status.

5. A practicing psychologist for a period not to exceed ten consecutive business days or fifteen business days in any ninety-day period, if the person's residence and major practice are outside the state, and the person gives the board a summary of the person's intention to practice in the state of Iowa, if the person is certified or licensed in the state in which the person resides under requirements the board considers to be equivalent of requirements for licensing under this chapter, or the person resides in a state which does not certify or license psychologists and the board considers the person's professional qualifications to be the equivalent of requirements for licensing under this chapter.

[C75, 77, 79, 81, §154B.3]

154B.4 Acts prohibited.

Commencing July 1, 1975, a person who is not licensed under this chapter shall not claim to be a licensed practicing psychologist, use a title or description, including the term "psychology" or any of its derivatives, such as "psychologist", "psychological", "psychotherapist" or modifiers such as "practicing" or "licensed" in a manner which implies that the person is certified under this chapter, or offer to practice or practice psychology, except as otherwise permitted in this chapter. The use by a person who is not licensed under

this chapter of such terms is not prohibited by this chapter, except when such terms are used in connection with an offer to practice or the practice of psychology.

[C75, 77, 79, 81, §154B.4]

154B.5 Scope of chapter.

Nothing in this chapter shall be construed to prevent qualified members of other professional groups such as physicians, osteopathic physicians, optometrists, chiropractors, members of the clergy, authorized Christian Science practitioners, attorneys at law, social workers, or guidance counselors from performing functions of a psychological nature consistent with the accepted standards of their respective professions, if they do not use any title or description stating or implying that they are psychologists or are certified to practice psychology.

[C75, 77, 79, 81, §154B.5]

2009 Acts, ch 133, §59

154B.6 Requirements for licensure — provisional license.

1. Except as provided in this section, an applicant for licensure as a psychologist shall meet the following requirements in addition to those specified in chapter 147:

a. Except as provided in this section, after July 1, 1985, a new applicant for licensure as a psychologist shall possess a doctoral degree in psychology from an institution approved by the board and shall have completed at least one year of supervised professional experience under the supervision of a licensed psychologist.

b. Have passed an examination administered by the board to assure the applicant's professional competence. The examination of any of its divisions may be given by the board at any time after the applicant has met the degree requirements of this section.

c. Have not failed the examination required in paragraph *"b"* within sixty days preceding the date of the subsequent examination.

2. The examinations required in this section may, at the discretion of the board, be waived for holders by examination of licenses or certificates from states whose requirements are substantially equivalent to those of this chapter, and for holders by examination of specialty diplomas from the American board of professional psychology.

3. A person who possesses a doctoral degree in psychology from an institution approved by the board but who has not completed the other requirements for licensure under this section may apply for a provisional license. The license shall be designated as a "provisional license in psychology". The provisional license shall authorize the licensee to practice psychology under the supervision of a supervisor who meets the qualifications determined by the board by rule. A provisional license shall be valid for a period of two years. The fee for a provisional license shall be set by the board to cover the administrative costs of issuance. The board shall also set a fee for renewal of a provisional license.

[C75, 77, 79, 81, §154B.6]

84 Acts, ch 1122, §1; 2006 Acts, ch 1184, §96; 2007 Acts, ch 22, §40; 2014 Acts, ch 1043, §1

Referred to in §249A.15, 514C.33

154B.7 Health service provider in psychology.

A certified health service provider in psychology means a person licensed to practice psychology who has a doctoral degree in psychology, or prior to July 1, 1984, was licensed at the doctoral level with a degree in psychology or its equivalent, or was prior to January 1, 1984, licensed as a psychologist in this state and prior to January 1, 1985, receives a doctoral degree equivalent to a doctoral degree in psychology, and who has at least two years of clinical experience in a recognized health service setting or meets the standards of a national register of health service providers in psychology. A person certified as a health service provider in psychology shall be deemed qualified to diagnose or evaluate mental illness and nervous disorders, and to treat mental illnesses and nervous disorders, excluding those mental illnesses and nervous disorders which are established as primarily of biological

etiology with the exception of the treatment of the psychological and behavioral aspects of those mental illnesses and nervous disorders.

84 Acts, ch 1122, §2
Referred to in §135B.7, 232.78, 232.83

154B.8 Voluntary surrender of license.

The director of public health may accept the voluntary surrender of license if accompanied by a written statement of intention. The voluntary surrender, when accepted, shall have the same force and effect as an order of revocation.

[C75, 77, 79, 81, §154B.7]

154B.9 Drugs — medicine.

1. Except as provided in subsections 2 and 3, a psychologist shall not administer or prescribe drugs or medicine.

2. A licensed psychologist holding a conditional prescription certificate may prescribe psychotropic medication under the supervision of a licensed physician pursuant to this chapter.

3. A prescribing psychologist may prescribe psychotropic medication pursuant to joint rules adopted by the board of psychology and the board of medicine and the provisions of this chapter.

2016 Acts, ch 1112, §7

154B.10 Conditional prescription certificate.

1. An applicant for a conditional prescription certificate shall be granted a certificate by the board if the applicant satisfies all of the following requirements:

a. Holds a current license to practice psychology in this state.

b. Completed pharmacological training from an institution approved by the board of psychology and the board of medicine or from a provider of continuing education approved by the board of psychology and the board of medicine pursuant to joint rules adopted by both boards.

c. Passed a national certification examination approved by the board of psychology and the board of medicine that tested the applicant's knowledge of pharmacology in the diagnosis, care, and treatment of mental disorders.

d. Within five years immediately preceding the date of application, successfully completed a postdoctoral master of science degree in clinical psychopharmacology approved by the board of psychology and the board of medicine pursuant to joint rules adopted by both boards. The program shall at a minimum include coursework in neuroscience, pharmacology, psychopharmacology, physiology, and appropriate and relevant physical and laboratory assessments.

e. Within five years immediately preceding the date of application, has been certified by the applicant's supervising physician as having successfully completed a supervised and relevant clinical experience in clinical assessment and pathophysiology and an additional supervised practicum treating patients with mental disorders. The practica shall have been supervised by a trained physician. The board of psychology and the board of medicine, pursuant to joint rules adopted by the boards, shall determine sufficient practica to competently train the applicant in the treatment of a diverse patient population.

f. Possesses malpractice insurance that will cover the applicant during the period the conditional prescription certificate is in effect.

g. Meets all other requirements, as determined by joint rules adopted by the board of psychology and the board of medicine, for obtaining a conditional prescription certificate.

2. A conditional prescription certificate is valid for four years, at the end of which the holder may apply again pursuant to the provisions of subsection 1.

3. A psychologist with a conditional prescription certificate may prescribe psychotropic medication under the supervision of a licensed physician subject to all of the following conditions:

a. The psychologist shall continue to hold a current license to practice psychology in this state and continue to maintain malpractice insurance.

b. The psychologist shall inform the board of the name of the physician under whose supervision the psychologist will prescribe psychotropic medication and promptly inform the board of any change of the supervising physician.

c. A physician supervising a psychologist prescribing psychotropic medication pursuant to a conditional prescription certificate shall be subject to disciplinary action pursuant to section 148.13A for the acts and omissions of the psychologist while under the physician's supervision. This provision does not relieve the psychologist from liability for the psychologist's acts and omissions.

d. Any other rules adopted jointly by the board of psychology and the board of medicine.

2016 Acts, ch 1112, §8
Referred to in §148.13B, 154B.14

154B.11 Prescription certificate.

1. An applicant for a prescription certificate shall be granted a certificate by the board if the applicant satisfies all of the following requirements:

a. Possesses a conditional prescription certificate and has successfully completed two years of prescribing psychotropic medication as certified by the supervising licensed physician. An applicant for a prescription certificate who specializes in the psychological care of children, elderly persons, or persons with comorbid psychological conditions shall complete at least one year prescribing psychotropic medications to such populations as certified by the supervising licensed physician.

b. Holds a current license to practice psychology in this state.

c. Possesses malpractice insurance that will cover the applicant as a prescribing psychologist.

d. Meets all other requirements, as determined by rules adopted by the board, for obtaining a prescription certificate, including joint rules adopted by the board of psychology and the board of medicine.

2. A psychologist with a prescription certificate may prescribe psychotropic medication pursuant to the provisions of this chapter subject to the following conditions:

a. The psychologist continues to hold a current license to practice psychology in this state and maintains malpractice insurance.

b. The psychologist annually satisfies the continuing education requirements for prescribing psychologists, as determined by the board, which shall be no fewer than twenty hours each year.

c. The psychologist has entered into a collaborative practice agreement with a licensed physician.

d. Any other rules adopted jointly by the board of psychology and the board of medicine.

2016 Acts, ch 1112, §9
Referred to in §148.13B, 154B.14

154B.12 Prescribing practices.

1. A prescribing psychologist or a psychologist with a conditional prescription certificate may administer and prescribe psychotropic medication within the scope of the psychologist's profession, including the ordering and review of laboratory tests in conjunction with the prescription, for the treatment of mental disorders. Such prescribing practices shall be governed by joint rules adopted by the board of psychology and the board of medicine.

2. When prescribing psychotropic medication for a patient, the prescribing psychologist or the psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with the licensed physician who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition, and significant changes in the patient's medical or psychological condition are discussed.

3. A prescription written by a prescribing psychologist or a psychologist with a conditional prescription certificate shall meet all of the following requirements:

a. Comply with applicable state and federal laws.

b. Be identified as issued by the psychologist as "psychologist certified to prescribe".

c. Include the psychologist's board-assigned identification number.

4. A prescribing psychologist or a psychologist with a conditional prescription certificate shall not delegate prescriptive authority to any other person. Records of all prescriptions shall be maintained in patient records.

5. When authorized to prescribe controlled substances, a prescribing psychologist or a psychologist with a conditional prescription certificate shall file with the board in a timely manner all individual federal drug enforcement agency registration and numbers. The board shall maintain current records on every psychologist, including federal registration and numbers.

2016 Acts, ch 1112, §10

154B.13 Board duties regarding prescription certificates and conditional prescription certificates.

1. The board shall, in consultation with the board of medicine, adopt rules to carry out the provisions of this chapter relating to prescribing psychologists. The rules shall include but not be limited to all of the following:

a. Procedures to obtain a conditional prescription certificate, a prescription certificate, and a renewal of a prescription certificate. The board may set reasonable application and renewal fees.

b. Grounds for the denial, suspension, or revocation of a conditional prescription certificate and a prescription certificate, including a provision for suspension or revocation of a license to practice psychology upon suspension of a conditional prescription certificate and a prescription certificate.

c. The provision of an annual list of psychologists with prescription certificates and psychologists with conditional prescription certificates that contains the information agreed to between the board and the board of medicine. The board shall promptly notify the board of medicine of psychologists who are added to or removed from the list.

d. Any other rules necessary for the administration of this chapter.

2. The board shall appoint a prescribing psychologist rules subcommittee comprised of a psychologist appointed by the board, a physician appointed by the board of medicine, and a member of the public appointed by the director of public health to develop rules for consideration by the board pursuant to this section.

2016 Acts, ch 1112, §11

154B.14 Requirements for prescription certificates — joint rules.

1. The board of psychology and the board of medicine shall adopt joint rules in regard to the following:

a. Education and training requirements pursuant to sections 154B.10 and 154B.11.

b. Specific minimum standards for the terms, conditions, and framework governing the collaborative practice agreement and for governing the limitations on the prescriptions eligible to be prescribed and populations eligible to be prescribed to as specified in section 154B.1, subsection 2.

2. The board of psychology shall consult with the university of Iowa Carver college of medicine and clinical and counseling psychology doctoral programs at regents institutions in the development of the rules pertaining to education and training requirements in sections 154B.10 and 154B.11.

3. The joint rules, and any amendments thereto, adopted by the board of psychology and the board of medicine pursuant to this section and section 148.13B shall only be adopted by agreement of both boards through a joint rule-making process.

2016 Acts, ch 1112, §12

Referred to in §148.13B

CHAPTER 154C

SOCIAL WORK

Referred to in §135.24, 135L.3, 147.74, 147.76, 154D.2, 216.8C, 257.11, 257.41, 622.10, 714H.4, 915.82

Enforcement, §147.87, 147.92
Penalty, §147.86

154C.1 Definitions.
154C.2 License required — exception — use of title.
154C.3 Requirements to obtain license or reciprocal license — license renewal — continuing education.
154C.4 Rulemaking authority.
154C.5 Confidentiality of information.
154C.6 Transition provisions — exemption from certain license requirements.
154C.7 General exemptions.

154C.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Board"* means the board of social work established in chapter 147.

2. *"Licensee"* means a person licensed to practice social work.

3. *"Practice of social work"* means the professional activity of licensees which is directed at enhancing or restoring people's capacity for social functioning, whether impaired by environmental, emotional, or physical factors, with particular attention to the person-in-situation configuration. The social work profession represents a body of knowledge requiring progressively more sophisticated analytic and intervention skills, and includes the application of psychosocial theory methods to individuals, couples, families, groups, and communities. The practice of social work does not include the making of a medical diagnosis, or the treatment of conditions or disorders of biological etiology except treatment of conditions or disorders which involve psychosocial aspects and conditions. The practice of social work for each of the categories of social work licensure includes the following:

a. Bachelor social workers provide psychosocial assessment and intervention through direct contact with clients or referral of clients to other qualified resources for assistance, including but not limited to performance of social histories, problem identification, establishment of goals and monitoring of progress, interviewing techniques, counseling, social work administration, supervision, evaluation, interdisciplinary consultation and collaboration, and research of service delivery including development and implementation of organizational policies and procedures in program management.

b. Master social workers are qualified to perform the practice of bachelor social workers and provide psychosocial assessment, diagnosis, and treatment, including but not limited to performance of psychosocial histories, problem identification and evaluation of symptoms and behavior, assessment of psychosocial and behavioral strengths and weaknesses, effects of the environment on behavior, psychosocial therapy with individuals, couples, families, and groups, establishment of treatment goals and monitoring progress, differential treatment planning, and interdisciplinary consultation and collaboration.

c. Independent social workers are qualified to perform the practice of master social workers as a private practice.

4. *"Private practice"* means social work practice conducted only by an independent social worker who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions.

5. *"Supervision"* means the direction of social work practice in face-to-face sessions.

84 Acts, ch 1075, §1; 96 Acts, ch 1035, §5; 2007 Acts, ch 10, §147
Referred to in §154C.6

154C.2 License required — exception — use of title.

1. A person shall not engage in the practice of social work unless the person is licensed pursuant to this chapter. A person who is not licensed pursuant to this chapter shall not use

words or titles which imply or represent that the person is a licensed bachelor social worker, licensed master social worker, or licensed independent social worker.

2. Notwithstanding subsection 1, persons trained as bachelor social workers, or employed as bachelor social workers, are not required to be licensed.

3. Section 147.83 does not apply to persons who are not licensed as bachelor social workers and who do not hold themselves out as licensed bachelor social workers.

84 Acts, ch 1075, §2; 96 Acts, ch 1035, §6

154C.3 Requirements to obtain license or reciprocal license — license renewal — continuing education.

1. *License requirements.* An applicant for a license as a bachelor social worker, master social worker, or independent social worker shall meet the following requirements in addition to paying all fees required by the board:

a. Bachelor social worker. An applicant for a license as a bachelor social worker shall present evidence satisfactory to the board that the applicant:

(1) Possesses a bachelor's degree in social work from an accredited college or university approved by the board.

(2) Has passed an examination given by the board.

(3) Will conduct all professional activities as a bachelor social worker in accordance with standards for professional conduct established by the board.

b. Master social worker. An applicant for a license as a master social worker shall present evidence satisfactory to the board that the applicant:

(1) Possesses a master's or doctoral degree in social work from an accredited college or university approved by the board.

(2) Has passed an examination given by the board.

(3) Will conduct all professional activities as a master social worker in accordance with standards for professional conduct established by the board.

c. Independent social worker. An applicant for a license as an independent social worker shall present evidence satisfactory to the board that the applicant:

(1) Possesses a master's or doctoral degree in social work from an accredited college or university approved by the board.

(2) Has passed an examination given by the board.

(3) Will conduct all professional activities as a social worker in accordance with standards for professional conduct established by the board.

(4) Has engaged in the practice of social work, under supervision, for at least two years as a full-time employee or for four thousand hours prior to taking the examination given by the board.

(5) (a) Supervision shall be provided in any of the following manners:

(i) By a social worker licensed at least at the level of the social worker being supervised and qualified under this section to practice without supervision.

(ii) By a person licensed under section 154D.2 to practice marital and family therapy without supervision or mental health counseling without supervision.

(iii) By another qualified professional, if the board determines that supervision by a social worker as defined in subparagraph subdivision (i) is unobtainable or in other situations considered appropriate by the board.

(b) Additional standards for supervision shall be determined by the board.

2. *Reciprocal license.* The board shall issue an appropriate license to an applicant licensed to practice social work in another state which imposes licensure requirements similar or equal to those imposed under subsection 1.

3. *License renewal and continuing education.* Licenses shall be renewed biennially, and licensees shall pay a fee for renewal as determined by the board and shall present evidence satisfactory to the board that the licensee has satisfied continuing education requirements as determined by the board. The board shall not limit the number of continuing education credits that may be obtained online in satisfying continuing education requirements, provided that any program providing continuing education credits online shall comply with standards set by the board.

4. *Supervision.* The board shall not, by rule or other means, require that supervision be completed in person as a condition for an applicant to receive a license, a reciprocal license, or a renewed license under this chapter.

84 Acts, ch 1075, §3; 96 Acts, ch 1035, §7; 2000 Acts, ch 1140, §40; 2007 Acts, ch 10, §148; 2009 Acts, ch 41, §263; 2009 Acts, ch 133, §60; 2019 Acts, ch 83, §1; 2021 Acts, ch 182, §56, 57, 62

Referred to in §147.14, 154C.6, 249A.15A, 489.1101, 496C.2, 514C.32

Subsection 1, paragraph c, subparagraph (5), subparagraph division (a), NEW subparagraph subdivision (ii) and former subparagraph subdivision (ii) renumbered as (iii)

NEW subsection 4

154C.4 Rulemaking authority.

In addition to duties and responsibilities provided in chapters 147 and 272C, the board shall adopt rules relating to:

1. Standards required for licensees engaging in the private practice of licensed social work.
2. Standards for professional conduct of licensees.
3. The administration of this chapter.
4. The status of active and inactive licensure and guidelines for inactive licensure reentry.
5. Educational activities which fulfill continuing education requirements for renewal of licenses.
6. Evaluation of its rules to refine standards of licensure and improve methods of enforcement of the standards.

84 Acts, ch 1075, §4; 96 Acts, ch 1035, §8

154C.5 Confidentiality of information.

A licensee or a person working under supervision of a licensee shall not disclose or be compelled to disclose information acquired from persons consulting that person in a professional capacity except:

1. If the information reveals the contemplation or commission of a crime.
2. If the person waives the privilege by bringing charges against the licensee.
3. With the written consent of the client, or in the case of death or disability with the consent of the client's personal representative, another person authorized to sue, or the beneficiary of an insurance policy on the client's life, health, or physical condition.
4. To testify in a court hearing concerning matters pertaining to the welfare of children.
5. To seek collaboration or consultation with professional colleagues or administrative superiors on behalf of the client.

84 Acts, ch 1075, §5; 96 Acts, ch 1035, §9

154C.6 Transition provisions — exemption from certain license requirements.

Notwithstanding section 154C.3, the board shall issue a license as a bachelor social worker, master social worker, or independent social worker to an applicant applying for a license prior to July 1, 1998, who meets the following requirements in addition to paying all fees required by the board:

1. *Bachelor social worker.* An applicant for a license as a bachelor social worker shall present evidence satisfactory to the board of either of the following:

a. That the applicant possesses a bachelor's degree in social work from an accredited college or university approved by the board.

b. That the applicant possesses an undergraduate degree from an accredited college or university and has four thousand hours of employment experience in the practice of social work.

2. *Master social worker.* An applicant for a license as a master social worker shall present evidence satisfactory to the board of any of the following:

a. That the applicant possesses a master's degree in social work from an accredited college or university approved by the board.

b. That the applicant possesses a graduate degree from an accredited college or university and has four thousand hours of employment experience in the practice of social work.

c. That the applicant is employed performing master level social work duties as defined in section 154C.1, subsection 3, paragraph *"b"*, as of July 1, 1996, and has four thousand hours of employment experience in the practice of social work as of July 1, 1998.

3. *Independent social worker.* An applicant for a license as an independent social worker shall present evidence satisfactory to the board of either of the following:

a. That the applicant possesses a valid license to practice social work pursuant to this chapter issued prior to July 1, 1996.

b. That the applicant possesses a master's or doctoral degree in social work from an accredited college or university approved by the board and has two years or four thousand hours of postgraduate degree employment experience in the practice of social work.

96 Acts, ch 1035, §10

154C.7 General exemptions.

1. This chapter and chapter 147 do not prevent qualified members of other professions including but not limited to nurses, psychologists, marital and family therapists, mental health counselors, physicians, physician assistants, attorneys at law, or members of the clergy, from providing or advertising that they provide services of a social work nature consistent with the accepted standards of their respective professions, provided that these persons do not use a title or description indicating or implying that they are licensed to practice social work under this chapter or that they are practicing social work as defined in this chapter.

2. This chapter does not apply to students of social work whose activities are conducted within a course of professional education in social work.

96 Acts, ch 1035, §11; 2020 Acts, ch 1062, §94

CHAPTER 154D

BEHAVIORAL SCIENCE

Referred to in §135.24, 135L.3, 147.74, 147.76, 216.8C, 249A.15A, 257.41, 272.2, 489.1101, 496C.2, 514C.31, 622.10, 714H.4

Enforcement, §147.87, 147.92
Penalty, general, §147.86

154D.1	Definitions.	154D.4	Exemptions.
154D.2	Licensure — marital and family therapy — mental health counseling.	154D.5	Sexual conduct with client.
		154D.6	Transition provisions. Repealed by 2008 Acts, ch 1088, §79.
154D.2A	Licensure — behavior analysts — assistant behavior analysts.	154D.7	Temporary license — marital and family therapy — mental health counseling — fees.
154D.3	Board organization and authority.		

154D.1 Definitions.

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

1. *"Board"* means the board of behavioral science established in chapter 147.

2. *"Certifying entity"* means the behavior analyst certification board or another entity whose programs to certify professional practitioners of applied behavior analysis are accredited by the national commission for certifying agencies or the American national standards institute.

3. *"Licensed assistant behavior analyst"* means a person licensed to practice applied behavior analysis under the supervision of a licensed behavior analyst under chapter 147 and this chapter.

4. *"Licensed behavior analyst"* means a person licensed to practice applied behavior analysis under chapter 147 and this chapter.

5. *"Licensed marital and family therapist"* means a person licensed to practice marital and family therapy under chapter 147 and this chapter.

6. *"Licensed mental health counselor"* means a person licensed to practice mental health counseling under chapter 147 and this chapter.

7. *"Licensee"* includes a licensed marital and family therapist and a licensed mental health counselor.

8. *"Marital and family therapy"* means the application of counseling techniques in the assessment and resolution of emotional conditions. This includes the alteration and establishment of attitudes and patterns of interaction relative to marriage, family life, and interpersonal relationships.

9. *"Mental health counseling"* means the provision of counseling services involving assessment, referral, consultation, and the application of counseling, human development principles, learning theory, group dynamics, and the etiology of maladjustment and dysfunctional behavior to individuals, families, and groups.

10. *"Practice of applied behavior analysis"* means the design, implementation, and evaluation of instructional and environmental modification to produce socially significant improvements in human behavior. *"Practice of applied behavior analysis"* includes the empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis. *"Practice of applied behavior analysis"* excludes psychological testing, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and counseling as treatment modalities.

11. *"Temporary license"* means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as determined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

12. *"Temporary licensed marital and family therapist"* means a person licensed to practice marital and family therapy under supervision in accordance with section 154D.7.

13. *"Temporary licensed mental health counselor"* means a person licensed to practice mental health counseling under supervision in accordance with section 154D.7.

91 Acts, ch 229, §6; 2007 Acts, ch 10, §149; 2008 Acts, ch 1088, §65; 2018 Acts, ch 1106, §7, 14

154D.2 Licensure — marital and family therapy — mental health counseling.

1. An applicant for a license to practice marital and family therapy or mental health counseling shall be granted a license by the board when the applicant satisfies all of the following requirements:

a. Possesses a master's degree in marital and family therapy or mental health counseling, as applicable, consisting of at least sixty semester hours, or its equivalent, from a nationally accredited institution or from a program approved by the board.

b. Has at least two years of supervised clinical experience or its equivalent as approved by the board. Standards for supervision, including the required qualifications for supervisors, shall be determined in accordance with subsection 2 and by the board by rule, provided that a supervisor may be a person licensed under this section to practice marital and family therapy or mental health counseling without supervision or a licensed independent social worker licensed under chapter 154C.

c. Passes an examination approved by the board.

2. The board shall not, by rule or other means, require any in-person supervised clinical experience.

91 Acts, ch 229, §7; 94 Acts, ch 1170, §25, 26; 2004 Acts, ch 1090, §2, 3; 2005 Acts, ch 89, §17, 18; 2006 Acts, ch 1184, §97; 2008 Acts, ch 1088, §66; 2021 Acts, ch 182, §58, 62

Referred to in §154C.3, 154D.4, 154D.7
Section amended

154D.2A Licensure — behavior analysts — assistant behavior analysts.

1. An applicant for a license to practice as a behavior analyst shall be granted a license by the board upon submitting to the board proof of the applicant's current certification as a behavior analyst or behavior analyst-doctoral by a certifying entity.

2. An applicant for a license to practice as an assistant behavior analyst shall be granted a license by the board upon submitting to the board proof of the applicant's current certification as an assistant behavior analyst by a certifying entity. The applicant must also provide proof

of ongoing supervision by a licensed behavior analyst in accordance with the requirements of the certifying entity.

2018 Acts, ch 1106, §8, 14

154D.3 Board organization and authority.

1. In addition to duties and responsibilities provided in chapters 147 and 272C, the board shall adopt rules relating to:

a. Standards required for licensees engaging in the professions covered by this chapter.

b. Standards for professional conduct of persons licensed under this chapter.

c. The administration of this chapter.

d. The status of active and inactive licensure, and guidelines for reentry of inactive licensees.

e. Educational activities which fulfill continuing education requirements for license renewals. The board shall not limit the number of continuing education credits that may be obtained online by marital and family therapists or mental health counselors in fulfilling continuing education requirements, provided that any program providing continuing education credits online shall comply with standards set by the board.

2. The board may establish subcommittees. A decision or recommendation of a subcommittee shall not become effective without approval of the board. The board may initiate action relating to either of the professions within its jurisdiction.

91 Acts, ch 229, §8; 98 Acts, ch 1050, §2, 5; 2008 Acts, ch 1088, §67; 2019 Acts, ch 83, §2

154D.4 Exemptions.

1. This chapter and chapter 147 do not prevent qualified members of other professions, including but not limited to nurses, psychologists, social workers, physicians, physician assistants, attorneys at law, or members of the clergy, from providing or advertising that they provide services of a marital and family therapy or mental health counseling nature consistent with the accepted standards of their respective professions, but these persons shall not use a title or description denoting that they are licensed marital and family therapists or licensed mental health counselors.

2. The licensure requirements of this chapter and chapter 147 do not apply to the following:

a. Students whose activities are conducted within a course of professional education in marital and family therapy or mental health counseling.

b. A person who practices marital and family therapy or mental health counseling under the supervision of a person licensed under this chapter as part of a clinical experience as described in section 154D.2, subsection 1, paragraph *"b"*.

c. The provision of children, family, or mental health services through the department of human services or juvenile court, or agencies contracting with the department of human services or juvenile court, by persons who do not represent themselves to be either a marital and family therapist or a mental health counselor.

3. This chapter and chapter 147 do not prevent or restrict the practice of applied behavior analysis by any of the following:

a. Persons licensed to practice other professions under this subtitle, provided that applied behavior analysis is within the scope of practice of the person's profession, the services provided are within the boundaries of the person's education, training, and competence, and the person does not represent that the person is a licensed behavior analyst or licensed assistant behavior analyst unless also licensed as one.

b. Family members of recipients of applied behavior analysis services implementing applied behavior analysis treatment plans with the recipients under the extended authority and direction of a licensed behavior analyst or a licensed assistant behavior analyst. Such persons shall not represent themselves as behavior analysts or assistant behavior analysts.

c. Paraprofessional technicians who deliver applied behavior analysis services under the extended authority and direction of a licensed behavior analyst or licensed assistant behavior analyst. Such persons shall not represent themselves as behavior analysts or assistant behavior analysts and shall use titles that indicate their nonprofessional status,

including but not limited to "assistant behavior analyst technician", "behavior technician", "tutor", or "line therapist".

d. Behavior analysts who practice with nonhumans, including but not limited to applied animal behaviorists and animal trainers. Such individuals may use the title "behavior analyst" but shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such.

e. Professionals who provide general applied behavior analysis services to organizations, so long as those services are for the benefit of the organizations and do not involve direct services to individuals. Such professionals may use the title "behavior analyst" but shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such.

f. Students whose applied behavior analysis activities are conducted within a defined program of study, course, practicum, internship, or postdoctoral fellowship, provided that the applied behavior analysis activities are directly supervised by a behavior analyst licensed in this state, an instructor in a course sequence approved by a certifying entity, or another qualified faculty member of the student's program. Such students shall not present themselves as behavior analysts or assistant behavior analysts and shall use titles that clearly indicate their status, such as "student", "intern", or "trainee".

g. Unlicensed persons pursuing supervised experience in applied behavior analysis consistent with the experience requirements of a certifying entity, provided such experience is supervised in accordance with the requirements of the certifying entity.

h. Individuals who teach applied behavior analysis or conduct behavior-analytic research, provided that such teaching or research does not involve the direct delivery of applied behavior analysis services. Such individuals may use the title "behavior analyst" but shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such.

i. Behavior analysts licensed in another jurisdiction or certified by a certifying entity to practice independently and who work in this state no more than two thousand eighty hours within a calendar year.

j. Persons employed by a school, school district, or area education agency performing the duties of their positions. Such persons shall not represent themselves as licensed behavior analysts or licensed assistant behavior analysts unless they are licensed as such, and shall not offer applied behavior analysis services to any persons or entities other than their school employer or accept remuneration for providing applied behavior analysis services other than the remuneration they receive from their school employer.

91 Acts, ch 229, §9; 98 Acts, ch 1050, §3, 5; 2008 Acts, ch 1088, §68; 2018 Acts, ch 1106, §9, 14; 2019 Acts, ch 59, §52; 2021 Acts, ch 182, §59, 62

Subsection 2, paragraph b amended

154D.5 Sexual conduct with client.

The license of a behavior analyst, an assistant behavior analyst, a marital and family therapist, or a mental health counselor shall be revoked if the board finds that the licensee engaged in sexual activity with a client as determined by board rule. The revocation shall be in addition to any other penalties provided by law.

91 Acts, ch 229, §10; 2008 Acts, ch 1088, §69; 2018 Acts, ch 1106, §10, 14

154D.6 Transition provisions. Repealed by 2008 Acts, ch 1088, §79.

154D.7 Temporary license — marital and family therapy — mental health counseling — fees.

Any person who has fulfilled all of the requirements for licensure under section 154D.2, except for having completed the postgraduate supervised clinical experience requirement as determined by the board by rule, may apply to the board for a temporary license. The license shall be designated "temporary license in marital and family therapy" or "temporary license in mental health counseling" and shall authorize the licensee to practice marital and family therapy or mental health counseling under the supervision of a qualified supervisor

as determined by the board by rule. The license shall be valid for three years and may be renewed at the discretion of the board. The fee for a temporary license shall be set by the board to cover the administrative costs of issuing the license, and if renewed, a renewal fee as set by the board shall be required.

2008 Acts, ch 1088, §70; 2018 Acts, ch 1106, §11, 14
Referred to in §154D.1, 249A.15A, 514C.32

CHAPTER 154E

INTERPRETERS AND TRANSLITERATORS

Referred to in §147.74, 147.76, 272C.1

154E.1 Definitions.
154E.2 Duties of the board.
154E.3 Requirements for licensure.
154E.3A Temporary license.
154E.4 Exceptions.

154E.1 Definitions.

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

1. *"Board"* means the board of sign language interpreters and transliterators established in chapter 147.
2. *"Consumer"* means an individual utilizing interpreting services who uses spoken English, American sign language, or a manual form of English.
3. *"Department"* means the Iowa department of public health.
4. *"Interpreter training program"* means a postsecondary education program training individuals to interpret or transliterate.
5. *"Interpreting"* means facilitating communication between individuals who communicate via American sign language and individuals who communicate via spoken English.
6. *"Licensee"* means any person licensed to practice interpreting or transliterating for deaf, hard-of-hearing, and hearing individuals in the state of Iowa.
7. *"Transliterating"* means facilitating communication between individuals who communicate via a manual form of English and individuals who communicate via spoken English.

2004 Acts, ch 1175, §426, 433; 2007 Acts, ch 10, §150
Referred to in §147.14

154E.2 Duties of the board.

The board shall administer this chapter. The board's duties shall include, but are not limited to, the following:

1. Adopt rules consistent with this chapter and with chapter 147 which are necessary for the performance of its duties.
2. Act on matters concerning licensure and the process of applying for, granting, suspending, imposing supervisory or probationary conditions upon, reinstating, and revoking a license.
3. Administer the provisions of this chapter regarding documentation required to demonstrate competence as an interpreter, and the processing of applications for licenses and license renewals.
4. Establish and maintain as a matter of public record a registry of interpreters licensed pursuant to this chapter.
5. Develop continuing education requirements as a condition of license renewal.
6. Evaluate requirements for licensure in other states to determine if reciprocity may be granted.

2004 Acts, ch 1175, §427, 433; 2006 Acts, ch 1155, §12, 15

154E.3 Requirements for licensure.

On or after July 1, 2005, every person providing interpreting or transliterating services in this state shall be licensed pursuant to this chapter. The board shall adopt rules pursuant to chapters 17A, 147, and 272C establishing procedures for the licensing of new and existing interpreters. Prior to obtaining licensure, an applicant shall successfully pass an examination prescribed and approved by the board, demonstrating the following:

1. *Voice-to-sign interpretation.* An applicant shall demonstrate proficiency at:

a. Message equivalence: producing a true and accurate signed form of the spoken message, maintaining the integrity of content and meaning, and exhibiting few omissions, substitutions, or other errors.

b. Affect: producing nonmanual grammar consistent with the intent and emotion of the speaker, and exhibiting no distracting mannerisms.

c. Vocabulary choice: making correct sign choices appropriate to the setting and consumers, applying facial grammar consistent with sign choice, selecting signs that remain true to speaker's intent, and demonstrating lexical variety.

d. Fluency: displaying confidence in production, exhibiting a strong command of American sign language or manual codes for English, applying nonmanual behaviors consistent with the speaker's intent, and demonstrating understanding of and sensitivity to cultural differences.

2. *Sign-to-voice interpretation.* An applicant shall demonstrate proficiency at:

a. Message equivalence: producing a true and accurate spoken form of the signed message, maintaining the integrity of content and meaning, and exhibiting few omissions, substitutions, or other errors.

b. Affect: producing inflection consistent with the intent and emotion of the speaker, and exhibiting no distracting mannerisms.

c. Vocabulary choice: making correct word choices appropriate to the setting and consumers, using vocal inflection consistent with word choice, selecting words that remain true to the speaker's intent, and demonstrating lexical variety.

d. Fluency: displaying confidence in production, exhibiting a strong command of English in both spoken and written forms, applying vocal inflections consistent with the speaker's intent, and demonstrating understanding of and sensitivity to cultural differences.

3. *Professional conduct.* An applicant shall demonstrate:

a. Proficiency in functioning as a communicator of messages between the sender and receiver and educating consumers of services about the functions and logistics of the interpreting process.

b. An impartial demeanor, refraining from interjecting opinions or advice and from aligning with one party over another. An applicant shall treat all people fairly and respectfully regardless of their relationship to the interpreting assignment, and present a professional appearance that is not visually distracting and is appropriate to the setting. An applicant shall exhibit knowledge and application of federal and state laws pertaining to the interpreting profession.

c. Integrity, and shall be proficient in understanding and applying ethical behavior appropriate for a licensee. An applicant shall demonstrate discretion in accepting and meeting interpreter services requests, and shall engage actively in lifelong learning.

2004 Acts, ch 1175, §428, 433

Referred to in §154E.3A

154E.3A Temporary license.

Beginning July 1, 2007, an individual who does not meet the requirements for licensure by examination pursuant to section 154E.3 may apply for or renew a temporary license. The temporary license shall authorize the licensee to practice as a sign language interpreter or transliterator under the direct supervision of a sign language interpreter or transliterator licensed pursuant to section 154E.3. The temporary license shall be valid for two years and may only be renewed one time in accordance with standards established by rule. An individual shall not practice for more than a total of four years under a temporary license. The board may revoke a temporary license if it determines that the temporary licensee has

violated standards established by rule. The board may adopt requirements for temporary licensure to implement this section.

2006 Acts, ch 1184, §98

154E.4 Exceptions.

1. A person shall not practice interpreting or transliterating, or represent that the person is an interpreter, unless the person is licensed under this chapter.

2. This chapter does not prohibit any of the following:

a. Any person residing outside of the state of Iowa holding a current license from another state that meets the state of Iowa's requirements from providing interpreting or transliterating services in this state for up to fourteen days per calendar year without a license issued pursuant to this chapter.

b. Any person from interpreting or transliterating solely in a religious setting with the exception of those working in schools that receive government funding.

c. Volunteers working without compensation, including emergency situations, until a licensed interpreter is obtained.

d. Any person working as a substitute for a licensed interpreter in an early childhood, elementary, or secondary education setting for no more than thirty school days in a calendar year.

e. Students enrolled in a school of interpreting from interpreting only under the direct supervision of a permanently licensed interpreter as part of the student's course of study.

2004 Acts, ch 1175, §429, 433; 2006 Acts, ch 1184, §99; 2007 Acts, ch 22, §41

CHAPTER 154F

SPEECH PATHOLOGY AND AUDIOLOGY

Referred to in §85B.9, 135.24, 135.61, 147.76, 216E.7, 249A.15B, 514C.30

Enforcement, §147.87, 147.92
Penalty, §147.86
Payment for speech pathology services to medical assistance recipients, §249A.15B

154F.1	Definitions.	154F.4	Waiver of examination requirement.
154F.2	Applicability.	154F.5	Temporary clinical license — fee.
154F.3	Requirements for license.	154F.6	Temporary permit.

154F.1 Definitions.

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

1. *"Audiologist"* means a person who engages in the practice of audiology.

2. *"Board"* means the board of speech pathology and audiology established pursuant to section 147.14, subsection 1, paragraph *"i"*.

3. The *"practice of audiology"* means the application of principles, methods, and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination and use of appropriate amplification.

4. The *"practice of speech pathology"* means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, fluency, voice, or language for the purposes of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

5. *"Speech pathologist"* means a person who engages in the practice of speech pathology.
2008 Acts, ch 1088, §71

154F.2 Applicability.

1. Nothing contained in this chapter shall be construed to apply to:

a. Licensed physicians and surgeons, licensed osteopathic physicians and surgeons, licensed physician assistants and registered nurses acting under the supervision of a physician or osteopathic physician, persons conducting hearing tests under the direct supervision of a licensed physician and surgeon or licensed osteopathic physician and surgeon, or students of medicine or surgery or osteopathic medicine and surgery pursuing a course of study in a medical school or college of osteopathic medicine and surgery approved by the board of medicine while performing functions incidental to their course of study.

b. Hearing aid fitting, the dispensing or sale of hearing aids, and the providing of hearing aid service and maintenance by a hearing aid specialist or holder of a temporary permit as defined and licensed under chapter 154A.

c. Students enrolled in an accredited college or university pursuing a course of study leading to a degree in speech pathology or audiology while receiving clinical training as a part of the course of study and acting under the supervision of a licensed speech pathologist or audiologist provided they use the title "trainee" or similar title clearly indicating training status.

d. Nonprofessional aides who perform their services under the supervision of a speech pathologist or audiologist as appropriate and who meet such qualifications as may be established by the board for aides if they use the title "aide", "assistant", "technician", or other similar title clearly indicating their status.

e. Audiometric tests administered pursuant to the United States Occupational Safety and Health Act of 1970 or chapter 88, and in accordance with regulations issued thereunder, by employees of a person engaged in business, including the state of Iowa, its various departments, agencies, and political subdivisions, solely to employees of such employer, while acting within the scope of their employment.

f. Persons certified by the department of education as speech clinicians or hearing clinicians and employed by a school district or area education agency while acting within the scope of their employment.

2. A person exempted from the provisions of this chapter by this section shall not use the title "speech pathologist" or "audiologist" or any title or device indicating or representing in any manner that the person is a speech pathologist or is an audiologist; provided, a hearing aid specialist licensed under chapter 154A may use the title "certified hearing aid audiologist" when granted by the national hearing aid society; and provided, persons who meet the requirements of section 154F.3, subsection 1, who are certified by the department of education as speech clinicians may use the title "speech pathologist" and persons who meet the requirements of section 154F.3, subsection 2, who are certified by the department of education as hearing clinicians may use the title "audiologist", while acting within the scope of their employment.

2008 Acts, ch 1088, §72; 2009 Acts, ch 133, §61; 2015 Acts, ch 57, §14, 15

154F.3 Requirements for license.

Each applicant for a license as a speech pathologist or audiologist shall meet all of the following requirements:

1. For a license as a speech pathologist:

a. Possess a master's degree from an accredited school, college, or university with a major in speech pathology.

b. Show evidence of completion of not less than four hundred hours of supervised clinical training in speech pathology as a student in an accredited school, college, or university.

c. Show evidence of completion of not less than nine months' clinical experience under the supervision of a licensed speech pathologist following the receipt of the master's degree.

2. For a license as an audiologist:

a. Possess a master's degree from an accredited school, college, or university with a major in audiology.

b. Show evidence of completion of not less than four hundred hours of supervised clinical training in audiology as a student in an accredited school, college, or university.

c. Show evidence of completion of not less than nine months' clinical experience under the supervision of a licensed audiologist following the receipt of the master's degree.

d. In lieu of paragraphs "*a*" through "*c*", hold a doctoral degree in audiology from an accredited school, college, or university which incorporates the academic coursework and the minimum hours of supervised training required by rules adopted by the board.

3. Pass an examination as determined by the board in rule.

2008 Acts, ch 1088, §73
Referred to in §154F.2, 154F.4, 154F.5

154F.4 Waiver of examination requirement.

The examinations required in section 154F.3, subsection 3, may be waived by the board for holders by examination of licenses or certificates from states whose requirements are substantially equivalent to those of this chapter.

2008 Acts, ch 1088, §74

154F.5 Temporary clinical license — fee.

Any person who has fulfilled all of the requirements for licensure under this chapter, except for having completed the nine months' clinical experience requirement as provided in section 154F.3, subsection 1 or 2, may apply to the board for a temporary clinical license. The license shall be designated "temporary clinical license in speech pathology" or "temporary clinical license in audiology" and shall authorize the licensee to practice speech pathology or audiology under the supervision of a licensed speech pathologist or licensed audiologist, as appropriate. The license shall be valid for one year and may be renewed at the discretion of the board. The fee for a temporary clinical license shall be set by the board to cover the administrative costs of issuing the license, and if renewed, a renewal fee as set by the board shall be required. A temporary clinical license shall be issued only upon evidence satisfactory to the board that the applicant will be supervised by a person licensed as a speech pathologist or audiologist, as appropriate.

2008 Acts, ch 1088, §75

154F.6 Temporary permit.

The board may, at its discretion, issue a temporary permit to a nonresident authorizing the permittee to practice speech pathology or audiology in this state for a period not to exceed three months whenever, in the opinion of the board, a need exists and the permittee, in the opinion of the board, possesses the necessary qualifications which shall be substantially equivalent to those required for licensure by this chapter.

2008 Acts, ch 1088, §76

CHAPTER 154G

MUSIC THERAPY

Referred to in §147.76

154G.1 Definitions. 154G.2 Practice or use of title.

154G.1 Definitions.

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

1. "*Music therapist*" means a person who holds an active music therapist board-certified credential granted by the certification board for music therapists.

2. "*Music therapy*" means the clinical and evidence-based use of music interventions to

accomplish individualized goals for people of all ages and ability levels within a therapeutic relationship by a music therapist.

2021 Acts, ch 118, §1
NEW section

154G.2 Practice or use of title.

1. A person shall not profess to be a music therapist or board-certified music therapist or use the initials "MT-BC" or any other words, letters, abbreviations, or insignia indicating or implying that the person is a music therapist unless the person holds and maintains the music therapist board-certified credential granted by the certification board for music therapists.

2. This chapter does not prohibit a person from using music in the performance of the person's profession or occupation if the person does not represent that the person is a music therapist.

3. A person who recklessly, knowingly, or intentionally violates this section is guilty of a simple misdemeanor.

2021 Acts, ch 118, §2
NEW section

CHAPTER 155

NURSING HOME ADMINISTRATION

Referred to in §135.1, 135.11, 147.14, 147.76, 272C.1, 272C.3, 272C.4, 272C.6

Enforcement, §147.87, 147.92
Penalty, §147.86

155.1 Definitions.
155.2 Composition of board. Repealed by 2012 Acts, ch 1113, §9.
155.3 Qualifications for licensure.
155.4 Licensing function.
155.5 License fees.
155.6 Receipt of fees. Repealed by 2006 Acts, ch 1155, §13, 15.
155.7 Organization of board. Repealed by 2009 Acts, ch 56, §12.
155.8 Exclusive jurisdiction of board.
155.9 Duties of the board — rules for provisional licenses.
155.10 Continuing education.
155.11 Reciprocity with other states.
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155.13 Misdemeanor.
155.14 Applications.
155.15 Fees. Repealed by 2012 Acts, ch 1113, §9.
155.16 Public members. Repealed by 2012 Acts, ch 1113, §9.
155.17 Disclosure of confidential information. Repealed by 2009 Acts, ch 56, §12.
155.18 Revocation or suspension. Repealed by 2009 Acts, ch 56, §12.
155.19 Voluntary surrender.

155.1 Definitions.

For the purposes of this chapter:

1. *"Board"* means the board of nursing home administrators established in chapter 147.

2. *"Nursing home"* means an institution or facility, or part of an institution or facility, whether proprietary or nonprofit, licensed as a nursing facility, but not including an intermediate care facility for persons with an intellectual disability or an intermediate care facility for persons with mental illness, defined as such for licensing purposes under state law or administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing home owned or administered by the federal or state government or an agency or political subdivision of government.

3. *"Nursing home administrator"* means a person who administers, manages, supervises, or is in general administrative charge of a nursing home whether or not such individual has an ownership interest in such home and whether or not the individual's functions and duties are shared with one or more individuals. A member of a board of directors, unless also serving in a supervisory or managerial capacity, shall not be considered a nursing home administrator.

[C71, 73, 75, §147.118; C77, 79, 81, §135E.1]

83 Acts, ch 206, §8; 87 Acts, ch 194, §2; 90 Acts, ch 1039, §12; 90 Acts, ch 1204, §18
C93, §155.1
96 Acts, ch 1129, §113; 2007 Acts, ch 10, §151; 2012 Acts, ch 1019, §19; 2012 Acts, ch 1113, §1

155.2 Composition of board. Repealed by 2012 Acts, ch 1113, §9. See §147.12 – 147.14, 147.16, 147.19, 147.20.

155.3 Qualifications for licensure.
The board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:
1. The applicant is of sound mental health and physically able to perform the duties.
2. The applicant has presented evidence satisfactory to the board of sufficient education, training, or experience to administer, supervise, and manage a nursing home.
3. The applicant has passed an examination prescribed by the board pursuant to section 147.34.
[C71, 73, 75, §147.120; C77, 79, 81, §135E.3]
C93, §155.3
2012 Acts, ch 1113, §2

155.4 Licensing function.
The board shall license nursing home administrators in accordance with this chapter, chapter 147, and rules issued by the board. A nursing home administrator's license shall not be transferable and, if not inactive, shall be valid until revoked pursuant to section 147.55 or voluntarily surrendered.
[C71, 73, 75, §147.121; C77, 79, 81, §135E.4]
C93, §155.4
2003 Acts, ch 44, §114; 2012 Acts, ch 1113, §3

155.5 License fees.
Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board. The license shall expire in multiyear intervals determined by the board and be renewable upon payment of a renewal fee. A person who fails to renew a license by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty.
[C71, 73, 75, §147.122; C77, 79, 81, §135E.5]
C93, §155.5
2012 Acts, ch 1113, §4

155.6 Receipt of fees. Repealed by 2006 Acts, ch 1155, §13, 15.

155.7 Organization of board. Repealed by 2009 Acts, ch 56, §12.

155.8 Exclusive jurisdiction of board.
The board shall have authority to determine the qualifications, skill, and fitness of any person to serve as an administrator of a nursing home under the provisions of this chapter, and the holder of a license under the provisions of this chapter shall be deemed qualified to serve as the administrator of a nursing home.
[C71, 73, 75, §147.125; C77, 79, 81, §135E.8]
C93, §155.8

155.9 Duties of the board — rules for provisional licenses.
In addition to the duties and responsibilities provided in chapters 147 and 272C, the board shall adopt rules for granting a provisional license to an administrator appointed on a

temporary basis by a nursing home's owner or owners in the event the regular administrator of the nursing home is unable to perform the administrator's duties or the nursing home is without a licensed administrator because of death or other cause. Such provisional license shall allow the provisional licensee to perform the duties of a nursing home administrator. An individual shall not hold a provisional license for more than twelve total combined months, and the board may revoke or otherwise discipline a provisional licensee for cause after due notice and a hearing on a charge or complaint filed with the board.

[C71, 73, 75, §147.126; C77, 79, 81, §135E.9]
C93, §155.9
2004 Acts, ch 1168, §10; 2012 Acts, ch 1113, §5

155.10 Continuing education.

Each person licensed as a nursing home administrator shall be required to complete continuing education as a condition of license renewal. Such continuing education requirements shall be determined by the board.

[C71, 73, 75, §147.127; C77, 79, 81, §135E.10]
C93, §155.10
2012 Acts, ch 1113, §6

155.11 Reciprocity with other states.

The board may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction if reciprocal agreements are entered into with another jurisdiction under sections 147.44, 147.48, 147.49, and 147.53.

[C71, 73, 75, §147.128; C77, 79, 81, §135E.11]
C93, §155.11
2008 Acts, ch 1088, §109

155.12 Conflict with federal law — effect.

If any provision of this chapter is in conflict with the requirements of section 1908 of the United States Social Security Act codified at 42 U.S.C. §1396g, relative to a state program for licensing of administrators of nursing homes, and except for such conflict the state would be entitled to receive contributions from the United States for payment of assistance under the program established pursuant to Tit. XIX of the United States Social Security Act, codified at 42 U.S.C. §1396 – 1396g, such provision of this chapter so in conflict with said statute of the United States shall be considered as suspended and of no effect until sixty days after the convening of the next regular session of the general assembly after such conflict is discovered.

[C71, 73, 75, §147.129; C77, 79, 81, §135E.12]
C93, §155.12
2010 Acts, ch 1061, §31

155.13 Misdemeanor.

It shall be a serious misdemeanor for any person to act or serve in the capacity of a nursing home administrator unless the person is the holder of a license as a nursing home administrator issued in accordance with the provisions of this chapter.

[C71, 73, 75, §147.130; C77, 79, 81, §135E.13]
C93, §155.13

155.14 Applications.

Applications for licensure and for license renewal shall be in the format prescribed by the board.

[C75, §147.131; C77, 79, 81, §135E.14]
C93, §155.14
2012 Acts, ch 1113, §7

155.15 Fees. Repealed by 2012 Acts, ch 1113, §9. See §147.80.

155.16 Public members. Repealed by 2012 Acts, ch 1113, §9. See §147.21(1).

155.17 Disclosure of confidential information. Repealed by 2009 Acts, ch 56, §12.

155.18 Revocation or suspension. Repealed by 2009 Acts, ch 56, §12.

155.19 Voluntary surrender.
The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. The voluntary surrender, when accepted, shall have the same force and effect as an order of revocation.
2012 Acts, ch 1113, §8

CHAPTER 155A

PHARMACY

Referred to in §124B.6, 124B.11, 124E.9, 135.24, 135.61, 135.190, 135P.1, 147.76, 147.82, 147.108, 147.136A, 147A.18, 152.1, 166.3, 321J.2, 462A.12, 462A.14, 514.5, 714H.4

Licensing board and support staff;
location, meetings, and powers; see §135.11A – 135.12, 135.31

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155A.43 Pharmaceutical collection and disposal program — annual allocation.
155A.44 Vaccine and immunization administration. Repealed by 2020 Acts, ch 1103, §46.
155A.45 Reports — disclosure.
155A.46 Statewide protocols.
155A.47 Pilot or demonstration research projects.
155A.48 Collaborative pharmacy practice — agreements — payment.

155A.1 Short title.

This chapter may be cited as the *"Iowa Pharmacy Practice Act"*.

87 Acts, ch 215, §1

155A.2 Legislative declaration — purpose — exceptions.

1. It is the purpose of this chapter to promote, preserve, and protect the public health, safety, and welfare through the effective regulation of the practice of pharmacy and the licensing of pharmacies, pharmacists, and others engaged in the sale, delivery, or distribution of prescription drugs and devices or other classes of drugs or devices which may be authorized.

2. Practitioners licensed under a separate chapter of the Code are not regulated by this chapter except when engaged in the operation of a pharmacy for the retailing of prescription drugs.

3. A family planning clinic is not regulated by this chapter when engaged in the dispensing of birth control drugs and devices pursuant to section 147.107, subsection 7.

87 Acts, ch 215, §2; 2009 Acts, ch 69, §2

155A.2A Board of pharmacy — alternate members.

Notwithstanding sections 17A.11, 69.16, 69.16A, 147.12, 147.14, and 147.19, the board may have a pool of up to seven alternate members, including members licensed to practice under this chapter and members not licensed to practice under this chapter, to substitute for board members who are disqualified or become unavailable for any reason for contested case hearings.

1. The board may recommend, subject to approval by the governor, up to seven people to serve in a pool of alternate members.

2. A person serves in the pool of alternate members at the discretion of the board; however, the length of time an alternate member may serve in the pool shall not exceed nine years. A person who serves as an alternate member may later be appointed to the board and may serve nine years, in accordance with sections 147.12 and 147.19. A former board member may serve in the pool of alternate members.

3. An alternate member licensed under this chapter shall hold an active license and shall have been actively engaged in the practice of pharmacy in the preceding three years, with the two most recent years of practice being in Iowa.

4. When a sufficient number of board members are unavailable to hear a contested case, the board may request alternate members to serve.

5. Notwithstanding section 17A.11, section 147.14, subsection 2, and section 272C.6, subsection 5:

a. An alternate member is deemed a member of the board only for the hearing panel for which the alternate member serves.

b. A hearing panel containing alternate members must include at least five people.

c. The majority of a hearing panel containing alternate members shall be members of the board.

d. The majority of a hearing panel containing alternate members shall be licensed to practice under this chapter.

e. A decision of a hearing panel containing alternate members is considered a final decision of the board.

f. An alternate member shall not receive compensation in excess of that authorized by law for a board member.

2017 Acts, ch 93, §1

155A.3 Definitions.

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

1. *"Administer"* means the direct application of a prescription drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by one of the following:

a. A practitioner or the practitioner's authorized agent.

b. The patient or research subject at the direction of a practitioner.

2. *"Authorized agent"* means an individual designated by a practitioner who is under the supervision of the practitioner and for whom the practitioner assumes legal responsibility.

3. *"Biological product"* means the same as defined in 42 U.S.C. §262.

4. *"Board"* means the board of pharmacy.

5. *"Brand name"* or *"trade name"* means the registered trademark name given to a drug product or ingredient by its manufacturer, labeler, or distributor.

6. *"College of pharmacy"* means a school, university, or college of pharmacy that satisfies the accreditation standards of the accreditation council for pharmacy education to the extent those standards are adopted by the board, or that has degree requirements which meet the standards of accreditation adopted by the board.

7. *"Controlled substance"* means a drug substance, immediate precursor, or other substance listed in subchapter II of chapter 124.

8. *"Controlled substances Act"* means chapter 124.

9. *"Deliver"* or *"delivery"* means the actual, constructive, or attempted transfer of a prescription drug or device or controlled substance from one person to another, whether or not for a consideration.

10. *"Demonstrated bioavailability"* means the rate and extent of absorption of a drug or drug ingredient from a specified dosage form, as reflected by the time-concentration curve of the drug or drug ingredient in the systemic circulation.

11. *"Device"* means a medical device, as classified by the United States food and drug administration, intended for use by a patient that is required by the United States food and drug administration to be ordered or prescribed for a patient by a practitioner.

12. *"Dispense"* means to deliver a prescription drug, device, or controlled substance to an ultimate user or research subject by or pursuant to the lawful prescription drug order or medication order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

13. *"Distribute"* means the delivery of a prescription drug or device.

14. *"Drug product selection"* means the act of selecting the source of supply of a drug product.

15. *"Drug sample"* means a drug that is distributed without consideration to a pharmacist or practitioner.

16. *"Electronic order"* or *"electronic prescription"* means an order or prescription which is transmitted by a computer device in a secure manner, including computer-to-computer transmission and computer-to-facsimile transmission.

17. *"Electronic signature"* means a confidential personalized digital key, code, or number used for secure electronic transmissions which identifies and authenticates the signatory.

18. *"Facsimile order"* or *"facsimile prescription"* means an order or prescription which is transmitted by a device which sends an exact image to the receiver.

19. *"Generic name"* means the official title of a drug or drug ingredient published in the current official United States Pharmacopoeia and National Formulary, official Homeopathic Pharmacopoeia, or other drug compendium published by the United States pharmacopoeial convention or any supplement to any of them.

20. *"Interchangeable biological product"* means either of the following:

a. A biological product that the United States food and drug administration has licensed and has determined meets the standards for interchangeability pursuant to 42 U.S.C. §262(k)(4).

b. A biological product that the United States food and drug administration has determined to be therapeutically equivalent to another biological product as set forth in the

latest edition or supplement of the United States food and drug administration approved drug products with therapeutic equivalence evaluations publication.

21. *"Internship"* means a practical experience program approved by the board for persons training to become pharmacists.

22. *"Label"* means written, printed, or graphic matter on the immediate container of a drug or device.

23. *"Labeling"* means the process of preparing and affixing a label including information required by federal or state law or regulation to a drug or device container. The term does not include the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged prescription drug or device or unit dose packaging.

24. *"Limited distributor"* means a person operating or maintaining a location, regardless of the location, where prescription drugs or devices are distributed at wholesale or to a patient pursuant to a prescription drug order, who is not eligible for a wholesale distributor license or pharmacy license.

25. *"Managing pharmacy"* means a licensed pharmacy that oversees the activities of a telepharmacy site.

26. *"Manufacturer"* means manufacturer as defined by the federal Drug Supply Chain Security Act, 21 U.S.C. §360eee et seq.

27. *"Medical convenience kit"* means a collection of devices, which may include a product or biological product, assembled in kit form strictly for the convenience of the purchaser or ultimate user.

28. *"Medical gas"* means a gas or liquid oxygen intended for human consumption.

29. *"Medication order"* means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent for administration of a drug or device.

30. *"Pedigree"* means a recording of each distribution of any given drug or device, from the sale by the manufacturer through acquisition and sale by any wholesaler, pursuant to rules adopted by the board.

31. *"Pharmacist"* means a person licensed by the board to practice pharmacy.

32. *"Pharmacist in charge"* means the pharmacist designated on a pharmacy license as the pharmacist who has the authority and responsibility for the pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

33. *"Pharmacist-intern"* means an undergraduate student enrolled in the professional sequence of a college of pharmacy approved by the board, or a graduate of a college of pharmacy, who is participating in a board-approved internship under the supervision of a preceptor.

34. *"Pharmacy"* means a location where prescription drugs are compounded, dispensed, or sold by a pharmacist and where prescription drug orders are received or processed in accordance with the pharmacy laws.

35. *"Pharmacy license"* means a license issued to a pharmacy or other place where prescription drugs or devices are dispensed to the general public pursuant to a prescription drug order.

36. *"Pharmacy support person"* means a person, other than a licensed pharmacist, a registered pharmacist-intern, or a registered pharmacy technician, who may perform nontechnical duties assigned by a supervising pharmacist under the pharmacist's responsibility and supervision.

37. *"Pharmacy technician"* means a person registered by the board who is in a technician training program or who is employed by a pharmacy under the responsibility of a licensed pharmacist to assist in the technical functions of the practice of pharmacy.

38. *"Practice of pharmacy"* is a dynamic patient-oriented health service profession that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and related drug therapy.

39. *"Practitioner"* means a physician, dentist, podiatric physician, prescribing psychologist, veterinarian, optometrist, physician assistant, advanced registered nurse practitioner, or other person licensed or registered to prescribe, distribute, or dispense a prescription drug or device in the course of professional practice in this state or a person

licensed by another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

40. *"Preceptor"* means a pharmacist in good standing licensed in this state to practice pharmacy and approved by the board to supervise and be responsible for the activities and functions of a pharmacist-intern in the internship program.

41. *"Prescription drug"* or *"drug"* means a drug, as classified by the United States food and drug administration, that is required by the United States food and drug administration to be prescribed or administered to a patient by a practitioner prior to dispensation.

42. *"Prescription drug order"* means a written, electronic, or facsimile order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent who communicates the practitioner's instructions for a prescription drug or device to be dispensed.

43. *"Product"* means the same as defined in 21 U.S.C. §360eee.

44. *"Proprietary medicine"* or *"over-the-counter medicine"* means a nonnarcotic drug or device that may be sold without a prescription and that is labeled and packaged in compliance with applicable state or federal law.

45. *"Repackager"* means a person who owns or operates an establishment that repackages or relabels a product or package for further sale or for distribution without a further transaction.

46. *"Statewide protocol"* means a framework developed and issued by the board that specifies the conditions under which pharmacists are authorized to order and administer a medication or category of medications when providing a clinical service.

47. *"Technician product verification"* means the process by which a certified pharmacy technician provides the final product verification for prescription drugs or devices filled or prepared by a registered pharmacy technician, pharmacist-intern, or with an automated dispensing system.

48. *"Telepharmacy"* means the practice of pharmacy via telecommunications as provided by the board by rule.

49. *"Telepharmacy site"* means a licensed pharmacy that is operated by a managing pharmacy and staffed by one or more qualified certified pharmacy technicians where pharmaceutical care services, including the storage and dispensing of prescription drugs, drug regimen review, and patient counseling, are provided by a licensed pharmacist through the use of technology.

50. *"Third-party logistics provider"* means an entity that provides or coordinates warehousing or other logistics services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of a product, but does not take ownership of the product nor have responsibility to direct the sale or other disposition of the product.

51. *"Ultimate user"* means a person who has lawfully obtained and possesses a prescription drug or device for the person's own use or for the use of a member of the person's household or for administering to an animal owned by the person or by a member of the person's household.

52. *"Unit dose packaging"* means the packaging of individual doses of a drug in containers which preserve the identity and integrity of the drug from the point of packaging to administration and which are properly labeled pursuant to rules of the board.

53. *"Wholesale distribution"* means the distribution of a drug to a person other than a consumer or patient, or the receipt of a drug by a person other than a consumer or patient, but does not include any of the following:

a. Intracompany distribution of any drug between members of an affiliate, as defined in 21 U.S.C. §360eee, or within a manufacturer.

b. The distribution of a drug, or an offer to distribute a drug among hospitals or other health care entities under common control.

c. The distribution of a drug or an offer to distribute a drug for emergency medical reasons, including a public health emergency declaration as defined in 42 U.S.C. §247d, except that for purposes of this paragraph a drug shortage not caused by a public health emergency shall not constitute an emergency medical reason.

d. The dispensing of a drug pursuant to a prescription drug order.

e. The distribution of minimal quantities of a drug by a pharmacy to a practitioner for office use.

f. The distribution of a drug or an offer to distribute a drug by a charitable organization to an affiliate, as defined in 21 U.S.C. §360eee, of the organization that is a nonprofit, to the extent otherwise permitted by law.

g. The purchase or other acquisition of a drug by a dispenser, as defined in 21 U.S.C. §360eee, hospital, or other health care entity for use by such dispenser, hospital, or other health care entity.

h. The distribution of a drug by the manufacturer of such drug.

i. The receipt or transfer of a drug by a third-party logistics provider, provided that such third-party logistics provider does not take ownership of the drug.

j. A common carrier that transports a drug, provided that the common carrier does not take ownership of the drug.

k. The distribution of a drug or an offer to distribute a drug by a repackager that has taken ownership or possession of the drug and repackages it.

l. The return of a saleable product when conducted by a dispenser.

m. The distribution of a medical convenience kit under any of the following circumstances:

(1) The medical convenience kit is assembled in an establishment registered with the United States food and drug administration as a device manufacturer.

(2) The medical convenience kit does not contain a controlled substance.

(3) In the case of a medical convenience kit that includes a product, the person that manufacturers the kit does all of the following:

(a) Purchases the product directly from a pharmaceutical manufacturer or from a wholesale distributor that purchased the product directly from the pharmaceutical manufacturer.

(b) Does not alter the primary container or label of the product as purchased from the manufacturer or wholesale distributor.

(4) In the case of a medical convenience kit that includes a product, the product is any of the following:

(a) An intravenous solution intended for the replenishment of fluids and electrolytes.

(b) Intended to maintain the equilibrium of water and minerals in the body.

(c) Intended for irrigation or reconstitution.

(d) An anesthetic.

(e) An anticoagulant.

(f) A vasopressor.

(g) A sympathomimetic.

n. The distribution of an intravenous drug that by its formulation is intended for the replenishment of fluids and electrolytes such as sodium, chloride, and potassium, or calories such as dextrose and amino acids.

o. The distribution of an intravenous drug used to maintain the equilibrium of water and minerals in the body such as a dialysis solution.

p. The distribution of a drug intended for irrigation or sterile water intended for irrigation or for injection.

q. The distribution of a medical gas.

r. The facilitation of the distribution of a product by providing administrative services, including the processing of orders and payments.

s. The transfer of a product by a hospital or other health care entity, or by a wholesale distributor or manufacturer operating at the direction of the hospital or other health care entity, to a repackager for the purpose of repackaging the product for use by that hospital or other health care entity under common control, if the ownership of the product remains with the hospital or other health care entity at all times.

54. "*Wholesale distributor*" means a person, other than a manufacturer, a manufacturer's

co-licensed partner, a third-party logistics provider, or repackager, engaged in the wholesale distribution of a drug.

87 Acts, ch 215, §3; 88 Acts, ch 1232, §2; 95 Acts, ch 108, §13; 96 Acts, ch 1070, §1; 2002 Acts, ch 1108, §24; 2004 Acts, ch 1036, §11, 12; 2004 Acts, ch 1167, §9; 2005 Acts, ch 179, §172 – 177; 2007 Acts, ch 10, §153; 2007 Acts, ch 19, §1, 2; 2008 Acts, ch 1016, §2; 2016 Acts, ch 1093, §2; 2016 Acts, ch 1112, §13; 2017 Acts, ch 5, §1; 2017 Acts, ch 93, §2; 2018 Acts, ch 1141, §2 – 9; 2018 Acts, ch 1142, §2; 2021 Acts, ch 68, §2, 3

Referred to in §124.308, 124B.1, 124B.6, 135M.2, 147.107, 155A.47, 321J.2, 423.3, 462A.14, 510B.1, 510B.10, 514L.1, 716A.3
NEW subsection 36 and former subsections 36 – 44 renumbered as 37 – 45
Former subsection 46 stricken and former subsection 45 renumbered as 46

155A.4 Prohibition against unlicensed persons dispensing or distributing prescription drugs — exceptions.

1. A person shall not dispense prescription drugs unless that person is a licensed pharmacist or is authorized by section 147.107 to dispense or distribute prescription drugs.

2. Notwithstanding subsection 1, it is not unlawful for:

a. A limited distributor, third-party logistics provider, or wholesale distributor to distribute prescription drugs or devices as provided by state or federal law.

b. A practitioner, licensed by the appropriate state board, to dispense prescription drugs to patients as incident to the practice of the profession, except with respect to the operation of a pharmacy for the retailing of prescription drugs.

c. A practitioner, licensed by the appropriate state board, to administer drugs to patients. This chapter does not prevent a practitioner from delegating the administration of a prescription drug to a nurse, intern, or other qualified individual or, in the case of a veterinarian, to an orderly or assistant, under the practitioner's direction and supervision.

d. A person to sell at retail a proprietary medicine, an insecticide, a fungicide, or a chemical used in the arts, if properly labeled.

e. A person to procure prescription drugs for lawful research, teaching, or testing and not for resale.

f. A pharmacy to distribute a prescription drug to another pharmacy or to a practitioner.

g. A qualified individual authorized to administer prescription drugs and employed by a home health agency or hospice to obtain, possess, and transport emergency prescription drugs as provided by state or federal law or by rules of the board.

87 Acts, ch 215, §4; 97 Acts, ch 39, §1; 2005 Acts, ch 179, §178; 2007 Acts, ch 19, §3; 2018 Acts, ch 1141, §10, 11

155A.5 Injunction.

Notwithstanding the existence or pursuit of any other remedy the board may, in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person to restrain or prevent the establishment, conduct, management, or operation of a pharmacy, limited distributor, third-party logistics provider, or wholesale distributor without a license, or to prevent the violation of provisions of this chapter. Upon request of the board, the attorney general shall institute the proper proceedings and the county attorney, at the request of the attorney general, shall appear and prosecute the action when brought in the county attorney's county.

87 Acts, ch 215, §5; 2018 Acts, ch 1141, §12

155A.6 Pharmacist internship program.

1. A program of pharmacist internships is established. Each internship is subject to approval by the board.

2. A person desiring to be a pharmacist-intern in this state shall apply to the board for registration. The application must be on a form prescribed by the board. A pharmacist-intern shall be registered during internship training and thereafter pursuant to rules adopted by the board.

3. The board shall establish standards for pharmacist-intern registration and may deny, suspend, or revoke a pharmacist-intern registration for failure to meet the standards or for any violation of the laws of this state, another state, or the United States relating to

prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124B, 126, 147, or 205, or any rule of the board.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacist-intern registration standards, registration fees, conditions of registration, termination of registration, and approval of preceptors.

87 Acts, ch 215, §6; 96 Acts, ch 1070, §2, 3; 2007 Acts, ch 20, §1; 2017 Acts, ch 145, §17

155A.6A Pharmacy technician registration.

1. A registration program for pharmacy technicians is established for the purpose of establishing technician competency and for the purposes of identification, tracking, and disciplinary action for the violation of federal drug laws or regulations, state drug or pharmacy laws, or board rules. The ultimate responsibility for the actions of a pharmacy technician working under a licensed pharmacist's supervision shall remain with the licensed pharmacist.

2. A person who is or desires to be a pharmacy technician in this state shall apply to the board for registration. The application shall be submitted on a form prescribed by the board. A pharmacy technician must be registered pursuant to rules adopted by the board. Except as provided in subsection 3, all applicants for a new pharmacy technician registration or for a pharmacy technician renewal shall provide proof of current certification by a national technician certification authority approved by the board. Notwithstanding section 272C.2, subsection 1, a pharmacy technician registration shall not require continuing education for renewal.

3. A person who is in the process of acquiring national certification as a pharmacy technician and who is in training to become a pharmacy technician shall register with the board as a pharmacy technician.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy technician registration, application, forms, renewals, fees, termination of registration, technician product verification programs, national certification, training, and any other relevant matters.

5. The board may deny, suspend, or revoke the registration of, or otherwise discipline, a registered pharmacy technician for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124B, 126, 147, 205, or 272C, or any rule of the board.

2007 Acts, ch 20, §2; 2008 Acts, ch 1016, §3; 2010 Acts, ch 1193, §112, 137, 138; 2017 Acts, ch 29, §45; 2017 Acts, ch 145, §18; 2018 Acts, ch 1026, §55, 56, 182; 2018 Acts, ch 1142, §3; 2021 Acts, ch 68, §4

Subsections 3 and 4 amended

155A.6B Pharmacy support person registration.

1. The board shall establish a registration program for pharmacy support persons who work in a licensed pharmacy and who are not licensed pharmacists or registered pharmacy technicians for the purposes of identification, tracking, and disciplinary action for the violation of federal drug laws or regulations, state drug or pharmacy laws, or board rules. The registration shall not include any determination of the competency of the registered individual and, notwithstanding section 272C.2, subsection 1, shall not require continuing education for renewal.

2. A person registered with the board as a pharmacy support person may assist pharmacists by performing routine clerical and support functions. Such a person shall not perform any professional duties or any technical or dispensing duties. The ultimate responsibility for the actions of a pharmacy support person working under a licensed pharmacist's supervision shall remain with the licensed pharmacist.

3. Applicants for registration must apply to the board for registration on a form prescribed by the board.

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy support persons, and pharmacy support person exemptions, registration,

application, renewals, fees, termination of registration, training, and any other relevant matters.

5. The board may deny, suspend, or revoke the registration of a pharmacy support person or otherwise discipline the pharmacy support person for any violation of the laws of this state, another state, or the United States relating to prescription drugs, controlled substances, or nonprescription drugs, or for any violation of this chapter or chapter 124, 124B, 126, 147, 205, or 272C, or any rule of the board.

2009 Acts, ch 69, §3; 2017 Acts, ch 145, §19

155A.7 Pharmacist license.

A person shall not engage in the practice of pharmacy in this state without a license. The license shall be identified as a pharmacist license.

87 Acts, ch 215, §7

155A.8 Requirements for pharmacist license.

To qualify for a pharmacist license, an applicant shall meet the following requirements:

1. Be a graduate of a school or college of pharmacy or of a department of pharmacy of a university recognized and approved by the board.
2. File proof, satisfactory to the board, of internship for a period of time fixed by the board.
3. Pass an examination prescribed by the board.

87 Acts, ch 215, §8

Referred to in §155A.9, 155A.12

155A.9 Approved colleges — graduates of foreign colleges.

1. A college of pharmacy shall not be approved by the board unless the college is accredited by the accreditation council for pharmacy education.

2. An applicant who is a graduate of a school or college of pharmacy located outside the United States but who is otherwise qualified to apply for a pharmacist license in this state may be deemed to have satisfied the requirements of section 155A.8, subsection 1, by verification to the board of the applicant's academic record and graduation and by meeting other requirements established by rule of the board. The board may require the applicant to pass an examination or examinations given or approved by the board to establish proficiency in English and equivalency of education as a prerequisite for taking the licensure examination required in section 155A.8, subsection 3.

87 Acts, ch 215, §9; 2007 Acts, ch 19, §4

155A.10 Display of pharmacist license.

A pharmacist shall publicly display the license to practice pharmacy and the license renewal certificate pursuant to rules adopted by the board.

87 Acts, ch 215, §10

155A.11 Renewal of pharmacist license.

The board shall specify by rule the procedures to be followed and the fee to be paid for a renewal certificate, and penalties for late renewal or failure to renew a pharmacist license.

87 Acts, ch 215, §11

155A.12 Pharmacist license — grounds for discipline.

The board shall refuse to issue a pharmacist license for failure to meet the requirements of section 155A.8. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

1. Violated any provision of this chapter or any rules of the board adopted under this chapter.
2. Engaged in unethical conduct as that term is defined by rules of the board.
3. Violated any of the provisions for licensee discipline set forth in section 147.55.
4. Failed to keep and maintain records required by this chapter or failed to keep and

maintain complete and accurate records of purchases and disposal of drugs listed in the controlled substances Act.

5. Violated any provision of the controlled substances Act or rules relating to that Act.

6. Aided or abetted an unlicensed individual to engage in the practice of pharmacy.

7. Refused an entry into any pharmacy for any inspection authorized by this chapter.

8. Violated the pharmacy or drug laws or rules of any other state of the United States while under the other state's jurisdiction.

9. Been convicted of an offense or subjected to a penalty or fine for violation of chapter 124, 126, 147, or the Federal Food, Drug, and Cosmetic Act. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, is deemed to be a conviction within the meaning of this section.

10. Had a license to practice pharmacy issued by another state canceled, revoked, or suspended for conduct substantially equivalent to conduct described in subsections 1 through 9. A certified copy of the record of the state taking action as set out above shall be conclusive evidence of the action taken by such state.

87 Acts, ch 215, §12; 89 Acts, ch 197, §23

Referred to in §155A.16

155A.13 Pharmacy license.

1. A person shall not establish, conduct, or maintain a pharmacy in this state without a license. The license shall be identified as a pharmacy license. A pharmacy license issued pursuant to subsection 4 may be further identified as a hospital pharmacy license.

2. The board shall specify by rule the licensing procedures to be followed, including specifications of forms for use in applying for a pharmacy license and fees for filing an application.

3. *a.* The board may issue a special or limited-use pharmacy license based upon special conditions of use imposed pursuant to rules adopted by the board for cases in which the board determines that certain requirements may be waived.

b. The board shall adopt rules for the issuance of a special or limited-use pharmacy license to a telepharmacy site. The rules shall address:

(1) Requirements for establishment and operation of a telepharmacy site, including but not limited to physical requirements and required policies and procedures.

(2) Requirements for being a managing pharmacy.

(3) Requirements governing operating agreements between telepharmacy sites and managing pharmacies.

(4) Training and experience required for certified pharmacy technicians working at a telepharmacy site.

(5) Requirements for a pharmacist providing services to and supervising a telepharmacy site.

(6) Any other health and safety concerns associated with a telepharmacy site.

c. The board shall not issue a special or limited-use pharmacy license to a proposed telepharmacy site if a licensed pharmacy that dispenses prescription drugs to outpatients is located within ten miles by the shortest driving distance of the proposed telepharmacy site unless the proposed telepharmacy site is located on property owned, operated, or leased by the state or unless the proposed telepharmacy site is located within a hospital campus and is limited to inpatient dispensing. The mileage requirement does not apply to a telepharmacy site that has been approved by the board and is operating as a telepharmacy prior to July 1, 2016.

d. An applicant seeking a special or limited-use pharmacy license for a proposed telepharmacy site that does not meet the mileage requirement established in paragraph "c" and is not statutorily exempt from the mileage requirement may apply to the board for a waiver of the mileage requirement. A waiver request shall only be granted if the applicant can demonstrate to the board that the proposed telepharmacy site is located in an area where there is limited access to pharmacy services and can establish the existence of compelling circumstances that justify waiving the mileage requirement. The board's decision to grant or deny a waiver request shall be a proposed decision subject to mandatory review by the

director of public health. The director shall review a proposed decision and shall have the power to approve, modify, or veto a proposed decision. The director's decision on a waiver request shall be considered final agency action subject to judicial review under chapter 17A.

e. The board shall issue a special or limited-use pharmacy license to a telepharmacy site that meets the minimum requirements established by the board by rule.

4. *a.* The board shall adopt rules for the issuance of a hospital pharmacy license to a hospital which provides pharmacy services for its own use. The rules shall:

(1) Recognize the special needs and circumstances of hospital pharmacies.

(2) Give due consideration to the scope of pharmacy services that the hospital's medical staff and governing board elect to provide for the hospital's own use.

(3) Consider the size, location, personnel, and financial needs of the hospital.

(4) Give recognition to the standards of the joint commission on the accreditation of health care organizations and the American osteopathic association and to the conditions of participation under Medicare.

b. To the maximum extent possible, the board shall coordinate the rules with the standards and conditions described in paragraph "*a*", subparagraph (4), and shall coordinate its inspections of hospital pharmacies with the Medicare surveys of the department of inspections and appeals and with the board's inspections with respect to controlled substances conducted under contract with the federal government.

c. A hospital which provides pharmacy services by contracting with a licensed pharmacy is not required to obtain a hospital pharmacy license or a general pharmacy license.

5. A hospital which elects to operate a pharmacy for other than its own use is subject to the requirements for a general pharmacy license. If the hospital's pharmacy services for other than its own use are special or limited, the board may issue a special or limited-use pharmacy license pursuant to subsection 3.

6. To qualify for a pharmacy license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board. The application shall include the following and such other information as required by rules of the board and shall be given under oath:

a. Ownership.

b. Location.

c. The license number of each pharmacist employed by the pharmacy at the time of application.

d. The trade or corporate name of the pharmacy.

e. The name of the pharmacist in charge, who has the authority and responsibility for the pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

7. A person who falsely makes the affidavit prescribed in subsection 6 is subject to all penalties prescribed for making a false affidavit.

8. A pharmacy license issued by the board under this chapter shall be issued in the name of the pharmacist in charge and is not transferable or assignable.

9. The board shall specify by rule minimum standards for professional responsibility in the conduct of a pharmacy.

10. A separate license is required for each principal place of practice.

11. The license of the pharmacy shall be displayed.

87 Acts, ch 215, §13; 98 Acts, ch 1100, §20; 2005 Acts, ch 179, §179; 2009 Acts, ch 41, §195; 2016 Acts, ch 1093, §3; 2016 Acts, ch 1138, §22

Referred to in §155A.15

155A.13A Nonresident pharmacy license — required, renewal, discipline.

1. *License required.* A pharmacy located outside of this state that delivers, dispenses, or distributes by any method, prescription drugs or devices to an ultimate user in this state shall obtain a nonresident pharmacy license from the board. The board shall make available an application form for a nonresident pharmacy license and shall require such information it deems necessary to fulfill the purposes of this section. A nonresident pharmacy shall do all of the following in order to obtain a nonresident pharmacy license from the board:

a. Submit a completed application form and an application fee as determined by the board.

b. Submit evidence of possession of a valid pharmacy license, permit, or registration issued by the home state licensing authority.

c. (1) Submit an inspection report that satisfies all of the following requirements:

(a) Less than two years have passed since the date of inspection.

(b) The inspection occurred while the pharmacy was in operation. An inspection prior to the initial opening of the pharmacy shall not satisfy this requirement.

(c) The inspection report addresses all aspects of the pharmacy's business that will be utilized in Iowa.

(d) The inspection was performed by or on behalf of the home state licensing authority, if available.

(e) The inspection report is the most recent report available that satisfies the requirements of this paragraph "*c*".

(2) If the home state licensing authority has not conducted an inspection satisfying the requirements of this paragraph "*c*", the pharmacy may submit an inspection report from the national association of boards of pharmacy's verified pharmacy program, or the pharmacy may submit an inspection report from another qualified entity if preapproved by the board, if the inspection report satisfies all of the other requirements of this paragraph "*c*".

(3) The board may recover from a nonresident pharmacy, prior to the issuance of a license or renewal, the costs associated with conducting an inspection by or on behalf of the board for purposes of satisfying the requirement in subparagraph (1), subparagraph division (d). In addition, the nonresident pharmacy shall submit evidence of corrective actions for all deficiencies noted in the inspection report and shall submit evidence of compliance with all legal directives of the home state regulatory or licensing authority.

d. Submit evidence that the nonresident pharmacy maintains records of the controlled substances delivered, dispensed, or distributed to ultimate users in this state.

e. Submit evidence that the nonresident pharmacy provides a toll-free telephone service, the telephone number of which is printed on the label affixed to each prescription dispensed or distributed in Iowa, that allows patients to speak with a pharmacist who has access to patient records at least six days per week for a total of at least forty hours.

2. *Pharmacist license requirement.* The pharmacist who is the pharmacist in charge of the nonresident pharmacy shall be designated as such on the nonresident pharmacy license application or renewal. Any change in the pharmacist in charge shall be reported to the board within ten days of the change. The pharmacist in charge must be registered, not licensed, according to rules established by the board of pharmacy.

3. *License renewal.* A nonresident pharmacy shall renew its license on or before January 1 annually. In order to renew a nonresident pharmacy license, a nonresident pharmacy shall submit a completed application and fee as determined by the board, and shall fulfill all of the requirements of subsection 1. A nonresident pharmacy shall pay an additional fee for late renewal as determined by the board.

4. *License denial.* The board shall refuse to issue a nonresident pharmacy license for failure to meet the requirements of subsection 1. The board may refuse to issue or renew a license for any grounds under which the board may impose discipline. License or renewal denials shall be considered contested cases governed by chapter 17A.

5. *Discipline.* The board may fine, suspend, revoke, or impose other disciplinary sanctions on a nonresident pharmacy license for any of the following:

a. Any violation of the federal Food, Drug, and Cosmetic Act or federal regulations promulgated under the Act. A warning letter issued by the United States food and drug administration shall be conclusive evidence of a violation.

b. Any conviction of a crime related to prescription drugs or the practice of pharmacy committed by the nonresident pharmacy, pharmacist in charge, or individual owner, or if the pharmacy is an association, joint stock company, partnership, or corporation, by any managing officer.

c. Refusing access to the pharmacy or pharmacy records to an agent of the board for the purpose of conducting an inspection or investigation.

d. Any violation of this chapter or chapter 124, 124B, 126, or 205, or rule of the board.

91 Acts, ch 233, §1; 94 Acts, ch 1009, §18; 2016 Acts, ch 1093, §4; 2017 Acts, ch 145, §20

155A.13B Pharmacy internet sites. Repealed by 2017 Acts, ch 93, §5.

155A.13C Outsourcing facility license — renewal, cancellation, denial, discipline.

1. *License required.* Any compounding facility that is registered as an outsourcing facility, as defined in 21 U.S.C. §353b, that distributes sterile compounded human drug products without a patient-specific prescription to an authorized agent or practitioner in this state shall obtain an outsourcing facility license from the board prior to engaging in such distribution. If an outsourcing facility dispenses prescription drugs pursuant to patient-specific prescriptions to patients in Iowa, the outsourcing facility shall obtain and maintain a valid Iowa pharmacy license or Iowa nonresident pharmacy license under this chapter. The board shall make available an application form for an outsourcing facility license and shall require such information it deems necessary to fulfill the purposes of this section. An outsourcing facility shall do all of the following in order to obtain an outsourcing facility license from the board:

a. Submit a completed application form and application fee as determined by the board.

b. Submit evidence of possession of a valid registration as an outsourcing facility with the United States food and drug administration.

c. If one or more inspections have been conducted by the United States food and drug administration in the five-year period immediately preceding the application, submit a copy of any correspondence from the United States food and drug administration as a result of the inspection, including but not limited to any form 483s, warning letters, or formal responses, and all correspondence from the applicant to the United States food and drug administration related to such inspections, including but not limited to formal responses and corrective action plans. In addition, the applicant shall submit evidence of correction of all deficiencies discovered in such inspections and evidence of compliance with all directives from the United States food and drug administration.

d. Submit evidence that the supervising pharmacist, as described in 21 U.S.C. §353b(a), holds a valid pharmacist license in the state in which the facility is located and that such license is in good standing.

e. Submit evidence of a satisfactory inspection conducted by the home state regulatory authority or an entity approved by the board in the two-year period immediately preceding the application which demonstrates compliance with current good manufacturing practices. In addition, the applicant shall submit evidence of correction of all deficiencies discovered in such inspections and evidence of compliance with all directives from the home state regulatory authority or entity approved by the board. The board may recover from an outsourcing facility, prior to the issuance of a license or license renewal, the costs associated with conducting an inspection by or on behalf of the board for purposes of satisfying the requirements of this paragraph.

2. *License renewal.* An outsourcing facility shall renew its license on or before January 1 annually. In order to renew an outsourcing facility license, an outsourcing facility shall submit a completed application and fee as determined by the board, and shall fulfill all of the requirements of subsection 1. An outsourcing facility shall pay an additional fee for late renewal as determined by the board.

3. *License cancellation.* If a facility ceases to be registered as an outsourcing facility with the United States food and drug administration, the facility shall notify the board in writing and shall surrender its Iowa outsourcing facility license to the board within thirty days of such occurrence. Upon receipt, the board shall administratively cancel the outsourcing facility license.

4. *License denial.* The board shall refuse to issue an outsourcing facility license for failure to meet the requirements of subsection 1. The board may refuse to issue or renew a license for any grounds under which the board may impose discipline. License or renewal denials shall be considered contested cases governed by chapter 17A.

5. *Discipline.* The board may fine, suspend, revoke, or impose other disciplinary sanctions on an outsourcing facility license for any of the following:

a. Any violation of the federal Food, Drug, and Cosmetic Act or federal regulations

promulgated under the Act. A warning letter issued by the United States food and drug administration shall be conclusive evidence of a violation.

b. Any conviction of a crime related to prescription drugs or the practice of pharmacy committed by the outsourcing facility, supervising pharmacist, or individual owner, or if the outsourcing facility is an association, joint stock company, partnership, or corporation, by any managing officer.

c. Refusing access to the outsourcing facility or facility records to an agent of the board for the purpose of conducting an inspection or investigation.

d. Any violation of this chapter or chapter 124, 124B, 126, or 205, or rule of the board.

2016 Acts, ch 1093, §5; 2018 Acts, ch 1026, §57; 2021 Acts, ch 68, §6
Subsection 1, NEW paragraph e

155A.14 Renewal of pharmacy license.

The board shall specify by rule the procedures to be followed and the fee to be paid for a renewal certificate, and the penalties for late renewal or failure to renew a pharmacy license.

87 Acts, ch 215, §14

155A.15 Pharmacies — license required — discipline, violations, and penalties.

1. A pharmacy subject to section 155A.13 shall not be operated until a license or renewal certificate has been issued to the pharmacy by the board.

2. The board shall refuse to issue a pharmacy license for failure to meet the requirements of section 155A.13. The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

a. Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony or a misdemeanor involving moral turpitude, under the law of this state, another state, or the United States.

b. Advertised any prescription drugs or devices in a deceitful, misleading, or fraudulent manner.

c. Violated any provision of this chapter or any rule adopted under this chapter or that any owner or employee of the pharmacy has violated any provision of this chapter or any rule adopted under this chapter.

d. Delivered without legal authorization prescription drugs or devices to a person other than one of the following:

(1) A pharmacy licensed by the board.

(2) A practitioner.

(3) A person who procures prescription drugs or devices for the purpose of lawful research, teaching, or testing, and not for resale.

(4) A manufacturer or wholesaler licensed by the board.

(5) A licensed health care facility which is furnished the drug or device by a pharmacy for storage in secured emergency pharmaceutical supplies containers maintained within the facility in accordance with rules of the department of inspections and appeals and rules of the board.

e. Allowed an employee who is not a licensed pharmacist to practice pharmacy.

f. Delivered mislabeled prescription or nonprescription drugs.

g. Failed to engage in or ceased to engage in the business described in the application for a license.

h. Failed to keep and maintain records as required by this chapter, the controlled substances Act, or rules adopted under the controlled substances Act.

i. Failed to establish effective controls against diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by this chapter and other Iowa or federal laws or rules.

87 Acts, ch 215, §15; 91 Acts, ch 233, §2; 97 Acts, ch 39, §2; 2009 Acts, ch 133, §64
Referred to in §155A.16

155A.16 Procedure.

Unless otherwise provided, any disciplinary action taken by the board under section 155A.12 or 155A.15 is governed by chapter 17A and the rules of practice and procedure before the board.

87 Acts, ch 215, §16

155A.17 Wholesale distributor license.

1. A person shall not engage in wholesale distribution without a wholesale distributor license.

2. Wholesale distributors shall comply with the national standards contained in the federal Drug Supply Chain Security Act, 21 U.S.C. §360eee et seq., and national standards promulgated thereunder.

3. The board shall adopt rules establishing requirements for wholesale distributor licenses, licensure fees, and other relevant matters consistent with the federal Drug Supply Chain Security Act, 21 U.S.C. §360eee et seq.

4. The board may deny, suspend, or revoke a wholesale distributor license, or otherwise discipline a wholesale distributor, for failure to meet the applicable standards or for a violation of the laws of this state, another state, or the United States, or for a violation of this chapter, chapter 124, 124B, 126, or 205, or a rule of the board.

87 Acts, ch 215, §17; 91 Acts, ch 233, §3; 2005 Acts, ch 179, §180, 181; 2017 Acts, ch 145, §21; 2018 Acts, ch 1141, §13

155A.17A Third-party logistics provider license.

1. A person shall not operate as a third-party logistics provider in this state without a third-party logistics provider license.

2. Third-party logistics providers shall comply with national standards contained in the federal Drug Supply Chain Security Act, 21 U.S.C. §360eee et seq., and national standards promulgated thereunder.

3. The board shall adopt rules establishing requirements for a third-party logistics provider license, licensure fees, and other relevant matters consistent with the federal Drug Supply Chain Security Act, 21 U.S.C. §360eee et seq.

4. The board may deny, suspend, or revoke a third-party logistics provider license, or otherwise discipline a third-party logistics provider, for failure to meet the applicable standards or for a violation of the laws of this state, another state, or the United States, or for a violation of this chapter, chapter 124, 124B, 126, or 205, or a rule of the board.

2018 Acts, ch 1141, §14

155A.18 Penalties.

The board shall impose penalties as allowed under section 272C.3. In addition, civil penalties not to exceed twenty-five thousand dollars, may be imposed.

87 Acts, ch 215, §18

155A.19 Notifications to board.

1. A pharmacy shall report in writing to the board, pursuant to its rules, the following:

a. Permanent closing.

b. Change of ownership.

c. Change of location.

d. Change of pharmacist in charge.

e. The sale or transfer of prescription drugs, including controlled substances, on the permanent closing or change of ownership of the pharmacy.

f. Change of legal name or doing-business-as name.

g. Theft or significant loss of any controlled substance on discovery of the theft or loss.

h. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.

2. A pharmacist shall report in writing to the board within ten days a change of name, address, or place of employment.

3. A wholesaler shall report in writing to the board, pursuant to its rules, the following:

a. Permanent closing or discontinuation of wholesale distributions into this state.

b. Change of ownership.

c. Change of location.

d. Change of the wholesaler's responsible individual.

e. Change of legal name or doing-business-as name.

f. Theft or significant loss of any controlled substance on discovery of the theft or loss.

g. Disasters, accidents, and emergencies that may affect the strength, purity, or labeling of drugs, medications, devices, or other materials used in the diagnosis or the treatment of injury, illness, and disease.

h. Other information or activities as required by rule.

87 Acts, ch 215, §19; 91 Acts, ch 233, §4; 2005 Acts, ch 179, §182, 183

155A.20 Unlawful use of terms and titles — impersonation.

1. A person, other than a pharmacy or wholesaler licensed under this chapter, shall not display in or on any store, internet site, or place of business, nor use in any advertising or promotional literature, communication, or representation, the word or words: "apothecary", "drug", "drug store", or "pharmacy", either in English or any other language, any other word or combination of words of the same or similar meaning, or any graphic representation in a manner that would mislead the public.

2. A person shall not do any of the following:

a. Impersonate before the board an applicant applying for licensing under this chapter.

b. Impersonate an Iowa licensed pharmacist.

c. Use the title pharmacist, druggist, apothecary, or words of similar intent unless the person is licensed to practice pharmacy.

3. A pharmacist shall not utilize the title "Dr." or "Doctor" if that pharmacist has not acquired the doctor of pharmacy degree from an approved college of pharmacy or the doctor of philosophy degree in an area related to pharmacy.

87 Acts, ch 215, §20; 2005 Acts, ch 179, §184

155A.21 Unlawful possession of prescription drug or device — penalty.

1. A person found in possession of a drug or device limited to dispensation by prescription, unless the drug or device was so lawfully dispensed, commits a serious misdemeanor.

2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatric physician, optometrist, advanced registered nurse practitioner, physician assistant, a nurse acting under the direction of a physician, or the board of pharmacy, its officers, agents, inspectors, and representatives, or to a common carrier, manufacturer's representative, or messenger when transporting the drug or device in the same unbroken package in which the drug or device was delivered to that person for transportation.

87 Acts, ch 215, §21; 95 Acts, ch 108, §14; 2005 Acts, ch 179, §185; 2007 Acts, ch 10, §154; 2012 Acts, ch 1004, §4

155A.22 General penalty.

A person who violates any of the provisions of this chapter or any chapter pertaining to or affecting the practice of pharmacy for which a specific penalty is not provided commits a simple misdemeanor.

87 Acts, ch 215, §22

155A.23 Prohibited acts.

1. A person shall not perform or cause the performance of or aid and abet any of the following acts:

a. Obtaining or attempting to obtain a prescription drug or device or procuring or attempting to procure the administration of a prescription drug or device by:

(1) Engaging in fraud, deceit, misrepresentation, or subterfuge.

(2) Forging or altering a written, electronic, or facsimile prescription or any written, electronic, or facsimile order.

(3) Concealing a material fact.

(4) Using a false name or giving a false address.

b. Willfully making a false statement in any prescription, report, or record required by this chapter.

c. For the purpose of obtaining a prescription drug or device, falsely assuming the title of or claiming to be a manufacturer, wholesaler, pharmacist, pharmacy owner, physician, dentist, podiatric physician, prescribing psychologist, veterinarian, or other authorized person.

d. Making or uttering any false or forged oral, written, electronic, or facsimile prescription or oral, written, electronic, or facsimile order.

e. Forging, counterfeiting, simulating, or falsely representing any drug or device without the authority of the manufacturer, or using any mark, stamp, tag, label, or other identification device without the authorization of the manufacturer.

f. Manufacturing, repackaging, selling, delivering, or holding or offering for sale any drug or device that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or that has otherwise been rendered unfit for distribution.

g. Adulterating, misbranding, or counterfeiting any drug or device.

h. Receiving any drug or device that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, and delivering or proffering delivery of such drug or device for pay or otherwise.

i. Adulterating, mutilating, destroying, obliterating, or removing the whole or any part of the labeling of a drug or device or committing any other act with respect to a drug or device that results in the drug or device being misbranded.

j. Purchasing or receiving a drug or device from a person who is not licensed to distribute the drug or device to that purchaser or recipient.

k. Selling or transferring a drug or device to a person who is not authorized under the law of the jurisdiction in which the person receives the drug or device to purchase or possess the drug or device from the person selling or transferring the drug or device.

l. Failing to maintain or provide records as required by this chapter, chapter 124, or rules of the board.

m. Providing the board or any of its representatives or any state or federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the scope of this chapter, chapter 124, or rules of the board.

n. Distributing at wholesale any drug or device that meets any of the following conditions:

(1) The drug or device was purchased by a public or private hospital or other health care entity.

(2) The drug or device was donated or supplied at a reduced price to a charitable organization.

(3) The drug or device was purchased from a person not licensed to distribute the drug or device.

(4) The drug or device was stolen or obtained by fraud or deceit.

o. Failing to obtain a license or operating without a valid license when a license is required pursuant to this chapter or chapter 147.

p. Engaging in misrepresentation or fraud in the distribution of a drug or device.

q. Distributing a drug or device to a patient without a prescription drug order or medication order from a practitioner licensed by law to use or prescribe the drug or device.

r. Distributing a drug or device that was previously dispensed by a pharmacy or distributed by a practitioner except as provided by rules of the board.

s. Failing to report any prohibited act.

2. Information communicated to a physician in an unlawful effort to procure a prescription drug or device or to procure the administration of a prescription drug shall not be deemed a privileged communication.

3. Subsection 1, paragraphs "*f*" and "*g*", shall not apply to the wholesale distribution

by a manufacturer of a prescription drug or device that has been delivered into commerce pursuant to an application approved by the federal food and drug administration.

87 Acts, ch 215, §23; 95 Acts, ch 108, §15; 2004 Acts, ch 1036, §13, 14; 2005 Acts, ch 179, §186; 2009 Acts, ch 41, §196; 2016 Acts, ch 1112, §14

Referred to in §155A.24

155A.24 Penalties.

1. Except as otherwise provided in this section, a person who violates a provision of section 155A.23 or who sells or offers for sale, gives away, or administers to another person any prescription drug or device in violation of this chapter commits a public offense and shall be punished as follows:

a. If the prescription drug is a controlled substance, the person shall be punished pursuant to section 124.401, subsection 1, and other provisions of chapter 124, subchapter IV.

b. If the prescription drug is not a controlled substance, the person, upon conviction of a first offense, is guilty of a serious misdemeanor. For a second offense, or if in case of a first offense the offender previously has been convicted of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs or devices, the offender is guilty of an aggravated misdemeanor. For a third or subsequent offense or if in the case of a second offense the offender previously has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district thereof relating to prescription drugs or devices, the offender is guilty of a class "D" felony.

2. A person who violates any provision of this chapter by selling, giving away, or administering any prescription drug or device to a minor is guilty of a class "C" felony.

3. A wholesaler who, with intent to defraud or deceive, fails to deliver to another person, when required by rules of the board, complete and accurate pedigree concerning a drug prior to transferring the drug to another person is guilty of a class "C" felony.

4. A wholesaler who, with intent to defraud or deceive, fails to acquire, when required by rules of the board, complete and accurate pedigree concerning a drug prior to obtaining the drug from another person is guilty of a class "C" felony.

5. A wholesaler who knowingly destroys, alters, conceals, or fails to maintain, as required by rules of the board, complete and accurate pedigree concerning any drug in the person's possession is guilty of a class "C" felony.

6. A wholesaler who is in possession of pedigree documents required by rules of the board, and who knowingly fails to authenticate the matters contained in the documents as required, and who nevertheless distributes or attempts to further distribute drugs is guilty of a class "C" felony.

7. A wholesaler who, with intent to defraud or deceive, falsely swears or certifies that the person has authenticated any documents related to the wholesale distribution of drugs or devices is guilty of a class "C" felony.

8. A wholesaler who knowingly forges, counterfeits, or falsely creates any pedigree, who falsely represents any factual matter contained in any pedigree, or who knowingly fails to record material information required to be recorded in a pedigree is guilty of a class "C" felony.

9. A wholesaler who knowingly purchases or receives drugs or devices from a person not authorized to distribute drugs or devices in wholesale distribution is guilty of a class "C" felony.

10. A wholesaler who knowingly sells, barters, brokers, or transfers a drug or device to a person not authorized to purchase the drug or device under the jurisdiction in which the person receives the drug or device in a wholesale distribution is guilty of a class "C" felony.

11. A person who knowingly manufacturers, sells, or delivers, or who possesses with intent to sell or deliver, a counterfeit, misbranded, or adulterated drug or device is guilty of the following:

a. If the person manufactures or produces a counterfeit, misbranded, or adulterated drug or device; or if the quantity of a counterfeit, misbranded, or adulterated drug or device being sold, delivered, or possessed with intent to sell or deliver exceeds one thousand units or

dosages; or if the violation is a third or subsequent violation of this subsection, the person is guilty of a class "C" felony.

b. If the quantity of a counterfeit, misbranded, or adulterated drug or device being sold, delivered, or possessed with intent to sell or deliver exceeds one hundred units or dosages but does not exceed one thousand units or dosages; or if the violation is a second or subsequent violation of this subsection, the person is guilty of a class "D" felony.

c. All other violations of this subsection shall constitute an aggravated misdemeanor.

12. A person who knowingly forges, counterfeits, or falsely creates any label for a drug or device or who falsely represents any factual matter contained on any label of a drug or device is guilty of a class "C" felony.

13. A person who knowingly possesses, purchases, or brings into the state a counterfeit, misbranded, or adulterated drug or device is guilty of the following:

a. If the quantity of a counterfeit, misbranded, or adulterated drug or device being possessed, purchased, or brought into the state exceeds one hundred units or dosages; or if the violation is a second or subsequent violation of this subsection, the person is guilty of a class "D" felony.

b. All other violations of this subsection shall constitute an aggravated misdemeanor.

14. This section does not prevent a licensed practitioner of medicine, dentistry, podiatry, nursing, psychology, veterinary medicine, optometry, or pharmacy from acts necessary in the ethical and legal performance of the practitioner's profession.

15. Subsections 1 and 2 shall not apply to a parent or legal guardian administering, in good faith, a prescription drug or device to a child of the parent or a child for whom the individual is designated a legal guardian.

87 Acts, ch 215, §24; 2005 Acts, ch 179, §187; 2007 Acts, ch 22, §42; 2008 Acts, ch 1016, §4; 2016 Acts, ch 1112, §15

155A.25 Burden of proof.

In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provisions of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

87 Acts, ch 215, §25

155A.26 Enforcement — agents as peace officers.

The board, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to prescription drugs. Officers, agents, inspectors, and representatives of the board shall have the powers and status of peace officers when enforcing the provisions of this chapter and chapters 124, 126, and 205. Officers, agents, inspectors, and representatives of the board of pharmacy may:

1. Administer oaths, acknowledge signatures, and take testimony.

2. Make audits of the supply and inventory of controlled substances and prescription drugs in the possession of any and all individuals or institutions authorized to have possession of any controlled substances or prescription drugs, regardless of the location of the individual or institution.

3. Conduct routine and unannounced inspections of pharmacies, drug wholesalers, and the offices or business locations of all individuals and institutions authorized to have possession of prescription drugs including controlled substances or prescription devices, regardless of the location of the office or business.

4. Conduct inspections and investigations related to the practice of pharmacy and the distribution of prescription drugs and devices in and into this state.

5. Seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are held in violation of law.

6. Seize prescription medications which they believe are held in violation of law.

7. Perform other duties as specifically authorized or mandated by law or rule.

87 Acts, ch 215, §26; 2007 Acts, ch 10, §155; 2008 Acts, ch 1088, §77; 2016 Acts, ch 1093, §6

155A.27 Requirements for prescription.

1. Except when dispensed directly by a prescriber to an ultimate user, a prescription drug shall not be dispensed without a prescription that is authorized by a prescriber and based on a valid patient-prescriber relationship.

2. *a.* Beginning January 1, 2020, every prescription issued for a prescription drug shall be transmitted electronically as an electronic prescription to a pharmacy by a prescriber or the prescriber's authorized agent unless exempt under paragraph *"b"*.

b. Paragraph *"a"* shall not apply to any of the following:

(1) A prescription for a patient residing in a nursing home, long-term care facility, correctional facility, or jail.

(2) A prescription authorized by a licensed veterinarian.

(3) A prescription for a device.

(4) A prescription dispensed by a department of veterans affairs pharmacy.

(5) A prescription requiring information that makes electronic transmission impractical, such as complicated or lengthy directions for use or attachments.

(6) A prescription for a compounded preparation containing two or more components.

(7) A prescription issued in response to a public health emergency in a situation where a non-patient specific prescription would be permitted.

(8) A prescription issued for an opioid antagonist pursuant to section 135.190 or a prescription issued for epinephrine pursuant to section 135.185.

(9) A prescription issued during a temporary technical or electronic failure at the location of the prescriber or pharmacy, provided that a prescription issued pursuant to this subparagraph shall indicate on the prescription that the prescriber or pharmacy is experiencing a temporary technical or electronic failure.

(10) A prescription issued pursuant to an established and valid collaborative practice agreement, standing order, or drug research protocol.

(11) A prescription issued in an emergency situation pursuant to federal law and regulation and rules of the board.

c. A practitioner, as defined in section 124.101, subsection 27, paragraph *"a"*, who violates paragraph *"a"* is subject to an administrative penalty of two hundred fifty dollars per violation, up to a maximum of five thousand dollars per calendar year. The assessment of an administrative penalty pursuant to this paragraph by the appropriate licensing board of the practitioner alleged to have violated paragraph *"a"* shall not be considered a disciplinary action or reported as discipline. A practitioner may appeal the assessment of an administrative penalty pursuant to this paragraph, which shall initiate a contested case proceeding under chapter 17A. A penalty collected pursuant to this paragraph shall be deposited into the drug information program fund established pursuant to section 124.557. The board shall be notified of any administrative penalties assessed by the appropriate professional licensing board and deposited into the drug information program fund under this paragraph.

d. A pharmacist who receives a written, oral, or facsimile prescription shall not be required to verify that the prescription is subject to an exception under paragraph *"b"* and may dispense a prescription drug pursuant to an otherwise valid written, oral, or facsimile prescription. However, a pharmacist shall exercise professional judgment in identifying and reporting suspected violations of this section to the board or the appropriate professional licensing board of the prescriber.

3. For prescriptions issued prior to January 1, 2020, or for prescriptions exempt from the electronic prescription requirement in subsection 2, paragraph *"b"*, a prescriber or the prescriber's authorized agent may transmit a prescription for a prescription drug to a pharmacy by any of the following means:

a. Electronically.

b. By facsimile.

c. Orally.

d. By providing an original signed prescription to a patient or a patient's authorized representative.

4. A prescription shall be issued in compliance with this subsection. Regardless of the means of transmission, a prescriber shall provide verbal verification of a prescription upon request of the pharmacy.

a. If written, electronic, or facsimile, each prescription shall contain all of the following:

(1) The date of issue.

(2) The name and address of the patient for whom, or the owner of the animal for which, the drug is dispensed.

(3) The name, strength, and quantity of the drug prescribed.

(4) The directions for use of the drug, medicine, or device prescribed.

(5) The name, address, and written or electronic signature of the prescriber issuing the prescription.

(6) The federal drug enforcement administration number, if required under chapter 124.

b. If electronic, each prescription shall comply with all of the following:

(1) The prescriber shall ensure that the electronic system used to transmit the electronic prescription has adequate security and safeguards designed to prevent and detect unauthorized access, modification, or manipulation of the prescription.

(2) Notwithstanding paragraph *"a"*, subparagraph (5), for prescriptions that are not controlled substances, if transmitted by an authorized agent, the electronic prescription shall not require the written or electronic signature of the prescriber issuing the prescription.

c. If facsimile, in addition to the requirements of paragraph *"a"*, each prescription shall contain all of the following:

(1) The identification number of the facsimile machine which is used to transmit the prescription.

(2) The date and time of transmission of the prescription.

(3) The name, address, telephone number, and facsimile number of the pharmacy to which the prescription is being transmitted.

d. If oral, the prescriber issuing the prescription shall furnish the same information required for a written prescription, except for the written signature and address of the prescriber. Upon receipt of an oral prescription, the recipient shall promptly reduce the oral prescription to a written format by recording the information required in a written prescription.

e. A prescription transmitted by electronic, facsimile, or oral means by a prescriber's agent shall also include the name and title of the prescriber's agent completing the transmission.

5. An electronic, facsimile, or oral prescription shall serve as the original signed prescription and the prescriber shall not provide a patient, a patient's authorized representative, or the dispensing pharmacist with a signed written prescription. Prescription records shall be retained pursuant to rules of the board.

6. This section shall not prohibit a pharmacist, in exercising the pharmacist's professional judgment, from dispensing, at one time, additional quantities of a prescription drug, with the exception of a prescription drug that is a controlled substance as defined in section 124.101, up to the total number of dosage units authorized by the prescriber on the original prescription and any refills of the prescription, not to exceed a ninety-day supply of the prescription drug as specified on the prescription.

7. A prescriber, medical group, institution, or pharmacy that is unable to timely comply with the electronic prescribing requirements in subsection 2, paragraph *"a"*, may petition the board for an exemption from the requirements based upon economic hardship, technical limitations that the prescriber, medical group, institution, or pharmacy cannot control, or other exceptional circumstances. The board shall adopt rules establishing the form and specific information to be included in a request for an exemption and the specific criteria to be considered by the board in determining whether to approve a request for an exemption. The board may approve an exemption for a period of time determined by the board, not to

exceed one year from the date of approval, and may be annually renewed subject to board approval upon request.

87 Acts, ch 215, §27; 97 Acts, ch 39, §3, 4; 2004 Acts, ch 1036, §15, 16; 2009 Acts, ch 69, §5; 2016 Acts, ch 1060, §1; 2017 Acts, ch 145, §29; 2018 Acts, ch 1138, §11; 2019 Acts, ch 59, §53

Referred to in §124.308, 126.11, 147.107, 155A.29

155A.28 Label of prescription drugs — interchangeable biological product list.

1. The label of any drug, biological product, or device sold and dispensed on the prescription of a practitioner shall be in compliance with rules adopted by the board.

2. The board shall maintain a link on its internet site to the current list of all biological products that the United States food and drug administration has determined to be interchangeable biological products.

87 Acts, ch 215, §28; 2017 Acts, ch 5, §2

155A.29 Prescription refills.

1. Except as specified in subsection 2, a prescription for any prescription drug or device which is not a controlled substance shall not be filled or refilled more than eighteen months after the date on which the prescription was issued and a prescription which is authorized to be refilled shall not be refilled more than twelve times.

2. A pharmacist may exercise professional judgment by refilling a prescription without prescriber authorization if all of the following are true:

a. The pharmacist is unable to contact the prescriber after reasonable effort.

b. Failure to refill the prescription might result in an interruption of therapeutic regimen or create patient suffering.

c. The pharmacist informs the patient or the patient's representative at the time of dispensing, and the practitioner at the earliest convenience that prescriber reauthorization is required.

3. Prescriptions may be refilled once pursuant to subsection 2 for a period of time reasonably necessary for the pharmacist to secure prescriber authorization.

4. An authorization to refill a prescription drug order shall be transmitted to a pharmacy by a prescriber or the prescriber's authorized agent pursuant to section 155A.27, except that prescription drug orders for controlled substances shall be transmitted pursuant to section 124.308, and, if not transmitted directly by the practitioner, shall also include the name and title of the practitioner's agent completing the transmission.

87 Acts, ch 215, §29; 2007 Acts, ch 19, §5; 2009 Acts, ch 69, §6; 2018 Acts, ch 1138, §12

155A.30 Out-of-state prescription orders.

Prescription drug orders issued by out-of-state practitioners who would be authorized to prescribe if they were practicing in Iowa may be filled by licensed pharmacists operating in licensed Iowa pharmacies.

87 Acts, ch 215, §30

155A.31 Reference library.

A licensed pharmacy in this state shall maintain a reference library pursuant to rules of the board.

87 Acts, ch 215, §31

155A.32 Drug product selection — restrictions.

1. *a.* If an authorized prescriber prescribes, in writing, electronically, by facsimile, or orally, a drug by its brand or trade name, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a drug product with the same generic name and demonstrated bioavailability as the drug product prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the drug product prescribed for dispensing and sale.

b. If an authorized prescriber prescribes a biological product, the pharmacist may exercise professional judgment in the economic interest of the patient by selecting a biological product that is an interchangeable biological product for the biological product prescribed for dispensing and sale to the patient. If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A, the pharmacist shall exercise professional judgment by selecting a biological product that is an interchangeable biological product for the biological product prescribed for dispensing and sale.

2. The pharmacist shall not exercise the drug or biological product selection described in this section if any of the following is true:

a. The prescriber specifically indicates that no drug or biological product selection shall be made.

b. The person presenting the prescription indicates that only the specific drug product prescribed should be dispensed. However, this paragraph does not apply if the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A.

3. If selection of a generically equivalent drug product or an interchangeable biological product is made under this section, the pharmacist making the selection shall inform the patient and note that fact and the name of the manufacturer of the selected drug on the prescription presented by the patient or the patient's adult representative or transmitted by the prescriber or the prescriber's authorized agent.

4. *a.* Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific biological product provided to the patient, including the name of the biological product and the manufacturer. The entry shall be electronically accessible to the prescriber through one of the following means:

(1) An interoperable electronic medical records system.

(2) An electronic prescribing technology.

(3) A pharmacy benefit management system.

(4) A pharmacy record.

b. An entry into an electronic records system as described in this subsection is presumed to provide notice to the prescriber. If the entry is not made electronically, the pharmacist shall communicate the name and manufacturer of the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means.

c. Communication under this subsection shall not be required in either of the following circumstances:

(1) There is no federal food and drug administration-approved interchangeable biological product for the product prescribed.

(2) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

87 Acts, ch 215, §32; 2004 Acts, ch 1036, §17; 2017 Acts, ch 5, §3
Referred to in §514F.7

155A.33 Delegation of functions.

A pharmacist may delegate any technical functions to pharmacy technicians and any nontechnical functions to pharmacy support persons, but only if the pharmacist is available to provide professional oversight of the delegated functions performed by the pharmacy technician or pharmacy support person. Verification of automated dispensing, technician product verification, and telepharmacy practice accuracy and completeness remains the responsibility of the pharmacist and shall be determined in accordance with rules adopted by the board.

87 Acts, ch 215, §33; 96 Acts, ch 1070, §4; 2002 Acts, ch 1108, §25; 2008 Acts, ch 1016, §5; 2016 Acts, ch 1093, §7; 2018 Acts, ch 1142, §4; 2021 Acts, ch 68, §5
Referred to in §155A.47
Section amended

155A.33A Technician product verification programs.

1. A pharmacist in charge of a pharmacy located in this state may formally establish a technician product verification program to optimize the provision of pharmacist patient care services. The board may require a pharmacist in charge intending to implement a technician product verification program to submit a program plan for board consideration and approval. The plan shall demonstrate that onsite practice hours for a pharmacist will not be reduced but will be redistributed directly to patient care activities.

2. The board shall adopt rules for the development, implementation, and oversight of technician product verification programs. The rules shall address program policy and procedures, pharmacist and pharmacy technician training, program quality assurance and evaluation, recordkeeping, redistribution of pharmacist activities, and other matters necessary for the development, implementation, and oversight of the program.

2018 Acts, ch 1142, §5

155A.34 Transfer of prescriptions.

Any prescription transfer shall be from a licensed pharmacy to another licensed pharmacy and be performed in accordance with rules adopted by the board.

87 Acts, ch 215, §34; 2008 Acts, ch 1016, §6; 2018 Acts, ch 1142, §6

155A.35 Patient medication records.

A licensed pharmacy shall maintain patient medication records in accordance with rules adopted by the board.

87 Acts, ch 215, §35

155A.36 Medication delivery systems.

Drugs dispensed utilizing unit dose packaging shall comply with labeling and packaging requirements in accordance with rules adopted by the board.

87 Acts, ch 215, §36

155A.37 Code of professional responsibility for board employees.

1. The board shall adopt a code of professional responsibility to regulate the conduct of board employees responsible for inspections and surveys of pharmacies.

2. The code shall contain a procedure to be followed by personnel of the board in all of the following:

a. On entering a pharmacy.

b. During inspection of the pharmacy.

c. During the exit conference.

3. The code shall contain standards of conduct that personnel of the board are to follow in dealing with the staff and management of the pharmacy and the general public.

4. The board shall establish a procedure for receiving and investigating complaints of violations of this code. The board shall investigate all complaints of violations.

5. The board may adopt rules establishing sanctions for violations of this code of professional responsibility.

87 Acts, ch 215, §37; 2004 Acts, ch 1167, §10

155A.38 Dispensing drug samples.

A person authorized pursuant to this chapter to dispense shall, when dispensing drug samples, do so without additional charge to the patient.

88 Acts, ch 1232, §3

155A.39 Program to monitor impaired pharmacists, pharmacist-interns, or pharmacy technicians — immunity and funding.

1. The board may establish a review committee and may implement a program to monitor impaired pharmacists, pharmacist-interns, and pharmacy technicians pursuant to section 272C.3, subsection 1, paragraph *"k"*.

2. An employee or a member of the board, a review committee member, or any other

person who furnishes information, data, reports, or records in good faith for the purpose of aiding an impaired pharmacist, pharmacist-intern, or pharmacy technician, shall be immune from civil liability. This immunity from civil liability shall be liberally construed to accomplish the purpose of this section and is in addition to other immunity provided by law.

3. An employee or member of the board or a review committee member is presumed to have acted in good faith. A person alleging a lack of good faith has the burden of proof on that issue.

4. The board may add a surcharge of not more than ten percent of the applicable fee to a pharmacist license fee, pharmacist license renewal fee, pharmacist-intern registration fee, pharmacy technician registration fee, or pharmacy technician registration renewal fee authorized under this chapter to fund a program to monitor impaired pharmacists, pharmacist-interns, or pharmacy technicians.

5. The board may accept, transfer, and expend funds made available by the federal or state government or by another public or private source to be used in a program authorized by this section.

6. Funds and surcharges collected under this section shall be deposited in an account and may be used by the board to administer a program authorized by this section, but shall not be used for costs incurred for a participant's initial evaluation, referral services, treatment, or rehabilitation subsequent to intervention.

7. The board may disclose that the license of a pharmacist, the registration of a pharmacist-intern, or the registration of a pharmacy technician who is the subject of an order of the board that is confidential pursuant to section 272C.6 is suspended, revoked, canceled, restricted, or retired; or that the pharmacist, pharmacist-intern, or pharmacy technician is in any manner otherwise limited in the practice of pharmacy; or other relevant information pertaining to the pharmacist, pharmacist-intern, or pharmacy technician which the board deems appropriate.

8. The board may adopt rules necessary for the implementation of this section.

97 Acts, ch 39, §5; 2017 Acts, ch 93, §3

155A.40 Criminal history record checks.

1. The board may request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial or renewal license or registration issued pursuant to this chapter or chapter 147, any applicant for reinstatement of a license or registration issued pursuant to this chapter or chapter 147, or any licensee or registrant who is being monitored as a result of a board order or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's, licensee's, or registrant's eligibility for licensure, registration, or suitability for continued practice of the profession. Criminal history data may be requested for all owners, managers, and principal employees of a pharmacy or drug wholesaler licensed pursuant to this chapter. The board shall adopt rules pursuant to chapter 17A to implement this section. The board shall inform the applicant, licensee, or registrant of the criminal history requirement and obtain a signed waiver from the applicant, licensee, or registrant prior to submitting a criminal history data request.

2. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The board may also require such applicants, licensees, and registrants to provide a full set of fingerprints, in a form and manner prescribed by the board. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The board may authorize alternate methods or sources for obtaining criminal history record information. The board may, in addition to any other fees, charge and collect such amounts as may be incurred by the board, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

3. Criminal history information relating to an applicant, licensee, or registrant obtained by the board pursuant to this section is confidential. The board may, however, use such information in a license or registration denial proceeding. In a disciplinary proceeding, such

information shall constitute investigative information under section 272C.6, subsection 4, and may be used only for purposes consistent with that section.

4. This section shall not apply to a manufacturer of a prescription drug or device that has been delivered into commerce pursuant to an application approved by the federal food and drug administration.

2005 Acts, ch 35, §31; 2005 Acts, ch 179, §188

155A.41 Continuous quality improvement program.

1. Each licensed pharmacy shall implement or participate in a continuous quality improvement program to review pharmacy procedures in order to identify methods for addressing pharmacy medication errors and for improving patient use of medications and patient care services. Under the program, each pharmacy shall assess its practices and identify areas for quality improvement.

2. The board shall adopt rules for the administration of a continuous quality improvement program. The rules shall address all of the following:

a. Program requirements and procedures.

b. Program record and reporting requirements.

c. Any other provisions necessary for the administration of a program.

2005 Acts, ch 179, §189

155A.42 Limited distributor license.

1. A person other than a wholesale distributor, licensed pharmacy, or practitioner, shall not engage in any of the following activities in this state without a limited distributor license:

a. Distribution of a medical gas or device at wholesale or to a patient pursuant to a prescription drug order.

b. Wholesale distribution of a prescription animal drug.

c. Wholesale distribution of a prescription drug, or brokering the distribution of a prescription drug at wholesale, by a manufacturer, a manufacturer's co-licensed partner, or a repackager.

d. Intracompany distribution of a prescription drug, including pharmacy chain distribution centers.

e. Distribution at wholesale of a combination product as defined by the United States food and drug administration, medical convenience kit, intravenous fluid or electrolyte, dialysis solution, radioactive drug, or irrigation or sterile water solution to be dispensed by prescription only.

f. Distribution of a dialysis solution by the manufacturer or the manufacturer's agent to a patient pursuant to a prescription drug order, provided that a licensed pharmacy processes the prescription drug order.

2. The board shall adopt rules establishing the requirements for a limited distributor license, licensure fees, compliance standards, and any other relevant matters. A limited distributor shall not be required to have an onsite pharmacist.

3. The board may deny, suspend, or revoke a limited distributor's license, or otherwise discipline a limited distributor, for failure to meet the applicable standards or for a violation of the laws of this state, another state, or the United States, or for a violation of this chapter, chapter 124, 124B, 126, or 205, or a rule of the board.

2007 Acts, ch 19, §6; 2017 Acts, ch 145, §22; 2018 Acts, ch 1141, §15

155A.43 Pharmaceutical collection and disposal program — annual allocation.

Of the fees collected by the board pursuant to sections 124.301 and 147.80 and this chapter, and retained by the board pursuant to section 147.82, the board may annually allocate a sum deemed by the board to be adequate for administering the pharmaceutical collection and disposal program. The program shall provide for the management and disposal of unused, excess, and expired pharmaceuticals, including the management and disposal of controlled substances pursuant to state and federal regulations. The board may contract with one or

more vendors for the provision of supplies and services to manage and maintain the program and to safely and appropriately dispose of pharmaceuticals collected through the program.

2011 Acts, ch 129, §88, 156; 2014 Acts, ch 1026, §143; 2015 Acts, ch 137, §74, 162, 163; 2017 Acts, ch 93, §4

155A.44 Vaccine and immunization administration. Repealed by 2020 Acts, ch 1103, §46.

2020 repeal of this section is effective July 1, 2021; 2020 Acts, ch 1103, §46

155A.45 Reports — disclosure.

1. Notwithstanding section 272C.6, subsection 4, paragraph *"a"*, an inspection report in possession of the board, regardless of whether the report is based on a routine inspection or an inspection prompted by one or more complaints, may be disclosed to the national association of boards of pharmacy's inspection network.

2. Notwithstanding section 272C.6, subsection 4, paragraph *"a"*, any complaints, investigative information, or data collected pertaining to compounded human drug products may be disclosed to the United States food and drug administration, including through the use of an information sharing network, in order to comply with any memorandum of understanding with the United States food and drug administration.

2016 Acts, ch 1093, §8; 2021 Acts, ch 68, §7

Section amended

155A.46 Statewide protocols.

1. *a.* A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and consistent with subsection 2, order and administer the following to patients ages eighteen years and older:

(1) Naloxone.

(2) Nicotine replacement tobacco cessation products.

(3) An immunization or vaccination recommended by the United States centers for disease control and prevention advisory committee on immunization practices in its approved vaccination schedule for adults.

(4) An immunization or vaccination recommended by the United States centers for disease control and prevention for international travel.

(5) A Tdap (tetanus, diphtheria, acellular pertussis) vaccination in a booster application.

(6) Other emergency immunizations or vaccinations in response to a public health emergency.

(7) An immunization or vaccination for COVID-19 as defined in section 686D.2.

b. A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and consistent with subsection 2, order and administer the following to patients ages six months and older:

(1) A vaccine or immunization for influenza.

(2) Other emergency immunizations or vaccines in response to a public health emergency.

c. A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and consistent with subsection 2, order and administer the final two doses in a course of vaccinations for HPV to patients ages eleven years and older.

d. Prior to the ordering and administration of a vaccination or immunization authorized by this subsection, pursuant to statewide protocols, a licensed pharmacist shall consult and review the statewide immunization registry or health information network. The board shall adopt rules requiring the reporting of the administration of vaccines and immunizations authorized by this subsection to a patient's primary health care provider, primary physician, and a statewide immunization registry or health information network.

e. A pharmacist may, pursuant to statewide protocols developed by the board in consultation with the department of public health and consistent with subsection 2, order and administer the following to patients ages six years and older:

(1) Point-of-care testing and treatment for influenza, streptococcus A, and COVID-19 as defined in section 686D.2 at the point of interaction between a pharmacist and a patient.

(2) Point-of-care testing at the point of interaction between a pharmacist and a patient in response to a public health emergency.

2. A pharmacist ordering or administering a prescription drug, product, test, or treatment pursuant to subsection 1 shall do all of the following:

a. Maintain a record of all prescription drugs, products, tests, and treatments administered pursuant to this section.

b. Notify the patient's primary health care provider of any prescription drugs, products, tests, or treatments administered to the patient, or enter such information in a patient record system also used by the primary health care provider, as permitted by the primary health care provider. If the patient does not have a primary health care provider, the pharmacist shall provide the patient with a written record of the prescription drugs, products, tests, or treatment provided to the patient and shall advise the patient to consult a physician.

c. Complete continuing pharmacy education related to statewide protocols recognized and approved by the board.

2018 Acts, ch 1142, §7; 2021 Acts, ch 103, §1, 2
Subsection 1, paragraph a, NEW subparagraph (7)
Subsection 1, NEW paragraph e

155A.47 Pilot or demonstration research projects.

1. Notwithstanding any provision of section 147.107, subsection 2, or section 155A.33 to the contrary, the board may approve a pilot or demonstration research project of innovative applications in the practice of pharmacy to provide enhanced patient care.

2. The board shall adopt rules pursuant to chapter 17A for application for and approval of such projects. The rules may include exceptions to any existing rules under the purview of the board as necessary for completion of the project, limited to the duration of the project. The board may approve a project for no more than eighteen months. The board may extend or renew a project in accordance with board rules. All projects shall comply with the rules adopted for such projects.

3. The board shall not approve any project that expands the practice of pharmacy as defined in section 155A.3.

2021 Acts, ch 68, §8
NEW section

155A.48 Collaborative pharmacy practice — agreements — payment.

1. For the purposes of this section:

a. "Collaborative pharmacy practice" means a practice of pharmacy whereby a pharmacist provides patient care and drug therapy management services not otherwise permitted to be performed by a pharmacist to patients under a collaborative pharmacy practice agreement with another pharmacist or practitioner which defines the nature, scope, conditions, and limitations of the patient care and drug therapy management services to be provided by a pharmacist in order to ensure that a patient achieves the desired outcomes.

b. "Health benefit plan" means the same as defined in section 514J.102.

c. "Health carrier" means the same as defined in section 514J.102.

2. Notwithstanding any provision of law to the contrary, a pharmacist may engage in a collaborative pharmacy practice, in accordance with rules adopted by the board pursuant to chapter 17A and under a collaborative pharmacy practice agreement, to provide patient care and drug therapy management services to a patient.

3. Notwithstanding any provision of a health benefit plan to the contrary, whenever a health benefit plan provides for payment or reimbursement for a service that is within the lawful scope of practice of a practitioner or pharmacist and the service is provided by a pharmacist pursuant to a collaborative pharmacy practice agreement under this section, the health carrier may provide payment or reimbursement for the service.

2021 Acts, ch 103, §3
NEW section

CHAPTER 156

FUNERAL DIRECTING, MORTUARY SCIENCE, AND CREMATION

Referred to in §48A.30, 135.11, 144C.3, 144C.11, 147.76, 331.608, 523A.502, 523A.813, 714H.4

Enforcement, §147.87, 147.92
Penalty, §147.86
See chapter 523A for sales of cemetery and funeral merchandise and funeral services

156.1 Definitions.
156.1A Provision of services.
156.2 Persons excluded.
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156.14 Funeral establishment and cremation establishment license.
156.15 Funeral establishments and cremation establishments — license required — discipline, violations, and penalties.
156.16 Unlicensed practice — injunctions, civil penalties, consent agreements.

156.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Board"* means the board of mortuary science.

2. *"Cremation"* means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

3. *"Cremation establishment"* means a place of business as defined by the board which provides any aspect of cremation services.

4. *"Funeral director"* means a person licensed by the board to practice mortuary science.

5. *"Funeral establishment"* means a place of business as defined by the board devoted to providing any aspect of mortuary science.

6. *"Intern"* means a person registered by the board to practice mortuary science under the direct supervision of a preceptor certified by the board.

7. *"Mortuary science"* means the engaging in any of the following:

a. Preparing, for burial or disposal, or directing and supervising burial or disposal of dead human bodies except supervising cremations.

b. Making funeral arrangements or furnishing any funeral services in connection with disposition of dead human bodies or sale of any casket, vault, urn, or other burial receptacle.

c. Using the words "funeral director", "mortician", or any other title implying that the person is engaged as a funeral director as defined in this section.

d. Embalming dead human bodies, entire or in part, by the use of chemical substances, fluids, or gases in the body, or by the introduction of the same into the body by vascular injections, hypodermic injections, or by surface application into the organs or cavities for the purpose of preservation or disinfection.

[S13, §2575-a36; C24, 27, §2584; C31, 35, §2585-c1; C39, §**2585.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.1]

96 Acts, ch 1148, §3; 2007 Acts, ch 10, §156; 2007 Acts, ch 159, §5, 6
Referred to in §156.2, 523A.302, 523A.601

156.1A Provision of services.

Nothing contained in this chapter shall be construed as prohibiting the operation of any funeral home, funeral establishment, or cremation establishment by any person, heir, fiduciary, firm, cooperative burial association, or corporation. However, each such person,

firm, cooperative burial association, or corporation shall ensure that all mortuary science services are provided by a funeral director, and shall keep the Iowa department of public health advised of the name of the funeral director.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.1(unn. 2)]

CS2007, §156.1A

156.2 Persons excluded.

The terms defined in section 156.1 shall not be construed to include the following classes of persons:

1. Manufacturers, wholesalers, distributors, and retailers of caskets, vaults, urns, or other burial receptacles not engaged in the other functions of furnishing of funeral services or embalming as above defined.
2. Those who use bodies for scientific purposes as defined in sections 142.1, 142.2, and 142.5; or those who make scientific examinations of dead bodies; or those who perform autopsies.
3. Physicians or institutions who preserve parts of human bodies either for scientific purposes or for use as evidence in prospective legal cases.
4. Persons who, without compensation, bury their own dead under a burial transit permit secured pursuant to section 144.32.

[C31, 35, §2585-c2; C39, §**2585.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.2]

96 Acts, ch 1148, §4; 2019 Acts, ch 59, §54

156.3 Eligibility requirements.

To be eligible to take the examination for a funeral director's license, a person must have completed two academic years of instruction in a recognized college or university in a course of study approved by the board or have equivalent education as defined by the board and have satisfactorily completed a course of instruction in mortuary science in an accredited school approved by the board.

[S13, §2575-a37, -a38; C24, 27, §2585; C31, 35, §2585-c3, -c4, -c9; C39, §**2585.03, 2585.04, 2585.09;** C46, 50, §156.3, 156.4, 156.9; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.3]

90 Acts, ch 1253, §3

156.4 Funeral directors.

1. The practice of a funeral director must be conducted from a funeral establishment licensed by the board. The board may specify criteria for exceptions to the requirement of this subsection in rules.
2. A person shall not engage in the practice of mortuary science unless licensed.
3. Applications for the examination for a funeral director's license shall be verified on a form furnished by the board.
4. Applicants shall pass an examination prescribed by the board, which shall include the subjects of funeral directing, burial or other disposition of dead human bodies, sanitary science, embalming, restorative art, anatomy, public health, transportation, business ethics, and such other subjects as the board may designate.
5. After the applicant has completed satisfactorily the course of instruction in mortuary science in an accredited school approved by the board, the applicant must pass the examination prescribed by the board as provided in section 147.34. The applicant may then receive an internship certificate and shall then complete a minimum one-year internship as determined by the board.

[C24, 27, §2585; C31, 35, §2585-c3, -c4; C39, §**2585.03, 2585.04;** C46, 50, §156.3, 156.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.4]

96 Acts, ch 1148, §5; 2000 Acts, ch 1140, §41; 2005 Acts, ch 89, §19; 2007 Acts, ch 159, §7

156.5 through 156.7 Reserved.

156.8 Internships.

The board shall, by rule, provide for internships in mortuary science, and shall regulate the registration, training, and fee for internships.

[C31, 35, §2585-c4; C39, §**2585.04;** C46, 50, §156.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.8]

96 Acts, ch 1148, §6

156.8A Student practicum.

The board, by rule, shall provide for practicums in mortuary science for students available through any school accredited by the American board of funeral service education.

2000 Acts, ch 1140, §42; 2007 Acts, ch 159, §8

156.9 Revocation of license to practice mortuary science.

1. Notwithstanding section 147.87, the board may restrict, suspend, or revoke a license to practice mortuary science or place a licensee on probation. The board shall adopt rules of procedure pursuant to chapter 17A by which to restrict, suspend, or revoke a license. The board may also adopt rules pursuant to chapter 17A relating to conditions of license reinstatement.

2. In addition to the grounds stated in sections 147.55 and 272C.10, the board may revoke or suspend the license of, or otherwise discipline, a funeral director for any one of the following acts:

a. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.

b. A violation of chapter 144 related to the practice of mortuary science.

c. Knowingly aiding, assisting, procuring, advising, or allowing a person to unlawfully practice mortuary science.

d. Willful or repeated violations of this chapter, or the rules adopted pursuant to this chapter.

[C31, 35, §2585-c5; C39, §**2585.05;** C46, 50, §156.5; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.9]

87 Acts, ch 30, §1; 96 Acts, ch 1148, §7; 2007 Acts, ch 159, §9; 2008 Acts, ch 1088, §110; 2020 Acts, ch 1103, §20, 31

156.10 Inspection.

1. The director of public health may inspect all places where dead human bodies are prepared or held for burial, entombment, or cremation, and may adopt and enforce such rules and regulations in connection with the inspection as may be necessary for the preservation of the public health.

2. The Iowa department of public health may assess an inspection fee for an inspection of a place where dead human bodies are prepared for burial or cremation. The fee may be determined by the department by rule.

[C31, 35, §2585-c7; C39, §**2585.06;** C46, 50, §156.6; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.10]

96 Acts, ch 1148, §8; 2007 Acts, ch 159, §10; 2014 Acts, ch 1106, §18

156.11 Reserved.

156.12 Funeral directors — solicitation of business — exceptions — penalty.

Every funeral director, or person acting on behalf of a funeral director, who pays or causes to be paid any money or other thing of value as a commission or gratuity for the securing of business for the funeral director, and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director in order to secure business for the funeral director commits a simple misdemeanor. This section does not prohibit any person, firm, cooperative burial association, or corporation, subject to the

provisions of this chapter, from using legitimate and honest advertising. This section does not apply to sales made in accordance with chapter 523A.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §156.12]

87 Acts, ch 30, §2

156.13 Certificate of national board in lieu of examination. Repealed by 2007 Acts, ch 159, §12.

156.14 Funeral establishment and cremation establishment license.

1. A person shall not establish, conduct, or maintain a funeral establishment or a cremation establishment in this state without a license. The license shall be identified as an establishment license.

a. An establishment license issued by the board under this chapter shall be issued for a site and in the name of the individual in charge and is not transferable or assignable.

b. A license is required for each place of practice.

c. The license of the establishment shall be displayed.

2. The board shall specify by rule the licensing procedures to be followed, including specifications of forms for use in applying for an establishment license and fees for filing an application. The board shall specify by rule minimum standards for professional responsibility in the conduct of a funeral establishment or a cremation establishment.

3. To qualify for a funeral establishment or a cremation establishment license, the applicant shall submit to the board a license fee as determined by the board and a completed application on a form prescribed by the board that shall include the following information and be given under oath:

a. Ownership of the establishment.

b. Location of the establishment.

c. The license number of each funeral director employed by the establishment at the time of the application.

d. The trade or corporate name of the establishment.

e. The name of the individual in charge, who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.

4. A person who falsely makes the affidavit prescribed in subsection 3 is subject to all penalties prescribed for making a false affidavit.

96 Acts, ch 1148, §9

Referred to in §156.15

156.15 Funeral establishments and cremation establishments — license required — discipline, violations, and penalties.

1. A funeral establishment or cremation establishment shall not be operated until a license or renewal certificate has been issued to the establishment by the board.

2. The board shall refuse to issue an establishment license when an applicant fails to meet the requirements of section 156.14. The board may refuse to issue or renew a license or may impose a penalty, not to exceed ten thousand dollars, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:

a. Been convicted of a felony or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer or owner has been convicted of such a crime, under the laws of this state, another state, or the United States.

b. Violated this chapter or any rule adopted under this chapter or that any owner or employee of the establishment has violated this chapter or any rule adopted under this chapter.

c. Knowingly aided, assisted, procured, advised, or allowed a person to unlawfully practice mortuary science.

d. Failed to engage in or ceased to engage in the business described in the application for a license.

3. Failed to keep and maintain records as required by this chapter or rules adopted under this chapter.

96 Acts, ch 1148, §10; 2007 Acts, ch 159, §11

156.16 Unlicensed practice — injunctions, civil penalties, consent agreements.

1. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation constitutes a separate offense.

2. The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this section. To aid in such an investigation or in connection with any other proceeding under this section, the board may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3.

3. The board, in determining the amount of a civil penalty to be imposed, may consider any of the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The interest of the public.

4. The board, before issuing an order under this section, shall provide the person or establishment written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.

5. The board may request the attorney general to bring an action to enforce the subpoena.

6. A person or establishment aggrieved by the issuance of an order or the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person or establishment fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or, if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction pursuant to section 147.83.

9. The board, in its discretion and in lieu of issuing or enforcing an order or imposing a civil penalty for an initial violation under this section, may enter into a consent agreement with a violator, or with a person who aided or abetted a violator, which acknowledges the violation and the violator's agreement to refrain from any further violation.

2004 Acts, ch 1168, §11

CHAPTER 157

COSMETOLOGY

Referred to in §147.76, 158.6, 158.8, 158.12, 158.14, 261.9, 710A.1, 710A.2, 710A.2B, 710A.7

Enforcement, §147.87, 147.92

157.1 Definitions.
157.2 Prohibitions — exceptions.
157.3 License requirements.
157.3A License requirements — additional training.
157.3B Examination information.
157.4 Temporary permits.
157.4A License and government-issued identification — peace officer request.
157.4B Announcements to the public.
157.5 Consent and reporting requirements.
157.5A Manicurists. Repealed by 2006 Acts, ch 1184, §126.
157.6 Sanitary rules — practice in the home.
157.7 Inspectors and clerical assistants.
157.8 Licensing of schools of cosmetology arts and sciences and instructors.
157.9 License suspension and revocation.
157.10 Course of study.
157.11 Salon licenses.
157.12 Supervisors.
157.12A Use of laser or light products on minors.
157.13 Violations.
157.14 Rules.
157.15 Penalty.

157.1 Definitions.

For purposes of this chapter:

1. *"Board"* means the board of cosmetology arts and sciences.

2. *"Certified laser product"* means a product which is certified by a manufacturer pursuant to the requirements of 21 C.F.R. pt. 1040 and as specified by rule.

3. *"Chemical exfoliation"* means the removal of surface epidermal cells of the skin by using only nonmedical strength cosmetic preparations consistent with labeled instructions and as specified by rule.

4. *"Cosmetologist"* means a person who performs the practice of cosmetology, or otherwise by the person's occupation claims to have knowledge or skill particular to the practice of cosmetology. Cosmetologists shall not represent themselves to the public as being primarily in the practice of haircutting unless that function is, in fact, their primary specialty.

5. *"Cosmetology"* means all of the following practices:

a. Arranging, braiding, dressing, curling, waving, press and curl hair straightening, shampooing, cutting, singeing, bleaching, coloring, or similar works, upon the hair of any person, or upon a wig or hairpiece when done in conjunction with haircutting or hairstyling by any means.

b. Massaging, cleansing, stimulating, exercising, or beautifying the superficial epidermis of the scalp, face, neck, arms, hands, legs, feet, or upper body of any person with the hands or mechanical or electrical apparatus or appliances or with the use of cosmetic preparations, including cleansers, toners, moisturizers, or masques.

c. Removing superfluous hair from the face or body of a person with the use of depilatories, wax, sugars, threading, or tweezing.

d. Applying makeup or eyelashes, tinting of lashes or brows, or lightening of hair on the face or body.

e. Cleansing, shaping, or polishing the fingernails, applying sculptured nails, nail extensions, wraps, overlays, nail art, or any other nail technique to the fingernails or toenails of a person.

6. *"Cosmetology arts and sciences"* means any or all of the following disciplines, performed with or without compensation by a licensee:

a. Cosmetology.
b. Electrology.
c. Esthetics.
d. Nail technology.

e. Manicuring and pedicuring.

7. *"Department"* means the Iowa department of public health.

8. *"Depilatory"* means an agent used for the temporary removal of superfluous hair by dissolving it at the epidermal surface.

9. *"Electrologist"* means a person who performs the practice of electrology.

10. *"Electrology"* means the removal of superfluous hair of a person by the use of an electric needle or other electronic process.

11. *"Esthetician"* means a person who performs the practice of esthetics.

12. *"Esthetics"* means the following:

a. Beautifying, massaging, cleansing, stimulating, or hydrating the skin of a person, except the scalp, by the use of cosmetic preparations, including cleansers, antiseptics, tonics, lotions, creams, exfoliants, masques, and essential oils, to be applied with the hands or any device, electrical or otherwise, designed for the nonmedical care of the skin.

b. Applying makeup or eyelashes to a person, tinting eyelashes or eyebrows, or lightening hair on the body except the scalp.

c. Removing superfluous hair from the body of a person by the use of depilatories, waxing, sugaring, tweezers, threading, or use of any certified laser products or intense pulsed light devices. This excludes the practice of electrology, whereby hair is removed with an electric needle.

d. The application of permanent makeup or cosmetic micropigmentation.

13. *"Exfoliation"* means the process whereby the superficial epidermal cells are removed from the skin.

14. *"General supervision"* means the supervising physician is not on site for laser procedures or use of an intense pulsed light device for hair removal conducted on minors, but is available for direct communication, either in person or by telephone, radio, radiotelephone, television, or similar means.

15. *"Instructor"* means a person licensed for the purpose of teaching cosmetology arts and sciences.

16. *"Intense pulsed light device"* means a device that uses incoherent light to destroy the vein of the hair bulb.

17. *"Laser"* means light amplification by the stimulated emission of radiation.

18. *"Manicuring"* means the practice of cleansing, shaping, or polishing the fingernails and massaging the hands and lower arms of a person. *"Manicuring"* does not include the application of sculptured nails or nail extensions to the fingernails or toenails of a person, and does not include the practice of pedicuring.

19. *"Manicurist"* means a person who performs the practice of manicuring.

20. *"Mechanical exfoliation"* means the physical removal of surface epidermal cells by means that include but are not limited to brushing machines, granulated scrubs, peel-off masques, peeling creams or drying preparations that are rubbed off, and microdermabrasion.

21. *"Microdermabrasion"* means mechanical exfoliation using an abrasive material or apparatus to remove surface epidermal cells with a machine which is specified by rule.

22. *"Minor"* means an unmarried person who is under the age of eighteen years.

23. *"Nail technologist"* means a person who performs the practice of nail technology.

24. *"Nail technology"* means all of the following:

a. Applying sculptured nails, nail extensions, wraps, overlays, nail art, or any other nail technique to the fingernails and toenails of a person.

b. Massaging the hands, arms, ankles, and feet of a person.

c. Removing superfluous hair from hands, arms, feet, or legs of a person by the use of wax or a tweezer.

d. Manicuring the nails of a person.

25. *"Physician"* means a person licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery.

26. *"Salon"* means a fixed establishment or place where one or more persons engage in the practice of cosmetology arts and sciences, including, but not limited to, a retail establishment where cosmetologists engage in the practice of cosmetology arts and sciences.

27. *"School of cosmetology arts and sciences"* means an establishment operated for the purpose of teaching cosmetology arts and sciences.

[C27, 31, 35, §2585-b1; C39, §**2585.10;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §157.1]

92 Acts, ch 1205, §1; 93 Acts, ch 61, §1; 2004 Acts, ch 1044, §1 – 6; 2005 Acts, ch 89, §20 – 22; 2007 Acts, ch 10, §157, 158; 2008 Acts, ch 1088, §141; 2010 Acts, ch 1163, §4, 5; 2015 Acts, ch 30, §62

Referred to in §157.2, 157.3A, 158.2, 158.13

157.2 Prohibitions — exceptions.

1. It is unlawful for a person to practice cosmetology arts and sciences with or without compensation unless the person possesses a license issued under section 157.3. However, practices listed in section 157.1 when performed by the following persons are not defined as the practice of cosmetology arts and sciences:

a. Licensed physicians and surgeons, osteopathic physicians and surgeons, nurses, dentists, podiatric physicians, optometrists, chiropractors, and physical therapists, when exclusively engaged in the practice of their respective professions.

b. Licensed barbers who practice barbering as defined in section 158.1.

c. Students enrolled in licensed schools of cosmetology arts and sciences or barber schools who are practicing under the instruction or immediate supervision of an instructor.

d. Persons who perform without compensation any of the practices listed in section 157.1 on an emergency basis or on a casual basis.

e. Employees of hospitals, health care facilities, orphans' homes, juvenile homes, and other similar facilities who perform cosmetology services for any resident without receiving direct compensation from the person receiving the service.

f. Volunteers for and residents of health care facilities, orphans' homes, juvenile homes, and other similar facilities who shampoo, arrange, dress, or curl the hair, apply makeup, or polish the nails of any resident without receiving compensation from the person receiving the service.

g. Persons who perform any of the practices listed in section 157.1 on themselves or on a member of the person's immediate family.

h. Employees of a licensed barbershop when manicuring fingernails, if permitted under section 158.14, subsection 2.

i. Persons who apply samples of makeup, nail polish or other nail care products, cosmetics, or other cosmetology or esthetics preparations to persons to demonstrate the products in the regular course of business.

2. Cosmetologists shall not represent themselves to the public as electrologists, estheticians, or nail technologists unless the cosmetologist has completed the additional course study for the respective practice as prescribed by the board pursuant to section 157.10.

3. Persons licensed under this chapter shall not administer any practice of removing the skin by means of a razor-edged instrument.

4. With the exception of hair removal, manicuring, and nail technology services, persons licensed under this chapter shall not administer any procedure in which human tissue is cut, shaped, vaporized, or otherwise structurally altered.

5. Persons licensed under this chapter shall only use intense pulsed light devices for purposes of hair removal.

[C27, 31, 35, §2585-b2; C39, §**2585.11;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §157.2]

89 Acts, ch 240, §2; 92 Acts, ch 1205, §2; 93 Acts, ch 61, §2, 3; 96 Acts, ch 1034, §68; 2004 Acts, ch 1044, §7; 2005 Acts, ch 89, §23; 2006 Acts, ch 1184, §100, 101; 2008 Acts, ch 1088, §141

157.3 License requirements.

1. An applicant who has graduated from high school or its equivalent shall be issued a license to practice any of the cosmetology arts and sciences by the department when the applicant satisfies all of the following:

a. Presents to the department a diploma, or similar evidence, issued by a licensed school of

cosmetology arts and sciences indicating that the applicant has completed the course of study for the appropriate practice of the cosmetology arts and sciences prescribed by the board. An applicant may satisfy this requirement upon presenting a diploma or similar evidence issued by a school in another state, recognized by the board, which provides instruction regarding the practice for which licensure is sought, provided that the course of study is equivalent to or greater in length and scope than that required for a school in this state, and is approved by the board.

b. Completes the application form prescribed by the board.

c. Passes an examination prescribed by the board. The examination may include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method. However, a member of the board who is a licensed instructor of cosmetology arts and sciences shall not be involved in the selection or administration of the exam.

2. Notwithstanding subsection 1, a person who completes the application form prescribed by the board and who submits satisfactory proof of having been licensed in a practice of the cosmetology arts and sciences in another state for at least twelve months in the twenty-four month period preceding the submission of the application shall be allowed to take the examination for a license to practice the appropriate practice of the cosmetology arts and sciences. However, the examination requirement shall be waived for those persons who submit evidence of licensure in another state which has a reciprocal agreement with the state of Iowa under sections 147.44, 147.48, and 147.49.

[C27, 31, 35, §2585-b3, -b4; C39, §**2585.12, 2585.13;** C46, 50, 54, 58, 62, 66, 71, 73, §157.3, 157.4; C77, 79, 81, §157.3]

92 Acts, ch 1097, §5; 92 Acts, ch 1205, §3; 2005 Acts, ch 89, §24

Referred to in §157.2, 157.3A, 158.8, 158.10

157.3A License requirements — additional training.

In addition to the license requirements of section 157.3, a written application and proof of additional training and certification shall be required prior to approval by the board for the provision of the services described in this section.

1. *a.* A licensed esthetician, who intends to provide services pursuant to section 157.1, subsection 12, paragraphs "*a*" and "*c*", having received additional training on the use of microdermabrasion, a certified laser product, or an intense pulsed light device, shall submit a written application and proof of additional training and certification for approval by the board. Training shall be specific to the service provided or certified laser product used.

b. A licensed esthetician who applies permanent makeup or cosmetic micropigmentation shall comply with the provisions of section 135.37 and applicable rules.

c. Extractions shall be administered only by a licensed esthetician who has been trained in extraction procedures.

d. Chemical peels shall be administered only by a licensed esthetician who has been certified by the manufacturer of the product being used.

2. *a.* A licensed cosmetologist having received additional training in the use of chemical peels, microdermabrasion, a certified laser product, or an intense pulsed light device for hair removal shall submit a written application and proof of additional training and certification for approval by the board. A cosmetologist who is licensed after July 1, 2005, shall not be eligible to provide chemical peels, practice microdermabrasion procedures, use certified laser products, or use an intense pulsed light device for hair removal.

b. A licensed cosmetologist who applies permanent makeup or cosmetic micropigmentation shall comply with the provisions of section 135.37 and applicable rules.

3. A licensed electrologist having received additional training on the use of a certified laser product or an intense pulsed light device for the purpose of hair removal shall submit a written application and proof of additional training and certification for approval by the board.

4. Any additional training received by a licensed esthetician, cosmetologist, or electrologist and submitted to the board relating to utilization of a certified laser product or an intense pulsed light device shall include a safety training component which provides

a thorough understanding of the procedures being performed. The training program shall address fundamentals of nonbeam hazards, management and employee responsibilities relating to control measures, and regulatory requirements.

5. A certified laser product shall only be used on surface epidermal layers of the skin except for hair removal.

2004 Acts, ch 1044, §8; 2005 Acts, ch 3, §39; 2005 Acts, ch 89, §25 – 28
Referred to in §157.13

157.3B Examination information.

Notwithstanding section 147.21, individual pass or fail examination results made available from the authorized national testing agency to the board may be disclosed to the board-approved education program from which the applicant for licensure graduated for purposes of verifying accuracy of national data and reporting aggregate licensure examination results as required for a program's continued accreditation.

2009 Acts, ch 182, §129

157.4 Temporary permits.

1. The department may issue a temporary permit which allows the applicant to practice in the cosmetology arts and sciences for purposes determined by rule. The board shall determine and state its recommendations and the length of time the temporary permit issued under this subsection is valid.

2. The fee for a temporary permit shall be established by the board as provided in section 147.80.

3. Notwithstanding section 157.13, subsection 1, the board may issue a temporary permit to practice in the cosmetology arts and sciences for the purpose of demonstrating cosmetology arts and sciences services to the public or for providing cosmetology arts and sciences services to the public at not-for-profit events. A permit issued pursuant to this subsection shall be subject to the following requirements:

a. The permit shall be issued for a specific event and may be issued to a salon, school of cosmetology arts and sciences, or person.

b. The permit shall be posted and visible to the public at the location where the cosmetology arts and sciences services are provided.

c. The permit shall be valid for no longer than twelve days.

d. An applicant for a temporary permit shall submit a completed application on a form provided by the board at least thirty days in advance of the intended use date.

e. An applicant shall submit an application fee determined by the board by rule.

f. The board shall issue no more than four permits to an applicant during a calendar year.

g. A person providing cosmetology arts and sciences services at a not-for-profit event shall hold a current license to practice cosmetology arts and sciences.

[C31, 35, §2585-c10; C39, §**2585.20;** C46, 50, 54, 58, 62, 66, 71, 73, §157.11; C77, 79, 81, §157.4]

92 Acts, ch 1205, §4; 2005 Acts, ch 89, §29; 2018 Acts, ch 1156, §1, 2

157.4A License and government-issued identification — peace officer request.

1. For purposes of this section, unless the context otherwise requires:

a. *"Government-issued identification"* means any of the following:

(1) An unexpired driver's license issued by any state, territory, or district of the United States.

(2) An unexpired identification card issued by any state, territory, or district of the United States.

(3) An unexpired United States passport.

(4) A naturalization certificate issued by the United States citizenship and immigration services.

(5) An unexpired permanent resident card, also known as a green card, issued by the United States citizenship and immigration services.

(6) An unexpired employment authorization document issued by the United States citizenship and immigration services.

b. *"Peace officer"* means any of the following:

(1) Sheriffs and their regular deputies who are subject to mandated law enforcement training.

(2) Marshals and police officers of cities.

(3) Peace officer members of the department of public safety as defined in chapter 80.

(4) Special security officers employed by board of regents institutions as set forth in section 262.13.

(5) Such employees of the department of transportation as are designated peace officers by resolution of the department under section 321.477.

(6) Employees of an aviation authority designated as peace officers by the authority under section 330A.8, subsection 16.

2. A person licensed or who purports to be licensed under this chapter shall, upon the request of any peace officer investigating a complaint of illegal services, present a copy of the person's valid license issued pursuant to this chapter and a government-issued identification to the peace officer.

2021 Acts, ch 123, §3
Referred to in §710A.1, 710A.2, 710A.3
NEW section

157.4B Announcements to the public.

1. For purposes of this section, *"announcement to the public"* means the use of any print media, broadcast media, subscription internet site, internet site available to the public, or any other means to do any of the following:

a. Advertise or market cosmetology services.

b. Provide a site for clients to post reviews.

c. Offer a virtual marketplace at which goods or services may be offered or clients may be solicited.

2. A person shall not do any of the following in an announcement to the public:

a. Represent that another person is licensed under this chapter when the person knows, or has reason to know, that the other person is not licensed.

b. Falsely represent the person's self as licensed under this chapter.

c. Offer, or imply the offer of, services that violate state law.

3. A person who violates subsection 2 commits a serious misdemeanor.

2021 Acts, ch 123, §4
Referred to in §710A.3
NEW section

157.5 Consent and reporting requirements.

1. A licensed cosmetologist, esthetician, or electrologist who provides services relating to the use of a certified laser product, intense pulsed light device for hair removal, chemical peel, or microdermabrasion, shall obtain a consent in writing prior to the administration of the services. A consent in writing shall create a presumption that informed consent was given if the consent:

a. Sets forth in general terms the nature and purpose of the procedure or procedures, together with the known risks associated with the procedure or procedures, if reasonably determinable.

b. Acknowledges that the disclosure of that information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner.

c. Is signed by the client for whom the procedure is to be performed, or if the client for any reason lacks legal capacity to consent, is signed by a person who has legal authority to consent on behalf of that client in those circumstances.

2. A licensed cosmetologist, esthetician, or electrologist who provides services related to the use of a certified laser product, intense pulsed light device for hair removal, chemical peel, or microdermabrasion, shall submit a report to the board within thirty days of any incident

involving the provision of such services which results in physical injury requiring medical attention. Failure to comply with this section shall result in disciplinary action being taken by the board.

2004 Acts, ch 1044, §9; 2005 Acts, ch 89, §30, 31

157.5A Manicurists. Repealed by 2006 Acts, ch 1184, §126.

157.6 Sanitary rules — practice in the home.

The department shall prescribe sanitary rules for salons and schools of cosmetology arts and sciences which shall include the sanitary conditions necessary for the practice of cosmetology arts and sciences and for the prevention of infectious and contagious diseases. Subject to local zoning ordinances, a salon may be established in a residence if a room other than the living quarters is equipped for that purpose. The department shall enforce this section and make necessary inspections for enforcement purposes.

[C27, 31, 35, §2585-b6; C39, §**2585.15;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §157.6]

92 Acts, ch 1205, §6

Referred to in §157.8, 157.13

157.7 Inspectors and clerical assistants.

1. The department of inspections and appeals shall employ personnel pursuant to chapter 8A, subchapter IV, to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 158.

2. The Iowa department of public health may employ clerical assistants pursuant to chapter 8A, subchapter IV, to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

[C27, 31, 35, §2585-b9; C39, §**2585.17;** C46, 50, 54, 58, 62, 66, 71, 73, §157.8; C77, 79, 81, §157.7]

90 Acts, ch 1204, §23; 2003 Acts, ch 145, §201; 2019 Acts, ch 24, §104

Referred to in §10A.104

157.8 Licensing of schools of cosmetology arts and sciences and instructors.

1. It is unlawful for a school of cosmetology arts and sciences to operate unless the owner has obtained a license issued by the department. The owner shall file a verified application with the department on forms prescribed by the board.

2. *a.* The application for a license for a school shall be accompanied by the annual license fee determined pursuant to section 147.80 and shall state the name and location of the school and such other additional information as the board may require. The license is valid for one year and may be renewed.

b. The license shall contain a statement which provides that the licensee is approved by the department as a provider of postsecondary education.

c. A license for a school of cosmetology arts and sciences shall not be issued for any space in any location where the same space is also licensed as a barber school.

d. The school of cosmetology arts and sciences must pass a sanitary inspection under section 157.6. An annual inspection of each school of cosmetology arts and sciences, including the educational activities of each school, shall be conducted and completed by the board or its designee prior to renewal of the license.

3. *a.* The number of instructors for each school shall be based upon total enrollment, with a minimum of two licensed instructors employed on a full-time basis for up to thirty students and an additional licensed instructor for each fifteen additional students. A student instructor shall not be used to meet licensed instructor-to-student ratios. A school operated by an area community college prior to September 1, 1982, with only one instructor per fifteen students is not subject to this paragraph and may continue to operate with the ratio of one licensed instructor to fifteen students. A student instructor may not be used to meet this requirement.

b. A school with less than thirty students enrolled may have one licensed instructor on site in the school if offering only clinic services or only theory instruction in a single

classroom and less than fifteen students are present. If a school is offering clinic services and theory instruction simultaneously to less than fifteen students, at least two licensed instructors must be on site. Schools with more than thirty students enrolled shall meet the licensed instructor-to-student ratio as provided in paragraph *"a"*.

c. A person employed as an instructor in the cosmetology arts and sciences by a licensed school shall be licensed in the practice and shall possess a separate instructor's license which shall be renewed biennially. An instructor shall file an application with the department on forms prescribed by the board. Requirements for licensure as an instructor shall be determined by the board by rule.

d. The application for an instructor's license shall be accompanied by the biennial fee determined pursuant to section 147.80.

[C31, 35, §2585-c9; C39, §**2585.18;** C46, 50, 54, 58, 62, 66, 71, 73, §157.9; C77, 79, 81, §157.8]

83 Acts, ch 68, §1; 92 Acts, ch 1205, §7; 2004 Acts, ch 1044, §10; 2010 Acts, ch 1163, §6; 2012 Acts, ch 1062, §1

Referred to in §261B.11

157.9 License suspension and revocation.

Any license issued by the department under the provisions of this chapter may be suspended, revoked, or renewal denied by the board for violation of any provision of this chapter or chapter 158 or rules promulgated by the board under the provisions of chapter 17A.

[C77, 79, 81, §157.9]

157.10 Course of study.

1. The course of study required for licensure for the practice of cosmetology shall be two thousand one hundred clock hours, or seventy semester credit hours or the equivalent thereof as determined pursuant to administrative rule and regulations promulgated by the United States department of education. The clock hours, and equivalent number of semester credit hours or the equivalent thereof as determined pursuant to administrative rule and regulations promulgated by the United States department of education, of a course of study required for licensure for the practices of electrology, esthetics, nail technology, manicuring, and pedicuring shall be established by the board. The board shall adopt rules to define the course and content of study for each practice of cosmetology arts and sciences.

2. A person licensed in or a student of a practice of cosmetology arts and sciences shall be granted full credit for each course successfully completed which meets the requirements for licensure in another practice of cosmetology arts and sciences.

3. A barber licensed under chapter 158 or a student in a barber school who applies for licensure in a practice of cosmetology arts and sciences or who enrolls in a school of cosmetology arts and sciences shall be granted, at the discretion of the school, at least half credit and up to full credit for each course successfully completed for licensure as a barber which meets the requirements for licensure in a practice of cosmetology arts and sciences.

[C77, 79, 81, §157.10]

88 Acts, ch 1110, §1; 92 Acts, ch 1205, §8; 2004 Acts, ch 1100, §2; 2006 Acts, ch 1184, §102

Referred to in §157.2

157.11 Salon licenses.

1. A salon shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department may perform a sanitary inspection of each salon biennially and may perform a sanitary inspection of a salon prior to the issuance of a license. An inspection of a salon may also be conducted upon receipt of a complaint by the department.

2. The application shall be accompanied by the biennial license fee determined pursuant to section 147.80. The license is valid for two years and may be renewed.

3. A licensed school of cosmetology arts and sciences at which students practice cosmetology arts and sciences is exempt from licensing as a salon.

[C77, 79, 81, §157.11]

83 Acts, ch 206, §10; 91 Acts, ch 268, §431; 92 Acts, ch 1205, §9; 99 Acts, ch 141, §28; 2014 Acts, ch 1106, §17

157.12 Supervisors.

A person who directly supervises the work of practitioners of cosmetology arts and sciences shall be licensed in the practice supervised or a barber licensed under section 158.3.

[C31, 35, §2585-c11; C39, §**2585.21;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §157.12]

88 Acts, ch 1110, §2; 92 Acts, ch 1205, §10

Referred to in §157.13

157.12A Use of laser or light products on minors.

A laser hair removal product or device, or intense pulsed light device, shall not be used on a minor unless the minor is accompanied by a parent or guardian and only under the general supervision of a physician.

2004 Acts, ch 1044, §11; 2005 Acts, ch 89, §32

157.13 Violations.

1. It is unlawful for a person to employ an individual to practice cosmetology arts and sciences unless that individual is licensed or has obtained a temporary permit under this chapter. It is unlawful for a licensee to practice with or without compensation in any place other than a licensed salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in section 158.1. The following exceptions to this subsection shall apply:

a. A licensee may practice at a location which is not a licensed salon, school of cosmetology arts and sciences, or licensed barbershop under extenuating circumstances arising from physical or mental disability or death of a customer.

b. Notwithstanding section 157.12, when the licensee is employed by a physician and provides cosmetology services at the place of practice of a physician and is under the supervision of a physician licensed to practice pursuant to chapter 148.

c. When the practice occurs in a facility licensed pursuant to chapter 135B or 135C.

2. It is unlawful for a licensee to claim to be a licensed barber, however a licensed cosmetologist may work in a licensed barbershop. It is unlawful for a person to employ a licensed cosmetologist, esthetician, or electrologist to perform the services described in section 157.3A if the licensee has not received the additional training and met the other requirements specified in section 157.3A.

3. If the owner or manager of a salon does not comply with the sanitary rules adopted under section 157.6 or fails to maintain the salon as prescribed by rules of the department, the department may notify the owner or manager in writing of the failure to comply. If the rules are not complied with within five days after receipt of the written notice by the owner or manager, the department shall in writing order the salon closed until the rules are complied with. It is unlawful for a person to practice in a salon which has been closed under this section. The county attorney in each county shall assist the department in enforcing this section.

4. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation after an order or citation by the board constitutes a separate offense, with the maximum penalty not to exceed ten thousand dollars.

a. In determining the amount of a civil penalty, the board may consider the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.
(4) The economic benefits gained by the violator as a result of noncompliance.
(5) The welfare or best interest of the public.

b. The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this subsection. Before issuing an order or citation under this section, the board shall provide written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted as provided in chapter 17A. The board may, in connection with a proceeding under this section, issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

c. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19. The board shall notify the attorney general of the failure to pay a civil penalty within thirty days after entry of an order pursuant to this subsection, or within ten days following final judgment in favor of the board if an order has been stayed pending appeal. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs. An action to enforce an order under this subsection may be joined with an action for an injunction.

[C31, 35, §2585-c12; C39, §**2585.22;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §157.13]

88 Acts, ch 1110, §3; 92 Acts, ch 1205, §11; 2004 Acts, ch 1044, §12, 13; 2005 Acts, ch 89, §33; 2006 Acts, ch 1184, §103, 104; 2008 Acts, ch 1088, §111

Referred to in §157.4

157.14 Rules.

The board shall adopt rules pursuant to chapter 17A to administer the provisions of this chapter.

[C77, 79, 81, §157.14]

89 Acts, ch 3, §1

157.15 Penalty.

A person convicted of violating any of the provisions of this chapter or rules adopted pursuant to this chapter is guilty of a serious misdemeanor.

[C35, §2522; C39, §**2585.24;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §157.15]

92 Acts, ch 1205, §12

CHAPTER 158

BARBERING

Referred to in §147.76, 157.7, 157.9, 157.10

Enforcement, §147.87, 147.92

158.1 Definitions.
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158.3 License requirements.
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158.11 Continuing education.
158.12 License suspension and revocation.
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158.14 Manicurists.
158.15 Rules.
158.16 Penalty.

158.1 Definitions.

For the purpose of this chapter:

1. *"Barbering"* means the practices listed in this subsection performed with or without compensation. *"Barbering"* includes but is not limited to the following practices performed

upon the upper part of the human body of any person for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

a. Shaving or trimming the beard or cutting the hair.

b. Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand, or by electrical or mechanical appliances.

c. Singeing, shampooing, hair body processing, arranging, dressing, curling, blow waving, hair relaxing, bleaching or coloring the hair, or applying hair tonics.

d. Applying cosmetic preparations, antiseptics, powders, oils, clays, waxes, or lotions to scalp, face, or neck.

e. Styling, cutting or shampooing hairpieces or wigs when done in conjunction with haircutting or hairstyling.

2. *"Barber"* means a person who performs practices of barbering or otherwise by the person's occupation claims to have knowledge or skill peculiar to the practice of barbering.

3. *"Barbershop"* means an establishment in a fixed location, or a location that is readily movable, where one or more persons engage in the practice of barbering.

4. *"Barber school"* means an establishment operated by a person for the purpose of teaching barbering.

5. *"Board"* means the board of barbering.

6. *"Department"* means the Iowa department of public health.

[C27, 31, 35, §2585-b11; C39, §**2585.25;** C46, 50, 54, 58, 62, 66, 71, 73, §158.1, 158.11(1,2); C77, 79, 81, §158.1]

2007 Acts, ch 10, §159; 2009 Acts, ch 56, §6; 2009 Acts, ch 133, §65; 2020 Acts, ch 1003, §1, 2; 2021 Acts, ch 76, §39

Referred to in §157.2, 157.13, 158.2, 158.8
Subsection 3 amended

158.2 Prohibition — exceptions.

A person shall not practice barbering with or without compensation unless the person possesses a license issued under the provisions of section 158.3. A person licensed under section 158.3 shall not represent to the public that the person is primarily engaged in practices other than haircutting unless the functions are in fact the person's primary function or specialty. Practices listed in section 158.1 when performed by the following persons do not constitute barbering:

1. Licensed physicians and surgeons, osteopathic physicians and surgeons, nurses, dentists, podiatric physicians, optometrists, chiropractors, and physical therapists, when exclusively engaged in the practice of their respective professions.

2. Licensed practitioners of cosmetology arts and sciences as defined in section 157.1.

3. Students enrolled in licensed barber schools or schools of cosmetology arts and sciences who are practicing under the instruction or immediate supervision of an instructor.

4. Persons who, without compensation, perform any of the practices on an emergency basis or on a casual basis.

5. Employees and residents of hospitals, health care facilities, orphans' homes, juvenile homes, and other similar facilities who shampoo, arrange, dress, or curl the hair of any resident, or who shave or trim the beard of any resident, without receiving direct compensation from the person receiving the service.

6. Persons who perform any of the practices listed in section 158.1 on themselves or on a member of the person's immediate family.

7. Offenders committed to the custody of the director of the department of corrections who cut the hair or trim or shave the beard of any other offender within a correctional facility, without receiving direct compensation from the person receiving the service.

8. Persons committed pursuant to chapter 229A to the custody of the director of the department of human services in the unit for sexually violent predators who cut the hair

or trim or shave the beard of any other person within the unit, without receiving direct compensation from the person receiving the service.

[C27, 31, 35, §2585-b12; C39, §**2585.26;** C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, §158.2]

92 Acts, ch 1205, §18; 96 Acts, ch 1034, §68; 2005 Acts, ch 174, §20; 2008 Acts, ch 1088, §141; 2009 Acts, ch 133, §66; 2011 Acts, ch 98, §4

158.3 License requirements.

1. An applicant shall be issued a license to practice barbering by the department when the applicant satisfies all of the following:

a. Presents to the department a diploma, or other like evidence, issued by a licensed barber school indicating that the applicant has completed the course of study prescribed by the board.

b. Completes the application form prescribed by the board.

c. Passes an examination prescribed by the board. The examination shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method.

d. Presents a certificate, or satisfactory evidence, to the department that the applicant has successfully completed tenth grade, or the equivalent. The provisions of this subsection shall not apply to students enrolled in a barber school maintained at an institution under the control of a director of a division of the department of human services.

2. Notwithstanding the provisions of subsection 1, any person who completes the application form prescribed by the board and who submits satisfactory proof of having been a licensed barber in another state for at least twelve months in the twenty-four month period preceding the submission of the application shall be allowed to take the examination for a license to practice barbering. However, the examination requirement shall be waived for those persons who submit evidence of licensure in another state which has a reciprocal agreement with the state of Iowa under the provisions of sections 147.44, 147.48, and 147.49.

3. Notwithstanding the provisions of subsection 1, any person who completes the application form prescribed by the board and who completes a barbering apprenticeship training program registered by the office of apprenticeship of the United States department of labor while committed to the custody of the director of the Iowa department of corrections shall be allowed to take the examination for a license to practice barbering.

[C27, 31, 35, §2585-b13, -b14; C39, §**2585.27, 2585.28;** C46, 50, 54, 58, 62, 66, 71, 73, §158.3, 158.4; C77, 79, 81, §158.3]

83 Acts, ch 96, §157, 159; 92 Acts, ch 1097, §6; 2009 Acts, ch 56, §7; 2019 Acts, ch 99, §12

Referred to in §157.12, 158.2, 158.4

158.4 Temporary permits.

1. A person who completes the requirements for licensure listed in section 158.3, except for the examination, shall be known as a trainee and shall be issued a temporary permit by the department which allows the applicant to practice barbering from the date of application until passage of the examination subject to this subsection. An applicant shall take the first available examination administered by the board, and may retain the temporary permit if the applicant does not pass the examination. An applicant who does not pass the first examination shall take the next available examination administered by the board. The temporary permit of an applicant who does not pass the second examination shall be revoked. An applicant who passes either examination shall be issued a license pursuant to section 158.3. The board shall adopt rules providing for a waiver of the requirement to take the first available examination for good cause.

2. The department may issue a temporary permit which allows the applicant to practice barbering for purposes determined by rule. The board shall determine and state its recommendations and the length of time the temporary permit issued under this subsection is valid.

3. The fee for a temporary permit shall be established by the board as provided in section 147.80.

[C77, 79, 81, §158.4]

92 Acts, ch 1205, §19; 2010 Acts, ch 1163, §7

158.5 Sanitary rules.

The department shall prescribe sanitary rules for barbershops and barber schools which shall include the sanitary conditions necessary for the practice of barbering and for the prevention of infectious and contagious diseases. Subject to local zoning ordinances, a barbershop may be established in a residence if a room other than the living quarters is equipped for that purpose. The department shall enforce the provisions of this section and make necessary inspections for enforcement.

[C27, 31, 35, §2585-b15; C39, §**2585.31;** C46, 50, 54, 58, 62, 66, 71, 73, §158.7; C77, 79, 81, §158.5]

Referred to in §158.13

158.6 Inspectors and clerical assistants.

1. The department of inspections and appeals shall employ personnel pursuant to chapter 8A, subchapter IV, to perform duties related to inspection functions under this chapter. The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 157.

2. The Iowa department of public health may employ clerical assistants pursuant to chapter 8A, subchapter IV, to administer and enforce this chapter. The costs and expenses of the clerical assistants shall be paid from funds appropriated to the department of public health.

[C27, 31, 35, §2585-b18; C39, §**2585.33;** C46, 50, 54, 58, 62, 66, 71, 73, §158.9; C77, 79, 81, §158.6]

90 Acts, ch 1204, §24; 2003 Acts, ch 145, §202; 2020 Acts, ch 1062, §94

Referred to in §10A.104

158.7 Licensing barber schools.

1. It is unlawful for a barber school to operate unless the owner has obtained a license issued by the department. The owner shall file a verified application with the department on forms prescribed by the board.

2. Any person employed as a barbering instructor in a licensed barber school shall be a licensed barber and shall possess a separate instructor's license which shall be renewed biennially. An instructor shall file an application with the department on forms prescribed by the board.

3. The barber school must pass a sanitary inspection, and the course of study of the school must be approved by the board under the provisions of section 158.8.

4. An annual inspection of each barber school, including the educational activities of each school, shall be conducted and completed by the board prior to renewal of the license.

5. *a.* The application shall be accompanied by the annual license fee determined under the provisions of section 147.80 and shall state the name and location of the school, name of the owner, name of the manager, and such other additional information as the board may require. The license is valid for one year and may be renewed.

b. The license shall contain a statement which provides that the licensee is approved by the department as a provider of postsecondary education.

6. A license for a barber school shall not be issued for any space in any location where the same space is licensed as a school of cosmetology.

[C46, 50, 54, 58, 62, 66, 71, 73, §158.11; C77, 79, 81, §158.7]

2009 Acts, ch 56, §8; 2012 Acts, ch 1062, §2

Referred to in §261.9, 261B.11

158.8 Course of study.

1. The course of study of a barber school shall consist of at least two thousand one hundred hours of instruction as prescribed by the board and shall include instruction in all

phases of the practice of barbering as defined in section 158.1, subsection 1. The course shall require at least ten months of instruction for completion. The course shall include not less than three hundred hours of demonstrations and lectures in the following areas: law; ethics; equipment; shop management; history of barbering; sanitation; sterilization; personal hygiene; first aid; bacteriology; anatomy; scalp, skin, hair and their common disorders; electricity as applied to barbering; chemistry and pharmacology; scalp care; hair body processing; hairpieces; honing and stropping; shaving; facials, massage and packs; haircutting; hair tonics; dyeing and bleaching; instruments; soaps; and shampoos, creams, lotions, waxes, and tonics. It shall include not less than one thousand four hundred hours of supervised practical instruction in the following areas: scalp care and shampooing, honing and stropping, shaving, haircutting, hairstyling and blow waving, dyeing and bleaching, hair body processing, facials, waxing, massage and packs, beard and mustache trimming, and hairpieces.

2. A person licensed under section 157.3 who enrolls in a barber school shall be granted full credit for each course successfully completed which meets the requirements of the barber school, which shall be credited toward the two thousand one hundred hour requirement, and the ten-month period does not apply. A person who has been a student in a school of cosmetology arts and sciences licensed under chapter 157 may enroll in a barber school and shall be granted, at the discretion of the school, at least half credit and up to full credit for each course successfully completed which meets the requirements of the barber school.

[C77, 79, 81, §158.8]

88 Acts, ch 1110, §4; 92 Acts, ch 1205, §20; 2009 Acts, ch 56, §9

Referred to in §158.7

158.9 Barbershop licenses.

1. A barbershop shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department may perform a sanitary inspection of each barbershop biennially and may perform a sanitary inspection of a barbershop prior to the issuance of a license. An inspection of a barbershop may also be conducted upon receipt of a complaint by the department.

2. The application shall be accompanied by the biennial license fee determined pursuant to section 147.80. The license is valid for two years and may be renewed.

3. A licensed barber school at which students practice barbering is exempt from licensing as a barbershop.

[C46, 50, 54, 58, 62, 66, 71, 73, §158.11; C77, 79, 81, §158.9]

83 Acts, ch 206, §11; 91 Acts, ch 268, §432; 99 Acts, ch 141, §29; 2001 Acts, ch 58, §14; 2014 Acts, ch 1106, §19

158.10 Supervisors of barbers.

A person who directly supervises the work of barbers shall be either a barber licensed under this chapter or a cosmetologist licensed under section 157.3.

[C77, 79, 81, §158.10]

88 Acts, ch 1110, §5

158.11 Continuing education.

1. A person licensed pursuant to this chapter shall be required to complete no more than three hours of continuing education every two years that meets the requirements established by the board. The continuing education compliance period shall extend for a two-year period beginning on July 1 and ending on June 30 of each even-numbered year.

2. A member of the board shall not provide the continuing education required by this section.

2015 Acts, ch 63, §1

158.12 License suspension and revocation.

Any license issued by the department under the provisions of this chapter may be suspended, revoked, or renewal denied by the board for violation of any provision of chapter 157 or this chapter or rules promulgated by the board under the provisions of chapter 17A.

[C46, 50, 54, 58, 62, 66, 71, 73, §158.11; C77, 79, 81, §158.12]

158.13 Violations.

1. It is unlawful for a person to employ an individual to practice barbering unless that individual is a licensed barber or has obtained a temporary permit. It is unlawful for a licensed barber to practice barbering with or without compensation in any place other than a licensed barbershop or barber school, or a licensed salon as defined in section 157.1, except that a licensed barber may practice barbering at a location which is not a licensed barbershop or barber school under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a licensed barber to claim to be a licensed cosmetologist, but it is lawful for a licensed barber to work in a licensed salon.

2. If the owner or manager of a barbershop does not comply with the sanitary rules adopted under the provisions of section 158.5 or fails to maintain the barbershop as prescribed by rules of the department, the department may notify the owner or manager in writing of the failure to comply. If the rules are not complied with within five days after receipt of the written notice by the owner or manager, the department shall in writing order the shop closed until the rules are complied with. It is unlawful for a person to practice barbering in a shop which has been closed under the provisions of this section. The county attorney in each county shall assist the department in enforcing the provisions of this section.

[C27, 31, 35, §2585-b12, -c14; C39, §**2585.26, 2585.30;** C46, 50, 54, 58, 62, 66, 71, 73, §158.1, 158.6; C77, 79, 81, §158.13]

88 Acts, ch 1110, §6; 92 Acts, ch 1205, §22

158.14 Manicurists.

1. A licensed barbershop may employ a licensed manicurist to manicure the fingernails of any person.

2. An unlicensed person who was employed by a licensed barbershop to manicure fingernails prior to July 1, 1989, may continue such employment without meeting licensing requirements under chapter 157.

[C77, 79, 81, §158.14]

89 Acts, ch 240, §5

Referred to in §157.2

158.15 Rules.

The board shall adopt rules pursuant to chapter 17A to administer the provisions of this chapter.

[C77, 79, 81, §158.15]

89 Acts, ch 3, §2

158.16 Penalty.

A person convicted of violating any of the provisions of this chapter shall be fined an amount not to exceed one thousand dollars.

[C35, §2522; C39, §**2585.24;** C46, §157.15; C50, 54, 58, 62, 66, 71, 73, §158.12; C77, 79, 81, §158.16]

2009 Acts, ch 56, §10; 2010 Acts, ch 1061, §32

TITLE V

AGRICULTURE

SUBTITLE 1

AGRICULTURE AND CONSERVATION OF AGRICULTURAL RESOURCES

Referred to in §159.1, 159.5

CHAPTER 159

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

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SUBCHAPTER I

GENERAL PROVISIONS

159.1 Definitions.

For the purposes of subtitles 1 through 3 of this title, excluding chapters 161A and 161C, unless otherwise provided:

1. *"Department"* means the department of agriculture and land stewardship and if the department is required or authorized to do an act, unless otherwise provided, the act may be performed by an officer, regular assistant, or duly authorized agent of the department.

2. *"Person"* includes an individual, a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a

representative capacity shall be imputed to the organization or person represented, and the person acting in such capacity shall also be liable for violation of subtitles 1 through 3 of this Title, excluding chapters 161A and 161C.

3. "*Secretary*" means the secretary of agriculture.

[S13, §1657-b; C24, 27, 31, 35, 39, §**2586;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.1]

86 Acts, ch 1245, §604; 91 Acts, ch 74, §1; 92 Acts, ch 1163, §38; 94 Acts, ch 1023, §13; 97 Acts, ch 193, §1; 2010 Acts, ch 1061, §33, 34; 2015 Acts, ch 30, §63

159.2 Objects of department.

The objects of the department of agriculture and land stewardship shall be:

1. To encourage, promote, and advance the interests of agriculture, including horticulture, livestock industry, dairying, cheese making, poultry raising, biofuels, beekeeping, production of wool, production of domesticated fur-bearing animals, and other kindred and allied industries.

2. To encourage a relationship between people and the land that recognizes land as a resource to be managed in a manner that avoids irreparable harm.

3. To develop and implement policies that inspire public confidence in the long-term future of agriculture as an economic activity as well as a way of life.

4. To administer efficiently and impartially the inspection service of the state as is now or may hereafter be placed under its supervision.

[S13, §1657-b, -g; C24, 27, 31, 35, 39, §**2587;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.2]

86 Acts, ch 1245, §605; 2012 Acts, ch 1095, §1

Referred to in §7E.5

159.3 Cooperation.

1. The department and the Iowa state university of science and technology shall cooperate in all ways that may be beneficial to the agricultural interests of the state, but without duplicating research or educational work conducted by the university. This section does not subordinate either the department or the university in their spheres of action.

2. The department may cooperate with the United States department of agriculture as the department deems wise and just.

[C97, §1677; S13, §1657-g; C24, 27, 31, 35, 39, §**2588;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.3]

86 Acts, ch 1245, §606

159.4 Location.

The department of agriculture and land stewardship shall be located at the seat of government.

[C97, §1678; SS15, §2507; C24, 27, 31, 35, 39, §**2589;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.4]

159.5 Powers and duties.

The secretary of agriculture is the head of the department of agriculture and land stewardship which shall:

1. Carry out the objects for which the department is created and maintained.

2. Establish and maintain such divisions in the department as are necessary for the proper enforcement of the laws administered by it.

3. Consolidate the inspection service of the state in respect to the laws administered by the department so as to eliminate duplication of inspection insofar as practicable.

4. Maintain a climatology bureau which shall, in cooperation with the national weather service, collect and disseminate weather and phenological statistics and meteorological data, and promote knowledge of meteorology, phenology, and climatology of the state. The bureau shall be headed by the state climatologist who shall be appointed by the secretary of

agriculture, and shall be an officer of the national weather service, if one is detailed for that purpose by the federal government.

5. Issue weekly weather and crop bulletins from April 1 to October 1 of each year, and edit and cause to be published monthly weather reports, containing meteorological matter in its relationship to agriculture, transportation, commerce, and the general public.

6. Cooperate with the United States department of agriculture statistical reporting service, to gather, compile, and publish statistical information concerning the condition and progress of crops, the production of crops, livestock, livestock products, poultry, and other such related agricultural statistics, as will generally promote knowledge of the agricultural industry in the state of Iowa. The statistics, when published, constitute official agricultural statistics for the state of Iowa.

7. Cooperate with the agricultural marketing service of the United States department of agriculture to collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced, and handled in the state.

8. Inspect and supervise all meat, poultry, or dairy producing or distributing establishments including the furniture, fixtures, utensils, machinery, and other equipment so as to prevent the production, preparation, packing, storage, or transportation of meat, poultry, or dairy products in a manner detrimental to the character or quality of those products.

9. Approve all methods of probing for foreign material content of any type of grain.

10. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of subtitles 1 through 3 of this title, excluding chapters 161A and 161C, and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

11. *a.* Establish a swine tuberculosis eradication program including but not limited to all of the following:

(1) The inspection of swine herds in this state when the department finds that an animal from a swine herd has, or is believed to have, tuberculosis.

(2) Ear tagging or otherwise physically marking all swine reacting positively to tests for tuberculosis.

(3) Condemning any swine which has tuberculosis.

(4) Depopulating any swine herd where tuberculosis is found to be generally present.

(5) Compensate the owners of condemned swine as provided under section 165.18, following the general procedures for filing claims and paying indemnities as provided in chapter 165.

b. If the department finds that the source of the tuberculosis in a swine herd is from another species of animal, except bovine, located on or near the premises on which the affected swine herd is located, the department may destroy those animals and indemnify the owners of the condemned animals as provided in chapter 163.

12. Create and maintain a division of soil conservation and water quality as provided in chapter 161A. The division's director shall be appointed by the secretary from a list of names of persons recommended by the soil conservation and water quality committee, pursuant to section 161A.4, and shall serve at the pleasure of the secretary. The director shall be the administrator responsible for carrying out the provisions of chapters 207 and 208.

13. Establish and administer programs for the inspection and control of disease among livestock as defined in section 717.1.

14. In the administration of programs relating to water quality improvement and watershed improvements, cooperate with the department of natural resources in order to maximize the receipt of federal funds.

1. [C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]

2. [S13, §1657-g; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]

3. [C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]

4. [C97, §1677, 1678; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]

5. [C97, §1679, 1680; S13, §1679; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]
6. [C97, §1679; S13, §1679; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]
7. [C97, §1680; S13, §1363; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]
8. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]
9. [S13, §2527-d5, 4527-m; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §159.5]
10. [C79, 81, S81, §159.5(10)]
11. [S13, §2528-d10; C24, 27, 31, 35, 39, §**2590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §159.5(10); C79, 81, S81, §159.5(11)]
12. [C46, 50, 54, 58, 62, 66, §185.2; C71, 73, 75, 77, §159.5(11); C79, 81, S81, §159.5(12)]
13. [C75, 77, §159.5(12); C79, 81, S81, §159.5(13); 81 Acts, ch 117, §1019; 82 Acts, ch 1104, §4]
83 Acts, ch 96, §60, 157, 159; 83 Acts, ch 123, §69, 209; 84 Acts, ch 1067, §22; 86 Acts, ch 1137, §1; 86 Acts, ch 1245, §607, 608; 87 Acts, ch 115, §26; 88 Acts, ch 1134, §32; 89 Acts, ch 83, §29; 89 Acts, ch 106, §1; 94 Acts, ch 1023, §14; 99 Acts, ch 96, §15; 2000 Acts, ch 1038, §1; 2003 Acts, ch 74, §1; 2006 Acts, ch 1030, §16; 2007 Acts, ch 211, §36; 2009 Acts, ch 41, §57; 2010 Acts, ch 1061, §35; 2012 Acts, ch 1095, §2 – 5; 2015 Acts, ch 103, §24; 2017 Acts, ch 159, §1; 2019 Acts, ch 128, §1; 2021 Acts, ch 149, §1
Referred to in §159.6, 159.7, 161A.3, 161A.4, 161C.1, 161D.1, 165.18, 207.2, 208.2, 456.11, 460.101, 466B.41, 484B.10
Subsection 7 amended

159.6 Additional duties.
In addition to the duties imposed by section 159.5 the department shall enforce the law relative to:
1. Infectious and contagious diseases among animals, chapter 163.
2. Eradication of bovine tuberculosis, chapter 165.
3. Classical swine fever virus and classical swine fever serum, chapter 166.
4. Use and disposal of dead animals, chapter 167.
5. Practice of veterinary medicine and surgery, chapter 169.
6. Regulation and inspection of foods, drugs, and other articles, as provided in Title V, subtitle 4, but chapter 205 of that subtitle shall be enforced as provided in that chapter.
7. State aid received by certain associations as provided in chapters 176A through 182, 186, and 352.
8. Coal mining and mines as set forth in chapters 207 and 208.
9. Soil and water conservation as set forth in chapters 161A, 161C, 161E, and 161F.
10. Grain dealers as set forth in chapter 203.
11. Bonded warehouses for agricultural products as set forth in chapter 203C.
12. The grain depositors and sellers indemnity fund as set forth in chapter 203D.
[C24, 27, 31, 35, 39, §**2591;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.6]
86 Acts, ch 1245, §609; 88 Acts, ch 1053, §1; 88 Acts, ch 1134, §33, 34; 89 Acts, ch 83, §30; 89 Acts, ch 197, §24; 90 Acts, ch 1009, §1; 94 Acts, ch 1023, §15; 98 Acts, ch 1032, §1, 2; 2002 Acts, ch 1017, §2, 8; 2003 Acts, ch 44, §40, 116; 2003 Acts, ch 69, §23; 2004 Acts, ch 1082, §4; 2012 Acts, ch 1095, §33; 2017 Acts, ch 159, §2

159.6A Contributions.
The department may accept contributions, including gifts and grants, in order to carry out and administer the provisions of this chapter and chapter 460, subchapter III. The department shall maintain an itemized accounting of the contributions. At the end of each fiscal year, the department shall prepare a list recognizing private contributors.
92 Acts, ch 1239, §25
Referred to in §163.3B

159.7 Intake airprobes not approved.

The secretary shall not approve the use of end intake airprobes, which use a vacuum to collect a sample from a load of grain, pursuant to section 159.5, subsection 9. A person who uses a method of probing for foreign material content of grain which is not approved by the secretary is guilty of a simple misdemeanor.

[C81, §159.7]

159.8 Comprehensive management plan — highly erodible acres.

1. The department shall request cooperation from the federal government, including the United States department of agriculture consolidated farm service agency and the United States department of agriculture natural resources conservation service, to investigate methods to preserve land which is highly erodible, as provided in the federal Food Security Act of 1985, 16 U.S.C. §3801 et seq., for the purpose of developing with owners of the land a comprehensive management plan for the land. The plan may be based on the soil conservation plan of the natural resources conservation service and may include a farm unit conservation plan and a comprehensive agreement as provided in chapter 161A. The extension services at Iowa state university of science and technology shall cooperate with the department in developing the comprehensive plan.

2. The investigation shall include methods which help to preserve highly erodible land from row crop production through production of alternative commodities, and financial incentives.

89 Acts, ch 188, §1; 95 Acts, ch 216, §25; 2012 Acts, ch 1095, §8

159.9 Internet access to statutes and rules.

The statutes relating to and rules adopted by the department shall be made available on the internet.

[C24, 27, 31, 35, 39, §**2594;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.9]

2012 Acts, ch 1095, §6

159.10 through 159.13 Reserved.

159.14 Bonds. Repealed by 2012 Acts, ch 1095, §7.

159.15 Biennial report. Repealed by 2001 Acts, ch 129, §7.

159.16 Duty of peace officers.

All peace officers of the state when called upon by the secretary or any officer or authorized agent of the department shall enforce its rules and execute its lawful orders within their respective jurisdictions, and upon the request of the secretary such officers shall make such inspections as directed by the secretary and report the results thereof to the secretary.

[C24, 27, 31, 35, 39, §**2601;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.16]

Referred to in §163.33

159.17 Interference with department.

Any person resisting or interfering with the department, its employees or authorized agents, in the discharge of any duty imposed by law shall be guilty of a simple misdemeanor.

[C97, §2526; S13, §2528-c, -f3, 4999-a25, -a39, 5077-a23; SS15, §3009-r; C24, 27, 31, 35, 39, §**2602;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.17]

159.18 Publicizing of farm programs.

1. As used in this section, *"farm programs"* includes but is not limited to financial incentive programs established within the department's division of soil conservation and water quality as provided in section 161A.70 and the beginning farmer loan program administered by the Iowa finance authority as provided in chapter 16.

2. The department shall publicize the availability of farm programs to women and minority persons. The department shall disseminate the information electronically or by

publishing printed brochures for distribution to locations and institutions serving farmers, including departmental offices, financial institutions participating in farm programs, and soil and water conservation district offices.

3. The department shall cooperate with private institutions and public agencies in order to carry out this section, including the economic development authority and the United States department of agriculture.

2000 Acts, ch 1224, §25; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 100, §22, 27; 2014 Acts, ch 1080, §83, 98; 2015 Acts, ch 103, §25

159.19 Salary.

The salary of the secretary of agriculture shall be as fixed by the general assembly.

[C31, 35, §2603-c1; C39, §**2603.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §159.19]

SUBCHAPTER II

AGRICULTURAL MARKETING

159.20 Powers of department.

1. The department shall perform duties designed to lead to more advantageous marketing of Iowa agricultural commodities. The department may do any of the following:

a. Investigate the marketing of agricultural commodities.

b. Promote the sale, distribution, and merchandising of agricultural commodities.

c. Furnish information and assistance concerning agricultural commodities to the public.

d. Cooperate with the college of agriculture and life sciences of the Iowa state university of science and technology in encouraging agricultural marketing education and research.

e. Accumulate and diffuse information concerning the marketing of agricultural commodities in cooperation with persons, agencies, or the federal government.

f. Investigate methods and practices related to the processing, handling, grading, classifying, sorting, weighing, packing, transportation, storage, inspection, or merchandising of agricultural commodities within this state.

g. Ascertain sources of supply for Iowa agricultural commodities. The department shall prepare and periodically publish lists of names and addresses of producers and consignors of agricultural commodities.

h. Perform inspection or grading of an agricultural commodity if requested by a person engaged in the production, marketing, or processing of the agricultural commodity. However, the person must pay for the services as provided by rules adopted by the department.

i. Cooperate with the economic development authority to avoid duplication of efforts between the department and the agricultural marketing program operated by the economic development authority.

j. Provide for the promotion and expansion of renewable fuels and coproducts, by doing all of the following:

(1) Assist the office of renewable fuels and coproducts in administering the provisions of chapter 159A, subchapter II.

(2) Assist the renewable fuel infrastructure board, provide for the administration of the renewable fuel infrastructure programs, and provide for the management of the renewable fuel infrastructure fund, as provided in chapter 159A, subchapter III.

2. As used in this subchapter:

a. "Agricultural commodity" means any unprocessed agricultural product, including animals, agricultural crops, and forestry products grown, raised, produced, or fed in Iowa for sale in commercial channels.

b. "Commercial channels" means the processes for sale of an agricultural commodity or

unprocessed product from the agricultural commodity to any person, public or private, who resells the agricultural commodity for breeding, processing, slaughter, or distribution.

[C62, 66, 71, 73, 75, 77, 79, 81, §159.20]

86 Acts, ch 1245, §610; 91 Acts, ch 254, §4; 92 Acts, ch 1163, §39; 92 Acts, ch 1239, §26 – 28; 94 Acts, ch 1119, §10; 98 Acts, ch 1032, §3; 2008 Acts, ch 1032, §27; 2009 Acts, ch 41, §58; 2010 Acts, ch 1031, §237; 2011 Acts, ch 113, §45, 56; 2011 Acts, ch 118, §85, 89; 2012 Acts, ch 1021, §121, 141, 144

159.21 International relations fund.

1. An international relations fund is created in the state treasury under the control of the department. The fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund.
2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants written by the director of the department of administrative services, drawn upon the written requisition of the department.
3. Moneys in the fund are appropriated exclusively to support costs incurred by the department related to promoting the sale of Iowa agricultural commodities and agricultural products to government officials and business leaders of other nations. The department may use moneys in the fund to support travel, including international travel, for the secretary of agriculture or the secretary's designee, and hosting or attending trade missions, functions, or events.
4. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

2000 Acts, ch 1224, §26; 2003 Acts, ch 145, §286

159.22 Grants and gifts of funds.

The secretary may accept grants and allotments of funds from the federal government and enter into cooperative agreements with the United States department of agriculture for projects to effectuate a purpose described in this subchapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §159.22]

91 Acts, ch 254, §5; 92 Acts, ch 1239, §29

159.23 Special fund.

All fees collected as a result of the inspection and grading provisions set out in this chapter shall be paid into the state treasury, there to be set aside in a separate fund which is hereby appropriated for the use of the department except as indicated. Withdrawals from the fund shall be by warrant of the director of the department of administrative services upon requisition by the secretary of agriculture. The fund shall be continued from year to year, provided, however, that if there be any balance remaining at the end of the biennium which, in the opinion of the governor, director of the department of management, and secretary of agriculture, is greater than necessary for the proper administration of the inspection and grading program referred to in this section, the treasurer of state is hereby authorized on the recommendation and with the approval of the governor, director of the department of management, and secretary of agriculture to transfer to the general fund of the state that portion of such account as they shall deem advisable.

[C62, 66, 71, 73, 75, 77, 79, 81, §159.23]

92 Acts, ch 1239, §30; 2003 Acts, ch 145, §286; 2015 Acts, ch 29, §114; 2020 Acts, ch 1063, §66

159.24 Grades or classifications of farm products.

A certificate of the grade, or other classification, of any farm products issued under this chapter shall be accepted in any court of this state as prima facie evidence of the true grade or classification of such farm products as the same existed at the time of their classification.

[C62, 66, 71, 73, 75, 77, 79, 81, §159.24]

92 Acts, ch 1239, §31

159.25 and 159.26 Reserved.

159.27 Iowa seal.

1. A seal for agricultural products shall be created under the direction of the department of agriculture and land stewardship to identify agricultural products that have been produced or processed in the state. The department shall certify that agricultural products marked with the Iowa seal are of the quality and specifications warranted by the sellers of those products.

2. The department of agriculture and land stewardship shall adopt rules under chapter 17A to provide methods of identifying, marking, and grading agricultural products, to prevent any misleading use of the Iowa seal, and as necessary or advisable to fully implement this section.

3. *a.* A violation of a rule adopted by the department of agriculture and land stewardship to implement this section is a simple misdemeanor.

b. A fraudulent use of the term "Iowa Seal" or of the identifying mark for the Iowa seal, or a deliberately misleading or unwarranted use of the term or identifying mark is a serious misdemeanor.

87 Acts, ch 107, §1

CS87, §159.31

2003 Acts, ch 48, §7

CS2003, §159.27

2017 Acts, ch 54, §30

159.28 and 159.29 Reserved.

159.30 Laboratory division — packaging determination — promotion. Repealed by 2001 Acts, ch 129, §7.

159.31 Reserved.

SUBCHAPTER III

DEPOSITARIES — ASSISTANCE SERVICES

159.32 Definitions.

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

1. *"Depositary"* means a qualified person who executes a contract with the department pursuant to section 159.33 to provide assistance services as provided in this subchapter.

2. *"Electronic funds transfer"* means a remote electronic transmission used for ordering, instructing, or authorizing a financial institution to apply money to or credit the account of the payee and debit the account of the payer. The remote electronic transmission may be initiated by telephone, computer, or similar device.

3. *"Filing document"* means any of the following:

a. An application for a license, permit, or certification, required to be submitted to the department as provided in this title.

b. A registration required to be submitted to the department as provided in this title.

4. *"Filing document fee"* means a fee or other charge established by statute or rule which

is required to accompany a filing document submitted to the department as provided in this title.

2003 Acts, ch 48, §2

159.33 Assistance services — authority to contract with depositary.

Whenever practical, the department may execute a contract with a person qualified to provide assistance services under this subchapter, if the contract for the assistance services is cost-effective and the quality of the services ensures compliance with state and any applicable federal law. A person executing a contract with the department for the purpose of providing the assistance services shall be deemed to be a depositary of the state and an agent of the department only for purposes expressly provided in this subchapter. The department shall periodically review assistance services performed by a person under the contract to ensure that quality, cost-effective service is being provided.

2003 Acts, ch 48, §3

Referred to in §159.32

159.34 Assistance services — filing documents.

1. A contract executed under this subchapter may require that a depositary provide for the receipt, acceptance, and storage of filing documents that are sent in an electronic format to the depositary by persons who would otherwise be required to submit filing documents to the department under other provisions of this title. The contract shall be governed under the same provisions as provided in section 8A.106.

2. *a.* A depositary must send filing documents that it receives to the department for processing, including for the approval or disapproval of an application or the acknowledgment of a registration. The receipt of the filing document by the depositary shall be deemed receipt of the filing document but not an approval of an application or acknowledgment of a registration by the department.

b. A depositary may send a person notice of the department's approval or disapproval of an application or acknowledgment of a registration. The department and not a depositary shall be considered the lawful custodian of the department's filing documents which shall be public records as provided in chapter 22.

3. A filing document that is transmitted electronically to a depositary or from a depositary to another person is an electronic record for purposes of chapter 554D. An application or registration required to be signed must be authenticated by an electronic signature as provided by the department in conformance with chapter 554D.

2003 Acts, ch 48, §4; 2004 Acts, ch 1101, §25

159.35 Assistance services — collection of moneys.

1. A contract executed under this subchapter may require that a depositary provide for the receipt, acceptance, and transmission of moneys owed to the department by a person in order to satisfy a liability arising from the operation of law which is limited to filing document fees and civil penalties. These moneys are public funds or public deposits as provided in chapter 12. The depositary shall transfer the moneys to the department for deposit into the general fund of the state unless the disposition of the moneys is specifically provided for under other law.

2. A depositary may commit its assets to lines of credit pursuant to credit arrangements, including but not limited to agreements with credit and debit cardholders and with other credit or debit card issuers. The depositary may accept forms of payment including credit cards, debit cards, or electronic funds transfer.

3. The moneys owed to the department shall not exceed the amount required to satisfy the liability arising from the operation of law. However, the contract executed under this subchapter may provide for assistance service charges, including service delivery fees, credit card fees, debit card fees, and electronic funds transfer charges payable to the depositary or another party and not to the state. An assistance service charge shall not exceed that permitted by statute. The contract may also provide for the retention of interest earned on

moneys under the control of the depositary. These moneys are not considered public funds or public deposits as provided in chapter 12.

4. The depositary, as required by the department for purposes of determining compliance, shall send information to the department including payment information for an identified filing document fee or the payment of a specific civil penalty.

5. Each calendar year, the auditor of state shall conduct an annual audit of the activities of the depositary.

2003 Acts, ch 48, §5
Referred to in §12C.1

159.36 Filing documents and payment of moneys to department.

Nothing in this subchapter shall prevent a person from submitting a filing document or making a payment to the department as otherwise provided in this title.

2003 Acts, ch 48, §6

SUBCHAPTER IV

SPECIAL QUALITY GRAINS

159.37 Special quality grains electronic bulletin board. Repealed by 2001 Acts, ch 129, §7.

CHAPTER 159A

RENEWABLE FUELS AND COPRODUCTS

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SUBCHAPTER I

FINDINGS AND POLICY

159A.1 Findings.

The general assembly finds and declares the following:

1. The production and processing of agricultural commodities and products represents the foundation of this state's economy, and the economic viability of this nation is contingent upon the production of wealth generated primarily from materials, including food and fiber, produced on this nation's family farms.

2. It is necessary to support industries using agricultural commodities to increase the demand for and production and consumption of sources of energy in order to reduce the state's dependency upon petroleum products; to reduce atmospheric contamination of this state's environment from the combustion of fossil fuels; and to produce coproducts, such as corn gluten feed, distillers grain, and solubles, which can be used to increase livestock production in this state.

3. This state adopts a policy of enhancing agricultural production by encouraging the development and use of fuels and coproducts derived from agricultural commodities as provided in this chapter, including rules adopted by the office of renewable fuels and coproducts.

91 Acts, ch 254, §6; 94 Acts, ch 1119, §11; 2010 Acts, ch 1031, §238

SUBCHAPTER II

OFFICE OF RENEWABLE FUELS AND COPRODUCTS

Referred to in §159.20

159A.2 Definitions.

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

1. *"Biobutanol"*, *"biobutanol blended gasoline"*, *"biodiesel"*, *"biodiesel blended fuel"*, *"ethanol"*, *"ethanol blended gasoline"*, and *"renewable fuel"* mean the same as defined in section 214A.1.

2. *"Coordinator"* means the administrative head of the office of renewable fuels and coproducts appointed by the department as provided in section 159A.3.

3. *"Coproduct"* means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities, and which may include corn gluten feed, distillers grain, or solubles, or can be used as livestock feed or a feed supplement.

4. *"Department"* means the department of agriculture and land stewardship.

5. *"Fund"* means the renewable fuels and coproducts fund established pursuant to section 159A.7.

6. *"Office"* means the office of renewable fuels and coproducts created pursuant to section 159A.3.

7. *"Renewable fuels and coproducts activities"* means either of the following:

a. The research, development, production, promotion, marketing, or consumption of renewable fuels and coproducts.

b. The research, development, transfer, or use of technologies which directly or indirectly increase the supply or demand of renewable fuels and coproducts.

91 Acts, ch 254, §7; 94 Acts, ch 1119, §12; 2000 Acts, ch 1018, §1; 2004 Acts, ch 1086, §106; 2006 Acts, ch 1142, §73 – 75; 2010 Acts, ch 1031, §239; 2011 Acts, ch 113, §46, 56; 2014 Acts, ch 1104, §1, 2

Further definitions, see §159.1

159A.3 Office of renewable fuels and coproducts.

1. An office of renewable fuels and coproducts is created within the department and shall be staffed by a coordinator who shall be appointed by the secretary. It shall be the policy of the office to further renewable fuels and coproducts activities. The office shall first further renewable fuels and coproducts activities based on the following considerations:

a. The price competitiveness of the renewable fuel or coproduct.

b. The production capacity and supply of the renewable fuel or coproduct.

c. The ease and safety of transporting and storing the renewable fuel or coproduct.

d. The degree to which the renewable fuel or coproduct is currently developed for ready transfer to current engine technology.

e. The degree to which the renewable fuel or coproduct is environmentally protective.

f. The degree to which the renewable fuel or coproduct provides economic development opportunities.

2. The duties of the office include, but are not limited to, the following:

a. Serving as advisor to the department regarding regulations, including federal and state standards, relating to oxygenates, as defined in section 214A.1.

b. Serving as advisor to the department regarding renewable fuels and coproducts programs.

c. Serving as monitor of regulations administered in the state, in other states, or by the federal government. The office shall collect information and data prepared by state agencies related to these regulations, and provide referral and assistance to interested persons and agencies.

d. Cooperating with persons and agencies involved in renewable fuels and coproducts activities, including other states and the federal government, to standardize regulations and coordinate programs, in order to increase administrative effectiveness and reduce administrative duplication.

e. Implementing policies and procedures designed to facilitate communication between persons involved in renewable fuels and coproducts activities.

f. Assisting state or federal agencies, or assisting commercial enterprises or commodity organizations which are located in or desiring to locate in the state. The assistance may include support of public research relating to renewable fuels and coproducts activities.

g. Conducting studies relating to the viability of producing or using renewable fuels and coproducts, and methods and schedules required to ensure a practicable transition to the use of renewable fuels and coproducts.

h. Approving a renewable fuel which may be used as a flexible fuel powering a motor vehicle required to be purchased by state agencies.

3. *a.* A chief purpose of the office is to further the production and consumption of ethanol blended gasoline and biobutanol blended gasoline in this state. The office shall be the primary state agency charged with the responsibility to promote public consumption of ethanol blended gasoline and biobutanol blended gasoline.

b. The office shall promote the production and consumption of biodiesel and biodiesel blended fuel in this state.

4. The office and state entities, including the department, the economic development authority, the state department of transportation, and the state board of regents institutions, shall cooperate to implement this section.

91 Acts, ch 254, §8; 92 Acts, ch 1239, §33; 94 Acts, ch 1119, §13; 2003 Acts, ch 44, §41, 42; 2006 Acts, ch 1142, §76, 83; 2009 Acts, ch 108, §8, 41; 2010 Acts, ch 1031, §240 – 242; 2011 Acts, ch 25, §19; 2011 Acts, ch 118, §50, 85, 89; 2014 Acts, ch 1104, §3

Referred to in §8A.412, 20.4, 159A.2, 159A.7, 216B.3, 260C.19A, 262.25A, 307.21, 904.312A

159A.4 and 159A.5 Repealed by 2010 Acts, ch 1031, §250, 251.

159A.6 Education, promotion, and advertising.

1. The office shall do all of the following:

a. Support education regarding, and promotion and advertising of, renewable fuels and coproducts. The office shall consult with the petroleum marketers and convenience stores of Iowa, the Iowa renewable fuels association, the Iowa corn growers association, and the Iowa soybean association.

b. Promote the advantages related to the use of renewable fuels as an alternative to nonrenewable fuels. Promotions shall be designed to inform the ultimate consumer of advantages associated with using renewable fuels, and emphasize the benefits to the natural environment. The promotion shall inform consumers at the businesses of retail dealers of motor vehicle fuels.

c. Develop standards for decals required pursuant to section 214A.16, which shall be designed to promote the advantages of using renewable fuels. The standards may be incorporated within a model decal adopted by the office.

d. Promote the advantages related to the use of coproducts derived from the production of renewable fuels, including the use of coproducts used as livestock feed or meal. Promotions shall be designed to inform the potential purchasers of the advantages associated with using

coproducts. The office shall promote advantages associated with using coproducts of ethanol and biobutanol production as livestock feed or meal to cattle producers in this state.

2. The office may contract to provide all or part of the services described in subsection 1.

91 Acts, ch 254, §11; 92 Acts, ch 1099, §3; 92 Acts, ch 1163, §41; 94 Acts, ch 1119, §19; 2009 Acts, ch 41, §197; 2010 Acts, ch 1031, §243; 2010 Acts, ch 1193, §145; 2014 Acts, ch 1104, §4
Referred to in §159A.7, 214A.16

159A.6A Renewable fuels and coproducts research.

The office shall support research relating to renewable fuels and coproducts, including methods to increase efficiency and reduce costs associated with production. The office shall consult with the Iowa corn growers association and the Iowa soybean association. The office shall support research activities at the university of Iowa, Iowa state university of science and technology, and the university of northern Iowa. The office may contract to provide all or part of these services.

94 Acts, ch 1119, §20
Referred to in §159A.7

159A.6B Technical assistance.

1. The office shall assist persons in revitalizing rural regions of this state, by providing technical assistance to new or existing renewable fuel production facilities, including the establishment and operation of facilities, and specifically facilities which create coproducts, including coproducts which support livestock production operations. The office shall consult with the Iowa corn growers association and the Iowa soybean association. The office shall provide planning assistance which may include evaluations of methods to most profitably manage these operations. The business planning assistance shall provide for adequate environmental protection of this state's natural resources from the operation of the facility.

2. The office may execute contracts in order to provide technical support and outreach services for purposes of assisting and educating interested persons as provided in this section. The office may also contract with a consultant to provide part or all of these services. The office may require that a person receiving assistance pursuant to this section contribute up to fifty percent of the amount required to support the costs of contracting with the consultant to provide assistance to the person. The office shall assist the person in completing any technical information required in order to receive assistance by the economic development authority pursuant to section 15.335B.

3. The office shall cooperate with the economic development authority and regents institutions or other universities and colleges in order to carry out this section.

94 Acts, ch 1119, §21; 2009 Acts, ch 41, §198; 2009 Acts, ch 108, §11, 41; 2009 Acts, ch 123, §29; 2011 Acts, ch 118, §50, 85, 86, 89; 2012 Acts, ch 1126, §23
Referred to in §159A.7

159A.7 Renewable fuels and coproducts fund.

1. A renewable fuels and coproducts fund is created in the state treasury under the control of the office of renewable fuels and coproducts. The fund may include moneys available to and obtained or accepted by the office, including moneys from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

2. Moneys in the fund shall be used only to carry out the provisions of this section and sections 159A.3, 159A.6, 159A.6A, and 159A.6B within the state of Iowa.

3. Moneys in the fund shall be allocated during each fiscal year as follows:

a. At least forty percent shall be dedicated to support education, promotion, and advertising of renewable fuels and coproducts as provided in section 159A.6.

b. Up to thirty percent may be dedicated to support research at the university of Iowa, Iowa state university of science and technology, and the university of northern Iowa, as provided in section 159A.6A.

c. Any remaining balance shall be used by the office to support technical assistance as provided in section 159A.6B and any other projects or programs developed by the office.

4. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is

subject to warrants by the director of the department of administrative services, drawn upon the written requisition of the coordinator.

5. In administering the fund, the office may do all of the following:

a. Contract, sue and be sued, and adopt procedures necessary to administer this section. However, the office shall not in any manner, directly or indirectly, pledge the credit of the state.

b. Authorize payment from the fund for commissions, attorney and accountant fees, and other reasonable expenses related to and necessary for administering the fund.

6. Section 8.33 does not apply to moneys in the fund. Income received by investment of moneys in the fund shall remain in the fund.

91 Acts, ch 254, §12; 92 Acts, ch 1099, §4, 10; 93 Acts, ch 180, §74; 94 Acts, ch 1119, §22; 97 Acts, ch 207, §7 – 9, 15; 2000 Acts, ch 1230, §21, 22; 2002 Acts, 2nd Ex, ch 1003, §67, 79; 2003 Acts, ch 145, §286; 2009 Acts, ch 41, §199; 2010 Acts, ch 1031, §244

Referred to in §159A.2

159A.8 through 159A.10 Reserved.

SUBCHAPTER III

RENEWABLE FUEL INFRASTRUCTURE

Referred to in §159.20

159A.11 Definitions.

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

1. *"Biodiesel"*, *"biodiesel blended fuel"*, *"biodiesel fuel"*, *"E-85 gasoline"*, *"ethanol"*, *"ethanol blended gasoline"*, *"gasoline"*, *"motor fuel"*, *"retail dealer"*, and *"retail motor fuel site"* mean the same as defined in section 214A.1.

2. *"Department"* means the department of agriculture and land stewardship.

3. *"Infrastructure board"* means the renewable fuel infrastructure board as created in section 159A.13.

4. *"Infrastructure fund"* means the renewable fuel infrastructure fund created in section 159A.16.

5. *"Motor fuel pump"* and *"motor fuel blender pump"* or *"blender pump"* mean the same as defined in section 214.1.

6. *"Motor fuel storage and dispensing infrastructure"* or *"infrastructure"* means a tank and motor fuel pumps necessary to keep and dispense motor fuel at a retail motor fuel site, including but not limited to all associated equipment, dispensers, pumps, pipes, hoses, tubes, lines, fittings, valves, filters, seals, and covers.

7. *"Tank vehicle"* means the same as defined in section 321.1.

8. *"Terminal"* means a storage and distribution facility for motor fuel or a blend stock such as ethanol or biodiesel that is stored on-site or off-site in bulk and that is supplied to a motor vehicle, pipeline, or a marine vessel and from which storage and distribution facility the motor fuel or blend stock may be removed at a rack. *"Terminal"* does not include any of the following:

a. A retail motor fuel site.

b. A facility at which motor fuel, special fuel, or blend stocks are used in the manufacture of products other than motor fuel and from which no motor fuel or special fuel is removed.

9. *"Terminal operator"* means a person who has responsibility for, or physical control over, the operation of a terminal, including by ownership, contractual agreement, or appointment.

10. *"Underground storage tank fund board"* means the Iowa comprehensive petroleum underground storage tank fund board established pursuant to section 455G.4.

2006 Acts, ch 1142, §28; 2006 Acts, ch 1175, §3, 23

C2007, §15G.201

2008 Acts, ch 1169, §1, 2, 30; 2011 Acts, ch 113, §42, 55, 56; 2011 Acts, ch 118, §74, 75

CS2011, §159A.11

159A.12 Classification of renewable fuel.

For purposes of this subchapter, ethanol blended fuel and biodiesel fuel shall be classified in the same manner as provided in section 214A.2.

2008 Acts, ch 1169, §3, 30
C2009, §15G.201A
2009 Acts, ch 41, §17; 2011 Acts, ch 113, §55, 56
CS2011, §159A.12

159A.13 Renewable fuel infrastructure board.

A renewable fuel infrastructure board is established within the department.

1. The department shall provide the infrastructure board with necessary facilities, items, and clerical support. The department shall perform administrative functions necessary for the management of the infrastructure board and the renewable fuel infrastructure programs as provided in sections 159A.14 and 159A.15, all under the direction of the infrastructure board.

2. The infrastructure board shall be composed of eleven members who shall be appointed by the governor as follows:

a. One person representing insurers who is knowledgeable about issues relating to underground storage tanks.

b. One person representing the petroleum industry who is knowledgeable about issues relating to petroleum refining, terminal operations, and petroleum or motor fuel distribution.

c. Nine persons based on nominations made by the titular heads of all of the following:

(1) The agribusiness association of Iowa.
(2) The Iowa corn growers association.
(3) The Iowa farm bureau federation.
(4) The Iowa biodiesel board.
(5) The Iowa soybean association.
(6) The petroleum marketers and convenience stores of Iowa.
(7) The Iowa petroleum equipment contractors association.
(8) The Iowa renewable fuels association.
(9) The Iowa grocery industry association.

3. Appointments of voting members to the infrastructure board are subject to the requirements of sections 69.16 and 69.16A. In addition, the appointments shall be geographically balanced. The governor's appointees shall be confirmed by the senate, pursuant to section 2.32.

4. The members of the infrastructure board shall serve five-year terms beginning and ending as provided in section 69.19. However, the governor shall appoint initial members to serve for less than five years to ensure members serve staggered terms. A member is eligible for reappointment. A vacancy on the board shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

5. The infrastructure board shall elect a chairperson from among its members each year on a rotating basis as provided by the infrastructure board. The infrastructure board shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of six or more members.

6. The infrastructure board shall meet with three or more members of the underground storage tank fund board who shall represent the underground storage tank fund board. The representatives shall be available to advise the infrastructure board when the infrastructure board makes decisions regarding the awarding of financial incentives to a person under a renewable fuel infrastructure program provided in section 159A.14 or 159A.15.

7. Members of the infrastructure board are not entitled to receive compensation but shall receive reimbursement of expenses from the department as provided in section 7E.6.

8. Six members of the infrastructure board constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the infrastructure board. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive

for this purpose. A vacancy in the membership does not impair the duties of the infrastructure board.

2006 Acts, ch 1142, §29
C2007, §15G.202
2011 Acts, ch 113, §43, 55, 56
CS2011, §159A.13
Referred to in §159A.11, 159A.14, 159A.15, 159A.16

159A.14 Renewable fuel infrastructure program for retail motor fuel sites.

A renewable fuel infrastructure program for retail motor fuel sites is established in the department under the direction of the renewable fuel infrastructure board created pursuant to section 159A.13.

1. The purpose of the program is to improve retail motor fuel sites by installing, replacing, or converting infrastructure to be used to store, blend, or dispense renewable fuel. The infrastructure shall be ethanol infrastructure or biodiesel infrastructure.

a. (1) Ethanol infrastructure shall be designed and used exclusively to do any of the following:

(a) Store and dispense E-15 gasoline. At least for the period beginning on September 16 and ending on May 31 of each year, the ethanol infrastructure must be used to store and dispense E-15 gasoline as a registered fuel recognized by the United States environmental protection agency.

(b) Store and dispense E-85 gasoline.

(c) Store, blend, and dispense motor fuel from a motor fuel blender pump. The ethanol infrastructure must be used for the storage of ethanol or ethanol blended gasoline, or for blending ethanol with gasoline. The ethanol infrastructure must at least include a motor fuel blender pump which dispenses different classifications of ethanol blended gasoline and allows E-85 gasoline to be dispensed at all times that the blender pump is operating.

(2) Biodiesel infrastructure shall be designed and used exclusively to do any of the following:

(a) Store and dispense biodiesel or biodiesel blended fuel.

(b) Blend or dispense biodiesel fuel from a motor fuel blender pump.

b. The infrastructure must be part of the premises of a retail motor fuel site operated by a retail dealer. The infrastructure shall not include a tank vehicle.

2. A person may apply to the department to receive financial incentives on a cost-share basis. The department shall forward the applications to the underground storage tank fund board as required by that board for evaluation and recommendation. The underground storage tank fund board may rank the applications with comments and shall forward them to the infrastructure board for approval or disapproval. The department shall award financial incentives on a cost-share basis to an eligible person whose application was approved by the infrastructure board.

3. The infrastructure board shall approve cost-share agreements executed by the department and persons that the infrastructure board determines are eligible as provided in this section, according to terms and conditions required by the infrastructure board. The infrastructure board shall determine the amount of the financial incentives to be awarded to a person participating in the program. In order to be eligible to participate in the program all of the following must apply:

a. The person must be an owner or operator of the retail motor fuel site.

b. The person must apply to the department in a manner and according to procedures required by the infrastructure board. The application must contain all information required by the infrastructure board and shall at least include all of the following:

(1) The name of the person and the address of the retail motor fuel site to be improved.

(2) A detailed description of the infrastructure to be installed, replaced, or converted, including but not limited to the model number of each installed, replaced, or converted motor fuel storage tank if available.

(3) A statement describing how the retail motor fuel site is to be improved, the total

estimated cost of the planned improvement, and the date when the infrastructure will be first used.

(4) A statement certifying that the infrastructure shall only be used to comply with the provisions of this section and as specified in the cost-share agreement, unless granted a waiver by the infrastructure board pursuant to this section.

4. A retail motor fuel site which is improved using financial incentives must comply with federal and state standards governing new or upgraded motor fuel storage tanks used to store and dispense the renewable fuel. A site classified as a no further action site pursuant to a certificate issued by the department of natural resources under section 455B.474 shall retain its classification following modifications necessary to store and dispense the renewable fuel and the owner or operator shall not be required to perform a new site assessment unless a new release occurs or if a previously unknown or unforeseen risk condition should arise.

5. An award of financial incentives to a participating person shall be on a cost-share basis in the form of a grant. To participate in the program, an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the retail motor fuel site. A cost-share agreement shall be for a three-year period or a five-year period. A cost-share agreement shall include provisions for standard financial incentives or standard financial incentives and supplemental financial incentives as provided in this subsection. The infrastructure board may approve multiple improvements to the same retail motor fuel site for the full amount available for both ethanol infrastructure and biodiesel infrastructure so long as the improvements for ethanol infrastructure and for biodiesel infrastructure are made under separate cost-share agreements.

a. (1) Except as provided in paragraph "*b*", a participating person may be awarded standard financial incentives to make improvements to a retail motor fuel site. The standard financial incentives awarded to a participating person shall not exceed the following:

(a) For a three-year cost-share agreement, fifty percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less.

(b) For a five-year cost-share agreement, seventy percent of the actual cost of making the improvement or fifty thousand dollars, whichever is less.

(2) The infrastructure board may approve multiple awards of standard financial incentives to make improvements to a retail motor fuel site so long as the total amount of the awards for ethanol infrastructure or biodiesel infrastructure does not exceed the limitations provided in subparagraph (1).

b. In addition to any standard financial incentives awarded to a participating person under paragraph "*a*", the participating person may be awarded supplemental financial incentives to make improvements to a retail motor fuel site to do any of the following:

(1) Upgrade or replace a dispenser which is part of gasoline storage and dispensing infrastructure used to store and dispense E-85 gasoline as provided in section 455G.31. The participating person is only eligible to be awarded the supplemental financial incentives if the person installed the dispenser not later than sixty days after July 27, 2011. The supplemental financial incentives awarded to the participating person shall not exceed seventy-five percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less.

(2) To improve additional retail motor fuel sites owned or operated by a participating person within a twelve-month period as provided in the cost-share agreement. The supplemental financial incentives shall be used for the installation of an additional tank and associated infrastructure at each such retail motor fuel site. A participating person may be awarded supplemental financial incentives under this subparagraph and standard financial incentives under paragraph "*a*" to improve the same motor fuel site. The supplemental financial incentives awarded to the participating person shall not exceed twenty-four thousand dollars. The participating person shall be awarded the supplemental financial incentives on a cumulative basis according to the schedule provided in this subparagraph, which shall not exceed the following:

(a) For the second retail motor fuel site, six thousand dollars.

(b) For the third retail motor fuel site, six thousand dollars.

(c) For the fourth retail motor fuel site, six thousand dollars.

(d) For the fifth retail motor fuel site, six thousand dollars.

6. A participating person shall not use the infrastructure to store and dispense motor fuel other than the type of renewable fuel approved by the board in the cost-share agreement, unless one of the following applies:

a. The participating person is granted a waiver by the infrastructure board. The participating person shall store or dispense the motor fuel according to the terms and conditions of the waiver.

b. The renewable fuel infrastructure fund created in section 159A.16 is immediately repaid the total amount of moneys awarded to the participating person together with a monetary penalty equal to twenty-five percent of that awarded amount. The amount shall be deposited in the renewable fuel infrastructure fund created in section 159A.16.

7. A participating person who acts in violation of an agreement executed with the department pursuant to this section is subject to a civil penalty of not more than one thousand dollars a day for each day of the violation. The civil penalty shall be deposited into the general fund of the state.

2006 Acts, ch 1142, §30

C2007, §15G.203

2007 Acts, ch 126, §9; 2007 Acts, ch 211, §46; 2008 Acts, ch 1032, §128; 2008 Acts, ch 1169, §4 – 9, 30; 2009 Acts, ch 41, §263; 2011 Acts, ch 113, §55, 56

CS2011, §159A.14

2015 Acts, ch 138, §74, 161, 162; 2019 Acts, ch 59, §55

Referred to in §159A.13, 159A.16

159A.15 Renewable fuel infrastructure program for biodiesel terminal facilities.

The department, under the direction of the renewable fuel infrastructure board created in section 159A.13, shall establish and administer a renewable fuel infrastructure program for terminal facilities that store and dispense biodiesel or biodiesel blended fuel. The infrastructure must be designed and shall be used exclusively to store and distribute biodiesel or biodiesel blended fuel. The department as directed by the infrastructure board shall provide a cost-share program for financial incentives.

1. A person may apply to the department to receive financial incentives on a cost-share basis. The department shall forward the applications to the underground storage tank fund board as required by that board for evaluation and recommendation. The underground storage tank fund board may rank the applications with comments and shall forward them to the infrastructure board for approval or disapproval. The department shall award financial incentives on a cost-share basis to an eligible person whose application was approved by the infrastructure board.

2. The department shall award financial incentives to a terminal operator participating in the program as directed by the infrastructure board. In order to be eligible to participate in the program, the terminal operator must apply to the department in a manner and according to procedures required by the infrastructure board. The application must contain information required by the infrastructure board and shall at least include all of the following:

a. The name of the terminal operator and the address of the terminal to be improved.

b. A detailed description of the infrastructure to be installed, replaced, or converted.

c. A statement describing how the terminal is to be improved, the total estimated cost of the planned improvement, and the date when the infrastructure will be first used to store and distribute biodiesel or biodiesel blended fuel.

d. A statement certifying that the infrastructure shall not be used to store or dispense motor fuel other than biodiesel or biodiesel blended fuel, unless granted a waiver by the infrastructure board pursuant to this section.

3. *a.* An award of financial incentives to a participating person shall be in the form of a grant. In order to participate in the program, an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the terminal. The financial incentives awarded to the participating person shall not exceed the following:

(1) For improvements to store, blend, or dispense biodiesel fuel from B-2 or higher but not as high as B-99, fifty percent of the actual cost of making the improvements or fifty thousand dollars, whichever is less.

(2) For improvements to store, blend, and dispense biodiesel fuel from B-99 to B-100, fifty percent of the actual cost of making the improvements or one hundred thousand dollars, whichever is less. However, a person shall not be awarded moneys under this subparagraph if the person has been awarded a total of eight hundred thousand dollars under this subparagraph during any period of time and pursuant to all cost-share agreements in which the person participates.

b. The infrastructure board may approve multiple awards to make improvements to a terminal so long as the total amount of the awards does not exceed the limitations provided in paragraph *"a"*.

4. A participating terminal operator shall not use the infrastructure to store or dispense motor fuel other than biodiesel or biodiesel blended fuel, unless one of the following applies:

a. The participating terminal operator is granted a waiver by the infrastructure board. The participating terminal operator shall store or dispense the motor fuel according to the terms and conditions of the waiver.

b. The renewable fuel infrastructure fund created in section 159A.16 is immediately repaid the total amount of moneys awarded to the participating terminal operator together with a monetary penalty equal to twenty-five percent of that awarded amount. The amount shall be deposited in the renewable fuel infrastructure fund created in section 159A.16.

c. A participating terminal operator who acts in violation of an agreement executed with the department pursuant to this section is subject to a civil penalty of not more than one thousand dollars a day for each day of the violation. The civil penalty shall be deposited into the general fund of the state.

2006 Acts, ch 1142, §31
C2007, §15G.204
2007 Acts, ch 126, §10; 2008 Acts, ch 1169, §10, 11, 30; 2011 Acts, ch 113, §55, 56
CS2011, §159A.15
Referred to in §159A.13, 159A.16

159A.16 Renewable fuel infrastructure fund.

1. A renewable fuel infrastructure fund is created in the state treasury under the control of the department. The infrastructure fund is separate from the general fund of the state.

2. The renewable fuel infrastructure fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the infrastructure fund.

3. Moneys in the renewable fuel infrastructure fund are appropriated to the department exclusively to support and market the renewable fuel infrastructure programs as provided in sections 159A.14 and 159A.15, and as allocated in financial incentives by the renewable fuel infrastructure board created in section 159A.13. Up to fifty thousand dollars shall be allocated each fiscal year to the department to support the administration of the programs. The department may use up to one and one-half percent of the program funds to market the programs. Otherwise the moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except to allocate as financial incentives under the programs.

4. *a.* The recapture of awards or penalties, or other repayments of moneys originating from the renewable fuel infrastructure fund shall be deposited into the infrastructure fund.

b. Notwithstanding section 12C.7, interest or earnings on moneys in the infrastructure fund shall be credited to the infrastructure fund.

c. Notwithstanding section 8.33, unencumbered and unobligated moneys remaining in the infrastructure fund at the close of each fiscal year shall not revert but shall remain available in the infrastructure fund.

2006 Acts, ch 1175, §6, 23; 2006 Acts, ch 1185, §56
C2007, §15G.205

2008 Acts, ch 1122, §2; 2009 Acts, ch 41, §18; 2011 Acts, ch 113, §44, 55, 56
CS2011, §159A.16
Referred to in §159A.11, 159A.14, 159A.15, 159A.17

159A.17 Appropriation.

For the fiscal year beginning July 1, 2021, and ending June 30, 2022, and for each fiscal year thereafter, there is appropriated from the general fund of the state to the renewable fuel infrastructure fund created in section 159A.16 the amount of five million dollars.

2021 Acts, ch 143, §37
NEW section

CHAPTER 160

STATE APIARIST

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160.2 Duties.
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160.14 Penalties — injunctions.
160.15 Payment of expenses.
160.16 Importing a colony from another state — fee. Repealed by 98 Acts, ch 1032, §10.

160.1 Appointment by secretary of agriculture.

There is hereby created and established within the department the office of state apiarist. The state apiarist shall be appointed by and be responsible to and under the authority of the secretary of agriculture in the issuance of all rules, the establishment of quarantines and other official acts.

[C24, 27, 31, 35, 39, §**4036;** C46, 50, 54, 58, §266.8, 266.9; C62, 66, 71, 73, 75, 77, 79, 81, §160.1]

160.1A Definitions.

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

1. *"Apiary"* means a place where one or more bee colonies are maintained.
2. *"Bee"* means a honeybee belonging to the genus apis.
3. *"Colony"* means a queen bee and more than one worker bee located on beeswax combs and enclosed in a container.
4. *"Package"* means a shipping cage exclusively containing adult bees, without beeswax combs.

90 Acts, ch 1104, §1; 93 Acts, ch 21, §1, 2
Referred to in §190A.2, 716.7A, 911.5
Further definitions, see §159.1

160.2 Duties.

The state apiarist shall do all of the following:

1. Give lectures and demonstrations in the state on the production of honey, the care of the apiary, the marketing of honey, and upon other kindred subjects relative to the care of bees and the profitable production of honey.
2. Examine bees, combs, and equipment in any locality which the apiarist may suspect of being African in origin or infested with a parasite or foulbrood or any other contagious or infectious disease common to bees.

3. Regulate bees, combs, and used equipment moving across state borders.

[C24, 27, 31, 35, 39, §**4037;** C46, 50, 54, 58, §266.10; C62, 66, 71, 73, 75, 77, 79, 81, §160.2]

88 Acts, ch 1051, §1; 90 Acts, ch 1104, §2; 93 Acts, ch 21, §3

160.3 Right to enter premises.

In the performance of the apiarist's duties, the state apiarist or the apiarist's assistants shall have the right to enter any premises, enclosure, or buildings containing bees or bee supplies.

[C27, 31, 35, §4037-a1; C39, §**4037.1;** C46, 50, 54, 58, §266.11; C62, 66, 71, 73, 75, 77, 79, 81, §160.3]

160.4 Reserved.

160.5 Instructions — hives — imported bees.

1. If upon examination the apiarist finds bees to be diseased or infested with parasites, the apiarist shall furnish the owner or person in charge of the apiary with full written instructions as to the nature of the disease or infestation and the best methods of treatment, which information shall be furnished without cost to the owner.

2. It shall be unlawful to keep bees in any containers except hives with movable frames permitting ready examination in those counties where area cleanup inspection is in progress as may be proclaimed in official regulation.

3. A person who desires to move a colony, package, or used equipment with combs into this state shall apply to the state apiarist for a written entry permit at least sixty days prior to the proposed entry date. A statement must accompany each application for an entry permit describing each offense related to beekeeping for which the person has been subject to a penalty by a state, federal, or foreign government. The written entry permit must accompany all such shipments when they enter the state. Entry into this state without a permit is unlawful and is punishable pursuant to section 160.14. However, entry requirements of this section shall not apply to a package shipped by the United States postal service.

4. At least ten days before entry a person who has applied for an entry permit must meet both of the following conditions:

a. A valid Iowa certificate of inspection must be on file with the department or a valid certificate of inspection or certificate of health dated within the last sixty days must have been submitted by the state apiarist or inspector of the state of origin. A certificate must indicate the absence of any contagious diseases, parasites, or Africanized bees in the colony or package to be shipped.

b. A completed apiary registration form with locations of apiaries in Iowa indicated along with any fees required for nonresidents must have been submitted. Descriptions of locations shall include all of the following:

(1) The name of the landowner.

(2) Number of colonies to be kept at that location.

(3) The county, township, section number and quarter section, or street address if located within the city limits.

[C24, 27, 31, 35, 39, §**4039;** C46, 50, 54, 58, §266.13; C62, 66, 71, 73, 75, 77, 79, 81, §160.5]

88 Acts, ch 1051, §2; 90 Acts, ch 1104, §3; 93 Acts, ch 21, §4, 5; 2009 Acts, ch 41, §263; 2018 Acts, ch 1041, §127

Referred to in §160.14, 911.5

160.6 Notice to treat, disinfect, remove, or destroy.

The state apiarist shall provide a notice in writing to an owner of bees or bee equipment infested with contagious diseases, parasites, or Africanized bees to treat, disinfect, destroy, or remove a colony or equipment in a manner and by a time specified by the state apiarist in the order.

[C27, 31, 35, §4039-a1; C39, §**4039.1;** C46, 50, 54, 58, §266.14; C62, 66, 71, 73, 75, 77, 79, 81, §160.6]

93 Acts, ch 21, §6

Referred to in §160.7

160.7 Apiarist to disinfect or destroy — costs.

If the owner fails to comply with the notice provided in section 160.6, the state apiarist shall declare the diseased, parasite-infested or Africanized colonies a nuisance, and administer the destruction or disinfection of the bee colonies or equipment required to eliminate the source of the disease, parasites, or Africanized bees. The state apiarist shall keep an account of costs related to the destruction.

[C27, 31, 35, §4039-a2; C39, §**4039.2;** C46, 50, 54, 58, §266.15; C62, 66, 71, 73, 75, 77, 79, 81, §160.7]

93 Acts, ch 21, §7

Nuisances in general, chapter 657

160.8 Costs certified — collected as tax.

The state apiarist shall certify the amount of such cost to the owner and if the same is not paid to the state apiarist within sixty days, the amount shall be certified to the county auditor of the county in which the premises are located, who shall spread the same upon the tax books which shall be a lien upon the property of the bee owner and be collected as other taxes are collected.

[C27, 31, 35, §4039-a3; C39, §**4039.3;** C46, 50, 54, 58, §266.16; C62, 66, 71, 73, 75, 77, 79, 81, §160.8]

Referred to in §331.512

Collection of taxes, chapter 445

160.9 Rules.

The state apiarist shall adopt rules relating to the inspection, regulation of movement, sale, and cleanup of bee colonies and used beekeeping equipment that is infested with a contagious disease, harmful parasites, or an undesirable subspecies of honey bees.

[C27, 31, 35, §4039-a4; C39, §**4039.4;** C46, 50, 54, 58, §266.17; C62, 66, 71, 73, 75, 77, 79, 81, §160.9]

88 Acts, ch 1051, §3; 93 Acts, ch 21, §8

160.10 Orders prohibiting movement. Repealed by 93 Acts, ch 21, §10.

160.11 Effect of regulations and orders. Repealed by 98 Acts, ch 1032, §10.

160.12 Reserved.

160.13 Annual report.

Said apiarist shall also make an annual report to the secretary of agriculture, stating the number of apiaries visited, number of demonstrations held, number of lectures given, the number of examinations and inspections made, together with such other matters of general interest concerning the business of beekeeping as in the apiarist's judgment shall be of value to the public.

[C24, 27, 31, 35, 39, §**4040;** C46, 50, 54, 58, §266.21; C62, 66, 71, 73, 75, 77, 79, 81, §160.13]

160.14 Penalties — injunctions.

1. A person who knowingly sells, barters, gives away, moves, or allows to be moved, a diseased or parasite-infested colony, package, equipment, or combs without the consent of the state apiarist, or exposes infected honey or infected equipment to the bees, or who willfully fails or neglects to give proper treatment to a diseased or parasite-infested colony, or who interferes with the state apiarist or the apiarist's assistants in the performance of official duties or who refuses to permit the examination of bees or their destruction as provided in this chapter or violates another provision of this chapter, except as provided in subsection 2, is guilty of a simple misdemeanor.

2. A person who knowingly moves or causes to be moved into this state a colony, package, used equipment, or combs in violation of section 160.5, is guilty of a serious misdemeanor.

3. Each day a colony, package, used equipment, or combs moved into this state in violation of section 160.5 remain in this state constitutes a separate offense. A colony,

package, used equipment, or combs brought into this state in violation of section 160.5 may be declared a nuisance. The department shall provide written notice to the person owning the land where the colony, package, used equipment, or combs are located, and, if known, to the person owning the colony, package, used equipment, or combs. The notice shall state that the owner of the colony, package, used equipment, or combs must remove the colony, package, used equipment, or combs from this state within five days of the notification. After the five days have lapsed the department may seize the colony, package, used equipment, or combs. The department may secure a warrant if the owner of the land objects to the seizure. The department shall maintain the seized property until a court, upon petition by the department, determines the disposition of the property. The court shall render a decision concerning the disposition of the property by the court within ten days of the filing of the petition. Upon conviction of a violation of section 160.5, a person shall forfeit all interest in property moved in violation of that section and the department may immediately destroy the property.

4. The attorney general or persons designated by the attorney general may institute suits on behalf of the state apiarist to obtain injunctive relief to restrain and prevent violations of this chapter.

[C24, 27, 31, 35, 39, §**4041;** C46, 50, 54, 58, §266.22; C62, 66, 71, 73, 75, 77, 79, 81, §160.14]
85 Acts, ch 48, §1; 88 Acts, ch 1051, §5; 90 Acts, ch 1104, §4, 5; 93 Acts, ch 21, §9
Referred to in §160.5

160.15 Payment of expenses.

All expenses, except salaries, incurred by the state apiarist or the apiarist's assistants in the performance of their duties within a county shall be paid not to exceed two hundred dollars per annum for the purpose of eradication of diseases and parasites among bees. Such work of eradication shall be done in such county under the supervision of the state apiarist.

[C31, 35, §4041-c1; C39, §**4041.1;** C46, 50, 54, 58, §266.23; C62, 66, 71, 73, 75, 77, 79, 81, §160.15]
83 Acts, ch 123, §70, 209; 88 Acts, ch 1051, §6

160.16 Importing a colony from another state — fee. Repealed by 98 Acts, ch 1032, §10.

CHAPTER 161

AGRICHEMICAL REMEDIATION

Repealed by 2011 Acts, ch 46, §6

CHAPTER 161A

SOIL AND WATER CONSERVATION

Referred to in §159.1, 159.5, 159.6, 159.8, 161C.1, 161F.5, 456A.33A, 457A.1, 461.33

This chapter not enacted as a part of this title; transferred from chapter 467A in Code 1993

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161A.76 Cost-sharing for certain lands restricted.
161A.77 through 161A.79 Reserved.

SUBCHAPTER VI

BLUFFLANDS PROTECTION

161A.80 Blufflands protection program and revolving fund. Repealed by its own terms; 98 Acts, ch 1219, §17; 2005 Acts, ch 178, §17.
161A.80A Blufflands protection program and revolving fund.
161A.80B Outstanding bluffland protection loans.

SUBCHAPTER I

GENERAL PROVISIONS — DIVISION OF SOIL CONSERVATION AND WATER QUALITY

161A.1 Short title.

This chapter may be known and cited as the *"Soil Conservation Districts Law"*.

[C39, §**2603.02;** C46, §160.1; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.1]
C93, §161A.1

161A.2 Declaration of policy.

It is hereby declared to be the policy of the legislature to integrate the conservation of soil and water resources into the production of agricultural commodities to insure the long-term protection of the soil and water resources of the state of Iowa, and to encourage the development of farm management and agricultural practices that are consistent with the capability of the land to sustain agriculture, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist and maintain the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and promote the health, safety and public welfare of the people of this state.

[C39, §**2603.03;** C46, §160.2; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.2]
86 Acts, ch 1245, §645
C93, §161A.2
Referred to in §161A.7, 161A.42

161A.3 Definitions.

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. *"Agency of this state"* includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.
2. *"Book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.
3. *"Commissioner"* means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this chapter.
4. *"Committee"* means the state soil conservation and water quality committee established in section 161A.4.
5. *"Department"* means the department of agriculture and land stewardship.
6. *"District"* or *"soil and water conservation district"* means a governmental subdivision of this state, and a public body corporate and politic, organized for the purposes, with the powers, and subject to the restrictions in this chapter set forth.
7. *"Division"* means the division of soil conservation and water quality created within the department pursuant to section 159.5.
8. *"Due notice"* means notice published at least twice, with an interval of at least six days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area; or, if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.
9. *"Government"* or *"governmental"* includes the government of this state, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, or either of them.
10. *"Landowner"* includes any person, firm, or corporation or any federal agency, this state or any of its political subdivisions, who shall hold title to land lying within a proposed district or a district organized under the provisions of this chapter.
11. *"Nominating petition"* means a petition filed under the provisions of section 161A.5 to nominate candidates for the office of commissioner of a soil and water conservation district.

12. *"Petition"* means a petition filed under the provisions of section 161A.5, subsection 1, for the creation of a district.

13. *"State"* means the state of Iowa.

14. *"United States"* or *"agencies of the United States"* includes the United States of America, the United States department of agriculture natural resources conservation service, and any other agency or instrumentality, corporate or otherwise, of the United States.

[C39, §**2603.04;** C46, §160.3; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.3; 82 Acts, ch 1199, §72, 96]

86 Acts, ch 1238, §61; 86 Acts, ch 1245, §646, 647; 87 Acts, ch 23, §16; 89 Acts, ch 83, §55

C93, §161A.3

95 Acts, ch 216, §25; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201; 2015 Acts, ch 29, §27; 2015 Acts, ch 103, §26; 2017 Acts, ch 159, §3

Referred to in §161A.42, 669.2, 670.1

161A.4 Division of soil conservation and water quality — state soil conservation and water quality committee.

1. The division of soil conservation and water quality created within the department pursuant to section 159.5 shall perform the functions conferred upon it in this chapter and chapters 161C, 161E, 161F, 207, and 208. The division shall be administered in accordance with the policies of the committee, which shall advise the division and which shall approve administrative rules proposed by the division for the administration of this chapter and chapters 161C, 161E, 161F, 207, and 208 before the rules are adopted pursuant to section 17A.5. If a difference exists between the committee and secretary regarding the content of a proposed rule, the secretary shall notify the chairperson of the committee of the difference within thirty days from the committee's action on the rule. The secretary and the committee shall meet to resolve the difference within thirty days after the secretary provides the committee with notice of the difference.

2. In addition to other duties and powers conferred upon the division of soil conservation and water quality, the division has the following duties and powers:

a. To offer assistance as appropriate to the commissioners of soil and water conservation districts in carrying out any of their powers and programs.

b. To take notice of each district's long-range resource conservation plan established under section 161A.7, in order to keep the commissioners of each of the several districts informed of the activities and experience of all other districts, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

c. To coordinate the programs of the soil and water conservation districts so far as this may be done by advice and consultation.

d. To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this state, in the work of such districts.

e. To disseminate information throughout the state concerning the activities and program of the soil and water conservation districts.

f. To render financial aid and assistance to soil and water conservation districts for the purpose of carrying out the policy stated in this chapter.

g. To assist each soil and water conservation district in developing a district soil and water resource conservation plan as provided under section 161A.7. The plan shall be developed according to rules adopted by the division to preserve and protect the public interest in the soil and water resources of this state for future generations and for this purpose to encourage, promote, facilitate, and where such public interest requires, to mandate the conservation and proper control of and use of the soil and water resources of this state, by measures including but not limited to the control of floods, the control of erosion by water or by wind, the preservation of the quality of water for its optimum use for agricultural, irrigation, recreational, industrial, and domestic purposes, all of which shall be presumed to be conducive to the public health, convenience, and welfare, both present and future.

h. To file the district soil and water resource conservation plans as part of a state soil and water resource conservation plan. The state plan shall contain on a statewide basis the information required for a district plan under this section.

i. To establish a position of state drainage coordinator for drainage districts and drainage and levee districts which will keep the management of those districts informed of the activities and experience of all other such districts and facilitate an interchange of advice, experience and cooperation among the districts, coordinate by advice and consultation the programs of the districts, secure the cooperation and assistance of the United States and its agencies and of the agencies of this state and other states in the work of the districts, disseminate information throughout the state concerning the activities and programs of the districts, and provide other appropriate assistance to the districts.

3. The division, in consultation with the commissioners of the soil and water conservation districts, shall conduct a biennial review to survey the availability of private soil and water conservation control contractors in each district. A report containing the results of the review shall be prepared and posted on the department's internet site.

4. A state soil conservation and water quality committee is established within the department.

a. The nine voting members of the committee shall be appointed by the governor subject to confirmation by the senate pursuant to section 2.32, and shall include the following:

(1) Six of the members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of six geographic regions in the state, including northwest, southwest, north central, south central, northeast, and southeast Iowa, and no more than one of whom shall be a resident of any one county. The boundaries of the geographic regions shall be established by rule.

(2) The seventh, eighth, and ninth appointive members shall be chosen by the governor from the state at large, with one appointed to be a representative of cities, one appointed to be a representative of the mining industry, and one appointee who is a farmer actively engaged in tree farming.

b. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the other members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons have no vote and shall serve in an advisory capacity only.

c. The following shall serve as ex officio nonvoting members of the committee:

(1) The director of the Iowa cooperative extension service in agriculture and home economics, or the director's designee.

(2) The director of the department of natural resources or the director's designee.

5. *a.* The committee shall designate its chairperson, and may change the designation. The members appointed by the governor shall serve for a period of six years. Members shall be appointed in each odd-numbered year to succeed members whose terms expire as provided by section 69.19. Appointments may be made at other times and for other periods as necessary to fill vacancies on the committee. Members shall not be appointed to serve more than two complete six-year terms. Members designated to represent the director of the department of natural resources and the director of the Iowa cooperative extension service in agriculture and home economics shall serve at the pleasure of the officer making the designation.

b. A majority of the voting members of the committee constitutes a quorum, and the concurrence of a majority of the voting members of the committee in any matter within their duties is required for its determination.

c. Members are entitled to actual expenses necessarily incurred in the discharge of their duties as members of the committee. The expenses paid to the committee members shall be paid from funds appropriated to the department. Each member of the committee may also be eligible to receive compensation as provided in section 7E.6. The committee shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

6. *a.* The committee may perform acts, hold public hearings, and propose and approve rules pursuant to chapter 17A as necessary for the execution of its functions.

b. The committee shall recommend to the secretary each year a budget for the division.

The secretary, at the earliest opportunity and prior to formulating a budget, shall meet with representatives of the committee to discuss the committee's recommendation.

c. The committee shall recommend three persons to the secretary of agriculture who shall appoint from the persons recommended a director to head the division and serve at the pleasure of the secretary. After reviewing the names submitted, the secretary may request that the committee submit additional names for consideration.

7. The committee or division may call upon the attorney general of the state for necessary legal services. The committee may delegate to its chairperson, to one or more of its members, or to one or more agents or employees, powers and duties as it deems proper. Upon request of the committee, for the purpose of carrying out any of the functions assigned the committee or the department by law, the supervising officer of any state agency, or of any state institution of learning shall, insofar as possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail the request to the staff or personnel of the agency or institution of learning, and make the special reports, surveys, or studies as the committee requests.

[C39, §**2603.05;** C46, §160.4; C50, 54, 58, 62, 66, 71, §467A.4; C73, §455A.40(3), 467A.4; C75, 77, 79, 81, §467A.4; 82 Acts, ch 1199, §73, 74, 96]

83 Acts, ch 101, §102; 85 Acts, ch 163, §13; 86 Acts, ch 1245, §648 – 650, 668; 87 Acts, ch 23, §17; 88 Acts, ch 1198, §1, 2; 89 Acts, ch 83, §56; 89 Acts, ch 106, §2

C93, §161A.4

2004 Acts, ch 1143, §1; 2007 Acts, ch 22, §43; 2009 Acts, ch 41, §59; 2015 Acts, ch 103, §27 – 29; 2017 Acts, ch 159, §4 – 6

Referred to in §159.5, 161A.3, 161A.7, 161C.1, 207.2, 208.2, 266.39, 460.303, 461.11

SUBCHAPTER II

SOIL AND WATER CONSERVATION DISTRICTS

161A.5 Soil and water conservation districts.

1. The one hundred soil and water conservation districts* established in the manner which was prescribed by law prior to July 1, 1975 shall continue in existence with the boundaries and the names* in effect on July 1, 1975. If the existence of a district so established is discontinued pursuant to section 161A.10, a petition for reestablishment of the district or for annexation of the former district's territory to any other abutting district may be submitted to, and shall be acted upon by, the committee in substantially the manner provided by section 467A.5, Code 1975.

2. *a.* The governing body of each district shall consist of five commissioners elected on a nonpartisan basis for staggered four-year terms commencing on the first day of January that is not a Sunday or holiday following their election.

b. Any eligible elector residing in the district is eligible to the office of commissioner, except that not more than two commissioners shall at any one time be a resident of any one township. A vacancy is created in the office of any commissioner who changes residence into a township where two commissioners then reside.

c. If a commissioner is absent for sixty or more percent of monthly meetings during any twelve-month period, the other commissioners by their unanimous vote may declare the member's office vacant. A vacancy in the office of commissioner shall be filled by appointment of the committee until the next succeeding general election, at which time the balance of the unexpired term shall be filled as provided by section 69.12.

3. At each general election a successor shall be chosen for each commissioner whose term will expire in the succeeding January.

a. Nomination of candidates for the office of commissioner shall be made by petition in accordance with chapter 45, except that each candidate's nominating petition shall be signed by at least twenty-five eligible electors of the district. The petition form shall be furnished by the county commissioner of elections.

b. Every candidate shall file with the nomination papers an affidavit stating the candidate's

name, the candidate's residence, that the person is a candidate and is eligible for the office of commissioner, and that if elected the candidate will qualify for the office. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a felony or other infamous crime and the candidate's rights have not been restored by the governor or by the president of the United States.

c. The signed petitions shall be filed with the county commissioner of elections not later than 5:00 p.m. on the sixty-ninth day before the general election.

d. The votes for the office of district commissioner shall be canvassed in the same manner as the votes for county officers, and the returns shall be certified to the commissioners of the district. A plurality is sufficient to elect commissioners, and a primary election for the office shall not be held.

e. If the canvass shows that two or three candidates receiving the highest number of votes for the office of commissioner are all residents of the same township, the board shall certify as elected the two candidates receiving the highest number of votes for the office and the candidate receiving the next highest number of votes for the office who is not a resident of the same township, if any. If one commissioner whose term has not expired is a resident of the township, and the canvass shows that two or three candidates receiving the highest number of votes for the office are from the same township, the board shall certify as elected the candidate receiving the highest number of votes for the office and the candidate receiving the next highest number of votes for the office who is not a resident of the same township, if any, as the candidate receiving the highest number of votes.

[C39, §**2603.06;** C46, §160.5; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.5]

87 Acts, ch 23, §18; 89 Acts, ch 136, §73; 90 Acts, ch 1238, §41

C93, §161A.5

94 Acts, ch 1180, §41; 96 Acts, ch 1083, §1; 98 Acts, ch 1052, §5; 2009 Acts, ch 41, §201; 2017 Acts, ch 53, §1, 2; 2017 Acts, ch 159, §7

Referred to in §39.21, 161A.3, 161A.15, 466B.2

*Established as "soil conservation districts"

161A.6 Commissioners — general provisions.

1. The commissioners of each soil and water conservation district shall convene on the first day of January that is not a Sunday or holiday in each odd-numbered year. Those commissioners whose term of office begins on that day shall take the oath of office prescribed by section 63.10. The commissioners shall then organize by election of a chairperson and a vice chairperson.

2. The commissioners of the respective districts shall submit to the department such statements, estimates, budgets, and other information at such times and in such manner as the department may require.

3. A commissioner shall not receive compensation for the commissioner's services. However, to the extent funds are available, a commissioner is entitled to receive actual expenses necessarily incurred in the discharge of the commissioner's duties, including reimbursement for mileage at the rate provided under section 70A.9 for state business use.

4. The commissioners may call upon the attorney general of the state for such legal services as they may require. The commissioners may delegate to their chairperson, to one or more commissioners or to one or more agents, or employees, such powers and duties as they may deem proper. The commissioners shall furnish to the division, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this chapter.

5. The commissioners shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall regularly report to the division a summary of financial information regarding moneys controlled by the commissioners, which are not audited by the state, according to rules adopted by the division.

6. The commissioners may invite the legislative body of any municipality or county located

near the territory comprised within the district to designate a representative to advise and consult with the commissioners of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

[C39, §**2603.08;** C46, §160.6; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.6]
87 Acts, ch 23, §19
C93, §161A.6
93 Acts, ch 176, §33; 96 Acts, ch 1083, §2; 2015 Acts, ch 103, §30; 2016 Acts, ch 1011, §121

161A.7 Powers of districts and commissioners.

1. A soil and water conservation district organized under this chapter has the following powers, in addition to others granted in other sections of this chapter:

a. To conduct surveys, investigations, and research relating to the character of soil erosion and erosion, floodwater, and sediment damages, and the preventive and control measures needed, to publish the results of such surveys, investigations or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the Iowa agricultural experiment station located at Ames, Iowa, and pursuant to a cooperative agreement entered into between the Iowa agricultural experiment station and such district.

b. To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner or occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled; provided, however, that in order to avoid duplication of agricultural extension activities, no district shall initiate any demonstrational projects, except in cooperation with the Iowa agricultural extension service whose offices are located at Ames, Iowa, and pursuant to a cooperative agreement entered into between the Iowa agricultural extension service and such district.

c. To carry out preventive and control measures within the district, including but not limited to crop rotations, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in section 161A.2, on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the owner or occupier of such lands or the necessary rights or interests in such lands. Any approval or permits from the council required under other provisions of law shall be obtained by the district prior to initiation of any construction activity.

d. To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any owner or occupier of lands within the district, in the carrying on of erosion-control and watershed protection and flood prevention operations within the district, subject to such conditions as the commissioners may deem necessary to advance the purposes of this chapter.

e. To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and provisions of this chapter.

f. To make available on such terms as it shall prescribe, to landowners or occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, lime, and such other material or equipment as will assist such landowners or occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion and for the prevention of erosion, floodwater, and sediment damages.

g. To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this chapter. Any approval or permits from the council required under other provisions of law shall be obtained by the district prior to initiation of any construction activity.

h. To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion and for the prevention of erosion, floodwater, and sediment damages within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of owners and occupiers of lands within the district.

i. To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules not inconsistent with this chapter, to carry into effect its purposes and powers.

j. To accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations.

k. Subject to the approval of the committee, to change the name of the soil and water conservation district.

l. To provide for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency as provided in section 161A.75.

m. To encourage local school districts to provide instruction in the importance of and in some of the basic methods of soil conservation, as a part of course work relating to conservation of natural resources and environmental awareness required in rules adopted by the state board of education pursuant to section 256.11, subsections 3 and 4, and to offer technical assistance to schools in developing such instructional programs.

n. To develop a soil and water resource conservation plan for the district.

(1) The district plan shall contain a comprehensive long-range assessment of soil and surface water resources in the district consistent with rules approved by the committee under section 161A.4. In developing the plan the district may receive technical support from the United States department of agriculture natural resources conservation service and the county board of supervisors in the county where the district is located. The division and the Iowa cooperative extension service in agriculture and home economics may provide technical support to the district. The support may include but is not limited to the following:

(a) Assessing the condition of soil and surface water in the district, including an evaluation of the type, amount, and quality of soil and water, the threat of soil erosion and erosion, floodwater, and sediment damages, and necessary preventative and control measures.

(b) Developing methods to maintain or improve soil and water condition.

(c) Cooperating with other state and federal agencies to carry out this support.

(2) The title page of the district plan and a notification stating where the plan may be reviewed shall be recorded with the recorder in the county in which the district is located, and updated as necessary, after the committee approves and the director of the division signs the district plan. The commissioners shall provide notice of the recording and may provide a copy of the approved district plan to the county board of supervisors in the county where the district is located. The district plan shall be filed with the division as part of the state soil and water resource conservation plan provided in section 161A.4.

o. To enter into agreements pursuant to chapter 161C with the owner or occupier of land within the district or cooperating districts, or any other private entity or public agency, in carrying out water protection practices, including district and multidistrict projects to protect this state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to agricultural drainage wells, sinkholes, sedimentation, and chemical pollutants.

2. As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the commissioners may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require landowners or occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

3. The commissioners, as a condition for the receipt of any state cost-sharing funds for permanent soil conservation practices, shall require the owner of the land on which the practices are to be established to covenant and file, in the office of the district of the county in which the land is located, an agreement identifying the particular lands upon which the practices for which state cost-sharing funds are to be received will be established, and providing that the project will not be removed, altered, or modified so as to lessen its effectiveness without the consent of the commissioners, obtained in advance and based on guidelines drawn up by the committee, for a period not to exceed twenty years after the date of receiving payment. The commissioners shall assist the division in the enforcement of this subsection. The agreement does not create a lien on the land, but is a charge personally against the owner of the land at the time of removal, alteration, or modification if an administrative order is made under section 161A.61, subsection 3.

4. No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the general assembly shall specifically so state.

5. After the formation of any district under the provisions of this chapter, all participation hereunder shall be purely voluntary, except as specifically stated herein.

[C39, §**2603.09;** C46, §160.7; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.7; 82 Acts, ch 1083, §1, ch 1220, §1]

86 Acts, ch 1238, §61; 86 Acts, ch 1245, §651; 87 Acts, ch 23, §20; 88 Acts, ch 1189, §1; 88 Acts, ch 1198, §3; 88 Acts, ch 1262, §9; 89 Acts, ch 83, §57; 92 Acts, ch 1108, §1; 92 Acts, ch 1239, §49

C93, §161A.7

93 Acts, ch 109, §1; 95 Acts, ch 216, §25; 97 Acts, ch 59, §1; 2009 Acts, ch 41, §60; 2012 Acts, ch 1095, §9; 2015 Acts, ch 103, §31; 2017 Acts, ch 159, §8, 9

Referred to in §161A.4, 161A.61, 161A.71

Review of road construction projects, §306.50 – 306.54

161A.8 Cooperation between districts.

The commissioners of any two or more districts organized under the provisions of this chapter may cooperate with one another in the exercise of any or all powers conferred in this chapter.

[C39, §**2603.10;** C46, §160.8; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.8]

C93, §161A.8

161A.9 State agencies to cooperate.

Agencies of this state which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and of any county, or other governmental subdivision of the state, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, may cooperate to the fullest extent with the commissioners of such districts in the effectuation of programs and operations undertaken by the commissioners under the provisions of this chapter.

[C39, §**2603.11;** C46, §160.9; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.9]

C93, §161A.9

161A.10 Discontinuance of districts.

1. At any time after five years after the organization of a district under this chapter, any twenty-five owners of land lying within the boundaries of the district, but in no case less than twenty percent of the owners of land lying within the district, may file a petition with the committee asking that the operations of the district be terminated and the existence of

the district discontinued. The committee may conduct public meetings and public hearings upon the petition as necessary to assist in the consideration of the petition. Within sixty days after a petition has been received by the committee, the division shall give due notice of the holding of a referendum, shall supervise the referendum, and shall issue appropriate rules governing the conduct of the referendum. The question is to be submitted by ballots upon which the words "For terminating the existence of the ..... (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the ..... (name of the soil and water conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions as the voter favors or opposes discontinuance of the district. All owners of lands lying within the boundaries of the district are eligible to vote in the referendum. No informalities in the conduct of the referendum or in any matters relating to the referendum invalidate the referendum or the result of the referendum if notice was given substantially as provided in this section and if the referendum was fairly conducted.

2. When sixty-five percent of the landowners vote to terminate the existence of the district, the committee shall advise the commissioners to terminate the affairs of the district. The commissioners shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of the sale to be deposited into the state treasury. The commissioners shall then file an application, duly verified, with the secretary of state for the discontinuance of the district, and shall transmit with the application the certificate of the committee setting forth the determination of the committee that the continued operation of the district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as provided in this section, and shall set forth a full accounting of the properties and proceeds of the sale. The secretary of state shall issue to the commissioners a certificate of dissolution and shall record the certificate in an appropriate book of record in the secretary of state's office.

3. Upon issuance of a certificate of dissolution under this section, all ordinances and regulations previously adopted and in force within the districts are of no further force and effect. All contracts previously entered into, to which the district or commissioners are parties, remain in force and effect for the period provided in the contracts. The committee is substituted for the district or commissioners as party to the contracts. The committee is entitled to all benefits and subject to all liabilities under the contracts and has the same right and liability to perform, to require performance, to sue and be sued, and to modify or terminate the contracts by mutual consent or otherwise, as the commissioners of the district would have had.

4. The committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon discontinuance petitions nor make determinations pursuant to the petitions in accordance with this chapter, more often than once in five years.

[C39, §**2603.12;** C46, §160.10; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.10]
86 Acts, ch 1245, §652; 87 Acts, ch 23, §21; 89 Acts, ch 106, §3
C93, §161A.10
2016 Acts, ch 1011, §121
Referred to in §161A.5

161A.11 Report to governor. Repealed by 2003 Acts, ch 74, §2; 2003 Acts, ch 128, §2.

161A.12 Statement to department of management.

On or before October 1 next preceding each annual legislative session, the department shall submit to the department of management, on official estimate blanks furnished for those purposes, statements and estimates of the expenditure requirements for each fiscal year, and a statement of the balance of funds, if any, available to the division, and the estimates of the division as to the sums needed for the administrative and other expenses of the division for the purposes of this chapter.

[C46, §160.12; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.12]
86 Acts, ch 1245, §654

C93, §161A.12
96 Acts, ch 1034, §6; 2012 Acts, ch 1095, §10

SUBCHAPTER III
SUBDISTRICTS

161A.13 Purpose of subdistricts.
Subdistricts of a soil and water conservation district may be formed as provided in this chapter for the purposes of carrying out watershed protection and flood prevention programs within the subdistrict but shall not be formed solely for the purpose of establishing or taking over the operation of an existing drainage district.
[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.13]
86 Acts, ch 1238, §61; 87 Acts, ch 23, §22; 89 Acts, ch 83, §58
C93, §161A.13

161A.14 Petition to form.
When the landowners in a proposed subdistrict desire that a subdistrict be organized, they shall file a petition with the commissioners of the soil and water conservation district. The area must be contiguous and in the same watershed but it shall not include any area located within the boundaries of an incorporated city. The petition shall set forth an intelligible description by congressional subdivision, or otherwise, of the land suggested for inclusion in the subdistrict and shall state whether the special annual tax or special benefit assessments will be used, or whether the use of both is contemplated. The petition shall contain a brief statement giving the reasons for organization, and requesting that the proposed area be organized as a subdistrict, and must be signed by sixty-five percent of the landowners in the proposed subdistrict. Land already in one subdistrict cannot be included in another. The soil and water conservation district commissioners shall review the petition and if it is found adequate shall arrange for a hearing on it.
[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.14]
87 Acts, ch 23, §23
C93, §161A.14

161A.15 Notice and hearing.
Within thirty days after a petition has been filed with the soil and water conservation district commissioners, they shall fix a date, hour, and place for a hearing and direct the secretary to cause notice to be given to the owners of each tract of land, or lot, within the proposed subdistrict as shown by the transfer books of the auditor's office, and to each lienholder, or encumbrancer, of any such lands as shown by the county records, and to all other persons whom it may concern, and without naming individuals all actual occupants of land in the proposed subdistrict, of the pendency and purpose of the petition and that all objections to establishment of the subdistrict for any reason must be made in writing and filed with the secretary of the soil and water conservation district at, or before, the time set for hearing. The soil and water conservation district commissioners shall consider and determine whether the operation of the subdistrict within the defined boundaries as proposed is desirable, practicable, feasible, and of necessity in the interest of health, safety, and public welfare. All interested parties may attend the hearing and be heard. The soil and water conservation district commissioners may for good cause adjourn the hearing to a day certain which shall be announced at the time of adjournment and made a matter of record. If the soil and water conservation district commissioners determine that the petition meets the requirements set forth in this section and in section 161A.5, they shall declare that the subdistrict is duly organized and shall record such action in their official minutes together with an appropriate official name or designation for the subdistrict.
[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.15]
87 Acts, ch 23, §24

C93, §161A.15
2001 Acts, ch 24, §32

161A.16 Publication of notice.

The notice of hearing on the formation of a subdistrict shall be by publication once each week for two consecutive weeks in some newspaper of general circulation published in the county or district, the last of which shall be not less than ten days prior to the day set for the hearing on the petition. Proof of such service shall be made by affidavit of the publisher, and be on file with the secretary of the district at the time the hearing begins.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.16]
87 Acts, ch 115, §61
C93, §161A.16

161A.17 Subdistrict in more than one district.

If the proposed subdistrict lies in more than one soil and water conservation district, the petition may be presented to the commissioners of any one of such districts, and the commissioners of all such districts shall act jointly as a board of commissioners with respect to all matters concerning the subdistrict, including its formation. They shall organize as a single board for such purposes and shall designate its chairperson, vice chairperson, and secretary-treasurer to serve for terms of one year. Such a subdistrict shall be formed in the same manner and has the same powers and duties as a subdistrict formed in one soil and water conservation district.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.17]
87 Acts, ch 23, §25
C93, §161A.17

161A.18 Certification.

Following the entry in the official minutes of the soil and water conservation district commissioners of the creation of the subdistrict, the commissioners shall certify this fact on a separate form, authentic copies of which shall be recorded with the county recorder of each county in which any portion of the subdistrict lies, and with the division.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.18]
87 Acts, ch 23, §26
C93, §161A.18
2001 Acts, ch 24, §33; 2015 Acts, ch 103, §32

161A.19 Governing body.

The commissioners of a soil and water conservation district in which the subdistrict is formed are the governing body of the subdistrict. When a subdistrict lies in more than one soil and water conservation district, the combined board of commissioners is the governing body. The governing body of the subdistrict shall appoint three trustees living within the subdistrict to assist with the administration of the subdistrict.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.19]
87 Acts, ch 23, §27
C93, §161A.19
Referred to in §161A.20

161A.20 Special annual tax.

1. After obtaining agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than fifty percent of the lands situated in the subdistrict, a subdistrict shall have the authority to impose a special annual tax, the proceeds of which shall be used for the repayment of actual and necessary expenses incurred to organize the subdistrict; to acquire land or rights or interests therein by purchase or condemnation; and to repair, alter, maintain, and operate the present and future works of improvement within its boundaries.

2. On or before January 10 of each year its governing body shall make an estimate of the

amount it deems necessary to be raised by such special tax for the ensuing year and transmit said estimate in dollars to the board of supervisors of the county in which the subdistrict lies.

3. If portions of the subdistrict are in more than one county, then the governing body, as designated in section 161A.19 in such event, after arriving at the estimate in dollars deemed necessary for the entire subdistrict shall ratably apportion such amount between the counties and transmit and certify the prorated portion to the respective boards of supervisors of each of the counties.

4. The board or boards of supervisors shall upon receipt of certification from the governing body of the subdistrict make the necessary levy on the assessed valuation of all real estate within the boundaries of the subdistrict lying within their respective county to raise said amounts, but in no event to exceed one dollar and eight cents per thousand dollars of assessed value.

5. The special tax levied under this section shall be collected in the same manner as other taxes with a penalty for delinquency. The moneys collected from the special tax and any delinquency penalty shall be deposited in a fund established by the governing body as provided by a resolution adopted by the governing body and delivered for filing with each appropriate county treasurer. Moneys earned as income from moneys in the fund, including as interest, shall remain in the fund until expended by the governing body according to procedures specified in the resolution. If the governing body does not adopt a resolution or deliver the resolution to the county treasurer, the moneys shall be deposited into a separate account in the county's general fund by that county treasurer. The account shall be identified by the official name of the subdistrict and expenditures from the account shall be made on requisition of the chairperson and secretary of the governing body of the subdistrict.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467A.20]
C93, §161A.20
2005 Acts, ch 116, §1; 2016 Acts, ch 1011, §121; 2017 Acts, ch 29, §46
Referred to in §161A.22, 161A.41

161A.21 Condemnation by subdistrict.

A subdistrict of a soil and water conservation district may condemn land or rights or interests in the subdistrict to carry out the authorized purposes of the subdistrict.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.21]
87 Acts, ch 23, §28
C93, §161A.21

161A.22 General powers applicable — warrants or bonds.

1. A subdistrict organized under this chapter has all of the powers of a district in addition to other powers granted to the subdistrict in other sections of this chapter.

2. The governing body of the subdistrict, upon determination that benefits from works of improvement as set forth in the watershed work plan to be installed will exceed costs thereof, and that funds needed for purposes of the subdistrict require levy of a special benefit assessment as provided in section 161A.23, in lieu of the special annual tax as provided in section 161A.20, shall record its decision to use its taxing authority and, upon majority vote of the governing body and with the approval of the committee, may issue warrants or bonds payable in not more than forty semiannual installments in connection with the special benefit assessment, and pledge and assign the proceeds of the special benefit assessment and other revenues of the subdistrict as security for the warrants or bonds. The warrants and bonds of indebtedness are general obligations of the subdistrict, exempt from all taxes, state and local, and are not indebtedness of the district or the state of Iowa.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.22]
87 Acts, ch 23, §29
C93, §161A.22
2017 Acts, ch 159, §10
Referred to in §422.7(2)(j)

SUBCHAPTER IV

ALTERNATIVE METHOD OF TAXATION FOR WATERSHED PROTECTION AND FLOOD PREVENTION

161A.23 Agreement by fifty percent of landowners.

1. After obtaining agreements to carry out recommended soil conservation measures and proper farm plans from owners of not less than fifty percent of the lands situated in the subdistrict, the governing body of the subdistrict shall have the authority to establish a special tax for the purpose of organization, construction, repair, alteration, enlargement, extension, and operation of present and future works of improvement within the boundaries of said subdistrict.

2. The governing body shall appoint three appraisers to assess benefits and classify the land affected by such improvements. One of such appraisers shall be a competent licensed professional engineer and two of them shall be resident landowners of the county or counties in which the subdistrict is located but not living within nor owning or operating any lands included in said subdistrict.

3. The appraisers shall take and subscribe an oath of their qualifications and to perform the duties of classification of said lands, fix the percentages, benefits and apportion and assess the costs and expenses of construction of the said improvement according to law and their best judgment, skill, and ability. If said appraisers or any of them fail or neglect to act or perform the duties in the time and as required of them by law, the governing body of the subdistrict shall appoint others with like qualifications to take their places and perform said duties.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.23]
C93, §161A.23
2007 Acts, ch 126, §38
Referred to in §161A.22, 161A.38, 161A.41

161A.24 Assessment for improvements.

1. At the time of appointing the appraisers, the governing body shall fix the time within which said assessment, classification, and apportionment shall be made, which may be extended for good cause shown. Within twenty days after their appointment, the appraisers shall begin to inspect and classify all the lands within the district, or any change, extension, enlargement, or relocation thereof in tracts of forty acres or less according to the legal or recognized subdivisions, in a graduated scale of benefits to be numbered according to the benefit to be received by each of such tracts from such improvement, and pursue the work continuously until completed. When the work is completed, the appraisers shall make a full, accurate, and detailed report thereof and file the report with the governing body. The lands receiving the greatest benefit shall be marked on a scale of one hundred, and those benefited in a less degree with such percentage of one hundred as the benefits received bear in proportion thereto.

2. The amount of benefit appraised to each forty acres of land within the subdistrict shall be determined by the improvements within said subdistrict based upon the work plan as agreed upon by the subdistrict.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.24]
C93, §161A.24
2018 Acts, ch 1041, §48
Referred to in §161A.41

161A.25 Report of appraisers.

In the report of the appraisers so appointed they shall specify each tract of land by proper description, and the ownership thereof, as the same appears on the transfer books in the auditor's office.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.25]
C93, §161A.25
Referred to in §161A.41

161A.26 Hearing.

The governing body shall fix a time for a hearing within sixty days upon receiving the report of the appraisers, and the governing body shall cause notice to be served upon each person not less than ten days before said hearing whose name appears as owner, naming that person, and also upon the person or persons in actual occupancy of any tract of land without naming them of the day and hour of such hearing, which notice shall be for the same time and served in the same manner as is provided for the establishment of a subdistrict, and shall state the amount of assessment of costs and expenses of organizing and construction apportioned to each owner upon each forty-acre tract or less, and that all objections thereto must be in writing and filed with the governing body at or before the time set for such hearing.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.26]
C93, §161A.26
Referred to in §161A.41

161A.27 Determination by board.

At the time fixed or at an adjourned hearing, the governing body shall hear and determine all objections filed to said report and shall fully consider the said report, and may affirm, increase, or diminish the percentage of benefits or the apportionment of costs and expenses made in said report against any body or tract of land in said subdistrict as may appear to the board to be just and equitable.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.27]
C93, §161A.27
Referred to in §161A.41

161A.28 Appeal.

Any person aggrieved may appeal from any final action of the governing body in relation to any matter involving the person's rights, to the district court of the county in which the proceeding was held.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.28]
C93, §161A.28
Referred to in §161A.41

161A.29 Intercounty subdistricts.

In subdistricts extending into two or more counties, appeals from final orders resulting from the joint action of the several governing bodies of such subdistrict may be taken to the district court of any county into which the district extends.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.29]
C93, §161A.29
Referred to in §161A.41

161A.30 Notice of appeal.

All appeals shall be taken within twenty days after the date of final action or order of the governing body from which such appeal is taken by filing with the auditor a notice of appeal, designating the court to which the appeal is taken, the order or action appealed from, and stating that the appeal will come on for hearing thirty days following perfection of the appeal with allowances of additional time for good cause shown. This notice shall be accompanied by an appeal bond with sureties to be approved by the auditor conditioned to pay all costs adjudged against the appellant and to abide the orders of the court.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.30]
C93, §161A.30
Referred to in §161A.41

161A.31 Petition filed.

Within twenty days after perfection of notice, the appellant shall file a petition setting forth the order or final action of the governing body appealed from and the grounds of the appellant's objections and the appellant's complaint, with a copy of the appellant's claim for damages or objections filed by the appellant with the auditor. The appellant shall pay to the clerk the filing fee as provided by law in other cases. A failure to pay the filing fee or to file

such petition shall be deemed a waiver of the appeal and in such case the court shall dismiss the same.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.31]
C93, §161A.31
Referred to in §161A.41

161A.32 Assessment certified.

When the board or boards of supervisors shall receive a certification from the governing body of the district to make the necessary assessment on the real estate within the boundaries of the subdistrict lying within their respective county, this shall be construed as final action by the governing body.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.32]
C93, §161A.32
Referred to in §161A.41

161A.33 Assessments transmitted.

1. The governing body upon receiving the reports from three appointed appraisers and after holding the hearings shall transmit and certify the amounts of assessments to the respective boards of supervisors which, upon receipt of certification from the governing body of the district, make the necessary levy of such assessments as fixed by the governing body upon the land within such subdistrict. The assessments shall be levied at that time as a tax and shall bear interest at a rate not exceeding that permitted by chapter 74A from that date payable annually except as hereafter provided as to cash payments therefor within a specified time.

2. The assessment levied under this section together with any accrued interest or delinquency penalty as provided in this chapter shall be deposited in a fund established by the governing body as provided by a resolution adopted by the governing body and delivered for filing with each appropriate county treasurer. Moneys earned as income from moneys in the fund, including as interest, shall remain in the fund until expended by the governing body according to procedures specified in the resolution. If the governing body does not adopt a resolution or deliver the resolution to the county treasurer, the moneys shall be deposited into a separate account in the county's general fund by that county treasurer. The account shall be identified by the official name of the subdistrict and expenditures from the account shall be made on requisition of the chairperson and secretary of the governing body of the subdistrict.

3. At no time shall an assessment be made where the benefits accrued to the subdistrict do not exceed the cost of the improvements within the subdistrict.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.33]
C93, §161A.33
2005 Acts, ch 116, §2
Referred to in §161A.34, 161A.41, 331.552

161A.34 Payment to county treasurer.

1. All assessments for benefits shall be levied at one time against the property benefited and when levied and certified by the board or boards of supervisors shall be paid at the office of the county treasurer. Each person shall have the right within twenty days after the levy of assessments to pay the person's assessment in full without interest. The county treasurer shall pay the collected moneys into a fund established by the governing body or an account of the county's general fund as provided in section 161A.33.

2. If any levy of assessments is not sufficient to meet the cost and expenses of organizing and construction apportioned to each owner upon each forty-acre tract or less, additional assessments may be made on the same classification as the previous ones.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.34]
C93, §161A.34
2005 Acts, ch 116, §3
Referred to in §161A.41, 331.552

161A.35 Installments.

If the owner of any premises against which a levy exceeding five hundred dollars has been made and certified shall, within thirty days from the date of such levy, agree in writing in a separate agreement, that in consideration of having a right to pay the owner's assessment in installments, the owner will not make any objection as to the legality of the assessment for benefit, or the levy of the taxes against the owner's property, then such owner shall have the following options:

1. To pay one half of the amount of such assessment at the time of filing such agreement and the remaining one half shall become due and payable one year from the date of filing such agreement. All such installments shall be without interest if paid at said times, otherwise said assessments shall bear interest from the date of the levy at a rate fixed by the governing body of the subdistrict, but not exceeding that permitted by chapter 74A, payable annually, and be collected as other taxes on real estate, with like penalty for delinquency.

2. To pay such assessments in not less than ten nor more than forty equal installments, the number to be fixed by the governing body of the subdistrict and interest at the rate fixed by the governing body of the subdistrict, not exceeding that permitted by chapter 74A. The first installment of each assessment shall become due and payable at the September semiannual tax paying date after the date of filing such agreement, unless the agreement is filed with the county treasurer less than ninety days prior to such September semiannual tax paying date, in that event, the first installment shall become due and payable at the next succeeding September semiannual tax paying date. The second and each subsequent installment shall become due and payable at the September semiannual tax paying date each year thereafter. All such installments shall be collected with interest accrued on the unpaid balance to the September semiannual tax paying date and as other taxes on real estate, with like penalty for delinquency.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.35]
C93, §161A.35
98 Acts, ch 1107, §1; 99 Acts, ch 83, §1; 2012 Acts, ch 1138, §94
Referred to in §161A.41

161A.36 Option by appellant.

When an owner takes an appeal from the assessment against any of the owner's land, the option to pay in installments whatever assessment is finally established against such land in said appeal shall continue, if within twenty days after the final determination of said appeal the owner shall file in the office of the auditor the owner's written election to pay in installments, and within said period pay such installments as would have matured prior to that time if no appeal had been taken, together with all accrued interest on said assessment to the last preceding interest-paying date.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.36]
C93, §161A.36
Referred to in §161A.41

161A.37 Status of classification.

A classification of land for watershed purposes, when finally adopted, shall remain the basis of all future assessments for the purpose of said subdistrict, except as provided in section 161A.38.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.37]
C93, §161A.37
Referred to in §161A.41

161A.38 New classification.

1. After a subdistrict has been established and the improvements thereof constructed and put in operation, if the governing body shall find that the original assessments are not equitable as a basis for the expenses of any enlargement or extension thereof which may have become necessary, the governing body shall order a new classification of all lands in said subdistrict by resolution, and appoint three appraisers, which shall meet the same requirements as set forth in section 161A.23.

2. Upon the completion of the reclassification, those affected by such reclassification shall have the right to appeal as set forth in this subchapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.38]
C93, §161A.38
2018 Acts, ch 1026, §58
Referred to in §161A.37, 161A.41

161A.39 Benefit of whole subdistrict.

Assessments for repair, alteration, enlargement, extension, and operation of works of improvement within the watershed district shall be a benefit to the entire subdistrict and levied as such.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.39]
C93, §161A.39
Referred to in §161A.41

161A.40 Compensation of appraisers.

Persons appointed to appraise and make classifications of lands shall receive such compensation as the governing body may fix and in addition thereto, the necessary expenses of transportation of said persons while engaged in their work; such compensation and expenses shall be construed as part of the cost of the subdistrict which shall be included when considering classifications of lands within a subdistrict.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.40]
C93, §161A.40
Referred to in §161A.41

161A.41 Election of taxing methods.

Subdistricts organized under the provisions of this chapter shall designate in the petition which of the taxing methods will be used or may stipulate that both methods are contemplated for use. Should the governing body of the subdistrict find it desirable to change from a special annual tax to special benefit assessments it may elect to do so and shall institute proceedings described in sections 161A.23 through 161A.40 and may divert any moneys already collected under section 161A.20, for the purposes authorized in this chapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §467A.41]
C93, §161A.41

SUBCHAPTER V

SOIL AND WATER CONSERVATION PRACTICES

PART 1

DUTIES AND OBLIGATIONS

161A.42 Definitions.

In addition to the definitions established by section 161A.3, as used in this subchapter, unless the context otherwise requires:

1. *"Agricultural land"* has the meaning assigned that term by section 9H.1.

2. *"Conservation agreement"* means a commitment by the owner or operator of a farm unit to implement a farm unit soil conservation plan or, with the approval of the commissioners of the soil and water conservation district within which the farm unit is located, a portion of a farm unit soil conservation plan. The commitment shall be conditioned on the furnishing by the soil and water conservation district of technical or planning assistance in the establishment of and cost-sharing or other financial assistance for establishment and maintenance of the soil and water conservation practices necessary to implement the plan or a portion of the plan.

3. *"Cost-share"* or *"cost-sharing"* means a contribution of money made by the state

in order to pay a percentage of the costs related to the establishment of voluntary or mandatory practices as provided under this chapter, including but not limited to soil and water conservation practices and erosion control practices.

4. *"Erosion control practices"* means:

a. The construction or installation, and maintenance, of such structures or devices as are necessary to carry to a suitable outlet from the site of any building housing four or more residential units, any commercial or industrial development or any publicly or privately owned recreational or service facility of any kind, not served by a central storm sewer system, any water which:

(1) Would otherwise cause erosion in excess of the applicable soil loss limit; and

(2) Does not carry nor constitute sewage, industrial waste, or other waste as defined by section 455B.171.

b. The employment of temporary devices or structures, temporary seeding, fibre mats, plastic, straw, or other measures adequate to prevent erosion in excess of the applicable soil loss limits from the site of, or land directly affected by, the construction of any public or private street, road or highway, any residential, commercial, or industrial building or development, or any publicly or privately owned recreational or service facility of any kind, at all times prior to completion of such construction.

c. The establishment and maintenance of vegetation upon the right-of-way of any completed portion of any public street, road, or highway, or the construction or installation thereon of structures or devices, or other measures adequate to prevent erosion from the right-of-way in excess of the applicable soil loss limits.

5. *"Farm unit"* means a single contiguous tract of agricultural land, or two or more adjacent tracts of agricultural land, located within a single soil and water conservation district, upon which farming operations are being conducted by a person who owns or is purchasing or renting all of the land, or by that person's tenant or tenants. If a landowner has multiple farm tenants, the land on which farming operations are being conducted by each tenant is a separate farm unit. This definition does not prohibit land which is within a single soil and water conservation district and is owned or being purchased by the same person, or is being rented by the same tenant, from being treated as two or more farm units if the commissioners of the soil and water conservation district deem it preferable to do so.

6. *"Farm unit soil conservation plan"* means a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the commissioners of the soil and water conservation district within which that farm unit is located, identifying those permanent soil and water conservation practices and temporary soil and water conservation practices the use of which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil loss limit or limits. The plan shall if practicable identify alternative practices by which this objective may be attained.

7. *"Forest"* means stands of native or introduced trees containing at least two hundred trees per acre and located on privately owned land. However, a stand of fruit trees is not a forest.

8. *"Professional forester"* means a forestry graduate of an institution of higher learning, who has a minimum of two years of forest management experience.

9. *"Soil and water conservation practices"* means any of the practices designated in or pursuant to this subsection which serve to prevent erosion of soil by wind or water, in excess of applicable soil loss limits, from land used for agricultural or horticultural purposes only.

a. *"Permanent soil and water conservation practices"* means planting of perennial grasses, legumes, shrubs, or trees, the establishment of grassed waterways, and the construction of terraces, or other permanent soil and water practices approved by the committee.

b. *"Temporary soil and water conservation practices"* means planting of annual or biennial crops, use of strip-cropping, contour planting, or minimum or mulch tillage, and any other cultural practices approved by the committee.

10. *"Soil loss limit"* means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts determine is acceptable in order to meet the objectives expressed in section 161A.2.

11. *"State forester"* means a person employed by the department of natural resources as required by section 456A.13.

[C73, 75, 77, 79, 81, §467A.42]

86 Acts, ch 1238, §40; 86 Acts, ch 1245, §655, 656; 87 Acts, ch 23, §30; 88 Acts, ch 1134, §88; 89 Acts, ch 106, §4; 92 Acts, ch 1184, §2, 3

C93, §161A.42

94 Acts, ch 1107, §8; 2012 Acts, ch 1095, §11, 12; 2016 Acts, ch 1011, §121; 2018 Acts, ch 1026, §59

Referred to in §161A.44, 161A.71

161A.43 Duty of property owners — liability.

1. To conserve the fertility, general usefulness, and value of the soil and soil resources of this state, and to prevent the injurious effects of soil erosion, it is hereby made the duty of the owners of real property in this state to establish and maintain soil and water conservation practices or erosion control practices, as required by the regulations of the commissioners of the respective soil and water conservation districts. As used in this section, *"owners of real property in this state"* includes each state government agency, each political subdivision of the state, and each agency of such a political subdivision which has under its control publicly owned land, including but not limited to agricultural land, forests, parks, the grounds of state educational, penal and human service institutions, public highways, roads and streets, and other public rights-of-way.

2. A landowner shall not be liable for a claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent installation, construction, or reconstruction of a soil and water conservation practice or an erosion control practice that was installed, constructed, or reconstructed in accordance with generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A soil and water conservation practice or an erosion control practice installed, constructed, or reconstructed in compliance with rules adopted by the division and currently in effect shall be deemed to be installed, constructed, or reconstructed according to generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A claim shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing soil and water conservation practice or erosion control practice to a new, changed, or altered design standard. This subsection does not apply to a claim based on a failure of a landowner to upgrade, improve, or alter a soil and water conservation practice or erosion control practice in violation of law. This subsection does not apply to claims based upon gross negligence.

[C73, 75, 77, 79, 81, §467A.43]

92 Acts, ch 1184, §4; 92 Acts, ch 1239, §50

C93, §161A.43

94 Acts, ch 1023, §16; 2018 Acts, ch 1026, §60

Referred to in §161A.48, 161A.74

161A.44 Rules by commissioners — scope.

The commissioners of each district shall, with approval of and within time limits set by administrative order of the committee, adopt reasonable regulations as are deemed necessary to establish a soil loss limit or limits for the district and provide for the implementation of the limit or limits. A district may subsequently amend or repeal its regulations as it deems necessary. The committee shall review the soil loss limit regulations adopted by the districts at least once every five years, and shall recommend changes in the regulations of a district which the committee deems necessary to assure that the district's soil loss limits are reasonable and attainable. The commissioners may:

1. Classify land in the district on the basis of topography, soil characteristics, current use, and other factors affecting propensity to soil erosion.

2. Establish different soil loss limits for different classes of land in the district if in their judgment and that of the committee a lower soil loss limit should be applied to some land

than can reasonably be applied to other land in the district, it being the intent of the general assembly that no land in the state be assigned a soil loss limit that cannot reasonably be applied to such land.

3. Require the owners of real property in the district to employ either soil and water conservation practices or erosion control practices, and:

a. May not specify the particular practices to be employed so long as such owners voluntarily comply with the applicable soil loss limits established for the district.

b. May specify two or more approved soil and water conservation practices or erosion control practices, one of which shall be employed by the landowner to bring erosion from land under the landowner's control within the applicable soil loss limit of the district when an administrative order is issued to the landowner.

c. In no case may the commissioners require:

(1) The employment of erosion control practices as defined in section 161A.42, subsection 4, on land used in good faith for agricultural or horticultural purposes only.

(2) The employment of soil and water conservation practices or erosion control practices on that portion of any public street, road or highway completed or under construction within the corporate limits of any city, which is or will become the traveled or surfaced portion of such street, road, or highway.

(3) That any owner or operator of agricultural land refrain from fall plowing of land on which the owner or operator intends to raise a crop during the next succeeding growing season, however on those lands which are prone to excessive wind erosion the commissioners may require that reasonable temporary measures be taken to minimize the likelihood of wind erosion so long as such measures do not unduly increase the cost of operation of the farm on which the land is located.

d. May require that a person under an order to employ soil and water conservation practices or erosion control practices submit up to three bids to the commissioners for the work and provide an explanation to the commissioners if a bid other than the lowest bid has been selected by that person.

[C73, 75, 77, 79, 81, §467A.44]
83 Acts, ch 45, §1; 86 Acts, ch 1245, §657; 87 Acts, ch 23, §31; 89 Acts, ch 106, §5
C93, §161A.44
2017 Acts, ch 159, §11 – 13
Referred to in §161A.48, 161A.51, 161A.74, 461.33

161A.45 Submission of regulations to committee — hearing.

Regulations which the commissioners propose to adopt, amend, or repeal shall be submitted to the committee, in a form prescribed by the committee, for its approval. The committee may approve the regulations as submitted, or with amendments as it deems necessary. The commissioners shall, after approval, publish notice of hearing on the proposed regulations, as approved, in a newspaper of general circulation in the district, setting a date and time not less than ten nor more than thirty days after the publication when a hearing on the proposed regulations will be held at a specified place. The notice shall include the full text of the proposed regulations or shall state that the proposed regulations are on file and available for review at the office of the affected soil and water conservation district.

[C73, 75, 77, 79, 81, §467A.45]
86 Acts, ch 1245, §658; 87 Acts, ch 23, §32; 89 Acts, ch 106, §6
C93, §161A.45
Referred to in §161A.48, 161A.74

161A.46 Conduct of hearing.

At the hearing, the commissioners or their designees shall explain, in reasonable detail, the reasons why adoption, amendment, or repeal of the regulations is deemed necessary or advisable. Any landowner, or any occupant of land who would be affected by the regulations, shall be afforded an opportunity to be heard for or against the proposed regulations. At the conclusion of the hearing, the commissioners shall announce and enter of record their

decision whether to adopt or modify the proposed regulations. Any modification must be approved by the committee, which may at its discretion order the commissioners to republish the regulations and hold another hearing in the manner prescribed by this chapter.

[C73, 75, 77, 79, 81, §467A.46]
86 Acts, ch 1245, §659; 89 Acts, ch 106, §7
C93, §161A.46
Referred to in §161A.48, 161A.74

161A.47 Inspection of land on complaint.

1. The commissioners shall inspect or cause to be inspected any land within the district to determine if land is being damaged by sediment, from soil erosion occurring on neighboring land in excess of the limits established by the district's soil erosion control regulations. If the land is privately owned, the commissioners shall make or cause to be made the inspection, upon receiving a written complaint signed by an owner or occupant of land claiming that the owner's or occupant's land is being damaged by sediment. If the land is subject to a public interest, the commissioners shall make or cause to be made the inspection upon a majority vote of commissioners at an open meeting held pursuant to chapter 21. Land is subject to a public interest if the land is publicly held, subject to an easement held by the public, or the subject of an improvement made at public expense.

2. If, after the inspection, the commissioners find that sediment damages are occurring to land which is owned or occupied by the person filing the complaint or subject to a public interest, and that excess soil erosion is occurring on neighboring land, the commissioners shall issue an administrative order to the landowner or landowners of record, and to the occupant of the land if known to the commissioners. The order shall describe the land and state as nearly as possible the extent to which soil erosion on the land exceeds the limits established by the district's regulations.

3. The order shall be delivered either by personal service or by restricted certified mail to each of the persons to whom it is directed, and shall:

a. In the case of erosion occurring on the site of any construction project or similar undertaking involving the removal of all or a major portion of the vegetation or other cover, exposing bare soil directly to water or wind, state a time not more than five days after service or mailing of the notice of the order when work necessary to establish or maintain erosion control practices must be commenced, and a time not more than thirty days after service or mailing of the notice of the order when the work is to be satisfactorily completed.

b. In all other cases, state a time not more than six months after service or mailing of the notice of the order, by which work needed to establish or maintain the necessary soil and water conservation practices or erosion control measures must be commenced, and a time not more than one year after the service or mailing of the notice of the order when the work is to be satisfactorily completed, unless the requirements of the order are superseded by the provisions of section 161A.48.

[C73, 75, 77, 79, 81, §467A.47]
87 Acts, ch 23, §33; 92 Acts, ch 1057, §1
C93, §161A.47
2009 Acts, ch 41, §202
Referred to in §161A.48, 161A.49, 161A.61, 161A.64, 161A.66, 161A.71, 161A.74

161A.48 Mandatory establishment of soil and water conservation practices.

1. An owner or occupant of agricultural land in this state is not required to establish any new permanent or temporary soil and water conservation practice unless cost-share or other public moneys have been specifically approved for that land and made available to the owner or occupant pursuant to section 161A.74.

2. Evidence that an application for cost-share or other public moneys, from a source or sources having authority to pay a portion of the cost of work needed to comply with an administrative order issued pursuant to section 161A.47, has been submitted to the proper officer or agency constitutes commencement of the work within the meaning of sections 161A.43 through 161A.53.

3. Upon receiving evidence of the submission of an application, the commissioners shall forward to the officer or agency to which the application was made a written request to receive notification of the disposition of the application. When notified of the approval of the application, the commissioners shall issue to the same parties who received the original administrative order, or their successors in interest, a supplementary order, to be delivered in the same manner as provided by sections 161A.43 through 161A.47, this section, and sections 161A.49 through 161A.51 for delivery of original administrative orders. The supplementary order shall state a time, not more than six months after approval of the application for public cost-sharing funds, by which the work needed to comply with the original administrative order shall actually be commenced, and a time thereafter when the work is to be satisfactorily completed. If feasible, that time shall be within one year after the date of the supplementary order, but the owner of land on which a soil and water conservation practice is being established under this section is not required to incur a cost for the practice in any one calendar year which exceeds ten dollars per acre for each acre of land belonging to that owner and located in the county containing the land on which the required practice is being established or in counties contiguous to that county.

[C73, 75, 77, 79, 81, §467A.48]

84 Acts, ch 1192, §1; 86 Acts, ch 1245, §660; 87 Acts, ch 23, §34; 89 Acts, ch 106, §8; 90 Acts, ch 1255, §35; 90 Acts, ch 1260, §29; 91 Acts, ch 268, §238; 92 Acts, ch 1184, §5

C93, §161A.48

96 Acts, ch 1083, §3; 2021 Acts, ch 80, §89

Referred to in §161A.47, 161A.49, 161A.61, 161A.71, 161A.74

Subsection 3 amended

161A.49 Petition for court order.

The commissioners shall petition the district court for a court order requiring immediate compliance with an administrative order previously issued by the commissioners as provided in section 161A.47, if:

1. The work necessary to comply with the administrative order is not commenced on or before the date specified in such order, or in any supplementary order subsequently issued as provided in section 161A.48, unless in the judgment of the commissioners the failure to commence or complete the work as required by the administrative order is due to factors beyond the control of the person or persons to whom such order is directed and the person or persons can be relied upon to commence and complete the necessary work at the earliest possible time.

2. Such work is not being performed with due diligence, or is not satisfactorily completed by the date specified in the administrative order, or when completed does not reduce soil erosion from such land below the limits established by the soil and water conservation district's regulations.

3. The person or persons to whom the administrative order is directed advise the commissioners that they do not intend to commence or complete such work.

[C73, 75, 77, 79, 81, §467A.49]

C93, §161A.49

Referred to in §161A.48, 161A.50, 161A.74

161A.50 Burden — court order.

In any action brought under section 161A.49, the burden of proof shall be upon the commissioners to show that soil erosion is in fact occurring in excess of the applicable soil loss limits and that the defendant has not established or maintained soil and water conservation practices or erosion control practices in compliance with the soil and water conservation district's regulations. With respect to construction, repair, or maintenance of any public street, road, or highway, evidence that soil erosion control standards equivalent to or in excess of those currently imposed by the United States government on the project or like projects involving use of federal funds shall create a presumption of compliance with the applicable soil loss limit. Upon receiving satisfactory proof, the court shall issue an order directing the landowner or landowners to comply with the administrative order previously issued by the commissioners. The court may modify such administrative order if deemed

necessary. Notice of the court order shall be given either by personal service or by restricted certified mail to each of the persons to whom the order is directed, who may within thirty days from the date of the court order appeal to the supreme court. Any person who fails to comply with a court order issued pursuant to this section within the time specified in such order, unless the order has been stayed pending an appeal, shall be deemed in contempt of court and may be punished accordingly.

[C73, 75, 77, 79, 81, §467A.50]

C93, §161A.50

Referred to in §161A.48, 161A.61, 161A.74

161A.51 Entering on land.

The commissioners and their authorized agents or employees may enter upon any private or public property, except private dwellings, at any reasonable time to classify land by soil sampling or other appropriate methods or to determine whether soil erosion is occurring on the property in violation of the district's regulations.

1. If the owner or occupant of any property refuses admittance, or if prior to such refusal the commissioners demonstrate the need for a warrant, the commissioners may make an application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

2. In the application the commissioners shall state that entry on the premises is mandated by the laws of this state or that entry is needed to conduct soil sampling necessary to classify soil in the district as specified in section 161A.44, subsection 1, or to determine whether soil erosion is occurring on the property in violation of the district's regulations. The application shall describe the area or premises, give the date of the last known investigation or sampling, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, ordinance or regulation pursuant to which the inspection is to be made.

3. The court may issue a search warrant, after examination of the applicant and any witnesses, if the court is satisfied that there is probable cause to believe the existence of the allegations in the application.

4. In soil sampling and making investigations pursuant to a warrant, the commissioners must execute the warrant in a reasonable manner within the time period specified in the warrant.

[C73, 75, 77, 79, 81, §467A.51]

C93, §161A.51

Referred to in §161A.48, 161A.74

161A.52 Reserved.

161A.53 Cooperation with other agencies.

Soil and water conservation districts may enter into agreements with the federal government or an agency of the federal government, as provided by state law, or with the state of Iowa or an agency of the state, any other soil and water conservation district, or any other political subdivision of this state, for cooperation in preventing, controlling, or attempting to prevent or control soil erosion. Soil and water conservation districts may accept, as provided by state law, money disbursed for soil erosion control purposes by the federal government or an agency of the federal government, and expend the money for the purposes for which it was received.

[C73, 75, 77, 79, 81, §467A.53]

86 Acts, ch 1238, §61; 87 Acts, ch 23, §35; 89 Acts, ch 83, §59

C93, §161A.53

Referred to in §161A.48, 161A.74

161A.54 State agency conservation plans — exemptions.

Each state agency shall enter into an agreement with the soil and water conservation district in which the state agency has public land under its control in cultivation. The agreement shall contain a plan of the state agency to prevent soil erosion in excess of soil loss limits by the use of soil and water conservation practices and erosion control practices. This section applies to all public land which is used for horticultural or agricultural purposes. State soil conservation cost-sharing funds shall not be used on these public lands. Conservation plans required by this section shall be completed by July 1, 1986, and implementation shall occur consistent with the schedule contained in the conservation plan. Application for exemption from this section may be submitted to the appropriate soil and water conservation district. The exemption shall be granted for land upon which soil management research for the purposes of the study, evaluation, understanding and control of erosion, sedimentation and run-off water is conducted by or in conjunction with institutions governed by the board of regents.

85 Acts, ch 133, §1
CS85, §467A.54
87 Acts, ch 23, §36
C93, §161A.54

161A.55 through 161A.60 Reserved.

161A.61 Discretionary inspection by commissioners — actions upon certain findings.

1. In addition to the authority granted by section 161A.47, the commissioners of a soil and water conservation district may inspect or cause to be inspected any land within the district on which they have reasonable grounds to believe that soil erosion is occurring in excess of the limits established by the district's soil erosion control regulations. If the commissioners find from an inspection conducted under authority of either section 161A.47 or this section that soil erosion is occurring on that land in excess of the applicable soil loss limits established by the district's soil erosion control regulations, they shall send notice of that finding to the landowner or landowners of record, and to the occupant of the land if known to the commissioners. The notice shall describe the land affected and shall state as nearly as possible the extent to which soil erosion from that land exceeds the applicable soil loss limits.

a. If the commissioners find that the excessive erosion described in the notice is not causing sediment damage to property owned or occupied by any person other than the owner or occupant of the land on which the excessive soil erosion is occurring, and that the rate of the excessive erosion is less than twice the applicable soil loss limit, the notice required by this subsection shall include or be accompanied by information regarding financial or other assistance which the commissioners are able to make available to the owner or occupant of the land to aid in achieving compliance with the applicable soil loss limits.

b. If the commissioners find that the excessive soil erosion described in the notice is not causing sediment damage to property owned or occupied by any person other than the owner or occupant of the land on which it is occurring, but that the erosion is occurring at a rate equal to or greater than twice the applicable soil loss limit, the notice shall so state, shall include or be accompanied by the information required by paragraph *"a"* of this subsection, and shall be delivered by personal service or by restricted certified mail to each of the persons to whom the notice is directed. A notice given under this paragraph shall also include or be accompanied by information explaining the provisions of subsection 2.

2. The commissioners of the soil and water conservation district in which a farm unit is located may petition the district court for an appropriate order with respect to that farm unit if its owner or occupant has been sent a notice by the commissioners under subsection 1, paragraph *"b"*, for three or more consecutive years. The commissioners' petition shall seek a court order which states a time not more than six months after the date of the order when the owner or occupant must commence, and a time when the owner or occupant must complete the steps necessary to comply with the order. The time allowed to complete the establishment of a temporary soil and water conservation practice employed to comply or

advance toward compliance with the court's order shall be not more than one year after the date of that order, and the time allowed to complete the establishment of a permanent soil and water conservation practice employed to comply with the court's order shall be not more than five years after the date of that order. Section 161A.48 applies to a court order issued under this subsection. The steps required of the farm unit owner or operator by the court order are those which are necessary to do one of the following:

a. Bring the farm unit which is the subject of the order into compliance with its farm unit soil conservation plan, if such a plan had been agreed upon prior to the time the commissioners petitioned for the order.

b. Bring the farm unit which is the subject of the order into compliance with a plan developed for that farm unit by the commissioners, in accordance with guidelines established by the division, and presented to the court as a part of the commissioners' petition, if a farm unit soil conservation plan has not previously been agreed upon for that farm unit. A plan presented to the court by the commissioners under this paragraph shall specify as many alternative approved soil and water conservation practices as feasible, among which the owner or occupant of the farm unit may choose in taking the steps necessary to comply with the court's order.

c. Bring the farm unit which is the subject of the order into compliance with a soil conservation plan developed by the owner or occupant of that farm unit as an alternative to the proposed soil conservation plan developed by the commissioners, if the owner or occupant so petitions the court and the court finds that the owner or occupant's plan will bring the farm unit into conformity with the applicable soil loss limits of the district.

3. The commissioners may also cause an inspection of land within the district on which they have reasonable grounds to believe that a permanent soil and water conservation practice established with public cost-sharing funds is not being properly maintained or is being altered in violation of section 161A.7, subsection 3. If the commissioners find that the practices are not being maintained or have been altered in violation of section 161A.7, subsection 3, the commissioners shall issue an administrative order to the landowner who made the unauthorized removal, alteration or modification to maintain, repair, or reconstruct the permanent soil and water conservation practices. The requirement for maintenance and repair is for the length of life as defined in section 161A.7, subsection 3. Public cost-sharing funds are not available for the work under this order. If the landowner fails to comply with the administrative order, the commissioners may petition the district court for an order compelling compliance with the order. Upon receiving satisfactory proof, the court shall issue an order directing compliance with the administrative order and may modify the administrative order. The provisions of section 161A.50 relating to notice, appeals, and contempt of court shall apply to proceedings under this subsection.

[C81, §467A.61; 82 Acts, ch 1220, §2]
87 Acts, ch 23, §37, 38
C93, §161A.61
2009 Acts, ch 41, §61; 2012 Acts, ch 1095, §13; 2013 Acts, ch 90, §32; 2015 Acts, ch 103, §33
Referred to in §161A.7

161A.62 Duties of commissioners and of owners and occupants of agricultural land — restrictions on use of cost-sharing funds.

The commissioners of each soil and water conservation district shall seek to implement or to assist in implementing the following requirements:

1. The commissioners of each soil and water conservation district shall complete preparation of a farm unit soil conservation plan for each farm unit within the district as soon as adequate funding is available to permit compliance with this requirement.

a. Technical assistance in the development of the farm unit soil conservation plan may be provided by the United States department of agriculture natural resources conservation service through the memorandum of understanding with the district or by the department. The commissioners shall make every reasonable effort to consult with the owner and, if appropriate, with the operator of that farm unit, and to prepare the plan in a form which is acceptable to that person or those persons.

b. The farm unit soil conservation plan shall be drawn up and completed without expense to the owner or operator of the farm unit, except that the owner or operator shall not be reimbursed for the value of the owner's or occupant's own time devoted to participation in the preparation of the plan.

c. If the commissioners' farm unit soil conservation plan is unacceptable to the owner or operator of the farm unit, that person or those persons may prepare an alternative farm unit soil conservation plan identifying permanent or temporary soil and water conservation practices which may be expected to achieve compliance with the soil loss limit or limits applicable to that farm unit, and submit that plan to the soil and water conservation district commissioners for their review.

2. Within one year after completion of a farm unit soil conservation plan for a particular farm unit which is acceptable both to the commissioners of the soil and water conservation district within which the farm unit is located and to the owner and, if appropriate, to the operator of that farm unit, the commissioners shall offer to enter into a soil conservation agreement with the owner, and also with the operator if appropriate, based on the mutually acceptable farm unit soil conservation plan.

[C81, §467A.62; 81 Acts, ch 153, §1]
86 Acts, ch 1238, §22; 87 Acts, ch 17, §10; 87 Acts, ch 23, §39
C93, §161A.62
95 Acts, ch 216, §25; 2012 Acts, ch 1095, §14, 15
Referred to in §161A.63

161A.63 Right of purchaser of agricultural land to obtain information.

A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain from the seller, or from the office of the soil and water conservation district in which the land is located, a copy of the most recently updated farm unit soil conservation plan, developed pursuant to section 161A.62, subsection 1, which is applicable to the agricultural land proposed to be purchased. A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain additional copies of the document referred to in this section from the office of the soil and water conservation district in which the land is located, promptly upon request, at a fee not to exceed the cost of reproducing them. All persons who identify themselves to the commissioners or staff of a soil and water conservation district as prospective purchasers of agricultural land in the district shall be given information, prepared in accordance with rules of the department, which clearly explains the provisions of section 161A.76.

[C81, §467A.63]
87 Acts, ch 23, §40
C93, §161A.63
2012 Acts, ch 1095, §16; 2012 Acts, ch 1138, §55

161A.64 Erosion control plans required for certain projects.

1. If a political subdivision has adopted a sediment control ordinance which the commissioners and the political subdivision jointly agree is at least as equally effective as the commissioners' rules in preventing erosion from exceeding the established soil loss limits, the commissioners and the political subdivision shall execute an agreement under chapter 28E allowing an agency authorized by the political subdivision to receive and file an affidavit from a person, prior to initiating a land disturbing activity in that subdivision, stating that the proposed activity will not exceed the established soil loss limits. A copy of the affidavit shall be mailed to the district as a part of the terms of the agreement. The affidavit shall be in a form prescribed by the department and made available by the district.

2. Prior to initiating a land disturbing activity in a political subdivision which has not adopted sediment control ordinances as described in subsection 1, a person engaged in the land disturbing activity shall file a signed affidavit with the soil and water conservation district that the project will not exceed the soil loss limits. The affidavit shall be in a form prescribed by the department and made available by the district.

3. For the purposes of this section, "*land disturbing activity*" means a land change such as

the tilling, clearing, grading, excavating, transporting or filling of land which may result in soil erosion from water or wind and the movement of sediment and sediment related pollutants into the waters of the state or onto lands in the state but does not include the following:

a. Tilling, planting or harvesting of agricultural, horticultural or forest crops.

b. Preparation for single-family residences separately built unless in conjunction with multiple construction in subdivision development.

c. Minor activities such as home gardens, landscaping, repairs and maintenance work.

d. Surface or deep mining.

e. Installation of public utility lines and connections, fence posts, sign posts, telephone poles, electric poles and other kinds of posts or poles.

f. Septic tanks and drainage fields unless they are to serve a building whose construction is a land disturbing activity.

g. Construction and repair of the tracks, right-of-way, bridges, communication facilities and other related structures of a railroad.

h. Emergency work to protect life or property.

i. Disturbed land areas of less than twenty-five thousand square feet unless a political subdivision by ordinance establishes a smaller exception or establishes conditions for this exception.

j. The construction, relocation, alteration or maintenance of public roads by a public body.

4. If the agency authorized under subsection 1 determines that a land disturbing activity is not being conducted in compliance with the soil loss limits, it shall file a written and signed complaint with the soil and water conservation district commissioners. The complaint shall have the same effect and validity as a complaint filed by an owner or occupant of land being damaged by sediment pursuant to section 161A.47. If the affidavit is filed with the district or the political subdivision, the commissioners may proceed on their own complaint. The soil and water conservation district commissioners may issue an administrative order as provided in that section to the person conducting the land disturbing activity.

[C81, §467A.64; 81 Acts, ch 154, §1, 2]
87 Acts, ch 23, §41
C93, §161A.64

161A.65 Reserved.

161A.66 Procedure when commissioner is complainant.

A soil and water conservation district commissioner who is an owner or occupant of land being damaged by sediment has the same right as any other person in like circumstances to file a complaint under section 161A.47; however, a commissioner who is the complainant shall not vote on the question whether, on the basis of the inspection made pursuant to the complaint, the commissioners shall issue an administrative order under section 161A.47.

[C81, §467A.66]
87 Acts, ch 23, §43
C93, §161A.66

161A.67 through 161A.69 Reserved.

PART 2

FINANCIAL INCENTIVES

161A.70 Establishment and purpose.

Financial incentive programs are established within the division in order to protect the long-term productivity of the soil and water resources of the state from erosion and sediment damage, and to encourage the adoption of farm management and agricultural practices which

are consistent with the capability of the land to sustain agriculture and preserve this state's natural resources.

92 Acts, ch 1184, §6
Referred to in §159.18, 161A.72

161A.71 Conservation practices revolving loan fund.

1. The division may establish a conservation practices revolving loan fund composed of any money appropriated by the general assembly for that purpose, and of any other moneys available to and obtained or accepted by the committee from the federal government or private sources for placement in that fund. Except as otherwise provided by subsection 3, the assets of the conservation practices revolving loan fund shall be used only to make loans directly to owners of land in this state for the purpose of establishing on that land any new permanent soil and water conservation practice which the commissioners of the soil and water conservation district in which the land is located have found is necessary or advisable to meet the soil loss limits established for that land. A loan shall not be made for establishing a permanent soil and water conservation practice on land that is subject to the restriction on state cost-sharing funds of section 161A.76. Revolving loan funds and public cost-sharing funds may be used in combination for funding a particular soil and water conservation practice. Each loan made under this section shall be for a period not to exceed ten years, shall bear no interest, and shall be repayable to the conservation practices revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants are eligible for no more than twenty thousand dollars in loans outstanding at any time under this program. *"Permanent soil and water conservation practices"* has the same meaning as defined in section 161A.42 and those established under this program are subject to the requirements of section 161A.7, subsection 3. Loans made under this program shall come due for payment upon sale of the land on which those practices are established.

2. The general assembly finds and declares the following:

a. The erosion of topsoil on agricultural land by wind and water is a serious problem within the state and one which threatens to destroy the natural resource most responsible for Iowa's prosperity.

b. It is necessary to the preservation of the economy and well-being of the state to encourage soil conservation practices by providing loans for permanent soil and water conservation practices on agricultural land within the state.

c. The use of state funds for the conservation practices revolving loan fund established under subsection 1 is in the public interest, and the purposes of this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

3. The division may:

a. Contract, sue and be sued, and promulgate administrative rules necessary to carry out the provisions of this section, but the committee shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

b. Authorize payment from the conservation practices revolving loan fund and from fees for costs, commissions, attorney fees and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with such loans.

4. This section does not negate the provisions of section 161A.48 that an owner or occupant of land in this state shall not be required to establish any new soil and water conservation practice unless public cost-sharing funds have been approved and are available for the land affected. However, the owner of land with respect to which an administrative order to establish soil and water conservation practices has been issued under section 161A.47 but not complied with for lack of public cost-sharing funds, may waive the right to await availability of such funds and instead apply for a loan under this section to establish any permanent soil and water conservation practices necessary to comply with the order. If a landowner does so, that loan application shall be given reasonable preference by the

committee if there are applications for more loans under this section than can be made from the money available in the conservation practices revolving loan fund. If it is found necessary to deny an application for a soil and water conservation practices loan to a landowner who has waived the right to availability of public cost-sharing funds before complying with an administrative order issued under section 161A.47, the landowner's waiver is void.

83 Acts, ch 207, §53, 93

CS83, §467A.71

85 Acts, ch 67, §46; 85 Acts, ch 170, §1; 86 Acts, ch 1244, §58; 86 Acts, ch 1245, §661; 87 Acts, ch 23, §44; 91 Acts, ch 260, §1234

C93, §161A.71

2013 Acts, ch 15, §1; 2017 Acts, ch 159, §14

161A.72 Administration.

1. Financial incentives provided under this chapter shall be administered by the division. The incentives shall be supported with funds appropriated by the general assembly, and moneys available to or obtained by the division or the committee from public or private sources, including but not limited to the United States, other states, or private organizations. The division shall adopt all rules consistent with chapter 17A necessary to carry out the purpose of this subchapter as provided in section 161A.70.

2. The commissioners of a district shall, to the extent funding is available, contract with a person who is an owner or occupant of land within the district applying to establish soil and water conservation practices as provided in this chapter. Under the agreement, the person shall receive financial incentives to establish permanent soil and water conservation practices and management practices, in consideration for promising to maintain the practices according to rules adopted by the division. If the land subject to an agreement is converted to a nonagricultural use that does not require a permanent soil and water conservation practice which has been established with financial incentives, the permanent soil and water conservation practice shall not be removed until the owner pays an amount to the district, which shall be deposited into a fund established by the district for use in providing financial incentives under this chapter. The amount shall be a prorated share of the amount paid in financial incentives to establish the practice, as provided in rules adopted by the division.

92 Acts, ch 1184, §7; 96 Acts, ch 1083, §4; 2016 Acts, ch 1011, §38

161A.73 Voluntary establishment of soil and water conservation practices.

1. The division shall establish voluntary financial incentive programs which shall provide for the following:

a. The allocation of cost-share moneys as financial incentives provided for the purpose of establishing permanent soil and water conservation practices, including but not limited to terraces, diversions, grade stabilization structures, grassed waterways, and critical area planting. Except for edge-of-field practices, financial incentives shall not exceed fifty percent of the estimated cost of establishing the practices, or fifty percent of the actual cost, whichever is less.

b. The allocation of moneys as financial incentives provided for the purpose of establishing management practices to control soil erosion on land that is row cropped, including but not limited to cover crops, no-till planting, ridge-till planting, contouring, and contour strip-cropping. The division shall by rule establish limits on the amount of incentives which shall be authorized for payment to landowners upon establishment of the practice.

c. The allocation of cost-share moneys as financial incentives provided to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment. The financial incentives shall be awarded to watersheds which are of the highest importance based on soil loss as established by the natural resource commission pursuant to section 456A.33A. The financial incentives shall not exceed seventy-five percent of the estimated cost of establishing the practices as determined by the commissioners or seventy-five percent of the actual cost of establishing the practices, whichever is less.

d. The allocation of cost-share moneys as financial incentives to establish permanent

grass and buffer zones, including an erosion control structure or an erosion control practice to mitigate the effects of concentrated runoff on surface water quality. The financial incentives shall not exceed one hundred percent of the estimated cost of establishing a zone, as determined by the commissioners, or one hundred percent of the actual cost of establishing the zone, whichever is less.

e. The allocation of cost-share moneys as financial incentives for the same purposes that are supported from the soil and water enhancement account of the resources enhancement and protection fund as provided in section 455A.19, or by the water protection practices account of the water protection fund established pursuant to section 161C.4. The financial incentives shall not exceed fifty percent of the estimated cost of establishing the practices, or fifty percent of the actual cost, whichever is less.

2. The commissioners of a district may establish voluntary financial incentive programs which shall provide for the following:

a. The allocation of cost-share moneys as financial incentives under a special agreement with owners of land in the district who promise to adopt a watershed conservation plan as provided by rules which shall be adopted by the division. The watershed conservation plan shall be in conjunction with the owners' respective farm unit soil conservation plans. The funding agreement must provide for the funding of a project which includes five or more contiguous farm units which have at least five hundred acres of agricultural land and which constitutes at least seventy-five percent of the agricultural land located within a watershed or subwatershed. The financial incentives shall not exceed sixty percent of the estimated cost of the project as determined by the commissioners or sixty percent of the actual cost, whichever is less.

b. The allocation of cost-share moneys as financial incentives to encourage summer construction of permanent soil and water conservation practices. The practices must be constructed on or after June 15 but not later than October 15. The commissioners may also provide for the payment of moneys on a prorated basis to compensate persons for the production loss on an area disturbed by construction, according to rules which shall be adopted by the division.

3. *a.* The division may reimburse private landowners for a portion of the cost of fencing materials and installation for permanent fence used to protect forest land from domestic livestock grazing, if the division determines that the grazing has caused excessive soil loss. For purposes of this subsection, forests shall be considered as agricultural land eligible for cost-share moneys. The total expenditure of reimbursement moneys shall not exceed fifty percent of the total landowner expenditures. Expenditures for boundary and road fence construction and for repair and replacement of existing fences are not eligible for reimbursement unless the complete fence is replaced.

b. A landowner shall sign an agreement with the division as a condition for receiving cost-share moneys. The agreement shall provide that the landowner shall maintain the fence for a minimum of ten years and shall follow written professional forester recommendations relating to land protected by fencing. The recommendations must be approved by the state forester or the forester's designee.

c. A landowner who violates the maintenance agreement shall maintain, repair, or reconstruct the damaged fence, or shall pay the division an amount equal to the amount of cost-share moneys reimbursed.

d. The division shall adopt rules to administer this subsection, including rules relating to procedures required to receive reimbursement, and eligibility requirements such as the minimum forest acreage required, and the maximum reimbursement amount allowed.

92 Acts, ch 1184, §8; 92 Acts, ch 1239, §51, 52; 96 Acts, ch 1083, §5; 98 Acts, ch 1040, §1; 2012 Acts, ch 1095, §17; 2017 Acts, ch 159, §15

Referred to in §161A.75

161A.74 Mandatory establishment of soil and water conservation practices — allocations.

1. The commissioners shall allocate cost-share moneys to establish mandatory soil and

water conservation practices, as provided in sections 161A.43 through 161A.53, according to the following requirements:

a. The financial incentives shall not exceed more than fifty percent of the estimated cost of establishing the practices as determined by the commissioners, or fifty percent of the actual cost of establishing the practices, whichever is less. However, the commissioners may allocate an amount determined by the committee for management of soil and water conservation practices, except as otherwise provided regarding land classified as agricultural land under conservation cover.

b. The commissioners shall establish the estimated cost of the permanent soil and water conservation practices in the district based upon one and two-tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each year.

2. The committee shall review requirements of this section once each year. The committee may authorize commissioners in districts to condition the establishment of a mandatory soil and water conservation practice in a specific case on a higher proportion of public cost-sharing than is required by this section. The commissioners shall determine the amount of cost-sharing moneys allocated to establish a specific soil and water conservation practice in accordance with an administrative order issued pursuant to section 161A.47 by considering the extent to which the practice will contribute benefits to the individual owner or occupant of the land on which the practice is to be established.

92 Acts, ch 1184, §9; 92 Acts, ch 1239, §53, 54
Referred to in §161A.48

161A.75 Use of moneys for emergency repairs.

1. The commissioners of a district may allocate moneys otherwise available for voluntary financial incentive programs as provided in section 161A.73 to provide for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. In providing for the restoration, the commissioners may allocate moneys under this section for construction, reconstruction, installation, or repair projects. For each project the commissioners must determine that the allocation is necessary in order to restore permanent soil and water conservation practices in order to prevent erosion in excess of the applicable soil loss limits caused by the disaster emergency.

2. In order to allocate moneys under this section, the disaster emergency must have occurred in an area subject to a state of disaster emergency pursuant to a proclamation made by the governor as provided in section 29C.6. The commissioners shall use the moneys only to the extent that moneys from other sources, including any moneys provided by the state or federal government in response to the disaster emergency, are not adequate. The commissioners are not required to allocate the moneys on a cost-share basis.

3. Following the disaster emergency, the commissioners shall submit a report to the committee providing information regarding restoration projects and moneys allocated under this section for the projects.

97 Acts, ch 59, §2
Referred to in §161A.7

161A.76 Cost-sharing for certain lands restricted.

1. It is the intent of this chapter that each tract of agricultural land which has not been plowed or used for growing row crops at any time within the prior fifteen years shall for purposes of this section be considered classified as agricultural land under conservation cover. If a tract of land so classified is thereafter plowed or used for growing row crops, the commissioners of the soil and water conservation district in which the land is located shall not approve use of state cost-sharing funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-sharing funds which would be available for that land if it were not considered classified as agricultural land under conservation cover. The restriction imposed by this section applies even if an administrative order or court order has been issued requiring establishment of soil and water conservation practices on that land. The commissioners may

waive the restriction imposed by this section if they determine in advance that the purpose of plowing or row cropping land classified as land under conservation cover is to revitalize permanent pasture and that the land will revert to permanent pasture within two years after it is plowed.

2. When receiving an application for state cost-sharing funds to pay a part of the cost of establishing a permanent or temporary soil and water conservation practice, the commissioners of the soil and water conservation district to which the application is submitted shall require the applicant to state in writing whether, to the best of the applicant's knowledge, the land on which the proposed practice will be established is land considered to be classified as agricultural land under conservation cover, as defined in subsection 1. An applicant who knowingly makes a false statement of material facts or who falsely denies knowledge of material facts in completing the written statement required by this subsection commits a simple misdemeanor and, in addition to the penalty prescribed therefor by law, shall be required to repay to the department any cost-sharing funds made available to the applicant in reliance on the false statement or false denial.

[C81, §467A.65]
87 Acts, ch 23, §42
C93, §161A.76
2012 Acts, ch 1095, §18
Referred to in §161A.63, 161A.71

161A.77 through 161A.79 Reserved.

SUBCHAPTER VI

BLUFFLANDS PROTECTION

161A.80 Blufflands protection program and revolving fund. Repealed by its own terms; 98 Acts, ch 1219, §17; 2005 Acts, ch 178, §17. See §161A.80A.

161A.80A Blufflands protection program and revolving fund.

1. As used in this section, unless the context otherwise requires:

a. For purposes of this section only, *"bluffland"* means a cliff, headland, or hill with a broad, steep face along the channel or floodplain of the Missouri or Mississippi river and their tributaries.

b. "Conservation organization" means a nonprofit corporation incorporated in Iowa or an entity organized and operated primarily to enhance and protect natural resources in this state.

2. A blufflands protection revolving fund is created in the state treasury. All proceeds shall be divided into two equal accounts. One account shall be used for the purchase of blufflands along the Mississippi river and its tributaries and the other account shall be used for the purchase of blufflands along the Missouri river and its tributaries. The proceeds of the revolving fund are appropriated to make loans to conservation organizations which agree to purchase bluffland properties adjacent to state public lands. The department of agriculture and land stewardship, in conjunction with the department of natural resources, shall adopt rules pursuant to chapter 17A to administer the disbursement of funds. Notwithstanding section 12C.7, interest or earnings on investments made pursuant to this section or as provided in section 12B.10 shall be credited to the blufflands protection revolving fund. Notwithstanding section 8.33, unobligated or unencumbered funds credited to the blufflands protection revolving fund shall not revert at the close of a fiscal year. However, the maximum balance in the blufflands protection revolving fund shall not exceed two million five hundred thousand dollars. Any funds in excess of two million five hundred thousand dollars shall be credited to the rebuild Iowa infrastructure fund. No loan shall be made under this section on or after July 1, 2025.

3. This section is repealed on July 1, 2030.

2015 Acts, ch 132, §45
Referred to in §161A.80B

161A.80B Outstanding bluffland protection loans.

1. The principal and interest from any loan made pursuant to section 161A.80A, as enacted in 2015 Iowa Acts, ch 132, §45, remaining outstanding on July 1, 2025, that would have been payable to the blufflands protection revolving fund created in section 161A.80A, shall instead be paid to the division on or after July 1, 2025, pursuant to the terms of the loan agreement. The moneys paid to the division shall be credited to the rebuild Iowa infrastructure fund created in section 8.57.

2. This section is repealed on July 1, 2030.

2015 Acts, ch 132, §46

CHAPTER 161B

AGRICULTURAL ENERGY MANAGEMENT

Repealed by 2004 Acts, ch 1082, §6

CHAPTER 161C

WATER PROTECTION PROJECTS AND PRACTICES

Referred to in §159.1, 159.5, 159.6, 161A.4, 161A.7, 461.33

This chapter not enacted as a part of this title;
transferred from chapter 467F in Code 1993

161C.1	Definitions.	161C.5	Organic nutrient management fund. Repealed by 2011 Acts, ch 46, §1.
161C.2	Water protection projects and practices.	161C.6	Organic nutrient management program. Repealed by 2011 Acts, ch 46, §1.
161C.3	Cooperation with other agencies.	161C.7	Watershed protection.
161C.4	Water protection fund.		

161C.1 Definitions.

As used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. *"Committee"* means the state soil conservation and water quality committee established in section 161A.4.

2. *"Department"* means the department of agriculture and land stewardship.

3. *"District"* means a soil and water conservation district established in chapter 161A.

4. *"Division"* means the division of soil conservation and water quality created within the department pursuant to section 159.5.

5. *"Landowner"* includes any person, including a federal agency, this state or any of its political subdivisions, who holds title to land lying within a proposed district.

6. *"United States"* or *"agencies of the United States"* includes the United States of America, the United States department of agriculture natural resources conservation service, and any other agency or instrumentality, corporate or otherwise, of the United States.

88 Acts, ch 1189, §2
C89, §467F.1
C93, §161C.1
95 Acts, ch 216, §25; 2015 Acts, ch 103, §35; 2017 Acts, ch 159, §16

161C.2 Water protection projects and practices.

1. *a.* Each soil and water conservation district, alone and whenever practical in conjunction with other districts, shall carry out district-wide and multiple-district projects to support water protection practices in the district or districts, including projects to

protect this state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to contamination by agricultural drainage wells, sinkholes, sedimentation, or chemical pollutants.

b. Any work project with an estimated cost in excess of the competitive bid threshold in section 26.3, or as established in section 314.1B, shall be undertaken as a public contract as provided in chapters 73A and 573. The local contracting organization shall designate a contracting officer and shall establish procedures to manage the contract, approve bills for payment, and review proposed change orders or amendments to the contract.

2. An owner of or occupant of land within a district may establish a water protection practice under this chapter by entering into an agreement with the district in which the owner or occupant receives financial assistance to establish water protection practices in consideration for promising to maintain the practices according to rules adopted by the division. The financial assistance may be in the form of grants, loans, or cost-sharing arrangements. An agreement shall not be binding until the assistance is specifically approved for that land and made available to the owner or occupant.

3. The division shall approve an award of financial assistance based on an application submitted by the owner or occupant of the land. The division may require a copy of the application with an evaluation of the application by the district. Each application for financial assistance shall be considered under a priority system adopted by the district for disbursement of unallocated funds. The district, under the supervision of a district technician, shall design proposed clean water practices for which financial assistance has been obligated. The district shall determine compliance with applicable design standards and specifications. The landowner shall construct and is liable for the performance of the water protection practices on the land.

4. The division shall adopt rules necessary for the administration of this chapter, including rules relating to the approval of programs and projects, designing a project or water protection practices, the estimation of costs of a project or program, and the inspection of projects or practices being placed or maintained on the land.

88 Acts, ch 1189, §3
C89, §467F.2
C93, §161C.2
2000 Acts, ch 1068, §8; 2006 Acts, ch 1017, §22, 42, 43

161C.3 Cooperation with other agencies.

Soil and water conservation districts may enter into agreements with the United States, as provided by state law, or with the state of Iowa or any agency of the state, any other soil and water conservation district, or other political subdivision of this state, for cooperation in preventing, controlling, or attempting to prevent or control contamination of groundwater or surface water by point and nonpoint sources of pollution. Soil and water conservation districts may accept, as provided by state law, any money disbursed for water quality preservation purposes by the federal government or any agency of the federal government, and expend the money for the purposes for which it was received.

88 Acts, ch 1189, §4
C89, §467F.3
C93, §161C.3

161C.4 Water protection fund.

1. A water protection fund is created within the division. The fund is composed of money appropriated by the general assembly for that purpose, and moneys available to and obtained or accepted by the committee from the United States or private sources for placement in the fund. The fund shall be a revolving fund from which moneys may be used for loans, grants, administrative costs, and cost-sharing.

2. The fund shall be divided into two accounts, the water quality protection projects account and the water protection practices account. The first account shall be used to carry out water quality protection projects to protect the state's surface and groundwater from point and nonpoint sources of contamination. The second account shall be used to

establish water protection practices with individual landowners including but not limited to woodland establishment and protection, establishment of native grasses and forbs, sinkhole management, agricultural drainage well management, streambank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction. Twenty-five percent of funds appropriated to the water protection practices account shall be used for woodland establishment and protection, and establishment of native grasses and forbs. Soil and water conservation district commissioners shall give priority to applications for practices that implement their soil and water resource conservation plan.

3. In administering the fund the division may:

a. Contract, sue and be sued, and adopt rules necessary to carry out the provisions of this section, but the division or committee shall not in any manner directly or indirectly pledge the credit of this state.

b. Authorize payment from the water protection fund and from fees for costs, commissions, and other reasonable expenses.

88 Acts, ch 1189, §5
C89, §467F.4
89 Acts, ch 236, §16; 91 Acts, ch 260, §1235
C93, §161C.4
95 Acts, ch 216, §36; 2009 Acts, ch 41, §62; 2017 Acts, ch 159, §17
Referred to in §161A.73, 161C.7, 455A.19

161C.5 Organic nutrient management fund. Repealed by 2011 Acts, ch 46, §1.

161C.6 Organic nutrient management program. Repealed by 2011 Acts, ch 46, §1.

161C.7 Watershed protection.

1. The department of agriculture and land stewardship shall implement and administer a watershed protection program. The department of agriculture and land stewardship, in consultation with the department of natural resources, shall annually establish a prioritized list of watersheds that are of the highest importance to the state's water quality. The watershed protection program shall, to the extent practical, target for assistance those watersheds on the prioritized list. A soil and water conservation district, in cooperation with state agencies, local units of government, and private organizations, may submit an application for assistance to the department which provides a strategy for protecting soil, water quality, and other natural resources, and improving flood control in the watershed. Upon approval of an application, the department may provide a grant to the soil and water conservation district for purposes of carrying out the strategy provided in the application.

2. A watershed protection account is created within the water protection fund created in section 161C.4. Moneys credited to the account shall be distributed under the watershed protection program.

3. Administrative rules used for water quality protection projects under the water protection fund shall be used to administer the watershed protection program.

99 Acts, ch 204, §27; 2003 Acts, ch 179, §157; 2004 Acts, ch 1101, §26

CHAPTER 161D

LOESS HILLS AND SOUTHERN IOWA DEVELOPMENT AND CONSERVATION

SUBCHAPTER I

LOESS HILLS DEVELOPMENT AND CONSERVATION

161D.1 Loess hills development and conservation authority created — membership and duties.
161D.2 Loess hills development and conservation fund.
161D.3 Definitions.
161D.4 Mission statement.
161D.5 Loess hills alliance created.
161D.6 Responsibilities.
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SUBCHAPTER II

SOUTHERN IOWA DEVELOPMENT AND CONSERVATION AUTHORITY

161D.11 Southern Iowa development and conservation authority created — membership and duties.
161D.12 Southern Iowa development and conservation fund.
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SUBCHAPTER I

LOESS HILLS DEVELOPMENT AND CONSERVATION

161D.1 Loess hills development and conservation authority created — membership and duties.

1. A loess hills development and conservation authority is created. The counties of Adams, Adair, Audubon, Carroll, Cass, Cherokee, Crawford, Fremont, Guthrie, Harrison, Ida, Lyon, Mills, Monona, Montgomery, Page, Plymouth, Pottawattamie, Sac, Shelby, Sioux, Taylor, and Woodbury, are entitled to one voting member each on the authority, but membership or participation in projects of the authority is not required. Each member of the authority shall be appointed by the respective board of supervisors for a term to be determined by each board of supervisors, but the term shall not be for less than one year. An appointee shall serve without compensation, but an appointee may be reimbursed for actual expenses incurred while performing the duties of the authority as determined by each board of supervisors. The authority shall meet, organize, and adopt rules of procedures as deemed necessary to carry out its duties. The authority may appoint working committees that include other individuals in addition to voting members.

2. The mission of the authority is to develop and coordinate plans for projects related to the unique natural resource, rural development, and infrastructure problems of counties in the deep loess region of western Iowa. The erosion and degradation of stream channels in the deep loess soils has occurred due to historic channelization of the Missouri river and straightening stream channels of its tributaries. This erosion of land has damaged the rural infrastructure of this area, destroyed public roads and bridges, adversely impacted stream water quality and riparian habitat, and affected other public and private improvements. Stabilization of stream channels is necessary to protect the rural infrastructure in the deep loess soils area of the state. The authority shall cooperate with the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to section 159.5, the affected soil and water conservation districts, the department of natural resources, and the state department of transportation in carrying out its mission and duties. The authority shall also cooperate with appropriate federal agencies, including the United States environmental protection agency, the United States department of interior, and the United States department of agriculture natural resources conservation service. The authority shall make use of technical resources available through member counties and cooperating agencies.

3. The authority shall administer the loess hills development and conservation fund created under section 161D.2 and shall deposit and expend moneys in the fund for the

planning, development, and implementation of development and conservation activities or measures in the member counties.

4. A hungry canyons alliance is created. The hungry canyons alliance shall be governed by a board of directors appointed as provided in its bylaws and the board shall carry out its responsibilities under the general direction of the loess hills development and conservation authority. The bylaws of the hungry canyons alliance are subject to review and approval of the loess hills development and conservation authority.

5. This subchapter is not intended to affect the authority of the department of natural resources in its acquisition, development, and management of public lands within the counties represented by the authority.

6. In matters relating to the conservation, preservation, or development of the loess hills, state agencies shall coordinate, cooperate, and consult with the loess hills development and conservation authority and its associated alliances.

93 Acts, ch 136, §1; 95 Acts, ch 216, §25; 99 Acts, ch 119, §1; 2000 Acts, ch 1111, §1, 2; 2000 Acts, ch 1154, §14; 2007 Acts, ch 211, §43; 2015 Acts, ch 103, §36

Referred to in §161D.2, 161D.3, 161D.5

161D.2 Loess hills development and conservation fund.

A loess hills development and conservation fund is created in the state treasury. The fund shall include a hungry canyons account and a loess hills alliance account which shall be administered by the loess hills development and conservation authority. The proceeds of the respective accounts shall be used for the purposes specified in section 161D.1 or 161D.6 as applicable. The loess hills development and conservation authority may accept gifts, bequests, other moneys including, but not limited to, state or federal moneys, and in-kind contributions for deposit in the fund. The gifts, grants, bequests from public and private sources, state and federal moneys, and other moneys received by the authority shall be deposited in the respective accounts and any interest earned shall be credited to the respective accounts to be used for the purposes specified in section 161D.1 or 161D.6 as applicable. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of the fiscal year shall not revert to the general fund of the state, but the moneys shall remain available for expenditure by the authority in succeeding fiscal years.

93 Acts, ch 136, §2; 99 Acts, ch 119, §2

Referred to in §161D.1, 161D.3

161D.3 Definitions.

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

1. *"Alliance"* means the loess hills alliance created in section 161D.5.

2. *"Authority"* means the loess hills development and conservation authority created in section 161D.1.

3. *"Fund"* means the loess hills development and conservation fund created in section 161D.2.

99 Acts, ch 119, §3; 2000 Acts, ch 1154, §15

161D.4 Mission statement.

The mission of the loess hills alliance is to create a common vision for Iowa's loess hills, protecting special natural and cultural resources while ensuring economic viability and private property rights of the region.

99 Acts, ch 119, §4

161D.5 Loess hills alliance created.

1. A loess hills alliance is created. The alliance shall carry out its responsibilities under the general direction of the loess hills development and conservation authority. The alliance shall encompass the geographic region including the counties of Plymouth, Woodbury, Monona, Harrison, Pottawattamie, Mills, and Fremont. Membership and participation in projects of the alliance is not required. The alliance shall be governed by a board of directors appointed as follows:

a. Three members appointed by the board of supervisors of each county participating in the alliance and at least one of the appointees shall be a member of the board of supervisors of a county participating in the alliance.

b. Seven additional voting members who shall be persons with experience in the fields of environmental affairs, conservation, finance, development, tourism, or related fields, and who shall be appointed by the authority.

c. The voting members of the board of directors appointed pursuant to paragraphs *"a"* and *"b"* shall include agricultural producers owning real property within the loess hills landform.

2. Each voting member of the board of directors shall be a resident of a county which is eligible for membership in the authority pursuant to section 161D.1 and shall be appointed to a term of office as determined by the authority. The directors of the alliance shall carry out their responsibilities pursuant to bylaws approved by the authority.

99 Acts, ch 119, §5; 2000 Acts, ch 1111, §3
Referred to in §161D.3

161D.6 Responsibilities.

The board of directors of the alliance shall have the following responsibilities:

1. To prepare and adopt a comprehensive plan for the development and conservation of the loess hills area subject to the approval of the authority. The plan shall provide for the designation of significant scenic areas, the protection of native vegetation, the education of the public on the need for and methods of preserving the natural resources of the loess hills area, and the promotion of tourism and related business and industry in the loess hills area.

2. To apply for, accept, and expend public and private funds for planning and implementing projects, programs, and other components of the mission of the alliance subject to approval of the authority.

3. To study different options for the protection and preservation of significant historic, scenic, geologic, and recreational areas of the loess hills including but not limited to a federal or state park, preserve, or monument designation, fee title acquisition, or restrictive easement.

4. To make recommendations to and coordinate the planning and projects of the alliance with the authority.

5. To develop and implement pilot projects for the protection of loess hills areas with the use of restrictive easements from willing sellers and fee title ownership from willing sellers subject to approval of the authority.

6. To report annually not later than January 15 to the general assembly the activities of the alliance during the preceding fiscal year including, but not limited to, its projects, funding, and expenditures.

99 Acts, ch 119, §6, 7, 9
Referred to in §161D.2

161D.7 Program coordination.

The department of natural resources shall coordinate the blufflands protection program with the program and projects of the loess hills alliance.

99 Acts, ch 119, §8
Blufflands protection program; §161A.80A

161D.8 Annual report — audit.

1. The authority shall submit to the department of management, the legislative services agency, and the division of soil conservation and water quality of the department of agriculture and land stewardship, on or before December 31 annually, a report including information regarding all of the following:

a. Its operations and accomplishments.

b. Its budget, receipts, and actual expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.

c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.

d. A statement of its proposed and projected activities.

e. Recommendations to the governor and the general assembly, as deemed necessary.

f. Any other information deemed necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period in attaining these goals.

3. The fund shall be subject to an annual audit by the auditor of state.

2001 Acts, ch 185, §45; 2003 Acts, ch 35, §45, 49; 2015 Acts, ch 103, §37

161D.9 Restriction.

The loess hills development and conservation authority or the board of directors of the loess hills alliance shall not enter into any agreement with a local government or the state or federal government if the agreement regulates, on an involuntary basis, the action of a private landowner or the use of a private landowner's land.

2015 Acts, ch 111, §1

161D.10 Reserved.

SUBCHAPTER II

SOUTHERN IOWA DEVELOPMENT AND CONSERVATION AUTHORITY

161D.11 Southern Iowa development and conservation authority created — membership and duties.

1. A southern Iowa development and conservation authority is created. The counties of Appanoose, Clarke, Davis, Decatur, Jefferson, Lucas, Monroe, Van Buren, Wapello, and Wayne are entitled to one voting member each on the authority, but membership or participation in projects of the authority is not required. Each member of the authority shall be appointed by the respective board of supervisors for a term to be determined by each board of supervisors, but the term shall not be for less than one year. An appointee shall serve without compensation, but an appointee may be reimbursed for actual expenses incurred while performing the duties of the authority as determined by each board of supervisors. The authority shall meet, organize, and adopt rules of procedures as deemed necessary to carry out its duties. The authority may appoint working committees that include other individuals in addition to voting members.

2. The mission of the authority is to develop and coordinate plans for projects related to the unique natural resources, rural development, and infrastructure problems of counties in the most fragile areas of the southern Iowa drift plain. The authority's mission is established in part as a response to the erosion of soils, degradation of water resources, and the destabilization of stream channels in the fragile glacial till soils of southern Iowa that have occurred in a large part due to unchecked conversion of grassland to cropland. This land use conversion was brought about by the economic pressures of past federal agricultural policies that disregarded the fragile nature of the southern Iowa soil resource and the incompatibility of these soils with the subsidized commodities. The resulting erosion of the land has damaged the rural infrastructure of this area, destroyed public roads and bridges, adversely impacted stream water quality and riparian habitat, affected other public and private improvements, and severely threatens the potable water supply of the region. Reducing soil erosion, preventing sedimentation, and stopping nutrients and pesticides from entering water resources are all necessary to protect the rural infrastructure in the southern area of the state. Important protection measures include structural improvements and the reestablishment of grasslands for sustainable economic uses.

3. The authority shall cooperate with the division of soil conservation and water quality of the department of agriculture and land stewardship and the affected soil and water conservation districts, the department of natural resources, and the state department of transportation in carrying out its mission and duties. The authority shall also cooperate with appropriate federal agencies, including the United States environmental protection agency,

the United States department of interior, and the United States department of agriculture natural resources conservation service. The authority shall make use of technical resources available through member counties and cooperating agencies.

4. The authority shall administer the southern Iowa development and conservation fund created under section 161D.12 and shall deposit and expend moneys in the fund for the planning, development, and implementation of development and conservation activities or measures in the member counties.

5. This section is not intended to affect the authority of the department of natural resources in its acquisition, development, and management of public lands within the counties represented by the authority.

99 Acts, ch 30, §1; 2015 Acts, ch 103, §38
Referred to in §161D.12

161D.12 Southern Iowa development and conservation fund.

A southern Iowa development and conservation fund is created in the state treasury, to be administered by the southern Iowa development and conservation authority. The proceeds of the fund shall be used for the purposes specified in section 161D.11. The southern Iowa development and conservation authority may accept gifts, bequests, other moneys including, but not limited to, state or federal moneys, and in-kind contributions for deposit in the fund. The gifts, grants, bequests from public and private sources, state and federal moneys, and other moneys received by the authority shall be deposited in the fund and any interest earned on moneys in the fund shall be credited to the fund to be used for the purposes specified in section 161D.11. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of the fiscal year shall not revert to the general fund of the state, but the moneys shall remain available for expenditure by the authority in succeeding fiscal years.

99 Acts, ch 30, §2
Referred to in §161D.11

161D.13 Annual report — audit.

1. The southern Iowa development and conservation authority shall submit to the department of management, the legislative services agency, and the division of soil conservation and water quality of the department of agriculture and land stewardship, on or before December 31 annually, a report including information regarding all of the following:

a. Its operations and accomplishments.

b. Its budget, receipts, and actual expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.

c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.

d. A statement of its proposed and projected activities.

e. Recommendations to the governor and the general assembly, as deemed necessary.

f. Any other information deemed necessary.

2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress during the reporting period in attaining these goals.

3. The southern Iowa development and conservation fund shall be subject to an annual audit by the auditor of state.

2001 Acts, ch 185, §46; 2003 Acts, ch 35, §45, 49; 2015 Acts, ch 103, §39

CHAPTER 161E

FLOOD AND EROSION CONTROL

Referred to in §159.6, 161A.4

This chapter not enacted as a part of this title;
transferred from chapter 467B in Code 1995

161E.1 Authority of board.
161E.2 Federal aid.
161E.3 Cooperation.
161E.4 Structures or levees.
161E.5 Maintenance cost.
161E.6 Estimate.
161E.7 Projects on private land.
161E.8 Conservation commissioners.
161E.9 Tax levy.
161E.10 Assumption of obligations.
161E.11 Highway law applicable.
161E.12 Payments from federal government.
161E.13 Allocation to secondary road funds.
161E.14 Allocation.
161E.15 Taxes canceled.

161E.1 Authority of board.

If a county, soil and water conservation district, subdistrict of a soil and water conservation district, political subdivision of the state, or other local agency engages or participates in a project for flood or erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, in cooperation with the federal government, or a department or agency of the federal government, the counties in which the project is carried on may, through the board of supervisors, construct, operate, and maintain the project on lands under the control or jurisdiction of the county dedicated to county use, or furnish financial and other assistance in connection with the projects. Flood, soil erosion control, and watershed improvement projects are presumed to be for the protection of the tax base of the county, for the protection of public roads and lands, and for the protection of the public health, sanitation, safety, and general welfare.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.1]
86 Acts, ch 1238, §61; 87 Acts, ch 23, §45; 89 Acts, ch 83, §60
C95, §161E.1

161E.2 Federal aid.

A county may, in accordance with this chapter, accept federal funds for aid in a project for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, and may cooperate with the federal government or a department or agency of the federal government, a soil and water conservation district, subdistrict of a soil and water conservation district, political subdivision of the state, or other local agency, and the county may assume a proportion of the cost of the project as deemed appropriate, and may assume the maintenance cost of the project on lands under the control or jurisdiction of the county which will not be discharged by federal aid or grant.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.2]
86 Acts, ch 1238, §61; 87 Acts, ch 23, §46; 89 Acts, ch 83, §61
C95, §161E.2
See also §161E.12

161E.3 Cooperation.

The counties, soil and water conservation districts, and subdistricts of soil and water conservation districts concerned, shall advise and consult with each other, upon the request of any of them or any affected landowners, and may cooperate with each other or with other state subdivisions or instrumentalities, and affected landowners, as well as with the federal government or a department or agency of the federal government, to construct, operate, and maintain suitable projects for flood or soil erosion control, flood prevention, or the

conservation, development, utilization, and disposal of water on public roads or other public lands or other land granted county use.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.3]

86 Acts, ch 1238, §61; 87 Acts, ch 23, §47; 89 Acts, ch 83, §62

C95, §161E.3

161E.4 Structures or levees.

When structures or levees necessary for flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, are constructed on county roads, the cost in total or in part shall be considered a part of the cost of road construction.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.4]

C95, §161E.4

161E.5 Maintenance cost.

If construction of projects has been completed by the soil and water conservation district, subdistricts of soil and water conservation districts, political subdivisions of the state, or other local agencies, or the federal government, or a department or agency of the federal government, on private lands under the easement granted to the county, only the cost of maintenance may be assumed by the county.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.5]

86 Acts, ch 1238, §61; 87 Acts, ch 23, §48; 89 Acts, ch 83, §63

C95, §161E.5

161E.6 Estimate.

1. In the proceedings to establish such a project the government engineer shall set forth in the engineer's report separately from other items, the amount of the cost of construction on county property and on private lands, and the engineer's estimate of the cost of the maintenance of the project.

2. If the plan is approved by all cooperating agencies and the project established as a flood or erosion control project the board of supervisors shall make a written record of any such cooperative arrangement and may use such part of the funds of the county now authorized by law and by this chapter as may be necessary to pay the amount agreed upon toward the construction, maintenance and cost of such project.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.6]

C95, §161E.6

2018 Acts, ch 1041, §127

161E.7 Projects on private land.

Any flood or soil erosion control, flood prevention, or the conservation, development, utilization, and disposal of water, projects built on private land with federal or other funds when dedicated to the county use, shall be maintained in the same manner as its own county-owned or controlled property.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.7]

C95, §161E.7

161E.8 Conservation commissioners.

In counties where soil and water conservation districts exist the commissioners in said county shall be responsible for the inspection of all flood and erosion control structures built on private land under easement to the county, shall furnish such technical assistance as they may have available in making estimates of needed repairs without cost to the county, and shall report any needed repair and the nature thereof to the county board of supervisors.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.8]

C95, §161E.8

161E.9 Tax levy.

The county board of supervisors may annually levy a tax not to exceed six and three-fourths cents per thousand dollars of assessed value of all agricultural lands in the county, to be used for flood and erosion control, including acquisition of land or interests in land, and repair, alteration, maintenance, and operation of works of improvement on lands under the control or jurisdiction of the county as provided in this chapter.

83 Acts, ch 123, §188, 209
CS83, §467B.9
C95, §161E.9

161E.10 Assumption of obligations.

This chapter contemplates that actual direction of the project, or projects, and the actual work done in connection with them, will be assumed by the soil and water conservation district, a subdistrict of a soil and water conservation district, or the federal government, and that the county or other state subdivisions or instrumentalities jointly will meet the obligation required for federal cooperation and may make proper commitment for the care and maintenance of the project after its completion for the general welfare of the public and residents of the respective counties.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.10]
86 Acts, ch 1238, §61; 87 Acts, ch 23, §49; 89 Acts, ch 83, §64
C95, §161E.10

161E.11 Highway law applicable.

The counties in maintaining the structures or improvements made under such a project shall do so in a like manner and under like procedure as that used in the maintenance of its highways. Any cooperative agreements with other state subdivisions or instrumentalities shall conform with such an agreement as to the proportion of maintenance cost.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.11]
C95, §161E.11

161E.12 Payments from federal government.

Whenever there shall be payable by the federal government to counties or school districts of the state any sums of money because of the fact that such school districts or counties are entitled to a share of the receipts from the operation of the federal government of flood control projects within any county of the state, such payments shall be payable to the county treasurer of any county in which such payments become due.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.12]
C95, §161E.12
See also §161E.2

161E.13 Allocation to secondary road funds.

Upon receipt of any such payments or payment by the county treasurer twenty-five percent of such amount shall be credited to the secondary road funds of the counties which are principally affected by the construction of such federal flood control projects, and the board of supervisors shall determine which roads of the county are deemed to be principally affected and the amounts which shall be expended from these funds derived from the federal government on such roads.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.13]
C95, §161E.13
Referred to in §331.401

161E.14 Allocation.

1. Sixty-five percent of any such payments or payment received from the federal government shall be distributed to the general fund of the school districts of the county after the county auditor has determined the districts which are principally affected by the federal flood control project involved in an amount deemed to be the equitable share of each such

district and the amount allocated to each school district shall be paid over to the treasurer of such school district.

2. The county auditor shall certify to the executive council of the state the amounts allocated to each school district in the previous year, on January 2 of each year. The remaining ten percent of a payment received by the county treasurer from the federal government, or as much thereof as is deemed necessary by the board of supervisors, shall be allocated to the local fire departments of the unincorporated villages, townships, and cities of the county which are principally affected by the federal flood control project involved, to be paid and prorated among them as determined by the board of supervisors. If the funds prorated to local fire departments in a county are less than ten percent of the total county share of such federal payments for a year, the amount which exceeds the prorations shall revert back to and be divided equally between the secondary road fund and the local school district fund.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.14]
88 Acts, ch 1134, §89
C95, §161E.14
2019 Acts, ch 24, §104
Referred to in §331.401

161E.15 Taxes canceled.

The treasurer of any county wherein is situated any land acquired by the federal government for flood control projects is hereby authorized to cancel any taxes or tax assessments against any such land so acquired where the tax has been extended but has not become a lien thereon at the time of the acquisition thereof.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §467B.15]
C95, §161E.15

CHAPTER 161F

SOIL CONSERVATION AND FLOOD CONTROL DISTRICTS

Referred to in §159.6, 161A.4, 331.382, 350.4

This chapter not enacted as a part of this title;
transferred from chapter 467C in Code 1995

161F.1 Presumption of benefit.
161F.2 Board of supervisors to establish districts — strip coal mining.
161F.3 Combination of functions.
161F.4 Old districts combined.
161F.5 Approval of commissioners.
161F.6 Chapters made applicable — definitions.

161F.1 Presumption of benefit.

The conservation of the soil resources of the state of Iowa, the proper control of water resources of the state and the prevention of damage to property and lands through the control of floods, the drainage of surface waters or the protection of lands from overflow shall be presumed to be a public benefit and conducive to the public health, convenience and welfare and essential to the economic well-being of the state.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467C.1]
C95, §161F.1

161F.2 Board of supervisors to establish districts — strip coal mining.

The board of supervisors of any county shall have jurisdiction, power and authority at any regular, special or adjourned session to establish, subject to the provisions of this chapter, districts having for their purpose soil conservation and the control of flood waters and to cause to be constructed as hereinafter provided, such improvements and facilities as shall be deemed essential for the accomplishment of the purpose of soil conservation and flood control. Such board shall also have jurisdiction, power and authority at any regular, special or

adjourned session to establish, in the same manner that the districts hereinabove referred to are established, districts having for their purpose soil conservation in mining areas within the county, and provide that anyone engaged in removing the surface soil over any bed or strata of coal in such district for the purpose of obtaining such coal shall replace the surface soil as nearly as practicable to its original position, and provide that, upon abandonment of such removal operation, all surface soil shall be so replaced. This section shall apply only to surface soil so removed after July 4, 1949, and then only if it is essential for the accomplishment of the purpose of soil conservation and flood control within the purview of this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467C.2]

C95, §161F.2

161F.3 Combination of functions.

Such districts shall have the power to combine in their functions activities affecting soil conservation, flood control and drainage, or any of these objects, singly or in combination with another.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467C.3]

C95, §161F.3

161F.4 Old districts combined.

If any levee or drainage district or improvement established either by legal proceedings or by private parties shall desire to include in the activities of such district soil conservation or flood control projects, the board upon petition, as for the establishment of an original levee or drainage district, shall establish a new district covering and including such old district and improvement together with any additional lands deemed necessary. All outstanding indebtedness of the old levee or drainage district shall be assessed only against the lands included therein.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467C.4]

C95, §161F.4

161F.5 Approval of commissioners.

A district shall not be established by a board of supervisors under this chapter unless the organization of the district is approved by the commissioners of a soil and water conservation district established under chapter 161A and which is included all or in part within the district, nor shall a district be established without the approval of the department of natural resources.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467C.5; 82 Acts, ch 1199, §75, 96]

87 Acts, ch 23, §50

C95, §161F.5

161F.6 Chapters made applicable — definitions.

1. In the organization, operation, and financing of districts established under this chapter, the provisions of chapter 468 shall apply and any procedure provided under chapter 468 in connection with the organization, financing, and operation of any drainage district shall apply to the organization, financing, and operation of districts organized under this chapter.

2. As used in this chapter or chapter 468:

a. "Drainage" shall be deemed to include in its meaning soil erosion and flood control or any combination of drainage, flood control, and soil erosion control.

b. "Drainage certificates" or *"drainage bonds"* shall be deemed to include certificates or bonds issued in behalf of any district organized under the provisions of this chapter.

c. "Drainage district" shall be considered to include districts having as their purpose soil conservancy or flood control or any combination thereof.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467C.6]

C95, §161F.6

2009 Acts, ch 133, §69

CHAPTER 161G

MISSISSIPPI RIVER BASIN HEALTHY WATERSHEDS INITIATIVE

161G.1 Definitions.
161G.2 Mississippi river basin healthy watersheds initiative fund.
161G.3 Mississippi river basin healthy watersheds initiative.

161G.1 Definitions.

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

2. *"Fund"* means the Mississippi river basin healthy watersheds initiative fund created pursuant to section 161G.2.

2010 Acts, ch 1191, §21

161G.2 Mississippi river basin healthy watersheds initiative fund.

1. A Mississippi river basin healthy watersheds initiative fund is created within the department.

2. The fund is composed of money appropriated by the general assembly to the fund and moneys available to and obtained or accepted by the department from the United States, the state, or any other source for placement in the fund.

3. The fund shall be used by the department to support the Mississippi river basin healthy watersheds initiative as provided in section 161G.3.

4. The moneys in the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

2010 Acts, ch 1191, §22
Referred to in §161G.1

161G.3 Mississippi river basin healthy watersheds initiative.

1. The department shall implement a voluntary program to assist in improving the health of the Mississippi river basin, including water quality and wildlife habitat.

2. The department shall implement the program consistent with requirements of the United States department of agriculture in its administration of the Mississippi river basin healthy watersheds initiative.

3. To the extent allowed by the United States department of agriculture, the department of agriculture and land stewardship may do all of the following:

a. Provide for conservation systems that manage and optimize nitrogen and phosphorus within fields to minimize runoff and reduce downstream nutrient loading.

b. Assist agricultural producers with a system of practices that will control soil erosion, improve soil quality, restore and enhance wildlife habitat, and manage runoff and drainage water for improved water quality.

c. Avoid, control, and trap nutrient runoff and maintain agricultural productivity.

d. Partner with landowners to implement a range of land stewardship practices, including but not limited to conservation tillage, nutrient management, and other innovative practices.

2010 Acts, ch 1191, §23; 2012 Acts, ch 1023, §26
Referred to in §161G.2

SUBTITLE 2

ANIMAL INDUSTRY

Referred to in §159.1, 159.5

CHAPTER 162

CARE OF ANIMALS IN COMMERCIAL ESTABLISHMENTS

Referred to in §717B.2, 717B.3, 717B.3A, 717B.8, 717F.4

162.1 Purpose and scope.
162.2 Definitions.
162.2A Application, issuance, and renewal of authorizations.
162.2B Fees.
162.2C Commercial establishment fund.
162.3 Operation of a pound — certificate of registration.
162.4 Operation of an animal shelter — certificate of registration.
162.4A Operation of a research facility — certificate of registration.
162.5 Operation of a pet shop — state license.
162.5A Operation of a boarding kennel — state license.
162.6 Operation of a commercial kennel — state license.
162.7 Operation of a dealer — state license or permit.
162.8 Operation of a commercial breeder — state license or permit.
162.9 Boarding kennel operator's license. Repealed by 2010 Acts, ch 1030, §26, 29.
162.9A Operation of a public auction — state license or permit.
162.10 Research facility registration. Repealed by 2010 Acts, ch 1030, §26, 29.
162.10A Commercial establishments — standard of care.
162.10B Commercial establishments — inspecting state licensees and registrants.
162.10C Commercial establishments — monitoring permittees.
162.10D Commercial establishments — disciplinary actions.
162.11 Exceptions.
162.12 Denial or revocation of license or registration.
162.12A Civil penalties.
162.13 Criminal penalties — confiscation.
162.14 Custody by animal warden.
162.15 Violation by animal warden.
162.16 Rules.
162.17 Reserved.
162.18 Fees. Repealed by 2010 Acts, ch 1030, §26, 29.
162.19 Abandoned animals destroyed.
162.20 Sterilization.

162.1 Purpose and scope.

1. The purpose of this chapter is to accomplish all of the following:

a. Ensure that all dogs and cats handled by commercial establishments are provided with humane care and treatment.

b. Regulate the transportation, sale, purchase, housing, care, handling, and treatment of dogs and cats by persons engaged in transporting, buying, or selling them.

c. Provide that all vertebrate animals consigned to pet shops are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling, and treatment of such animals by pet shops.

d. Authorize the sale, trade, or adoption of only those animals which appear to be free of infectious or communicable disease.

e. Protect the public from zoonotic disease.

2. This chapter does not apply to livestock as defined in section 717.1 or any other agricultural animal used in agricultural production as provided in chapter 717A.

[C75, 77, 79, 81, §162.1]

96 Acts, ch 1034, §7; 2010 Acts, ch 1030, §1, 29; 2021 Acts, ch 76, §40

Referred to in §162.11

Subsection 1, paragraph a amended

162.2 Definitions.

As used in this chapter, except as otherwise expressly provided:

1. *"Adequate feed"* means the provision at suitable intervals of not more than twenty-four hours or longer if the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.

2. *"Adequate water"* means reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed twenty-four hours at any interval.

3. *"Animal shelter"* means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

4. *"Animal warden"* means any person employed, contracted, or appointed by the state, municipal corporation, or any political subdivision of the state, for the purpose of aiding in the enforcement of the provisions of this chapter or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals and includes any peace officer, animal control officer, or other employee whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

5. *"Animal Welfare Act"* means the federal Animal Welfare Act, 7 U.S.C. ch. 54, and regulations promulgated by the United States department of agriculture and published in 9 C.F.R. ch. 1.

6. *"Authorization"* means a state license, certificate of registration, or permit issued or renewed by the department to a commercial establishment as provided in section 162.2A.

7. *"Boarding kennel"* means a place or establishment other than a pound or animal shelter where dogs or cats not owned by the proprietor are sheltered, fed, and watered in return for a consideration.

8. *"Commercial breeder"* means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or fewer breeding males or females is not a commercial breeder. However, a person who breeds any number of breeding male or female greyhounds for the purposes of using them for pari-mutuel wagering at a racetrack as provided in chapter 99D shall be considered a commercial breeder irrespective of whether the person sells, leases, or exchanges the greyhounds for consideration or offers to do so.

9. *"Commercial establishment"* or *"establishment"* means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

10. *"Commercial kennel"* means a kennel which performs grooming, boarding, or training services for dogs or cats in return for a consideration.

11. *"Dealer"* means any person who is engaged in the business of buying for resale or selling or exchanging dogs or cats, or both, as a principal or agent, or who claims to be so engaged.

12. *"Department"* means the department of agriculture and land stewardship.

13. *"Euthanasia"* means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.

14. *"Federal license"* means a license issued by the United States department of agriculture to a person classified as a dealer or exhibitor pursuant to the federal Animal Welfare Act.

15. *"Federal licensee"* means a person to whom a federal license as a dealer or exhibitor is issued.

16. *"Housing facilities"* means any room, building, or area used to contain a primary enclosure or enclosures.

17. *"Permittee"* means a commercial breeder, dealer, or public auction to whom a permit is issued by the department as a federal licensee pursuant to section 162.2A.

18. *"Person"* means person as defined in chapter 4.

19. *"Pet shop"* means an establishment where a dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale. However, a pet shop does not include an establishment if one of the following applies:

a. The establishment receives less than five hundred dollars from the sale or exchange of vertebrate animals during a twelve-month period.

b. The establishment sells or exchanges less than six animals during a twelve-month period.

20. *"Pound"* means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

21. *"Primary enclosure"* means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage, or compartment.

22. *"Public auction"* means any place or location where dogs or cats, or both, are sold at auction to the highest bidder regardless of whether the dogs or cats are offered as individuals, as a group, or by weight.

23. *"Registrant"* means a pound, animal shelter, or research facility to whom a certificate of registration is issued by the department pursuant to section 162.2A.

24. *"Research facility"* means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in this state concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

25. *"State fiscal year"* means the fiscal year described in section 3.12.

26. *"State licensee"* means any of the following:

a. A boarding kennel, commercial kennel, or pet shop to whom a state license is issued by the department pursuant to section 162.2A.

b. A commercial breeder, dealer, or public auction to whom a state license is issued in lieu of a permit by the department pursuant to section 162.2A.

27. *"Vertebrate animal"* means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species, and ostriches, rheas, or emus.

[C75, 77, 79, 81, §162.2]

86 Acts, ch 1245, §611; 88 Acts, ch 1186, §1 – 4; 92 Acts, ch 1094, §1; 92 Acts, ch 1212, §6; 95 Acts, ch 43, §4; 2005 Acts, ch 3, §40; 2009 Acts, ch 133, §70; 2010 Acts, ch 1030, §2, 3, 29

Referred to in §162.11, 162.20, 165B.5, 169.5, 351.37, 351.45, 351.46, 717.1A, 717.2, 717.5, 717A.1, 717B.1, 717B.2, 717B.3, 717B.3A, 717B.4, 717B.8, 717D.3, 717F.2, 717F.7, 717F.10

Further definitions, see §159.1

162.2A Application, issuance, and renewal of authorizations.

1. The department shall provide for the operation of a commercial establishment by issuing or renewing an authorization, including any of the following:

a. A certificate of registration for a pound, animal shelter, or research facility.

b. A state license for a boarding kennel, commercial kennel, or pet shop.

c. A state license or permit for a commercial breeder, dealer, or public auction. A federal licensee must apply for and be issued either a permit or a state license in lieu of a permit.

2. A person must be issued a separate state license, certificate of registration, or permit for each commercial establishment owned or operated by the person.

3. A person must apply for the issuance or renewal of an authorization on forms and according to procedures required by rules adopted by the department. The application shall contain information required by the department, including but not limited to all of the following:

a. The person's name.

b. The person's principal office or place of business.

c. The name, address, and type of establishment covered by the authorization.

d. The person's identification number. Notwithstanding chapter 22, the department shall keep the person's tax identification number confidential except for purposes of tax administration by the department of revenue, including as provided in section 421.18.

4. The authorization expires on an annual basis as provided by the department, and must be renewed by the commercial establishment on an annual basis on or before the authorization's expiration date.

5. *a.* A commercial establishment applying for the issuance or renewal of a permit shall provide the department with proof that the person is a federal licensee.

b. The department shall not require that it must enter onto the premises of a commercial establishment in order to issue a permit. The department shall not require that it must enter onto the premises of a commercial establishment in order to renew a permit, unless it has reasonable cause to monitor the commercial establishment as provided in section 162.10C.

2010 Acts, ch 1030, §4, 29

Referred to in §162.2, 162.3, 162.4, 162.4A, 162.5, 162.5A, 162.6, 162.7, 162.8, 162.9A, 162.11, 162.13, 717B.1, 717F.1

162.2B Fees.

The department shall establish, assess, and collect fees as provided in this section.

1. A commercial establishment shall pay authorization fees to the department for the issuance or renewal of a certificate of registration, state license, or permit.

a. For the issuance or renewal of a certificate of registration, seventy-five dollars.

b. For the issuance or renewal of a state license or permit, one hundred seventy-five dollars. However, a commercial breeder who owns, keeps, breeds, or transports a greyhound dog for pari-mutuel wagering at a racetrack as provided in chapter 99D shall pay a different fee for the issuance or renewal of a state license as provided in rules adopted by the department.

2. The department shall retain all fees that it collects under this section for the exclusive purpose of administering and enforcing the provisions of this chapter. The fees shall be considered repayment receipts as defined in section 8.2. The general assembly shall appropriate moneys to the department each state fiscal year necessary for the administration and enforcement of this chapter.

2010 Acts, ch 1030, §5, 29

Referred to in §162.2C, 162.11

162.2C Commercial establishment fund.

1. A commercial establishment fund is created in the state treasury under the management and control of the department.

2. The fund shall include moneys collected by the department in fees as provided in section 162.2B and moneys appropriated by the general assembly. The fund may include other moneys available to and obtained or accepted by the department, including moneys from public or private sources.

3. Moneys in the fund are appropriated to the department and shall be used exclusively to carry out the provisions of this chapter as determined and directed by the department, and shall not require further special authorization by the general assembly.

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

b. Notwithstanding section 8.33, moneys credited to the fund that remain unexpended or unobligated at the end of a fiscal year shall not revert to any other fund.

2010 Acts, ch 1191, §25, 26

162.3 Operation of a pound — certificate of registration.

A pound shall only operate pursuant to a certificate of registration issued or renewed by the department as provided in section 162.2A. A pound may sell dogs or cats under its control if sales are allowed by the department. The pound shall maintain records as required by the department in order for the department to ensure the pound's compliance with the provisions of this chapter.

[C75, 77, 79, 81, §162.3]

88 Acts, ch 1186, §5; 88 Acts, ch 1272, §12; 89 Acts, ch 296, §17; 2010 Acts, ch 1030, §6, 29

162.4 Operation of an animal shelter — certificate of registration.

An animal shelter shall only operate pursuant to a certificate of registration issued or renewed by the department as provided in section 162.2A. An animal shelter may sell dogs or cats if sales are allowed by the department. The animal shelter facility shall maintain records as required by the department in order for the department to ensure the animal shelter's compliance with the provisions of this chapter.

[C75, 77, 79, 81, §162.4]

88 Acts, ch 1186, §6; 2010 Acts, ch 1030, §7, 29

162.4A Operation of a research facility — certificate of registration.

A research facility shall only operate pursuant to a certificate of registration issued by the department as provided in section 162.2A. The research facility shall maintain records as required by the department in order for the department to ensure the research facility's compliance with the provisions of this chapter. A research facility shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

2010 Acts, ch 1030, §8, 29

Referred to in §717F.1

162.5 Operation of a pet shop — state license.

A pet shop shall only operate pursuant to a state license issued or renewed by the department pursuant to section 162.2A. The pet shop shall maintain records as required by the department in order for the department to ensure the pet shop's compliance with the provisions of this chapter. A pet shop shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

[C75, 77, 79, 81, §162.5]

88 Acts, ch 1186, §7; 88 Acts, ch 1272, §13; 89 Acts, ch 296, §17; 2010 Acts, ch 1030, §9, 29

Referred to in §717E.3

162.5A Operation of a boarding kennel — state license.

A boarding kennel shall only operate pursuant to a state license issued by the department as provided in section 162.2A. The boarding kennel shall maintain records as required by the department in order for the department to ensure the boarding kennel's compliance with the provisions of this chapter. A boarding kennel shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

2010 Acts, ch 1030, §10, 29

162.6 Operation of a commercial kennel — state license.

A commercial kennel shall only operate pursuant to a state license issued or renewed by the department as provided in section 162.2A. A commercial kennel shall maintain records as required by the department in order for the department to ensure the commercial kennel's compliance with the provisions of this chapter. A commercial kennel shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

[C75, 77, 79, 81, §162.6]

88 Acts, ch 1186, §8; 88 Acts, ch 1272, §14; 89 Acts, ch 15, §1; 89 Acts, ch 296, §17; 2010 Acts, ch 1030, §11, 29

162.7 Operation of a dealer — state license or permit.

A dealer shall only operate pursuant to a state license, or a permit, issued or renewed by the department as provided in section 162.2A. A dealer who is a state licensee shall maintain records as required by the department in order for the department to ensure compliance with the provisions of this chapter. A dealer who is a permittee may but is not required to maintain records. A dealer shall not purchase a dog or cat from a commercial establishment that does

not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

[C75, 77, 79, 81, §162.7]

88 Acts, ch 1186, §9; 88 Acts, ch 1272, §15; 89 Acts, ch 15, §2; 89 Acts, ch 296, §17; 2010 Acts, ch 1030, §12, 29

Referred to in §162.11

162.8 Operation of a commercial breeder — state license or permit.

A commercial breeder shall only operate pursuant to a state license, or a permit, issued or renewed by the department as provided in section 162.2A. A commercial breeder who is a state licensee shall maintain records as required by the department in order for the department to ensure the commercial breeder's compliance with the provisions of this chapter. A commercial breeder who is a permittee may but is not required to maintain records. A commercial breeder shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

[C75, 77, 79, 81, §162.8]

88 Acts, ch 1186, §10; 88 Acts, ch 1272, §16; 89 Acts, ch 296, §18; 2010 Acts, ch 1030, §13, 29

Referred to in §162.11

162.9 Boarding kennel operator's license. Repealed by 2010 Acts, ch 1030, §26, 29. See §162.5A.

162.9A Operation of a public auction — state license or permit.

A public auction shall only operate pursuant to a state license, or a permit, issued or renewed by the department as provided in section 162.2A. A public auction which is a state licensee shall maintain records as required by the department in order for the department to ensure the public auction's compliance with the provisions of this chapter. A public auction which is a permittee may but is not required to maintain records. A public auction shall not purchase a dog or cat from a commercial establishment that does not have a valid authorization issued or renewed under this chapter or a similar authorization issued or renewed by another state.

2010 Acts, ch 1030, §14, 29

Referred to in §162.11

162.10 Research facility registration. Repealed by 2010 Acts, ch 1030, §26, 29. See §162.4A.

162.10A Commercial establishments — standard of care.

1. *a.* A commercial establishment shall provide for a standard of care that ensures that an animal in its possession or under its control is not lacking any of the following:

(1) Adequate feed, adequate water, housing facilities, sanitary control, or grooming practices, if such lack causes adverse health or suffering.

(2) Veterinary care.

b. A commercial establishment, other than a research facility or pet shop, shall provide for the standard of care for dogs and cats in its possession or under its control, and a research facility or pet shop shall provide for the standard of care for vertebrate animals in its possession or under its control.

2. *a.* Except as provided in paragraph "*b*" or "*c*", a commercial establishment shall comply with rules that the department adopts to implement subsection 1. A commercial establishment shall be regulated under this paragraph "*a*" unless the person is a state licensee as provided in paragraph "*b*" or a permittee as provided in paragraph "*c*".

b. A state licensee who is a commercial breeder owning, breeding, transporting, or keeping a greyhound dog for pari-mutuel wagering at a racetrack as provided in chapter 99D may be required to comply with different rules adopted by the department.

c. A permittee is not required to comply with rules that the department adopts to

implement a standard of care as provided in subsection 1 for state licensees and registrants. The department may adopt rules regulating a standard of care for a permittee, so long as the rules are not more restrictive than required for a permittee under the Animal Welfare Act. However, the department may adopt prescriptive rules relating to the standard of care. Regardless of whether the department adopts such rules, a permittee meets the standard of care required in subsection 1 if it voluntarily complies with rules applicable to state licensees or registrants. A finding by the United States department of agriculture that a permittee complies with the Animal Welfare Act is not conclusive when determining that the permittee provides a standard of care required in subsection 1.

3. A commercial establishment fails to provide for a standard of care as provided in subsection 1 if the commercial establishment commits abuse as described in section 717B.2, neglect as described in section 717B.3, or torture as provided in section 717B.3A.

2010 Acts, ch 1030, §15, 29
Referred to in §162.10C, 162.11, 162.12A, 162.13, 717B.2, 717B.3, 717B.3A

162.10B Commercial establishments — inspecting state licensees and registrants.

The department may inspect the commercial establishment of a registrant or state licensee by entering onto its business premises at any time during normal working hours. The department may inspect records required to be maintained by the state licensee or registrant as provided in this chapter. If the owner or person in charge of the commercial establishment refuses admittance, the department may obtain an administrative search warrant issued under section 808.14.

2010 Acts, ch 1030, §16, 29

162.10C Commercial establishments — monitoring permittees.

1. The department may monitor the commercial establishment of a permittee by entering onto its business premises at any time during normal working hours. The department shall monitor the commercial establishment for the limited purpose of determining whether the permittee is providing for a standard of care required for permittees under section 162.10A. If the owner or person in charge of the commercial establishment refuses admittance, the department may obtain an administrative search warrant issued under section 808.14.

2. In order to enter onto the business premises of a permittee's commercial establishment, the department must have reasonable cause to suspect that the permittee is not providing for the standard of care required for permittees under section 162.10A. Reasonable cause must be supported by any of the following:

a. An oral or written complaint received by the department by a person. The complainant must provide the complainant's name and address and telephone number. Notwithstanding chapter 22, the department's record of a complaint is confidential, unless any of the following apply:

(1) The results of the monitoring are used in a contested case proceeding as provided in chapter 17A or in a judicial proceeding.

(2) The record is sought in discovery in any administrative, civil, or criminal case.

(3) The department's record of a complaint is filed by a person other than an individual.

b. A report prepared by a person employed by the United States department of agriculture that requires a permittee to take action necessary to correct a breach of standard of care required of federal licensees by the Animal Welfare Act or of permittees by section 162.10A. The department is not required to dedicate any number of hours to viewing or analyzing such reports.

3. When carrying out this section, the department may cooperate with the United States department of agriculture. The department shall report any findings resulting in an enforcement action under section 162.10D to the United States department of agriculture.

2010 Acts, ch 1030, §17, 29
Referred to in §162.2A, 162.11

162.10D Commercial establishments — disciplinary actions.

1. The department may take disciplinary action against a person by suspending or

revoking the person's authorization for violating a provision of this chapter or chapter 717B, or who commits an unlawful practice under section 714.16.

2. The department may require an owner, operator, or employee of a commercial establishment subject to disciplinary action under subsection 1 to complete a continuing education program as a condition for retaining an authorization. This section does not prevent a person from voluntarily participating in a continuing education program.

3. The department shall administer the continuing education program by either providing direct instruction or selecting persons to provide such instruction. The department is not required to compensate persons for providing the instruction, and may require attendees to pay reasonable fees necessary to compensate the department providing the instruction or a person selected by the department to provide the instruction. The department shall, to every extent possible, select persons to provide the instruction by consulting with organizations that represent commercial establishments, including but not limited to the Iowa pet breeders association.

4. The department shall establish the criteria for a continuing education program which shall include at least three and not more than eight hours of instruction. The department shall provide for the program's beginning and ending dates. However, a person must complete the program in twelve months or less.

2010 Acts, ch 1030, §18, 29; 2010 Acts, ch 1193, §41, 80
Referred to in §162.10C, 162.11, 162.13

162.11 Exceptions.

1. This chapter does not apply to a federal licensee except as provided in the following:

a. Section 162.1, subsection 2, and sections 162.2, 162.2A, 162.2B, 162.7, 162.8, 162.9A, 162.10A, 162.10C, 162.10D, 162.12A, and 162.13.

b. Section 162.1, subsection 1, but only to the extent required to implement sections described in paragraph *"a"*.

c. Section 162.16 but only to the extent required to implement sections described in paragraph *"a"*.

2. This chapter does not apply to a place or establishment which operates under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, hospitalized, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. However, if animals are accepted by such a place, establishment, or hospital for boarding or grooming for a consideration, the place, establishment, or hospital is subject to the licensing or registration requirements applicable to a boarding kennel or commercial kennel under this chapter and the rules adopted by the secretary.

3. This chapter does not apply to a noncommercial kennel at, in, or adjoining a private residence where dogs or cats are kept for the hobby of the householder, if the dogs or cats are used for hunting, for practice training, for exhibition at shows or field or obedience trials, or for guarding or protecting the householder's property. However, the dogs or cats must not be kept for breeding if a person receives consideration for providing the breeding.

[C75, 77, 79, 81, §162.11]
88 Acts, ch 1186, §13; 2010 Acts, ch 1030, §19, 20, 29

162.12 Denial or revocation of license or registration.

A certificate of registration may be denied to any animal shelter, pound, or research facility and a state license may be denied to any public auction, boarding kennel, commercial kennel, pet shop, commercial breeder, or dealer, or an existing certificate of registration or state license may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate under this chapter or if the feeding, watering, cleaning, and housing practices at the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, research facility, or those practices by the commercial breeder or dealer, are not in compliance with this chapter or with the

rules adopted pursuant to this chapter. The premises of each registrant or state licensee shall be open for inspection during normal business hours.

[C75, 77, 79, 81, §162.12]

88 Acts, ch 1186, §14; 2010 Acts, ch 1030, §21, 29

Referred to in §717F.7

162.12A Civil penalties.

The department shall establish, impose, and assess civil penalties for violations of this chapter. The department may by rule establish a schedule of civil penalties for violations of this chapter. All civil penalties collected under this section shall be deposited into the general fund of the state.

1. *a.* A commercial establishment that operates pursuant to an authorization issued or renewed under this chapter is subject to a civil penalty of not more than five hundred dollars, regardless of the number of animals possessed or controlled by the commercial establishment, for violating this chapter. Except as provided in paragraph *"b"*, each day that a violation continues shall be deemed a separate offense.

b. This paragraph applies to a commercial establishment that violates a standard of care involving housing as provided in section 162.10A. The departmental official who makes a determination that a violation exists shall provide a corrective plan to the commercial establishment describing how the violation will be corrected within a compliance period of not more than fifteen days from the date of approval by the official of the corrective plan. The civil penalty shall not exceed five hundred dollars for the first day of the violation. After that day, the department shall not impose a civil penalty for the violation during the compliance period. The department shall not impose an additional civil penalty, unless the commercial establishment fails to correct the violation by the end of the compliance period. If the commercial establishment fails to correct the violation by the end of the compliance period, each day that the violation continues shall be deemed a separate offense.

2. A commercial establishment that does not operate pursuant to an authorization issued or renewed under this chapter is subject to a civil penalty of not more than one thousand dollars, regardless of the number of animals possessed or controlled by the commercial establishment, for violating this chapter. Each day that a violation continues shall be deemed a separate offense.

2010 Acts, ch 1030, §22, 29

Referred to in §162.11

162.13 Criminal penalties — confiscation.

1. A person who operates a commercial establishment without an authorization issued or renewed by the department as required in section 162.2A is guilty of a simple misdemeanor and each day of operation is a separate offense.

2. The failure of a person who owns or operates a commercial establishment to meet the standard of care required in section 162.10A, subsection 1, is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed as provided by rules which shall be adopted by the department pursuant to chapter 17A. The rules shall provide for the destruction of an animal by a humane method, including by euthanasia.

3. The failure of a person who owns or operates a commercial establishment to meet the requirements of this section is also cause for the suspension or revocation of the person's authorization as provided in section 162.10D.

4. Dogs, cats, and other vertebrate animals upon which euthanasia is permitted by law may be destroyed by a person subject to this chapter or chapter 169, by a humane method, including euthanasia, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

5. It is unlawful for a dealer to knowingly ship a diseased animal. A dealer violating this subsection is subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this subsection is a separate offense.

[C75, 77, 79, 81, §162.13]

83 Acts, ch 149, §1; 88 Acts, ch 1186, §15; 94 Acts, ch 1103, §1; 2010 Acts, ch 1030, §23, 29

Referred to in §162.11

162.14 Custody by animal warden.

An animal warden, upon taking custody of any animal in the course of the warden's official duties, shall immediately make a record of the matter in the manner prescribed by the secretary and the record shall include a complete description of the animal, reason for seizure, location of seizure, the owner's name and address if known, and all license or other identification numbers, if any. Complete information relating to the disposition of the animal shall be added in the manner provided by the secretary immediately after disposition.

[C75, 77, 79, 81, §162.14]

162.15 Violation by animal warden.

Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense.

[C75, 77, 79, 81, §162.15]

162.16 Rules.

The department shall adopt rules and promulgate forms necessary to administer and enforce the provisions of this chapter.

[C75, 77, 79, 81, §162.16]
2010 Acts, ch 1030, §24, 29
Referred to in §162.11

162.17 Reserved.

162.18 Fees. Repealed by 2010 Acts, ch 1030, §26, 29.

162.19 Abandoned animals destroyed.

1. Whenever any animal is left with a veterinarian, boarding kennel or commercial kennel pursuant to a written agreement and the owner does not claim the animal by the agreed date, the animal shall be deemed abandoned, and a notice of abandonment and its consequences shall be sent within seven days by certified mail to the last known address of the owner. For fourteen days after mailing of the notice the owner shall have the right to reclaim the animal upon payment of all reasonable charges, and after the fourteen days the owner shall be deemed to have waived all rights to the abandoned animal. If despite diligent effort an owner cannot be found for the abandoned animal within another seven days, the veterinarian, boarding kennel, or commercial kennel may humanely destroy the abandoned animal.

2. Each veterinarian, boarding kennel or commercial kennel shall warn its patrons of the provisions of this section by a conspicuously posted notice or by conspicuous type in a written receipt.

[C77, 79, 81, §162.19]
2021 Acts, ch 76, §150
Code editor directive applied

162.20 Sterilization.

1. A pound or animal shelter shall not transfer ownership of a dog or cat by sale or adoption, unless the dog or cat is subject to sterilization. The sterilization shall involve a procedure which permanently destroys the capacity of a dog or cat to reproduce, either by the surgical removal or alteration of its reproductive organs, or by the injection or ingestion of a serum. The pound or animal shelter shall not relinquish custody until it provides for one of the following:

a. Sterilization performed by a veterinarian licensed pursuant to chapter 169.

b. The execution of an agreement with a person intended to be the permanent custodian of the dog or cat. The agreement must provide that the custodian shall have the dog or cat sterilized by a veterinarian licensed pursuant to chapter 169.

2. The pound or animal shelter maintaining custody of the dog or cat may require that a person being transferred ownership of the dog or cat reimburse the pound or animal shelter for the amount in expenses incurred by the pound or animal shelter in sterilizing the dog or

cat, if the dog or cat is sterilized prior to the transfer of ownership of the dog or cat to the person.

3. *a.* The sterilization agreement may be on a form which shall be prescribed by the department. The agreement shall contain the signature and address of the person receiving custody of the dog or cat, and the signature of the representative of the pound or animal shelter.

b. The sterilization shall be completed as soon as practicable, but prior to the transfer of the ownership of the dog or cat by the pound or animal shelter. The pound or animal shelter may grant an extension of the period required for the completion of the sterilization if the extension is based on a reasonable determination by a licensed veterinarian.

c. A pound or animal shelter shall transfer ownership of a dog or cat, conditioned upon the confirmation that the sterilization has been completed by a licensed veterinarian who performed the procedure. The confirmation shall be a receipt furnished by the office of the attending veterinarian.

d. A person who fails to satisfy the terms of the sterilization agreement shall return the dog or cat within twenty-four hours following receipt of a demand letter which shall be delivered to the person by the pound or animal shelter personally or by certified mail.

4. *a.* A person who does not comply with the provisions of a sterilization agreement is guilty of a simple misdemeanor.

b. A person who fails to return a dog or cat upon receipt of a demand letter is guilty of a simple misdemeanor.

c. A pound or animal shelter which knowingly fails to provide for the sterilization of a dog or cat is subject to a civil penalty of up to two hundred dollars. The department may enforce and collect civil penalties according to rules which shall be adopted by the department. Each violation shall constitute a separate offense. Moneys collected from civil penalties shall be deposited into the general fund of the state and are appropriated on July 1 of each year in equal amounts to each track licensed to race dogs to support the racing dog adoption program as provided in section 99D.27. Upon the third offense, the department may suspend or revoke a certificate of registration issued to the pound or animal shelter pursuant to this chapter. The department may bring an action in district court to enjoin a pound or animal shelter from transferring animals in violation of this section. In bringing the action, the department shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, that irreparable damage or loss will result if the action is brought at law, or that unique or special circumstances exist.

5. This section shall not apply to the following:

a. The return of a dog or cat to its owner by a pound or animal shelter.

b. The transfer of a dog or cat by a pound or animal shelter which has obtained an enforcement waiver issued by the department. The pound or shelter may apply for an annual waiver each year as provided by rules adopted by the department. The department shall grant a waiver, if it determines that the pound or animal shelter is subject to an ordinance by a city or county which includes stricter requirements than provided in this section. The department shall not charge more than ten dollars as a waiver application fee. The fees collected by the department shall be deposited in the general fund of the state.

c. The transfer of a dog or cat to a research facility as defined in section 162.2 or a person licensed by the United States department of agriculture as a class B dealer pursuant to 9 C.F.R. ch. 1, subch. A, pt. 2. However, a class B dealer who receives an unsterilized dog or cat from a pound or animal shelter shall either sterilize the dog or cat or transfer the unsterilized dog or cat to a research facility provided in this paragraph. The class B dealer shall not transfer a dog to a research facility if the dog is a greyhound registered with the national greyhound association and the dog raced at a track associated with pari-mutuel racing unless the class B dealer receives written approval of the transfer from a person who owned an interest in the dog while the dog was racing.

93 Acts, ch 134, §1; 2008 Acts, ch 1058, §16; 2010 Acts, ch 1061, §180; 2012 Acts, ch 1023, §27

CHAPTER 163

INFECTIOUS AND CONTAGIOUS DISEASES AMONG ANIMALS

Referred to in §159.5, 159.6, 165B.2, 166A.4

Definitions applicable to chapter; see §159.1

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SUBCHAPTER I

GENERAL PROVISIONS

PART 1

CHAPTER ADMINISTRATION AND GENERAL DEFINITIONS

163.1 Powers of department.

The department shall administer and enforce the provisions of this chapter and rules adopted by the department pursuant to this chapter. In administering the provisions of this chapter, the department shall have power to do all of the following:

1. Adopt any necessary rule for the control of an infectious or contagious disease affecting animals within the state.

2. Provide for quarantining animals afflicted with an infectious or contagious disease, or that have been exposed to such disease, whether within or without the state.

3. Determine and employ the most efficient and practical means for the control of an infectious or contagious disease afflicting animals.

4. Establish, maintain, enforce, and regulate quarantine and other measures relating to the movement and care of animals that may be exposed or afflicted with an infectious or contagious disease.

5. Provide for the disinfection of suspected yards, buildings, or articles, and for the destruction of animals as may be deemed necessary by the department.

6. Enter any place where any animal is at the time located, or where it has been kept, or where the carcass of such animal may be, for the purpose of examining it in any way that may be necessary to determine whether it was or is exposed to or afflicted with an infectious or contagious disease.

7. Regulate or prohibit the arrival in, departure from, and passage through the state of animals exposed to or afflicted with an infectious or contagious disease; and in case of a violation of any such regulation or prohibition, to detain any animal at the owner's expense.

8. Regulate or prohibit the movement of animals into the state which, in the department's determination, for any reason, may be detrimental to the health of animals in the state.

9. Cooperate with and arrange for assistance from the United States department of agriculture in performing its duties under this chapter.

10. Impose civil penalties as provided in this chapter. The department may refer cases for prosecution to the attorney general.

[S13, §2538-s; C24, 27, 31, 35, 39, §**2643;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.1]

91 Acts, ch 32, §1; 2001 Acts, ch 136, §1; 2004 Acts, ch 1163, §1

163.2 General definitions.

As provided in this chapter, unless the context otherwise requires:

1. *"Certificate of veterinary inspection"* or *"certificate"* means a legible record, made on an official form of the state of origin or the animal and plant health inspection service of the United States department of agriculture, and issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the animal and plant health inspection service, which shows that an animal listed on the form meets the health requirements of the state of destination.

2. *"Control"* means the prevention, suppression, or eradication of an infectious or contagious disease afflicting an animal within the state.

3. *"Department"* means the department of agriculture and land stewardship.

4. *"Foot and mouth disease"* means a virus of the family picornaviridae, genus aphthovirus, including any immunologically distinct serotypes.

5. *"Infectious or contagious disease"* means glanders, farcy, maladie du coit (dourine), anthrax, foot and mouth disease, scabies, classical swine fever, tuberculosis, brucellosis, vesicular exanthema, scrapie, rinderpest, avian influenza or Newcastle disease as provided in chapter 165B, pseudorabies as provided in chapter 166D, or any other transmissible, transferable, or communicable disease so designated by the department.

6. *"Move"* or *"movement"*, except as provided in subchapter III, means to ship, transport, or deliver an animal.

[C24, 27, 31, 35, 39, §**2644;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.2]

2001 Acts, ch 170, §1, 3; 2004 Acts, ch 1089, §1; 2004 Acts, ch 1163, §2; 2009 Acts, ch 133, §202; 2011 Acts, ch 84, §1, 5; 2012 Acts, ch 1095, §34

Referred to in §163A.1, 164.1, 165.1A, 166A.1, 166D.2, 172E.2, 670.4, 717A.2

PART 2

STATEWIDE PREPAREDNESS AND AUTHORIZATION

163.2A Part — definitions.

As used in this part, unless the context otherwise requires:

1. *"Animal"* means any livestock or agricultural animal as defined in section 717A.1.

2. *"Interested person"* means the owner of an animal; a person caring for the animal, if different from the owner of the animal; or a person holding a perfected agricultural lien or security interest in the animal under chapter 554.

2020 Acts, ch 1036, §1, 16

163.3 Veterinary and special assistants. Transferred to §163.3G; 2020 Acts, ch 1036, §14, 16.

163.3A Veterinary emergency preparedness and response.

1. The department may provide veterinary emergency preparedness and response services necessary to prevent or control a serious threat to the public health, public safety, or the state's economy caused by the transmission of disease among animals. The services may include measures necessary to ensure that all such animals carrying disease are properly identified, segregated, treated, or destroyed as provided in this Code.

2. The services shall be performed under the direction of the department and may be part of measures authorized by the governor under a declaration or proclamation issued pursuant to chapter 29C. In such case, the department shall cooperate with the Iowa department of public health under chapter 135, and the department of homeland security and emergency management, and local emergency management agencies as provided in chapter 29C.

3. The secretary or the secretary's designee shall appoint veterinarians licensed pursuant to chapter 169 or persons in related professions or occupations who are qualified, as determined by the secretary, to serve on a voluntary basis as members of one or more veterinary emergency response teams. The secretary shall provide for the registration of persons as part of the appointment process. The secretary may cooperate with the Iowa board of veterinary medicine in implementing this section.

4. *a.* A registered member of an emergency response team who acts under the authority of the secretary shall be considered an employee of the state for purposes of defending a claim on account of damage to or loss of property or on account of personal injury or death under chapter 669. The registered member shall be afforded protection under section 669.21. The registered member shall also be considered an employee of the state for purposes of disability, workers' compensation, and death benefits under chapter 85.

b. The department shall provide and update a list of the registered members of each emergency response team, including the members' names and identifying information, to the department of administrative services. Upon notification of a compensable loss suffered

by a registered member, the department of administrative services shall seek authorization from the executive council to pay as an expense from the appropriations addressed in section 7D.29 those costs associated with covered benefits.

2005 Acts, ch 151, §2; 2011 Acts, ch 131, §27, 158; 2013 Acts, ch 29, §47; 2020 Acts, ch 1036, §3, 16

Referred to in §163.3C, 163.3D, 163.3F, 163.3G

163.3B Foreign animal disease preparedness and response fund.

1. A foreign animal disease preparedness and response fund is created in the state treasury under the control and management of the department.

2. The fund shall include moneys appropriated by the general assembly credited to the fund. The fund may include other moneys available to and obtained or accepted by the department as provided in section 159.6A, including but not limited to the federal government, other public sources, or private sources.

3. Moneys in the fund are appropriated to the department and shall be used exclusively to develop, establish, and implement a foreign animal disease preparedness and response strategy as described in section 163.3C, and shall not require further special authorization by the general assembly.

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

b. Notwithstanding section 8.33, moneys credited to the fund that remain unexpended or unobligated at the end of a fiscal year shall not revert to any other fund.

2017 Acts, ch 168, §28

163.3C Foreign animal disease preparedness and response strategy.

1. The department shall develop and establish a foreign animal disease preparedness and response strategy for use by the department in order to prevent, control, or eradicate the transmission of foreign animal diseases among populations of animals. The strategy may be part of the department's veterinary emergency preparedness and response services as provided in section 163.3A. The strategy shall provide additional expertise and resources to increase biosecurity efforts that assist in the prevention of a foreign animal disease outbreak in this state. In developing and establishing the strategy, the department shall consult with interested persons including but not limited to the following:

a. The Iowa cattlemen's association.
b. The Iowa state dairy association.
c. The Iowa pork producers association.
d. The Iowa sheep producers industry association.
e. The Iowa turkey federation.
f. The Iowa poultry association.
g. The college of veterinary medicine at Iowa state university.
h. The livestock health advisory council created in section 267.2.

2. The department shall implement the foreign animal disease preparedness and response strategy if necessary to prevent, control, or eradicate the transmission and incidence of foreign animal diseases that may threaten or actually threaten animals in this state. In implementing the strategy, the department may utilize emergency response measures as otherwise required under section 163.3A. The department may but is not required to consult with interested persons when implementing the strategy.

3. *a.* In developing and establishing a foreign animal disease preparedness and response strategy, the department may collect, maintain, and use information related to the registration and identification of any premises where animals are kept. The information may include but is not limited to all of the following:

(1) The name, address, and contact information of an interested person.
(2) The location of the premises where the animals are kept.
(3) An identification number assigned to the premises where the animals are kept.

b. The information described in paragraph "*a*" is a confidential record as provided in section 22.7. Nothing in this subsection limits the department in acting as the lawful

custodian of the confidential record from disclosing the record or any part of the record to another person if the department determines that such disclosure will assist in implementing, administering, or enforcing the foreign animal disease preparedness and response strategy.

2017 Acts, ch 168, §29; 2020 Acts, ch 1036, §4 – 6, 16; 2021 Acts, ch 149, §3
Referred to in §22.7(39A), 163.3B, 163.3F
NEW subsection 3

163.3D Emergency measures — abandoned animals — authorization and seizure.

1. *a.* The department may seize one or more abandoned animals pursuant to an authorization providing emergency measures to prevent or control the transmission of an infectious or contagious disease among any population or species of animals.

b. The authorization must be any of the following:

(1) A declaration or proclamation issued by the governor pursuant to chapter 29C, including as provided in section 163.3A.

(2) An order issued by the secretary or the secretary's designee pursuant to a provision in this subtitle.

(3) Any other provision of law in this subtitle that requires the department to control the transmission of an infectious or contagious disease among a population or species of animals in this state.

c. If there is a conflict between a measure authorized to be taken under paragraph "*a*", that is less restrictive than the standards or procedures provided in this section, the measures authorized to be taken under paragraph "*a*" shall prevail.

2. The department may appoint veterinary assistants or special assistants as provided in section 163.3G as required to administer this section.

3. It is presumed that an abandoned animal belonging to a species subject to emergency measures as provided in subsection 1 has been exposed to an infectious or contagious disease as provided in the authorization.

4. As part of the seizure of an abandoned animal, the department may take, impound, and retain custody of the animal, including by maintaining the animal in a manner and at a location determined by the department to be reasonable under the emergency circumstances. The department may take action as provided in this subtitle to ensure that all animals exposed to an infectious or contagious disease are properly identified, tested, segregated, treated, or destroyed as provided in this subtitle.

5. *a.* The department may seize an animal if the department has a reasonable suspicion the animal has been abandoned, including by entering onto public or private property or into a private motor vehicle, trailer, or semitrailer parked on public or private property, as provided in this subsection.

b. The department may enter onto private property or into a private motor vehicle, trailer, or semitrailer to seize an abandoned animal if the department obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. An abandoned animal shall only be seized by the department pursuant to the following conditions:

(1) The department provides written notice of its abandonment determination to all reasonably identifiable interested persons. The department shall make a good-faith effort to provide the notice to interested persons by regular mail, hand delivery, telephone, electronic mail, or other reasonable means. The notice shall include all of the following:

(a) The name and address of the department.

(b) A description of the animal subject to seizure.

(c) The delivery date of the notice.

(d) A statement informing the interested person that the animal may be seized pursuant to this chapter within one day following the delivery date of the notice. The statement must specify a date, time, and location for delivery of the interested person's response designated by the department, as provided in this subsection.

(e) A statement informing the interested person that in order to avoid seizure of the

animal, the person must respond to the notice in writing, stating that the animal has not been abandoned and identifying what measures are being taken to care for and manage the animal.

(2) Notwithstanding subparagraph (1), if the department determines that it is not feasible to provide direct notice of its abandonment determination to an interested person, the department shall deliver a constructive notice of the determination to that person by any reasonable manner, which may include posting the notice at or near the place where the animal is located. The department shall also post the constructive notice on the department's internet site.

d. The department may seize the animal if the department fails to receive a written response by the interested person by the end of normal office hours of the next day the department is available to receive the response after written notice of the department's abandonment determination is delivered.

e. Upon a determination by the department that exigent circumstances exist, the department may enter onto private property without a warrant and may seize an abandoned animal, in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

6. If an animal is seized pursuant to this section, the department shall post a notice in a conspicuous place at the location where the animal was seized. The notice shall state the animal has been seized by the department pursuant to this section and at least briefly describe where and when the animal was seized, the species and number of animals seized, and that a dispositional proceeding is to be conducted pursuant to section 163.3E.

2020 Acts, ch 1036, §7, 16
Referred to in §163.3E, 163.3F, 459.501

163.3E Emergency measures — abandoned animals — dispositional proceeding.

1. *a.* The department shall file a petition with the district court for the disposition of an animal seized pursuant to section 163.3D as soon as practicable.

b. The court shall notify the department and all interested persons of the dispositional proceeding in a manner determined reasonable by the court. The court shall hear the matter within twenty-four hours from the time the department's petition is filed. The court may grant a continuance by a motion of the department or upon petition by an interested person. However, the interested person shall post a bond or other security with the department in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the animal for the duration of the continuance.

2. Upon a determination by the department that exigent circumstances exist, the dispositional proceeding may be conducted by an administrative law judge in the same manner as an emergency adjudicative proceeding pursuant to section 17A.18A. The administrative law judge shall notify the department and all interested persons of the dispositional proceeding in a manner determined reasonable by the administrative law judge given the circumstances in the case. The procedures provided in this section may be supplemented or modified by a declaration or proclamation issued by the governor or an order issued by the secretary or the secretary's designee pursuant to section 163.3D.

3. *a.* A court or administrative law judge shall issue an order for the disposition of the animal after making any of the following determinations:

(1) That no interested person holds a legal interest in the seized animal. In that case, the animal shall be deemed abandoned and the order shall extinguish all prior legal interests in the animal. The order shall grant an undivided ownership interest in the animal free from any security interest or other agricultural lien or encumbrance to the department.

(2) That an interested person holds a legal interest in the seized animal, and the department has reasonable suspicion to believe that the animal has been exposed to an infectious or contagious disease. In that case, the order shall provide for the disposition of the animal in the same manner as if the department had identified the animal as having been exposed to the infectious or contagious disease under the authorization provided in section 163.3D.

(3) That a person holds a legal interest in the seized animal, and there is no reasonable suspicion that the seized animal has been exposed to an infectious or contagious disease. In that case, the order shall direct the department to transfer custody of the animal to the interested person. In the event the animal is returned to the interested person, the department shall not be subject to any claim for damages caused by the seizure if the department's actions were taken pursuant to the department's emergency efforts to establish and maintain quarantine in response to a disease outbreak, as set forth in section 669.14, subsection 3.

b. A reasonable suspicion asserted by the department may be based on any credible evidence that shows the animal's possible exposure to an infectious or contagious disease or the animal was abandoned. This paragraph *"b"* does not require the department to conduct a test of an animal to determine whether an animal has been exposed.

c. If two or more interested parties may be transferred custody of an animal by the department pursuant to paragraph *"a"*, subparagraph (3), the court or administrative law judge shall order the department to transfer the animal to the owner or otherwise to the interested person best able to care for the animal without prejudicing the rights of any other interested person. However, in any cause of action brought by an interested person contesting the order to transfer under this subsection, the department shall not be included as a party.

4. *a.* In a dispositional proceeding conducted by a court or administrative law judge under this section, or in a separate cause of action brought by the department against an interested person, the court or administrative law judge may award the department all of the following:

(1) An amount necessary to reimburse the department for expenses incurred in seizing and maintaining an abandoned animal as well as any costs for the disposition of the abandoned animal.

(2) Expenses related to the investigation and adjudication of the case.

b. In a dispositional proceeding conducted by a court under this section, or in a separate cause of action brought by the department against an interested person, the court may award the department court costs and reasonable attorney fees.

c. An award ordered under this subsection shall be paid by an interested party who is transferred a seized animal by the court or administrative law judge, or the owner of the seized animal as determined by the court or administrative law judge. The amount awarded the department shall be subtracted from the proceeds, if any, received by the department from the disposition of the animal. Any amount awarded by a court shall be taxed as part of the costs of the cause of action.

d. If more than one interested person holds a legal interest in the animal, the court or administrative law judge shall calculate the respective contributions of the interested persons based upon the percentage of legal interest in the seized animal held by each interested person. The amount paid to the department shall be sufficient to allow the department to repay the livestock remediation fund as provided in section 459.501 and fully reimburse the department for all costs, fees, and expenses incurred by the department under this section.

2020 Acts, ch 1036, §8, 16

Referred to in §163.3D, 163.3F, 459.501

163.3F Interference with official acts.

1. A person shall not interfere with an official act of the department taken in the performance of a duty to prevent or control the transmission of an infectious or contagious disease among a population or species of animals, if the official act is authorized as part of any of the following:

a. A veterinary emergency preparedness and response service pursuant to section 163.3A.

b. A foreign animal disease preparedness and response strategy pursuant to section 163.3C.

c. An emergency measure pursuant to section 163.3D or 163.3E.

2. Under this section, an official act of the department may be performed by a

departmental employee, or a veterinary or special assistant appointed pursuant to section 163.3G.

2020 Acts, ch 1036, §9, 16
Referred to in §163.61

163.3G Veterinary and special assistants.

The secretary or the secretary's designee may appoint one or more veterinarians licensed pursuant to chapter 169 in each county as assistant veterinarians. The secretary may also appoint one or more special assistants as may be necessary in cases of emergency, including as provided in section 163.3A.

[C24, 27, 31, 35, 39, §**2645;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.3]
2005 Acts, ch 151, §1; 2020 Acts, ch 1036, §2, 14, 16
C2021, §163.3G
Referred to in §163.3D, 163.3F

163.4 Powers of assistants.

Assistant veterinarians shall have power, under the direction of the department, to perform all acts necessary to carry out the provisions of law relating to infectious and contagious diseases among animals, and shall be furnished by the department with the necessary supplies and materials which shall be paid for out of the appropriation for the eradication of infectious and contagious diseases among animals.

[C24, 27, 31, 35, 39, §**2646;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.4]
2014 Acts, ch 1026, §33

163.5 Oaths.

Assistant veterinarians shall have power to administer oaths and affirmations to appraisers acting under this and the following chapters of this subtitle.

[C24, 27, 31, 35, 39, §**2647;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.5]
2014 Acts, ch 1026, §34
Analogous provisions, §63A.2

PART 3

REGULATION

163.6 Slaughter facilities — blood samples.

1. As used in this section, unless the context otherwise requires:

a. *"Department"* means the department of agriculture and land stewardship unless the United States department of agriculture is otherwise specified.

b. *"Slaughtering establishment"* means a person engaged in the business of slaughtering animals, if the person is an establishment subject to the provisions of chapter 189A which slaughters animals for meat food products as defined in section 189A.2.

2. The department may require that samples of blood be collected from animals at a slaughtering establishment in order to determine if the animals are infected with an infectious or contagious disease, according to rules adopted by the department of agriculture and land stewardship. Upon approval by the department, the collection shall be performed by either of the following:

a. A slaughtering establishment under an agreement executed by the department and the slaughtering establishment.

b. A person authorized by the department.

3. An authorized person collecting samples shall have access to areas where the animals are confined in order to collect blood samples. The department shall notify the slaughtering establishment in writing that samples of blood must be collected for analysis. The notice shall be provided in a manner required by the department.

4. In carrying out this section, a person authorized by the department to collect blood samples from animals as provided in this section shall have the right to enter and remain on

the premises of the slaughtering establishment in the same manner and on the same terms as a meat inspector authorized by the department, including the right to access facilities routinely available to employees of the slaughtering establishment such as toilet and lavatory facilities, lockers, cafeterias, areas reserved for work breaks or dining, and storage facilities.

5. The slaughtering establishment shall provide a secure area for the permanent storage of equipment used to collect blood, an area reserved for collecting the blood, including the storage of blood during the collection, and a refrigerated area used to store blood samples prior to analysis. The area reserved for collecting the blood shall be adjacent to the area where the animals are killed, unless the authorized person and the slaughtering establishment select another area.

6. The department is not required to compensate a slaughtering establishment for allowing a person authorized by the department to carry out this section.

98 Acts, ch 1056, §1; 2001 Acts, ch 136, §2; 2002 Acts, ch 1119, §21; 2009 Acts, ch 41, §203

163.7 State and federal rules.

The rules adopted by the department regarding interstate shipments of animals shall not be in conflict with the rules of the United States department of agriculture, unless there is an outbreak of a malignant contagious disease in any locality, state, or territory, in which event the department of agriculture and land stewardship may place an embargo on such locality, state, or territory.

[C24, 27, 31, 35, 39, §**2649;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.7]

2012 Acts, ch 1095, §19

163.8 Enforcement of rules.

The assistant veterinarians appointed under this chapter shall enforce all rules of the department, and in so doing may call to their assistance any peace officer.

[S13, §2538-s; C24, 27, 31, 35, 39, §**2650;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.8]

163.9 College at Ames to assist.

The dean of the veterinary college of the Iowa state university of science and technology is authorized to use the equipment and facilities of the college in assisting the department in carrying out the provisions of this chapter.

[C24, 27, 31, 35, 39, §**2651;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.9]

163.10 Quarantining or destroying animals.

The department may quarantine or destroy any animal exposed to or afflicted with an infectious or contagious disease. However, cattle exposed to or infected with tuberculosis shall not be destroyed without the owner's consent, unless there are sufficient moneys to reimburse the owner for the cattle, which may be paid as an expense authorized as provided in section 163.15, from moneys in the brucellosis and tuberculosis eradication fund created in section 165.18, or from moneys made available by the United States department of agriculture.

[C24, 27, 31, 35, 39, §**2652;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.10]

2004 Acts, ch 1163, §3; 2011 Acts, ch 131, §28, 158

163.11 Examination of imported animals.

1. A person shall not move an animal into this state, except to a public livestock market where federal inspection of livestock is maintained, for work, breeding, or dairy purposes, unless such animal has been examined and found free from all infectious or contagious diseases.

2. A person shall not bring in any manner into this state any cattle for dairy or breeding purposes unless such cattle have been tested within thirty days prior to date of importation by the agglutination test for contagious abortion or abortion disease, and shown to be free from such disease.

3. Animals for feeding purposes, however, may be brought into the state without

inspection, under such regulations as the department may prescribe except that this subsection shall not apply to swine.

[C24, 27, 31, 35, 39, §**2653;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.11]

2004 Acts, ch 1163, §4; 2015 Acts, ch 29, §28

Referred to in §163.12

163.12 Freedom from disease — certificate.

Freedom from disease as specified in section 163.11 shall be established by a certificate of veterinary inspection signed by a veterinarian acting under either the authority of the department of agriculture and land stewardship, or of the United States department of agriculture. A copy of the certificate shall be attached to the waybill accompanying a shipment, and a copy of the certificate shall be delivered to the department.

[C24, 27, 31, 35, 39, §**2654;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.12]

2004 Acts, ch 1163, §5

Referred to in §163.14

163.13 Certificate attached to bill of lading. Repealed by 2005 Acts, ch 19, §125.

163.14 Intrastate movement.

An animal, other than an animal to be moved for immediate slaughter, shall be inspected when required by the department, and accompanied by the certificate of veterinary inspection provided in section 163.12 when moved from a point in this state to another point within the state where federal inspection is not maintained.

[C24, 27, 31, 35, 39, §**2656;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.14]

2004 Acts, ch 1163, §6

163.15 Tuberculosis — indemnification of owner.

1. If the secretary of agriculture determines that the outbreak of the infectious or contagious disease tuberculosis among an animal population constitutes a threat to the general welfare or the public health of the inhabitants of this state, the secretary shall formulate a program of eradication which shall include the condemnation and destroying of the animals exposed to or afflicted with the disease tuberculosis. The program of eradication shall provide for the indemnification of owners of the livestock under this section, if there are no other sources of indemnification. The program shall not be effective until the program has been approved by the executive council.

2. If an animal afflicted with the infectious or contagious disease tuberculosis is destroyed under a program of eradication as provided in this section, the owner shall be compensated according to one of the following methods:

a. (1) A determination of an indemnity amount as agreed to by appraisal. The determination shall be made by appraisers who shall be three competent and disinterested persons, including one who is appointed by the department, one who is appointed by the owner, and one who is appointed by agreement of the department and the owner. The appraisers shall report their appraisal under oath to the department. The appraisers shall receive compensation and expenses as provided for by the program.

(2) A claim for an indemnity filed by the owner shall not exceed the amount agreed upon by the majority decision of the appraisers. For an animal other than registered purebred stock the indemnity amount shall be based on current market prices. For registered purebred stock, the indemnity amount may exceed market prices by not more than fifty percent. The indemnity amount shall be less any amount of indemnification that the owner might be allowed from the United States department of agriculture. An indemnity shall not be allowed for an animal if the department of agriculture and land stewardship determines that the animal has been fed raw garbage as provided in section 163.26.

(3) A claim for an indemnity by the owner and a claim for compensation and expenses by the appraisers shall be filed with the department and submitted by the secretary of agriculture to the executive council for authorization of payment of the claim as an expense from the appropriations addressed in section 7D.29.

b. A formula established by rule adopted by the department that is effective as

determined by the department in accordance with chapter 17A and applicable upon approval of the program of eradication by the executive council. The formula shall be applicable to indemnify owners if the executive council, upon recommendation by the secretary of agriculture, determines that an animal population in this state is threatened with infection from an exceptionally contagious form of the disease tuberculosis.

(1) An owner shall be paid an indemnity amount based on the formula, only if the owner elects to be paid under the formula in lieu of the determination by appointed appraisers as otherwise provided in this section.

(2) The formula shall provide for the payment of the fair market value of an animal based on market prices paid for similar animals according to categories or criteria established by the department, which may include payment based on the species, breed, type, weight, sex, age, purebred status, and condition of the animal. The department may provide for deductions based on other compensation received by the owner for the destruction of the animals. The department may exclude a claim if the person would be ineligible to receive compensation by three appointed appraisers as provided in this section.

(3) If an owner elects to be paid an indemnity amount based on a method that provides either a determination by appointed appraisers or pursuant to a formula, the owner shall not be entitled to revoke the election, unless otherwise provided by the department. An owner's decision to delay or refuse to make an election under this section shall not affect the condemnation and destruction of afflicted animals under the program of eradication.

(4) The executive council may authorize payment under the provisions of this paragraph *"b"* as an expense from the appropriations addressed in section 7D.29.

[SS15, §2538-1a – 8a; C24, 27, 31, 35, 39, §**2657;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.15]

2002 Acts, ch 1101, §1; 2004 Acts, ch 1163, §7, 8; 2011 Acts, ch 131, §29 – 32, 158; 2015 Acts, ch 133, §3 – 6

Referred to in §163.10, 163.16, 163.51

163.16 Tuberculosis in imported animals — compensation restricted.

Unless an animal was examined at the time of importation into the state and found free from contagious or infectious diseases as provided in this chapter, no person importing the same and no transferee who receives such animal knowing that the provisions of this chapter have been violated shall receive any compensation under section 163.15 for the destruction of such animal by the department.

[C24, 27, 31, 35, 39, §**2658;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.16]

Examination of imported animals, §163.11

163.17 Local boards of health.

All local boards of health shall assist the department in the prevention, suppression, control, and eradication of contagious and infectious diseases among animals, whenever requested to do so.

[C24, 27, 31, 35, 39, §**2659;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.17]

Local boards of health, chapter 137

163.18 False representation.

A person shall not knowingly make a false representation about the shipment of an animal that is being or will be made, with the intent to avoid or prevent the animal's inspection that is conducted in order to determine whether the animal is free from disease.

[C24, 27, 31, 35, 39, §**2660;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.18]

2001 Acts, ch 136, §3

163.19 Sale or exposure of infected animals.

No owner or person having charge of any animal, knowing the same to have any infectious or contagious disease, shall sell or barter the same for breeding, dairy, work, or feeding purposes, or permit such animal to run at large or come in contact with any other animal.

[C97, §5018; C24, 27, 31, 35, 39, §**2661;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.19]

163.20 Glanders.

No owner or person having charge of any animal, knowing the same to be affected with glanders, shall permit such animal to be driven upon any highway, and no keeper of a public barn shall knowingly permit any animal having such disease to be stabled in such barn.

[C24, 27, 31, 35, 39, §**2662;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.20]

163.21 Penalties. Repealed by 2001 Acts, ch 136, §10.

163.22 Annual estimate. Repealed by 2005 Acts, ch 19, §125.

163.23 False certificates of veterinary inspection.

A veterinarian shall not issue a certificate of veterinary inspection for an animal knowing that the animal described in the certificate was not the same animal from which tests were made as a basis for issuing the certificate. A veterinarian shall not otherwise falsify a certificate.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.23]

2001 Acts, ch 136, §4; 2004 Acts, ch 1163, §9

163.24 Using false certificate.

A person shall not conduct a transaction to import, export, or transport an animal within this state or sell or offer for sale an animal if the person uses a certificate of veterinary inspection in connection with the transaction knowing that the animal described in the certificate was not the animal from which tests were made as a basis for issuing the certificate. A person shall not otherwise use an altered or otherwise false certificate in connection with such transaction.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.24]

2001 Acts, ch 136, §5; 2004 Acts, ch 1163, §10

163.25 Altering certificate.

1. A person shall not remove or alter a tag or mark of identification appearing on an animal, tested or being tested for disease, if the tag or mark of identification is authorized by the department or inserted by any qualified veterinarian.

2. A person shall not falsify any of the following:

a. A certificate of vaccination, issued by a person authorized to vaccinate the animal.

b. A certificate of veterinary inspection.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.25]

2001 Acts, ch 136, §6; 2012 Acts, ch 1095, §20

SUBCHAPTER II

FEEDING GARBAGE TO ANIMALS

163.26 Definition.

For the purposes of this subchapter, *"garbage"* means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of foods, including animal carcasses or parts. *"Garbage"* includes all waste material, by-products of a kitchen, restaurant, hotel, or slaughterhouse, every refuse accumulation of animal, fruit, or vegetable matter, liquids or otherwise, or grain not consumed, that is collected from hog sales pen floors in public stockyards. Animals or parts of animals, which are processed by slaughterhouses or rendering establishments, and which as part of the processing are heated to not less than 212 degrees Fahrenheit for thirty minutes, are not garbage for purposes of this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.26]

86 Acts, ch 1245, §612; 87 Acts, ch 115, §27; 2001 Acts, ch 136, §9; 2012 Acts, ch 1095, §21; 2013 Acts, ch 30, §38

Referred to in §163.15

163.27 Boiling garbage — feeding restrictions.

1. Garbage shall not be fed to an animal unless such garbage has been heated to a temperature of 212 degrees Fahrenheit for thirty minutes, or other acceptable method, as provided by rules adopted by the department. However, this requirement shall not apply to an individual who feeds to the individual's own animals only the garbage obtained from the individual's own household.

2. A person shall not feed public or commercial garbage to swine.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §163.27]

2006 Acts, ch 1010, §56; 2012 Acts, ch 1095, §22; 2014 Acts, ch 1026, §35

163.28 Licenses. Repealed by 2013 Acts, ch 90, §216.

163.29 Penalty. Repealed by 2001 Acts, ch 136, §10.

SUBCHAPTER III

MOVEMENT OF SWINE

Referred to in §163.2

163.30 Swine movement — definitions — dealer licenses, permits, and fees.

1. This section shall apply to all swine moved interstate and intrastate, except swine moved directly to slaughter or to a livestock market for sale directly to a slaughtering establishment for immediate slaughter.

2. When used in this subchapter:

a. "Dealer" means any person who is engaged in the business of buying for resale, or selling, or exchanging swine as a principal or agent or who claims to be so engaged, but does not include the owner or operator of a farm who does not claim to be so engaged and who sells or exchanges only those swine which have been kept by the person solely for feeding or breeding purposes.

b. "Move" or *"movement"* means to ship, transport, or deliver swine by land, water, or air, except that *"move"* or *"movement"* does not mean a relocation.

c. "Relocate" or *"relocation"* means to ship, transport, or deliver swine by land, water, or air, to different premises, if the ownership of the swine does not change, the prior and new premises are located within the state, and the shipment, transportation, or delivery between the prior and new premises occurs within the state.

d. "Separate and apart" means a manner of holding swine so as not to have physical contact with other swine on the premises.

3. A person shall not act as a dealer unless the department issues the person a dealer's license. The person must be licensed as a dealer regardless of whether the swine originate in this state or another jurisdiction or the person resides in this state or another jurisdiction. The jurisdiction may be in another state or a foreign nation.

a. The fee for a dealer's license is ten dollars. A dealer's license expires on the first day of the second July following the date of issue. An initial license shall be numbered and any subsequent or renewed license issued to that dealer shall retain the same license number.

b. To be issued a license, an applicant must file a surety bond with the department. The applicant shall file a standard surety bond of ten thousand dollars with the secretary named as trustee, for the use and benefit of anyone damaged by a violation of this section, except that the bond shall not be required for dealers who are bonded in the same or a greater amount than required pursuant to the federal Packers and Stockyards Act. In addition, the department may require that a licensee file evidence of financial responsibility with the department prior to a license being issued or renewed as provided in section 202C.2.

c. Each employee or agent doing business by buying for resale, selling, or exchanging feeder swine in the name of a licensed dealer must obtain a permit issued by the department showing the person is employed by or represents a licensed dealer. A permit shall be issued upon the department's approval of a completed application. An application form shall be

furnished by the department. The fee for a permit is six dollars. A permit shall expire on the first day of the second July following the date of issue.

d. A permittee shall not represent more than one dealer. Failure of a licensee or permittee to comply with this chapter or a rule made pursuant to this chapter is cause for revocation by the secretary of the permit or license after notice to the alleged offender and the holding of a hearing by the secretary. Rules shall be made in accordance with chapter 17A. A rule, the violation of which is made the basis for revocation, except temporary emergency rules, shall first have been approved after public hearing as provided in section 17A.4 after giving twenty days' notice of the hearing by mailing the notice, by ordinary mail, to every person filing a request for notice accompanied by an addressed envelope with prepaid postage. Any person may file such a request to be listed with any agency for notice for the time and place for all hearings on proposed rules, which request shall be accompanied by a remittance of five dollars. Such fee shall be added to the operating fund of the department. The listing shall expire semiannually on January 1 and July 1.

4. *a.* All swine moved shall be individually identified with a distinctive and easily discernible ear tag affixed in either ear of the animal or other identification acceptable to the department, which has been specified by rule promulgated under the department's rulemaking authority. The department shall make ear tags available at convenient locations within each county and shall sell such tags at a price not exceeding the cost to producers and others to comply with this section.

b. Every seller, dealer and market operator shall keep a record of the ear tag numbers, or other approved identification, and the farm of origin of swine moved by or through that person, which records shall be made available by that person to any appropriate representative of the department or the United States department of agriculture.

5. All swine moved shall be accompanied by a certificate of veterinary inspection issued by the state of origin and prepared and signed by a veterinarian. The certificate shall show the point of origin, the point of destination, individual identification, immunization status, and, when required, any movement permit number assigned to the shipment by the department. All such movement of swine shall be completed within seventy-two hours unless an extension of time for movement is granted by the department.

a. However, swine may be moved intrastate directly to an approved state, federal, or auction market without identification or certification, if the swine are to be identified and certificated at the state, federal, or auction market.

b. Registered swine for exhibition or breeding purposes which can be individually identified by a method approved by the department are excepted from the identification requirement.

c. Native Iowa swine moved from farm to farm shall be excepted from the identification requirement if the owner transferring possession of the feeder pigs executes a written agreement with the person taking possession of the feeder pigs. The agreement shall provide that the feeder pigs shall not be commingled with other swine for a period of thirty days. The owner transferring possession shall be responsible for making certain that the agreement is executed and for providing a copy of the agreement to the person taking possession.

6. The department may combine a certificate of veterinary inspection with a certificate of inspection required under chapter 166D.

7. The department may require issuance of movement permits on certain categories of swine moved, prior to their movement, pursuant to rules adopted by the department. The rules shall be adopted when in the judgment of the secretary, such movement would otherwise threaten or imperil the eradication of classical swine fever in Iowa.

8. All swine moved shall be quarantined separate and apart from other swine located at the Iowa farm of destination for thirty days beginning with their arrival at such premises, or if such incoming swine are not held separate and apart, all swine on such premises shall be thus quarantined, except animals moving from such premises directly to slaughter.

9. There can only be one transfer by a dealer, involving not more than two markets, prior to quarantine.

10. The use of anti-classical swine fever serum or antibody concentrate shall be in accordance with rules adopted by the department.

11. Any swine found by a registered veterinarian to have any infectious or contagious disease after delivery to a livestock sale barn or auction market for resale, other than for slaughter, shall be immediately returned to the consignor's premises to be quarantined separate and apart for fifteen days. Such swine shall not be moved from such premises for any purpose unless a certificate of veterinary inspection accompanies the swine's movement or unless the swine are sent to slaughter.

[C62, 66, §163.30; C71, §163.30 – 163.33; C73, 75, 77, 79, 81, §163.30]

87 Acts, ch 115, §28; 91 Acts, ch 32, §2; 97 Acts, ch 183, §1, 13; 98 Acts, ch 1056, §2; 2003 Acts, ch 90, §1; 2003 Acts, ch 108, §41; 2004 Acts, ch 1101, §27; 2004 Acts, ch 1163, §11, 12; 2009 Acts, ch 133, §203, 204; 2010 Acts, ch 1069, §21; 2011 Acts, ch 34, §37; 2011 Acts, ch 46, §7; 2012 Acts, ch 1095, §24, 35; 2017 Acts, ch 159, §18, 19, 56

Referred to in §163.61, 166D.2, 166D.10, 202C.1, 202C.2

163.31 Falsification of certificates — penalty. Repealed by 2001 Acts, ch 136, §10.

163.32 Exhibitions.

1. As used in this section, "*exhibition*" means an exhibit, demonstration, show, or competition involving swine which occurs as follows:

a. As part of an event on the Iowa state fairgrounds under the control of the Iowa state fair authority under chapter 173.

b. A fair event under the control of a fair under chapter 174.

c. An event classified as an exhibition by rules adopted by the department.

2. This section applies to a swine which is moved from a premises to the location where an exhibition occurs.

3. The sponsor of an exhibition must retain a veterinarian licensed pursuant to chapter 169 to supervise the health of swine moved to the location of the exhibition. The sponsor of the exhibition shall submit an exhibition report to the department on a form and according to procedures required by the department. The exhibition report must contain information required by the department which must at least include all of the following:

a. The name of the exhibition and the address of its location.

b. The name and address of the veterinarian.

c. The date that the exhibition occurred.

d. The name and address of the owner of the swine.

e. The address of the premises from which the swine was moved to the exhibition. The exhibition report must also include the address of the premises to which the swine was moved after the exhibition if such premises is a different premises.

2011 Acts, ch 84, §2, 5

Referred to in §166D.2

163.33 Feral swine.

1. *"Feral swine"* means any swine running at large.

2. A person shall not knowingly release swine to become feral swine.

3. Upon discovery of feral swine on public or private property, the department may destroy or order the destruction of the feral swine. However, the department shall not destroy the feral swine or order the feral swine's destruction, unless the department concludes, after conducting a reasonable inquiry in the area where the feral swine is located, that the feral swine's ownership cannot be determined. The department may call upon a peace officer or appropriate state or federal agency, including but not limited to the department of natural resources or the department of public safety, to enforce this section as set forth in section 159.16.

4. A person may destroy feral swine if the feral swine is on the person's property or is damaging the person's personal property. The person shall immediately notify the department of the destruction of the feral swine and allow for possible testing of the feral swine by the department.

5. This section shall not be construed to limit the powers of the department otherwise granted by law.

2020 Acts, ch 1036, §10, 16

SUBCHAPTER IV

IDENTIFICATION OF SWINE CONSIGNED FOR SLAUGHTER

163.34 Purpose.

The purpose of this subchapter is to establish a positive means of identifying all boars, sows and stags purchased for slaughter on their arrival at the first point of concentration after such sale. The purpose of such swine identification program is to facilitate eradication of swine diseases.

[C77, §172A.15; C79, 81, §163.34]

2001 Acts, ch 136, §9

163.35 Definitions.

1. *"Livestock dealer, livestock market operator, or stockyard operator"* means any person engaged in the business of buying for resale, or selling, or exchanging swine as a principal or agent, or one who claims to be so engaged, but does not include the owner or operator of a farm who does not claim to be so engaged, and who sells or exchanges only those swine which have been kept by that person solely for feeding or breeding purposes.

2. *"Person"* means a person as defined in section 4.1, subsection 20.

3. *"Slaughtering establishment"* means any person engaged in the business of slaughtering live animals or receiving or buying live animals for slaughter.

4. *"Stag"* means a male swine that has formerly been used for breeding purposes but that has subsequently been castrated.

[C77, §172A.16; C79, 81, §163.35]

86 Acts, ch 1245, §613

163.36 Identification required.

1. All boars, sows and stags received for sale or shipment to slaughter by a livestock dealer, livestock market operator or stockyard operator shall be identified at the first point of concentration by such dealer or operator by application of a slap tattoo or other identification approved by the department.

2. All boars, sows and stags consigned directly from a farm to a slaughtering establishment shall be identified at the first point of concentration by the consignee.

[C77, §172A.17; C79, 81, §163.36]

Referred to in §163.37

163.37 Form of identification required.

1. The slap tattoo or other means of identification required by section 163.36 shall be in accordance with regulations of the department.

2. Each person required by section 163.36 to identify animals shall record such identification on forms specified and furnished by the department. The identification shall include the tattoo specifications, the date of application, and the name, address and county of residence of the person who owned or controlled the herd from which the animals originated.

3. Such records shall be maintained for a length of time as required by and pursuant to chapter 305 and at the point of concentration and shall be made available for inspection by the department at reasonable times.

[C77, §172A.18; C79, 81, §163.37]

2003 Acts, ch 92, §2

163.38 and 163.39 Reserved.

SUBCHAPTER V
BREEDING BULLS

163.40 Definitions.

As used in this subchapter:

1. *"Breeding bull"* means a male animal of dairy or beef bovine genus used for breeding purposes.
2. *"Lease"* when used as a verb means to physically deliver a breeding bull pursuant to a lease agreement.
3. *"Licensee"* means a person required to obtain a license pursuant to section 163.41.

[C79, 81, §163.40]

2000 Acts, ch 1049, §1; 2001 Acts, ch 136, §9

163.41 License required.

1. A person shall not engage in the business of leasing a breeding bull without having obtained a license issued by the department and registering each breeding bull with the department as provided in section 163.42. The license may be obtained upon completing an application for approval by the department. The license fee is twenty dollars. The license shall expire on the first day of the second July following the date of issue.
2. An application for a license shall be made on a form provided by the department and shall contain the name of the person engaged in the business of leasing breeding bulls as lessor, the address of such business, the registration number of each breeding bull, and a description as to breed, color and other distinguishing marks, leased as lessor, and such other information as the secretary of agriculture may specify by rule adopted pursuant to chapter 17A.
3. For the purposes of this section, a person is engaged in the business of leasing a breeding bull within this state as lessor if the person leases any breeding bull to an Iowa resident more than once in any calendar year for a fee.

[C79, 81, §163.41]

2001 Acts, ch 136, §9; 2017 Acts, ch 159, §20, 56

Referred to in §163.40

163.42 Registration of breeding bulls.

The department shall issue to each licensee a tag or an identifying mark if the lessor desires this method of identification, for each breeding bull to be leased by the licensee. Each tag or identifying mark shall have an identification number which shall be a permanent identification number for such breeding bull and, upon disposition of such animal, the licensee shall notify the department of such disposition and the name and address of the buyer if such animal is sold. When an additional breeding bull to be leased is acquired by a licensee, the department shall issue a tag or approve an identifying mark for such animal without fee. The tag or identifying mark shall be permanently attached to the breeding bull.

[C79, 81, §163.42]

Referred to in §163.41, 163.43

163.43 Certificate required.

1. A person shall not be a party to a lease of a breeding bull within this state in which the lessor is a licensee, unless the breeding bull is accompanied by a certificate of veterinary inspection. For the purposes of this section, a breeding bull is leased within this state if it is leased to an Iowa resident.
2. The certificate of veterinary inspection shall be issued by a licensed veterinarian who examines the breeding bull and signs the certificate. The certificate shall include all of the following:

a. A statement that, to the best of the knowledge and belief of the veterinarian, the breeding bull is apparently free from an infectious or contagious disease.

b. A statement that the breeding bull has reacted negatively to a test for brucellosis conducted within six months prior to the date that the veterinarian signs the certificate.

c. If the breeding bull does not originate from this state, a statement providing that importing the breeding bull satisfies applicable importation requirements.

d. The identification number of the breeding bull as required pursuant to section 163.42.

e. The date that the certificate was issued.

3. The certificate of veterinary inspection shall not be valid after the term of the lease expires or after the breeding bull moves from the lessee's premises. Thereafter, a new certificate must be issued as required in this section.

4. One copy of the certificate of veterinary inspection shall be issued to the licensee who shall maintain the certificate as part of the licensee's business records. One copy of the certificate shall be issued to the lessee when the breeding bull is delivered to the lessee. A licensee shall show the certificate upon request to any person designated by the department to enforce the provisions of this section.

[C79, 81, §163.43]

2000 Acts, ch 1049, §2; 2004 Acts, ch 1163, §13

163.44 Records of breeding bull.

The licensee shall maintain records of each lease of a breeding bull. The records shall contain the name and address of the person to whom a breeding bull is leased, the date of each lease, and a description and the identification number of the breeding bull involved. A lessee or any agent of the department shall have the right to inspect, upon demand to the licensee, those records concerning the bull presently being leased by the lessee.

[C79, 81, §163.44]

163.45 Denial, revocation, or suspension of a license.

The department of agriculture and land stewardship may refuse to issue or renew and may suspend or revoke a license issued under this subchapter for any violation of the provisions of this subchapter or rules adopted relating to the leasing of a breeding bull.

[C79, 81, §163.45]

2001 Acts, ch 136, §9

163.46 Sale of semen.

The owner of a breeding bull located within this state shall not sell the semen from that bull for the purpose of artificial insemination unless the owner is in possession of a certificate of veterinary inspection signed and issued by a licensed veterinarian within six months before the date the semen is collected. The certificate shall not be valid if the bull is moved to other premises between the date of examination and the date of collection. The certificate shall show that on the date of issue the breeding bull had been tested negative for brucellosis and, to the best knowledge and belief of the examining veterinarian, was free from any infectious or contagious disease.

[C79, 81, §163.46]

2000 Acts, ch 1049, §3; 2004 Acts, ch 1163, §14

163.47 Exemptions.

The provisions of this subchapter shall not apply to 4-H or future farmers of America organizations engaged in breeding programs.

[C79, 81, §163.47]

95 Acts, ch 67, §13; 2001 Acts, ch 136, §9

163.48 through 163.50 Reserved.

SUBCHAPTER VI

FOOT AND MOUTH DISEASE

163.51 Security measures.

1. The department may establish security measures in order to control outbreaks of foot and mouth disease in this state, including by providing for the prevention, suppression, and eradication of foot and mouth disease. In administering and enforcing this section, the department may adopt rules and shall issue orders in a manner consistent with sound veterinary principles and federal law for the control of outbreaks of the disease. The department may implement the security measures by doing any of the following:

a. If the department determines that an animal is infected with or exposed to foot and mouth disease, or the department suspects that an animal is so infected or exposed, the department may provide for all of the following:

(1) The quarantine, condemnation, or destruction of the animal. The department may establish quarantined areas and regulate activities in the quarantined areas, including movement or relocation of animals or other property within, into, or from the quarantined areas. This section does not authorize the department to provide for the destruction of personal property other than an animal.

(2) The inspection or examination of the animal's premises in order to perform an examination or test to determine whether the animal is or was infected or exposed or whether the premises is contaminated. The department may take a blood or tissue sample of any animal on the premises.

(3) The compelling of a person who is the owner or custodian of the animal to provide information regarding the movement or relocation of the animal or the vaccination status of the animal or the herd where the animal originates. The department may issue a subpoena for relevant testimony or records as defined in section 523C.1. In the case of a failure or refusal of the person to provide testimony or records, the district court upon application of the department or the attorney general acting upon behalf of the department, may order the person to show cause why the person should not be held in contempt. The court may order the person to provide testimony or produce the record or be punished for contempt as if the person refused to testify before the court or disobeyed a subpoena issued by the court.

b. The department may provide for the cleaning and disinfection of real or personal property if the department determines that the property is contaminated with foot and mouth disease or suspects that the property is contaminated with foot and mouth disease.

2. *a.* If the department determines that there is a suspected outbreak of foot and mouth disease in this state, the department shall immediately notify all of the following:

(1) The governor or a designee of the governor. The notification shall contain information regarding actions being implemented or recommended in order to determine if the outbreak is genuine and measures to control a genuine outbreak.

(2) The administrative unit of the United States department of agriculture responsible for controlling outbreaks in this state.

b. If the department confirms an outbreak of foot and mouth disease in this state, the department shall cooperate with the governor; federal agencies, including the United States department of agriculture; and state agencies, including the department of homeland security and emergency management, in order to provide the public with timely and accurate information regarding the outbreak. The department shall cooperate with organizations representing agricultural producers in order to provide all necessary information to agricultural producers required to control the outbreak.

3. The department shall cooperate with federal agencies, including the United States department of agriculture, other state agencies and law enforcement entities, and agencies of other states. Other state agencies and law enforcement entities shall assist the department.

4. *a.* To the extent that an animal's owner would not otherwise be compensated, section 163.15 shall apply to the owner's loss of any animal destroyed under this section.

b. Upon the request of the executive council, the department shall develop and submit a plan to the executive council that compensates an owner for property, other than an animal,

that is inadvertently destroyed by the department as a result of the department's regulation of activities in a quarantined area. The plan shall not be implemented without the approval of at least three members of the executive council. The payment of the compensation under the plan shall be made in the same manner as provided in section 163.15. The owner may submit a claim for compensation prior to the plan's implementation. The executive council may apply the plan retroactively, but not earlier than June 1, 2001.

5. Nothing in this section limits the department's authority to regulate animals or premises under other provisions of state law, including this chapter.

2001 Acts, ch 170, §2, 3; 2002 Acts, ch 1119, §22; 2003 Acts, ch 179, §157; 2013 Acts, ch 29, §48; 2020 Acts, ch 1063, §67

163.52 through 163.60 Reserved.

SUBCHAPTER VII

PENALTIES — INJUNCTIVE RELIEF

163.61 Civil penalties.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed. The attorney general shall cooperate with the department in the assessment and collection of civil penalties.

2. Except as provided in subsection 3, a person violating a provision of this chapter, or a rule adopted pursuant to this chapter, shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. In the case of a continuing violation, each day of the continuing violation is a separate violation. However, a person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars.

3. Notwithstanding the provisions of subsection 2, all of the following apply:

a. A person who falsifies a certificate of vaccination or certificate of veterinary inspection shall be subject to a civil penalty of not more than five thousand dollars for each reference to an animal falsified on the certificate. However, a person who falsifies a certificate issued pursuant to chapter 166D shall be subject to a civil penalty as provided in this section or section 166D.16, but not both. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of animals falsified on the certificate.

b. A person required to be licensed as a dealer pursuant to section 163.30 and who is not issued a license by the department pursuant to that section, but does business as a dealer, shall be subject to a civil penalty of at least one thousand dollars but not more than five thousand dollars. Each day that the person does business as a dealer without being issued a license constitutes a separate offense. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars during any one year.

c. A person who interferes with an official act as provided in section 163.3F shall be subject to a civil penalty of at least one hundred dollars but not more than ten thousand dollars. In the case of a continuing violation, each day of the continuing violation is a separate violation. However, a person shall not be subject to a civil penalty totaling more than two hundred fifty thousand dollars arising out of the same violation.

4. Moneys collected from civil penalties shall be deposited into the general fund of the state.

2001 Acts, ch 136, §7; 2004 Acts, ch 1095, §1, 6; 2004 Acts, ch 1163, §15; 2012 Acts, ch 1095, §25; 2020 Acts, ch 1036, §11, 16

163.62 Injunctive relief.

The department or the attorney general acting on behalf of the department may apply to the district court for injunctive relief in order to restrain a person from acting in violation of this chapter. In order to obtain injunctive relief, the department shall not be required to post a bond or prove the absence of an adequate remedy at law unless the court for good cause

otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

2001 Acts, ch 136, §8
Referred to in §165B.4

CHAPTER 163A

BRUCELLOSIS CONTROL IN SWINE

Referred to in §165.18

163A.1 Definitions.
163A.2 through 163A.4 Repealed by 2012 Acts, ch 1095, §32.
163A.5 Interstate shipments.
163A.6 Exhibition swine.
163A.7 Reactor tag.
163A.8 Swine for slaughter.
163A.9 Rules.
163A.10 Penalty.
163A.11 Educational program herds. Repealed by 2012 Acts, ch 1095, §32.
163A.12 Owner requesting test.

163A.1 Definitions.

As used in this chapter:

1. *"Accredited veterinarian"* means a veterinarian who is licensed by the state in which the veterinarian practices, is approved by the department of agriculture and land stewardship or the livestock sanitary authority of that state, and is accredited by the United States department of agriculture.

2. *"Brucellosis"* means the disease wherein an animal of the porcine species is infected with brucella microorganisms irrespective of the occurrence or absence of clinical symptoms of infectious abortion.

3. *"Brucellosis test"* means the test for brucellosis which is approved by the department and administered in accordance with the techniques approved by the department.

4. *"Certificate of veterinary inspection"* or *"certificate"* means the same as defined in section 163.2.

5. *"Infected animal"* or *"reactor"* means an animal which has given a positive reaction as determined by departmental standards to the brucellosis test.

6. *"Licensed veterinarian"* means a veterinarian licensed to practice in Iowa.

7. *"Negative animal"* means an animal which does not give a positive reaction to the brucellosis test.

8. *"Official brucellosis test report"* means a legible record made on an official form prescribed by the department.

9. *a.* *"Validated brucellosis-free herd"* means:

(1) A herd which has had at least one test made on all boars, sows and gilts over six months of age with no positive reactions; or

(2) A herd which has been tested pursuant to a test approved by rule of the Iowa department of agriculture and land stewardship pursuant to chapter 17A, which test is in compliance with the recommended uniform methods and rules of the animal and plant health inspection service of the United States department of agriculture.

b. The validation made pursuant to paragraph *"a"*, subparagraph (1), shall be in force and effect for one year from the date of the last test and shall be renewable on an annual basis by the completion of a single test on boars, sows and gilts over six months of age with no positive reactions. A validation made pursuant to paragraph *"a"*, subparagraph (2), shall be in force and effect and shall be renewable in the manner specified in the rule adopted by the Iowa department of agriculture and land stewardship.

c. If the Iowa department of agriculture and land stewardship adopts a rule under paragraph *"a"*, subparagraph (2), and the recommended uniform methods and rules of the animal and plant health inspection service of the United States department of agriculture

are subsequently changed, the Iowa department of agriculture and land stewardship shall not change its rule if the effect would be to make less restrictive the standards or procedures for validating a brucellosis-free herd.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.1]

86 Acts, ch 1245, §614; 2000 Acts, ch 1058, §20; 2004 Acts, ch 1163, §16

Further definitions; see §159.1

163A.2 through 163A.4 Repealed by 2012 Acts, ch 1095, §32.

163A.5 Interstate shipments.

1. Except as provided in subsection 2, breeding swine four months of age and over, entering this state for breeding or exhibition purposes, shall be accompanied by a certificate of inspection issued by an accredited veterinarian of the state of origin. The certificate shall show that such swine meet this state's entry requirements and are negative to the test for brucellosis conducted by an official laboratory of the state of origin within thirty days of entry.

2. *a.* Swine may enter the state or be exhibited without a test for brucellosis if one of the following applies:

(1) The swine are from a brucellosis-free herd as validated according to rules adopted by the department.

(2) The swine are from a state that is declared to be brucellosis-free as recognized by the department.

b. The swine must be accompanied by a certificate of veterinary inspection issued by an accredited veterinarian of the state of origin or a veterinarian employed by the animal and plant inspection service of the United States department of agriculture. The certificate must indicate whether the swine are from a state that is declared to be brucellosis-free. If the swine are from a brucellosis-free herd, the certificate must indicate the herd number and show that the herd has been tested within the past twelve months.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.5]

2004 Acts, ch 1163, §17

163A.6 Exhibition swine.

Any breeding swine four months of age and over for exhibition within this state shall meet all requirements for exhibition purposes.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.6]

2012 Acts, ch 1095, §31

163A.7 Reactor tag.

All swine showing a positive reaction to the brucellosis test shall be tagged in the left ear with a reactor identification tag and moved to slaughter on such form as shall be designated by the department within a thirty-day period from the date of test. The herd of origin shall be placed under immediate quarantine to be retested no sooner than thirty days or later than sixty days from the date of the test showing the positive reaction. Such quarantine shall remain in effect until a complete negative herd test is conducted on all swine intended or used for breeding purposes.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.7]

163A.8 Swine for slaughter.

Swine from herds under quarantine may be moved to slaughter on a form designated for this purpose and issued by the department or an accredited veterinarian.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.8]

163A.9 Rules.

The department may make and adopt reasonable rules for the administration and enforcement of the provisions of this chapter.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.9]

Referred to in §163A.12

163A.10 Penalty.

Any person who shall violate any provision of this chapter or any rule adopted thereunder by the department of agriculture and land stewardship shall be guilty of a serious misdemeanor.

[C62, 66, 71, 73, 75, 77, 79, 81, §163A.10]

163A.11 Educational program herds. Repealed by 2012 Acts, ch 1095, §32.

163A.12 Owner requesting test.

If the owner requests the department to inspect and test breeding swine for brucellosis, and agrees to comply with the rules made by the department under section 163A.9, the department may designate a veterinarian to make an inspection and test, with the expense to be paid as provided in section 164.6 for cattle brucellosis testing, but only to the extent the funds provided in that section are not required for the cattle testing program.

[C73, 75, 77, 79, 81, S81, §163A.12; 81 Acts, ch 117, §1020]

83 Acts, ch 123, §71, 209

CHAPTER 164

BRUCELLOSIS — BOVINE AND DESIGNATED ANIMALS

Referred to in §165.18

164.1 Definitions.
164.2 Eradication area.
164.3 Female animals vaccinated.
164.4 Rules.
164.5 Request for test.
164.6 Expense of test.
164.7 Copy of report provided to owner.
164.8 Test at auction premises.
164.9 Retest by order or request — expense.
164.10 Report of laboratory tests to department.
164.11 Identification mark.
164.12 Quarantined marking.
164.13 Unlawful acts.
164.14 Imported designated animals.
164.15 Quarantined designated animals.
164.16 Movement or slaughter permit.
164.17 Quarantined for slaughter permit.
164.18 Unlawful sale or purchase.
164.19 Quarantine.
164.20 Appraisal of value of bovine animals.
164.21 Indemnification of owner — determination of amount.
164.22 Moneys administered.
164.23 through 164.28 Reserved.
164.29 Reciprocal agreements.
164.30 Tagging designated animals received for sale or slaughter.
164.31 Penalty.

164.1 Definitions.

As used in this chapter:

1. *"Animal"* means a nonhuman vertebrate.
2. *"Bovine animal"* means bison or cattle.
3. *"Certificate of veterinary inspection"* or *"certificate"* means the same as defined in section 163.2.
4. *"Class free state"* means there has been no known brucellosis in bovine animals for a period of twelve months. A state is classified as class free, class A, class B, and class C, according to guidelines set forth in 9 C.F.R. §78.1.
5. *"Condemned"* or *"reactor"* applies to a designated animal reacting to an official test conducted to determine if a designated animal is infected with brucellosis.
6. *"Department"* means the department of agriculture and land stewardship.
7. *"Designated animal"* means a bovine animal or any other species of animal that the department by rule determines is capable of carrying and spreading brucellosis, including elk or goats.
8. *"Official calfhood vaccination"* means the vaccination of a female calf of any species of bovine animal between the ages of four months and ten months with brucella vaccine

approved for that species of bovine animal by the United States department of agriculture, if the vaccination has been administered by a veterinarian according to the rules established by the department.

9. *"Official test"* means a test for brucellosis approved for a species of designated animal by the department and to the extent applicable by the United States department of agriculture which is conducted under the supervision of, or the authorization from, the department.

10. *"Owner"* includes any person owning or leasing a designated animal.

11. *"Quarantine"* means the entire herd of designated animals must be confined to a premises designated by the department, if any reactor is disclosed.

12. *"Registered purebred"* includes cattle with a certificate from herdbooks where registered.

13. *"State-approved premises"* means an area, including a feedlot or grazing area, established at the discretion of the department for the care and feeding of untested designated animals as provided by the department. However, for cattle, *"state-approved premises"* means an area where untested heifers over six months of age but under eighteen months of age are subject to care and feeding.

14. *"Veterinarian"* means a licensed accredited veterinarian authorized by the department.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §164.1]

86 Acts, ch 1036, §1 – 3; 86 Acts, ch 1245, §615; 97 Acts, ch 124, §1; 2004 Acts, ch 1163, §18; 2017 Acts, ch 159, §21

Further definitions; see §159.1

164.2 Eradication area.

This state is declared to be a brucellosis eradication area. An owner shall allow the owner's designated animals to be tested when ordered by the department or a representative of the department. The owner shall confine and restrain the designated animal in a suitable place so that a test can be conducted. If the owner refuses to confine and restrain the designated animal, after a reasonable time the department may employ sufficient assistance to properly confine and restrain the designated animal. The expense for obtaining assistance shall be paid by the owner.

[C66, 71, 73, 75, 77, 79, 81, §164.2]

97 Acts, ch 124, §2

164.3 Female animals vaccinated.

Native female bovine animals of any breed between the ages of four months and twelve months may be officially vaccinated for brucellosis according to procedures approved by the United States department of agriculture. Native female designated animals other than bovine animals may be vaccinated as provided by rules adopted by the department of agriculture and land stewardship. The expense of the vaccination shall be borne in the same manner as provided in section 164.6.

[C54, §164.11; C58, 62, §164.28; C66, 71, 73, 75, 77, 79, 81, §164.3]

86 Acts, ch 1036, §4; 97 Acts, ch 124, §3; 2017 Acts, ch 159, §22; 2018 Acts, ch 1041, §49

164.4 Rules.

1. The department may adopt rules as provided in chapter 17A relating to the official testing of designated animals, the disposal by segregation and quarantine or slaughter of condemned designated animals, the operation of state-approved premises, the disinfection of the premises where designated animals are kept, the introduction of designated animals into a herd of other designated animals, the control and eradication of brucellosis, the prevention of the spread of brucellosis to designated animals in this state, and the proper enforcement of this chapter.

2. The department shall not adopt rules relating to cattle that are less restrictive than the uniform methods and rules for brucellosis eradication promulgated by the United States department of agriculture, APHIS 91-1, as effective January 1, 1996, but may adopt rules that are more restrictive.

3. The department may implement any procedure provided in the uniform methods and

rules if approved jointly by state and federal animal health officials, including but not limited to the use of quarantined pastures, quarantined feedlots, or other options permitted under the uniform methods and rules.

[C46, 50, 54, 58, 62, §164.2; C66, 71, 73, 75, 77, 79, 81, §164.4]

86 Acts, ch 1036, §5; 96 Acts, ch 1079, §8; 97 Acts, ch 124, §4

Referred to in §164.6

164.5 Request for test.

Upon request by the owner for a departmental inspection of the owner's designated animals for brucellosis, the department may designate a veterinarian to make an inspection of the designated animals. If authorized by the department, the veterinarian may conduct an official test on the designated animals.

[C46, 50, 54, 58, 62, §164.3; C66, 71, 73, 75, 77, 79, 81, §164.5]

97 Acts, ch 124, §5

164.6 Expense of test.

The expense for an inspection and official test of a designated animal other than for bovine animals shall be borne by the owner. If the designated animal is a bovine animal, and the owner agrees to comply with and carry out the provisions of this chapter and the rules adopted by the department under section 164.4, the expense of the inspection and test shall be borne by the United States department of agriculture, or by the department, or by the brucellosis and tuberculosis eradication fund or any combination of these sources.

[C46, 50, 54, 58, 62, §164.4; C66, 71, 73, 75, 77, 79, 81, §164.6]

83 Acts, ch 123, §72, 209; 97 Acts, ch 124, §6

Referred to in §163A.12, 164.3, 164.9

164.7 Copy of report provided to owner.

A veterinarian or the department shall provide a report to the owner of a designated animal showing the results of an official test conducted by a veterinarian. The report may be a copy of a test chart.

[C46, 50, 54, 58, 62, §164.5, 164.6; C66, 71, 73, 75, 77, 79, 81, §164.7]

97 Acts, ch 124, §7

164.8 Test at auction premises.

A designated animal purchased at an auction market may be officially tested on the auction market premises, in the new owner's name at the owner's request and expense. This official test must be made within twenty-four hours from the time of sale. If the test discloses reactors, the herd of origin shall be placed under quarantine.

[C66, 71, 73, 75, 77, 79, 81, §164.8]

97 Acts, ch 124, §8

164.9 Retest by order or request — expense.

The department may order a retest of designated animals at any time, if the department determines that a retest is necessary. In case of reactors, one retest shall be granted the owner of the designated animals by the department upon the request of the owner or owner's veterinarian before the designated animals are permanently marked as reactors. The expense of the retest of reactors shall be borne in the same manner as provided in section 164.6.

[C46, 50, 54, 58, 62, §164.7; C66, 71, 73, 75, 77, 79, 81, §164.9]

86 Acts, ch 1036, §6; 97 Acts, ch 124, §9

164.10 Report of laboratory tests to department.

A report of tests conducted by a laboratory under this chapter shall be made in writing to the department within seven days immediately following the completion of the tests. The department shall supply forms for the report. The report shall be signed by the director of the laboratory or the person conducting the test.

[C46, 50, 54, 58, 62, §164.8; C66, 71, 73, 75, 77, 79, 81, §164.10]

97 Acts, ch 124, §10

164.11 Identification mark.

A designated animal subjected to an official test shall be plainly and permanently marked for identification in a manner authorized by the department. Native grade bovine carrying the calfhood vaccination and calves vaccinated after importation from other states shall be tattooed in the ear. Officially vaccinated purebred registered cattle must receive a vaccination tattoo and either an official vaccination tag or a purebred identification tattoo. The vaccination tattoo and the vaccination tag number or the purebred identification tattoo shall be evidenced on the official certificate of vaccination.

[C46, 50, 54, 58, 62, §164.9; C66, 71, 73, 75, 77, 79, 81, §164.11]

97 Acts, ch 124, §11

164.12 Quarantined marking.

A designated animal which is quarantined as a result of a test for brucellosis shall be plainly and permanently marked for identification by a veterinarian making the test in a manner authorized by the department and to the extent applicable by the United States department of agriculture.

[C46, 50, 54, 58, 62, §164.10; C66, 71, 73, 75, 77, 79, 81, §164.12]

97 Acts, ch 124, §12

164.13 Unlawful acts.

An owner shall not sell or transfer ownership of a designated animal, allow the commingling of designated animals belonging to two or more owners, or allow the commingling of designated animals with other designated animals under feeder quarantine on a state-approved premises, unless the commingled designated animals are accompanied by a negative brucellosis test report issued by a veterinarian, conducted within thirty days. The provisions of this section do not apply to the following:

1. Bovine animals under six months of age, spayed heifers, or steers.
2. Official vaccinates of bovine animals other than dairy cattle under twenty-four months of age or dairy cattle under twenty months of age, if not postparturient.
3. Designated animals which are consigned directly to slaughter.
4. Designated animals which are imported for exhibition purposes, if any of the following apply:

a. When under the test-eligible ages as provided by the department for designated animals other than bovine. For bovine the test-eligible ages are as provided in this section. The designated animal must be accompanied by an official vaccination certificate as provided by the department. A bovine animal which is six months or older must be accompanied with a vaccination certificate.

b. Designated animals of any age when accompanied by a report of a negative brucellosis test conducted within thirty days.

c. Designated animals originating from a herd in a class free state or designated animals from a brucellosis-free herd.

5. Designated animals originating from a herd in a class free state or designated animals from a certified brucellosis-free herd.
6. Designated animals moved to a state-approved premises.

[C54, 58, 62, §164.11; C66, 71, 73, 75, 77, 79, 81, §164.13]

86 Acts, ch 1036, §7; 97 Acts, ch 124, §13

164.14 Imported designated animals.

1. Female designated animals other than female bovine animals, which are under an age established by the department, and female bovine animals over six months and under eighteen months of age, may enter the state for feeding purposes to be consigned to a state-approved premises under quarantine, if the female designated animals are not postparturient. The designated native female animals that have been consigned to the state-approved premises may be released from the state-approved premises if they have been any of the following:

a. Consigned to slaughter.

b. Consigned to a federally approved market.

c. Consigned to another quarantined premises.

d. Tested negative for brucellosis at the owner's expense. The test shall be made not less than sixty days after the last consignment to the premises and shall include all animals on the premises.

2. Female designated animals, other than female bovine, over an age established by the department and female bovine over eighteen months of age may enter the state if the designated animals are any of the following:

a. Consigned to a federally approved market.

b. Consigned to a slaughter plant for immediate slaughter.

c. Accompanied by a certificate of veterinary inspection showing a record of a negative brucellosis test, when required, accomplished within thirty days of importation.

[C54, 58, 62, §164.11(7a); C66, 71, 73, 75, 77, 79, 81, §164.14]

86 Acts, ch 1036, §8; 97 Acts, ch 124, §14; 2004 Acts, ch 1163, §19

164.15 Quarantined designated animals.

A designated animal shall not be brought into contact with a condemned designated animal held in quarantine. If a designated animal is added to the quarantined lot, the designated animal shall become a part of the lot and held subject to the same requirements as apply to the quarantined designated animals.

[C46, 50, 54, 58, 62, §164.12; C66, 71, 73, 75, 77, 79, 81, §164.15]

97 Acts, ch 124, §15

164.16 Movement or slaughter permit.

A designated animal shall not be slaughtered, have its location changed, or be moved from quarantine except as authorized by an official written permit issued by the department or by a veterinarian.

[C46, 50, 54, 58, 62, §164.13; C66, 71, 73, 75, 77, 79, 81, §164.16]

97 Acts, ch 124, §16

164.17 Quarantined for slaughter permit.

When a written order has been issued by the department or its authorized representative for the removal of a quarantined designated animal to slaughter, the designated animal shall be tagged and handled within fifteen days after the date of testing. Within thirty days the designated animal shall be moved and slaughtered under the direct supervision of a duly authorized agent or representative of the United States department of agriculture at a time and place designated by the department. A designated animal quarantined because of brucellosis shall be disposed of by its owner within a period not to exceed forty-five days from the date on which blood samples were drawn disclosing it as a reactor.

[C46, 50, 54, 58, 62, §164.14; C66, 71, 73, 75, 77, 79, 81, §164.17]

97 Acts, ch 124, §17

164.18 Unlawful sale or purchase.

A person shall not sell, offer for sale, or purchase a designated animal which is quarantined as a result of an official test, except as provided by rules adopted by the department.

[C46, 50, 54, 58, 62, §164.15; C66, 71, 73, 75, 77, 79, 81, §164.18]

97 Acts, ch 124, §18

164.19 Quarantine.

The department may issue any quarantine order deemed necessary for the control and eradication of brucellosis and the proper enforcement of this chapter. A lot or group of designated animals in which reactors have been disclosed shall be under quarantine along with any designated animal from which the lot or group originated or commingled. The designated animals may be sold for slaughter under permit, or returned to their place of origin. In case of hardship the department may upon investigation of the case alter a quarantine order to the extent that the department determines that it is necessary to alleviate

the hardship and protect the industry and prospective purchasers. The department shall adopt rules pursuant to chapter 17A necessary in order to administer this section.

[C46, 50, 54, 58, 62, §164.16; C66, 71, 73, 75, 77, 79, 81, §164.19]

97 Acts, ch 124, §19

164.20 Appraisal of value of bovine animals.

Before being slaughtered, quarantined bovine animals shall be appraised at their cash value for dairy and breeding purposes by the owner and a representative of the department, a representative of the United States department of agriculture, or by the owner and both of the representatives. If these parties cannot agree as to the amount of the appraisal, three competent and disinterested persons shall be appointed to render a final appraisal. One person shall be appointed by the department, one by the owner, and one by the first two appointed persons.

[C46, 50, 54, 58, 62, §164.18; C66, 71, 73, 75, 77, 79, 81, §164.20]

97 Acts, ch 124, §20

164.21 Indemnification of owner — determination of amount.

1. The owner of a bovine animal shall be indemnified for the bovine animal as provided in this section. The department shall certify the claim of the owner for the bovine animal slaughtered in accordance with this chapter. An infected bovine animal herd may be completely depopulated and indemnity paid when, in the opinion of the department and the veterinary service of the United States department of agriculture, the disease cannot be adequately controlled by routine testing.

2. The owner shall be indemnified to the extent that money is available in the brucellosis and tuberculosis eradication fund as created in section 165.18 and indemnification is also made by the United States department of agriculture. However, if the United States department of agriculture is unable to indemnify the owner, the department may indemnify the owner, if money is available.

3. In the case of individual payment, all cattle shall be individually appraised and the amount of indemnity shall be equal to the difference between the slaughter value and the appraisal price, less the amount of indemnity paid by the United States department of agriculture. Bison shall be appraised as if the bison are beef cattle. The total amount of indemnity paid by the brucellosis and tuberculosis eradication fund for a grade animal or a purebred animal shall not exceed two hundred dollars. However, if purebred cattle are purchased and owned for at least one year before testing and the owner can verify the actual cost, the department may further indemnify the owner. The amount of the indemnification shall not exceed five hundred fifty dollars or the actual cost of the animal when purchased, whichever is less.

[C46, 50, 54, 58, 62, §164.19; C66, 71, 73, 75, 77, 79, 81, §164.21]

83 Acts, ch 123, §73, 209; 86 Acts, ch 1036, §9; 97 Acts, ch 124, §21; 2017 Acts, ch 54, §76

Referred to in §165.18

164.22 Moneys administered.

All moneys appropriated by the state for carrying out the provisions of this chapter shall be administered by the department for the payment of the indemnity, salaries, and other necessary expenses.

[C46, 50, 54, 58, 62, §164.20; C66, 71, 73, 75, 77, 79, 81, §164.22]

97 Acts, ch 124, §22

164.23 through 164.28 Reserved.

164.29 Reciprocal agreements.

The department to every extent practical shall enter into reciprocal agreements with other states to provide that designated animals which are covered by certificates of vaccination in

this state and other states may be transported and sold in interstate commerce between this state and the other states.

[C50, 54, 58, 62, §164.27; C66, 71, 73, 75, 77, 79, 81, §164.29]

97 Acts, ch 124, §23

164.30 Tagging designated animals received for sale or slaughter.

1. The department shall provide requirements for tagging designated animals which are received for sale or shipment to a slaughtering establishment.

a. Bovine animals two years of age and older received for sale or shipment to a slaughtering establishment shall be identified with a back tag issued by the department. The back tag shall be affixed to the animal as directed by the department.

b. A livestock trucker delivering a designated animal to an out-of-state market, livestock dealer, livestock market operator, stockyard operator, or slaughtering establishment shall identify a designated animal which is not tagged as provided in this section, at the time of taking possession or control of the designated animal. A livestock trucker may be exempted from this requirement if the designated animal's farm of origin is identified when delivered to a livestock market, stockyard, or slaughtering establishment which agrees to accept responsibility for tagging the designated animal.

2. *a.* A person required to identify a designated animal in accordance with this section shall file a report of the identification on forms and as specified by the department, including the following for bovine animals:

(1) The back-tag number and date of application.

(2) The name, address, and county of residence of the person who owned or controlled the herd from which the bovine animal originated.

(3) The type of bovine animal. If the bovine animal is cattle, the person shall identify whether the animal was a beef or dairy type.

b. Each report shall cover all bovine animals identified during the preceding week.

3. A person shall not remove a tag affixed to a designated animal, unless the person is authorized by the department, and removes the tag according to instructions and policies established by the department. The removal of a tag by a person who is unauthorized by the department shall be a violation of this section and subject to the penalties provided in section 164.31.

[C71, 73, 75, 77, 79, 81, §164.30]

97 Acts, ch 124, §24; 2009 Acts, ch 41, §263

164.31 Penalty.

A person guilty of violating a provision of this chapter is guilty of a simple misdemeanor.

[C66, §164.30; C71, 73, 75, 77, 79, 81, §164.31]

97 Acts, ch 124, §25

Referred to in §164.30

CHAPTER 165

ERADICATION OF BOVINE TUBERCULOSIS

Referred to in §159.5, 159.6

Definitions applicable to chapter; see §159.1

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165.1A	Definitions.	165.16	Equipment for inspector.
165.2	State as accredited area.	165.17	Compensation.
165.3	Appraisal.	165.18	Brucellosis and tuberculosis eradication fund.
165.4	Presence of tuberculosis.		
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165.6	Amount of indemnity.	165.26	Permitting test.
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165.10	Examination by department.	165.30	and 165.31 Reserved.
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165.12	Tuberculosis-free herds.	165.33	Penalty.
165.13	Tuberculin.	165.34	Reserved.
165.14	Inspectors and assistants.	165.35	Township animal board of health.
		165.36	Importation of cattle.

165.1 Cooperation.

The department is authorized to cooperate with the United States department of agriculture for the purpose of eradicating tuberculosis from the dairy and beef breeds of cattle in the state.

[C24, 27, 31, 35, 39, §**2665;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.1]

2012 Acts, ch 1095, §26

165.1A Definitions.

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

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

2. *"Certificate of veterinary inspection"* or *"certificate"* means the same as defined in section 163.2.

2004 Acts, ch 1163, §20

165.2 State as accredited area.

1. The state of Iowa is declared to be and is established as an accredited area for the eradication of bovine tuberculosis from the dairy and breeding cattle of the state. It shall be the duty of the department to eradicate bovine tuberculosis in all of the counties of the state in the manner provided by law as it appears in this chapter. The department shall proceed with the examination, including the tuberculin test, of all such cattle as rapidly as practicable and as is consistent with efficient work, and as funds are available for paying the indemnities as provided by law.

2. An owner of dairy or breeding cattle in the state shall conform to and abide by the rules adopted by the department and rules promulgated by the United States department of agriculture. The owner shall follow instructions of the department of agriculture and land stewardship and the United States department of agriculture designed to suppress the disease, prevent its spread, and avoid reinfection of the herd.

[C24, 27, 31, 35, 39, §**2666;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.2]

86 Acts, ch 1245, §616; 2012 Acts, ch 1095, §27

165.3 Appraisal.

Before being tested, such animals shall be appraised at their cash value for breeding, dairy, or beef purposes by the owner and a representative of the department, or a representative of the United States department of agriculture, or by the owner and both of such representatives. If these parties cannot agree as to the amount of the appraisal, there shall be appointed three

competent and disinterested persons, one by the department, one by the owner, and the third by the first two appointed, to appraise such animals, which appraisal shall be final. Every appraisal shall be under oath or affirmation and the expense of the same shall be paid by the state, except as provided in this chapter.

[C24, 27, 31, 35, 39, §**2668;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.3]

2012 Acts, ch 1095, §28

165.4 Presence of tuberculosis.

If, after such examination, tubercular animals are found, the department shall have authority to order such disposition of them as it considers most desirable and economical. If the department deems that a due regard for the public health warrants it, it may enter into a written agreement with the owner, subject to such conditions as it may prescribe, for the separation and quarantine of such diseased animals. Subject to such conditions, the diseased animals may continue to be used for breeding purposes.

[C24, 27, 31, 35, 39, §**2669;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.4]

Referred to in §165.5

165.5 Nonright to receive compensation.

Any animal retained, under section 165.4, by the owner for ninety days after it has been adjudged infected with tuberculosis shall not be made the basis of any claim for compensation against the state.

[C24, 27, 31, 35, 39, §**2670;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.5]

165.6 Amount of indemnity.

When breeding animals are slaughtered following any test, there shall be deducted from their appraised value the proceeds from the sale of salvage. The owner shall be paid by the state one-third of the sum remaining after the above deduction is made, but the state shall in no case pay to such owner a sum in excess of seventy-five dollars for any registered purebred animal or fifty dollars for any grade animal.

[C24, 27, 31, 35, 39, §**2671;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.6]

165.7 Pedigree.

The pedigree of purebred cattle shall be proved by certificate of registry from the herdbooks where registered.

[C24, 27, 31, 35, 39, §**2672;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.7]

165.8 Right to receive pay.

No compensation shall be paid to any person for an animal condemned for tuberculosis unless said animal, if produced in, or imported into, the state has been owned by such owner for at least six months prior to condemnation or was raised by such person.

[C24, 27, 31, 35, 39, §**2673;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.8]

165.9 Preference in examinations.

The department in making examinations of cattle shall give priority to applications by owners for the testing of dairy cattle from which are sold, or are offered for sale, in cities milk or milk products in liquid or condensed form.

[C24, 27, 31, 35, 39, §**2674;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.9]

165.10 Examination by department.

The department may at any time, on its own motion, make an examination of any herd, and in case animals are destroyed, the appraisement and payment shall be made as provided in this chapter.

[C24, 27, 31, 35, 39, §**2675;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.10]

165.11 Records public.

All records pertaining to animals infected with tuberculosis shall be open for public inspection and the department shall furnish such information relative thereto as may be requested.

[C24, 27, 31, 35, 39, §**2676;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.11]

165.12 Tuberculosis-free herds.

The department shall establish rules for determining when a herd of cattle, tested and maintained under the provisions of this chapter, the laws of the United States, and the rules of the department and regulations of the United States department of agriculture, shall be considered as tuberculosis-free. When any herd meets such requirements, the owner shall be entitled to a certificate from the department of agriculture and land stewardship showing that the herd is a tuberculosis-free accredited herd. Such certificate shall be revoked whenever the herd no longer meets the necessary requirements for an accredited herd, but the herd may be reinstated as an accredited herd upon subsequent compliance with such requirements.

[C24, 27, 31, 35, 39, §**2677;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.12]

2012 Acts, ch 1095, §29

165.13 Tuberculin.

The department shall have control of the sale, distribution, and use of all tuberculin in the state, and shall formulate rules for its distribution and use. Only a licensed veterinarian shall apply a tuberculin test to cattle within this state.

[C24, 27, 31, 35, 39, §**2678;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.13]

165.14 Inspectors and assistants.

The department may appoint one or more accredited veterinarians as inspectors for each county and one or more persons as assistants to such inspectors. Such inspectors, with the assistance of such person or persons, shall test the breeding cattle subject to test, as provided in this chapter, and shall be subject to the direction of the department in making such tests.

[C24, 27, 31, 35, 39, §**2679;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.14]

165.15 Accredited veterinarian.

An accredited veterinarian is one who has successfully passed an examination set by the department and the United States department of agriculture and may make tuberculin tests of accredited herds of cattle under the uniform methods and rules governing accredited herd work which are approved by the United States department of agriculture.

[C24, 27, 31, 35, 39, §**2680;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.15]

86 Acts, ch 1245, §617; 2012 Acts, ch 1095, §30

165.16 Equipment for inspector.

The department may furnish each inspector with the necessary tuberculin and other material, not including instruments and utensils, necessary to make the tests provided for in this chapter.

[C24, 27, 31, 35, 39, §**2681;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.16]

165.17 Compensation.

An inspector shall receive compensation for such testing as determined by the department.

[C24, 27, 31, 35, 39, §**2682;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.17]

See §70A.9 et seq.

165.18 Brucellosis and tuberculosis eradication fund.

1. A brucellosis and tuberculosis eradication fund is created in the office of the secretary of agriculture, to be used together with state and federal funds available to pay:

a. The indemnity and other expenses provided in this chapter.

b. The indemnity as set out in section 164.21 and other expenses provided in chapter 164.

c. The expenses of the inspection and testing program provided in chapter 163A, but only

to the extent that the moneys in the fund are not required for expenses incurred under chapter 164 or this chapter.

d. Indemnities as provided in section 159.5, subsection 11, but only to the extent that the moneys in the fund are not required to pay expenses under chapter 163A, chapter 164, or this chapter.

2. If it appears to the secretary of agriculture that the balance in the fund on January 20 is insufficient to carry on the work in the state for the following fiscal year, the secretary shall notify the board of supervisors of each county to levy an amount sufficient to pay the expenses estimated to be incurred under subsection 1 for the following fiscal year, subject to a maximum levy of thirty-three and three-fourths cents per thousand dollars of assessed value of all taxable property in the county.

3. Not later than December 15 or June 15 of a year in which the tax is collected, the county treasurer shall transmit the amount of the tax levied and collected to the treasurer of state, who shall credit it to the brucellosis and tuberculosis eradication fund.

83 Acts, ch 123, §74, 209; 84 Acts, ch 1178, §1; 2007 Acts, ch 22, §44
Referred to in §159.5, 163.10, 164.21, 331.512, 331.559

165.19 through 165.25 Reserved.

165.26 Permitting test.

Every owner of dairy or breeding cattle in the state shall permit the owner's cattle to be tested for tuberculosis as provided in this chapter, and shall confine the cattle in a proper place so that the examination and test can be applied. If the owner refuses to so confine the cattle the department may employ sufficient help to properly confine them and the expense of such help shall be paid by the owner or deducted from the indemnity if any is paid. Such owner shall comply with all the requirements for the establishment and maintenance of a tuberculosis-free accredited herd.

[C24, 27, 31, 35, 39, §**2699;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.26]

165.27 Penalty.

Any owner of dairy or breeding cattle in the state who prevents, hinders, obstructs, or refuses to allow a veterinarian authorized by the department to conduct such tests for tuberculosis on the owner's cattle, shall be deemed guilty of a simple misdemeanor.

[S13, §2538-s; C24, 27, 31, 35, 39, §**2700;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.27]
Referred to in §165.29

165.28 Preventing test.

1. The cattle owned by any owner who violates the provisions of this chapter, or which have reacted to the tuberculin test, shall be quarantined by the department until the law is complied with. When such quarantine is established no beef or dairy products shall be sold from cattle under quarantine until the test has been applied or the quarantine released.

2. The accredited veterinarians appointed under this chapter shall enforce this quarantine and all of the rules of the department of agriculture and land stewardship of the state of Iowa and of the provisions of this chapter, and in so doing may call to their assistance any peace officer of the state.

[C24, 27, 31, 35, 39, §**2701;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.28]
2021 Acts, ch 76, §150
Code editor directive applied

165.29 Notice.

Before any action is commenced under section 165.27, upon request of the secretary of agriculture, the board of supervisors of any county shall cause such owner to be served with a written notice of the provisions of this chapter, at least fifteen days before the commencement of the action.

[C24, 27, 31, 35, 39, §**2702;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.29]

165.30 and 165.31 Reserved.

165.32 Retest.

The secretary of agriculture may order a retest of any dairy or breeding cattle at any time when, in the secretary's opinion, it is necessary to do so, and shall, once in three years, order the tuberculin testing of any cattle to conform to and comply with the regulations of the federal bureau of animal industry in any county where the percentage of bovine tuberculosis has been reduced to one-half of one percent or less, subject to the provisions of this chapter with reference to the disposition or slaughtering of animals found to be reactors when given a tuberculin test. Such county shall be a modified accredited county, and it shall be unlawful for any person to transport any dairy or breeding cattle into such county unless they have been examined for tuberculosis as provided in this chapter.

[C27, 31, 35, §2704-b1; C39, §**2704.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.32]

Referred to in §165.33

165.33 Penalty.

Any person found guilty of violating the provisions of section 165.32 shall be deemed guilty of a simple misdemeanor.

[C31, 35, §2704-c1; C39, §**2704.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.33]

165.34 Reserved.

165.35 Township animal board of health.

The township trustees in such county are hereby constituted the animal board of health in their respective townships and they shall by April 1 of each year and at such other times as they shall deem advisable, make a survey and report to the department all breeding cattle brought into their respective townships from outside of the county.

[C27, 31, 35, §2704-b3; C39, §**2704.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.35]

165.36 Importation of cattle.

No dairy or breeding cattle shall be shipped, driven on foot, or transported, into the state of Iowa, except upon one of the following conditions:

1. That such cattle come from a herd which has been officially accredited as a tuberculosis-free accredited herd by the state from which such cattle come or by the department of agriculture of the United States; or

2. That such cattle come from an area officially declared as a modified accredited area by such state or the department of agriculture of the United States, and the herd from which they originate, if previously infected, has passed two tests free from tuberculosis; or

3. That such cattle are brought into this state under quarantine to be tuberculin tested for tuberculosis and fully examined in not less than sixty days nor more than ninety days. The test must be applied by a veterinarian accredited by the department and at the expense of the owner. Such cattle brought in under quarantine shall be accompanied by a certificate of veterinary inspection issued by a veterinarian accredited by the state from which the cattle are imported or by the animal and plant health inspection service of the United States department of agriculture showing them to be free from tuberculosis. The department of agriculture and land stewardship shall not release its quarantine until an examination has been made and the department determines that such cattle are not afflicted with tuberculosis.

[C31, 35, §2704-c2; C39, §**2704.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §165.36]

2004 Acts, ch 1163, §21

Additional provision, §163.11

CHAPTER 165A

JOHNE'S DISEASE CONTROL

Referred to in §172E.3

165A.1 Definitions.
165A.2 Administration and enforcement.
165A.3 Determination of infection.
165A.4 Infected cattle.
165A.5 Enforcement — penalty.

165A.1 Definitions.

1. *"Concentration point"* means a location or facility where cattle are assembled for purposes of sale or resale for feeding, breeding, or slaughtering, and where contact may occur between groups of cattle from various sources. *"Concentration point"* includes a public stockyard, auction market, street market, state or federal market, untested consignment sales location, buying station, or a livestock dealer's yard, truck, or facility.

2. *"Department"* means the department of agriculture and land stewardship.

3. *"Infected"* means infected with Johne's disease as provided in section 165A.3.

4. *"Johne's disease"* means a disease caused by the bacterium mycobacterium paratuberculosis, and which is also referred to as paratuberculosis disease.

5. *"Separate and apart"* means to hold cattle so that neither the cattle nor organic material originating from the cattle has physical contact with other animals.

6. *"Slaughtering establishment"* means a slaughtering establishment operated under the provision of the federal Meat Inspection Act, 21 U.S.C. §601 et seq., or a slaughtering establishment that has been inspected by the state.

2001 Acts, ch 101, §1; 2012 Acts, ch 1095, §46, 47

165A.2 Administration and enforcement.

The provisions of this chapter, including departmental rules adopted pursuant to this chapter, shall be administered and enforced by the department. The department may assess and collect civil penalties against persons in violation of this chapter as provided in section 165A.5. The attorney general may assist the department in the enforcement of this chapter.

2001 Acts, ch 101, §2

165A.3 Determination of infection.

The department shall adopt rules providing methods and procedures to determine whether cattle are infected, which may include detection and analysis of Johne's disease using techniques approved by the United States department of agriculture.

2001 Acts, ch 101, §3; 2012 Acts, ch 1095, §48

Referred to in §165A.1

165A.4 Infected cattle.

Cattle infected with Johne's disease shall be accompanied by an owner-shipper statement. A person shall not sell infected cattle other than directly to a slaughtering establishment, or to a concentration point for sale directly to a slaughtering establishment, for immediate slaughter. Cattle infected with Johne's disease that are kept at a concentration point shall be kept separate and apart.

2001 Acts, ch 101, §4; 2002 Acts, ch 1119, §23; 2012 Acts, ch 1095, §49

165A.5 Enforcement — penalty.

1. A person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. The proceeding to assess a civil penalty shall be conducted as a contested case proceeding under chapter 17A.

2. In addition to any other remedies provided, the department may file a petition in the district court seeking an injunction restraining any person from violating provisions of this chapter including a rule adopted pursuant to this chapter.

3. This section does not prevent a person from commencing a civil cause of action based on any right that the person may assert under statute or common law.

2001 Acts, ch 101, §5; 2001 Acts, ch 176, §62

Referred to in §165A.2, 172E.3

CHAPTER 165B

CONTROL OF PATHOGENIC VIRUSES IN POULTRY

Referred to in §163.2

165B.1 Definitions.
165B.2 Administration and enforcement.
165B.3 Determination of infection.
165B.4 Infected and exposed poultry — civil penalty — injunctive relief.
165B.5 Restricted concentration points — civil penalties.

165B.1 Definitions.

1. *"Concentration point"* means a location or facility where poultry originating from the same or different sources are assembled for any purpose. However, a concentration point does not include an animal feeding operation as defined in section 459.102 if the poultry are provided care and feeding for purposes of egg production or slaughter.

2. *"Department"* means the department of agriculture and land stewardship.

3. *"Law enforcement officer"* means a state patrol officer or a regularly employed member of a police force of a city or county, including but not limited to a sheriff's office, who is responsible for the prevention and detection of a crime and the enforcement of the criminal laws of this state.

4. *"Manure"* means the same as defined in section 459.102.

5. *"Pathogenic virus"* means any of the following:

a. A recognized serotype of the virus avian paramyxovirus which is classified as a velogenic or mesogenic strain of that virus and which may be transmitted to poultry.

b. A recognized serotype of the virus commonly referred to as avian influenza which may be transmitted to poultry.

6. *"Poultry"* means domesticated fowl which are chickens, ducks, or turkeys.

7. *"Separate and apart"* means to hold poultry so that neither the poultry nor organic material originating from the poultry has physical contact with other animals.

8. *"Slaughtering establishment"* means a slaughtering establishment operated under the provisions of the federal Meat Inspection Act, 21 U.S.C. §601 et seq., or a slaughtering establishment that has been inspected by the state.

2004 Acts, ch 1089, §2; 2005 Acts, ch 35, §31

165B.2 Administration and enforcement.

1. *a.* The provisions of this chapter, including departmental rules adopted pursuant to this chapter, shall be administered and enforced by the department. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed. The department may impose, assess, and collect the civil penalties. The attorney general or county attorney may bring a judicial action or prosecution necessary to enforce the provisions of this chapter.

b. The department shall retain moneys from civil penalties that it collects under this chapter. The moneys are appropriated to the department for the administration and enforcement of this chapter. Notwithstanding section 8.33, such moneys shall not revert, but shall be retained by the department for the purposes described in this paragraph. The department shall submit a report to the chairpersons of the joint appropriations subcommittee on agriculture and natural resources by January 5 of each year. The report shall state, at a minimum, the total amount of moneys collected during the past calendar year and describe how these moneys were expended.

2. The provisions of this chapter do not limit the authority of the department, another state agency, or a political subdivision to regulate or bring an enforcement action against a person based on another provision of law, including but not limited to provisions in chapter 163, 717B, or 717D.

2004 Acts, ch 1089, §3

165B.3 Determination of infection.

The department may adopt rules if necessary to provide methods and procedures to determine whether poultry are infected with a pathogenic virus, which may include detection and analysis of the disease using techniques approved by the United States department of agriculture.

2004 Acts, ch 1089, §4

165B.4 Infected and exposed poultry — civil penalty — injunctive relief.

1. A person who is the owner or custodian of poultry infected with or exposed to a pathogenic virus shall keep the poultry separate and apart, and shall dispose of infected or exposed poultry in accordance with requirements of the department. The person shall ensure the premises where such poultry are kept are sanitized as required by the department. The person shall dispose of the poultry carcasses, eggs, or manure as provided by the department.

2. A person who violates this section is subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars, as determined by the department. In the case of a continuing violation, each day of the continuing violation is a separate violation. However, a person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars.

3. The department may seek injunctive relief as provided in section 163.62.

2004 Acts, ch 1089, §5

165B.5 Restricted concentration points — civil penalties.

1. A person shall not operate a restricted concentration point. A restricted concentration point includes, but is not limited to, all of the following:

a. A concentration point where poultry are sold, bartered, or offered for sale or barter, if the concentration point is part of a market where poultry are sold, bartered, or offered for sale or barter to the general public.

b. A concentration point where poultry are placed together as part of a contest, including but not limited to an event conducted for purposes of producing violent contact between the poultry.

2. Subsection 1 does not apply to any of the following:

a. A slaughtering establishment, public stockyard, livestock auction market, state or federal market, livestock buying station, or a livestock dealer's yard, truck, or facility.

b. A fair conducted pursuant to chapter 173 or 174.

c. An event sanctioned by the department.

d. A 4-H function.

e. An event sponsored or sanctioned by the Iowa turkey marketing council, the Iowa turkey federation, the national turkey federation, the Iowa poultry association, the Iowa egg council, the American egg board, or the American poultry association.

3. *a.* A person who owns or operates a restricted concentration point is subject to a civil penalty of five thousand dollars for the first violation and twenty-five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

b. A person who has a legal interest in infected poultry or has custody of infected poultry which are located at a restricted concentration point is subject to a civil penalty of five thousand dollars for the first violation and twenty-five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

c. A person who transports poultry to or from a restricted concentration point is subject to a civil penalty of one thousand dollars for the first violation and five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

d. A person who purchases, offers to purchase, barters, or offers to barter for poultry at a

restricted concentration point is subject to a civil penalty of one hundred dollars for the first violation and one thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

e. A person who charges admission for entry into a restricted concentration point where a contest occurs or otherwise holds, advertises, or conducts the contest is subject to a civil penalty of one thousand dollars for the first violation and five thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

f. A person who attends or participates in a contest at a restricted concentration point where a contest occurs is subject to a civil penalty of one hundred dollars for the first violation and one thousand dollars for each subsequent violation. Each day that a violation continues constitutes a separate violation.

4. This subsection applies to poultry maintained at a restricted concentration point, or poultry transported to or from a restricted concentration point.

a. The department or a law enforcement officer may confiscate poultry before a contested case proceeding or judicial hearing is conducted to determine whether this section has been violated. If the department or a court determines that a violation of this section has occurred, the poultry are conclusively deemed to be infected with a pathogenic virus. The poultry shall be kept separate and apart until destroyed by euthanasia as defined in section 162.2.

b. The department shall provide that real or personal property that is exposed to the poultry shall be sanitized as required to eliminate the source of the pathogenic virus. As part of the sanitation, the department shall provide for the disposal of poultry carcasses, eggs, or manure. Upon inspection, the department shall certify that the sanitization has been performed as required by this paragraph.

c. The department may utilize the procedures provided in section 17A.18A in order to enforce the provisions of this section. The attorney general or county attorney may petition the district court for an expedited hearing.

d. The department shall be reimbursed by the owner of the poultry or property for costs required to carry out this subsection. However, if the enforcement action is brought due to the activity of a law enforcement officer of a political subdivision, the political subdivision shall be reimbursed by the owner of the poultry or property for those costs. The department or political subdivision shall certify the amount to the county auditor of any county in which the owner is a titleholder of real property. The amount shall be placed upon the tax books and shall be a lien upon the real property, and collected with interest and penalties after due, in the same manner as other unpaid property taxes.

2004 Acts, ch 1089, §6; 2004 Acts, ch 1175, §329; 2005 Acts, ch 3, §41

CHAPTER 166

CLASSICAL SWINE FEVER VIRUS AND SERUM

Referred to in §159.6

166.1 Definitions.
166.2 Rules.
166.3 Permit to manufacture or sell.
166.4 Application for permit.
166.5 Manufacturer's permit.
166.6 Dealer's permit.
166.7 Liability on bond.
166.8 New or additional bond.
166.9 Liability of manufacturer.
166.10 Fees.
166.11 Inspection of premises.
166.12 Manufacturer's or dealer's permit.
166.13 Revocation of permit.
166.14 Revocation by department.
166.15 Prohibited sales.
166.16 Sales — limitation.
166.17 through 166.28 Reserved.
166.29 Reports by manufacturers and dealers.
166.30 through 166.33 Reserved.
166.34 Seizure of samples.
166.35 Condemnation and destruction.
166.36 Defacing labels.
166.37 Price of virus.
166.38 Compensation.
166.39 Violations.
166.40 Reserved.
166.41 Classical swine fever vaccine prohibited — emergency.
166.42 Biological products reserve — use.

166.1 Definitions.

When used in this chapter:

1. *"Biological products"* shall include and be deemed to embrace only anti-classical swine fever serum and viruses which are either virulent or nonvirulent, alive or dead.

2. *"Dealer"* includes every person who, for profit, sells, dispenses, or distributes, or offers to do so, either as principal or agent, biological products, except:

a. A manufacturer selling direct to any person licensed under this chapter to sell, dispense, or distribute such biological products.

b. A regularly licensed veterinarian who uses such biological products in the veterinarian's professional practice and does not use it for sale or distribution to any other person.

3. *"Department"* means the department of agriculture and land stewardship.

4. *"Manufacturer"* includes every person engaged in the preparation, at any stage of the process, of biological products, except those engaged in such preparation in any state or governmental institution.

5. *"Place of business"* is construed to mean each place or premises where biological products are sold, or where biological products are stored or kept for the purpose of sale, dispensation or distribution, or where biological products are offered for sale, dispensation or distribution.

6. *"Secretary"* means the secretary of agriculture.

[SS15, §2538-w12; C24, 27, 31, 35, 39, §**2705;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.1]

2005 Acts, ch 19, §34; 2012 Acts, ch 1095, §36; 2017 Acts, ch 159, §23

Further definitions; see §159.1

166.2 Rules.

The department shall have power to make such rules governing the manufacture, sale, and distribution of biological products as it deems necessary to maintain their potency and purity.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2706;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.2]

166.3 Permit to manufacture or sell.

Every person, before engaging as a manufacturer of, or dealer in, biological products shall obtain from the department a permit for that purpose and shall be required to have a separate

permit for each place of business. A pharmacy licensed under chapter 155A shall not be required to obtain a dealer's permit to deal in biological products.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2707;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.3]

87 Acts, ch 215, §42

166.4 Application for permit.

Every application for such a permit shall be made on a form provided by the department, which form shall call for such information as the department shall deem necessary, including the name and place of business of the applicant.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2708;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.4]

166.5 Manufacturer's permit.

An application for a permit to manufacture biological products shall be accompanied by evidence satisfactory to the department that the applicant is the holder of a valid, unrevoked, United States department of agriculture license for the manufacture and sale of such biological products.

[C24, 27, 31, 35, 39, §**2709;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.5]

166.6 Dealer's permit.

An application for a permit to deal in biological products shall be accompanied by a separate bond for each place of business, with sureties to be approved by the department, in the sum of five thousand dollars for each place of business, which bond shall be conditioned:

1. To faithfully comply with all laws governing the warehousing, sale, and distribution of biological products, and with all the rules of the department relating to such biological products.
2. To indemnify any person who uses any such biological products sold by the principal and is damaged by the negligence of the principal, or any of the principal's agents, in the warehousing, handling, sale, or distribution of such biological products.
3. To pay to the state all penalties which may be adjudged against the principal.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2710;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.6]

99 Acts, ch 114, §10

166.7 Liability on bond.

The principal on such bond shall be liable to every person for any damage caused by the negligence of the principal or of the principal's agents, notwithstanding the execution of the bond.

[C24, 27, 31, 35, 39, §**2711;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.7]

166.8 New or additional bond.

When judgment is rendered on such bond, the principal shall immediately execute and file with the department a new or additional bond, conditioned as the original bond, and in an amount to be fixed by the department, which will furnish the same amount of security that was furnished before the original bond was impaired.

[C24, 27, 31, 35, 39, §**2712;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.8]

166.9 Liability of manufacturer.

A manufacturer shall be liable to an injured person for all damages which occur:

1. By reason of the negligence of the manufacturer or the manufacturer's employees in the manufacture, warehousing, handling, or distribution of biological products.
2. By reason of the failure of the manufacturer, or the manufacturer's employees, to discharge any duty imposed by law, or by the rules of the department.

[C24, 27, 31, 35, 39, §**2713;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.9]

166.10 Fees.

Fees for permits shall be paid by the manufacturer or dealer to the department when the application for such permit is made and shall be:

1. In case of a manufacturer, twenty-five dollars for each plant at which it is proposed to manufacture biological products.
2. In case of a dealer, five dollars for each place of business, warehouse or distributing agency of the dealer.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2714;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.10]

166.11 Inspection of premises.

The premises upon which the business authorized by such permit is carried on shall be subject at all times to inspection by the department. Before issuing an original permit, the department may cause the proposed premises to be inspected, and shall make such requirements regarding the physical conditions and sanitation of said premises as it may deem necessary to secure and maintain the potency and purity of the biological products. If such requirements are not complied with and maintained, the permit shall be refused or revoked as the case may be.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2715;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.11]

166.12 Manufacturer's or dealer's permit.

Every permit issued to a manufacturer or dealer shall expire on the first day of July following the date of issuance. A renewal of the same shall be subject to all the conditions, including fees, that are required in the case of an original permit.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2716;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.12]

166.13 Revocation of permit.

Such a permit shall be automatically revoked:

1. In case of a dealer, by the dealer's failure to execute and file with the department a new and approved bond when required by law, or by the dealer's failure to obtain a separate permit and to file a separate bond in the amount of five thousand dollars for each place of business.
2. In case of a manufacturer, by the manufacturer's ceasing to be the holder of a United States department of agriculture license for the manufacture and sale of biological products.
3. In case of either a manufacturer or dealer, for discrimination in the price at which such biological products are sold, and such permit shall not in such case be renewed for one year.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2717;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.13]

166.14 Revocation by department.

Such a permit may also be revoked by the department at any time after a reasonable notice and hearing:

1. For violation of the terms, conditions, and requirements on which it was issued.
2. For violation of any law, or of any rule of the department, relating to the business authorized by such permit.
3. In case of a dealer's permit, when a judgment has been rendered on the bond, or when the security of such bond has become impaired in any other way and no new bond is given as required by the department.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2718;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.14]

166.15 Prohibited sales.

No biological products shall be sold, offered for sale, distributed, or used, unless produced at a plant which, at the time of producing, held a United States department of agriculture license for the manufacture of such biological products.

[SS15, §2538-w3; C24, 27, 31, 35, 39, §**2719;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.15]

166.16 Sales — limitation.

A person shall not sell, distribute, use, or offer to sell, distribute, or use virulent blood or virus from classical-swine-fever-infected swine except for one or more of the following purposes:

1. For the purpose of interstate or foreign shipment of such blood or virus.
2. For the purpose of research at any biological laboratory or by any manufacturer of biological products.
3. For the purpose of testing biological products by any governmental authority or by any manufacturer of biological products.
4. For the purpose of manufacturing any biological products or for the purpose of producing immune swine to be used in the production of anti-classical swine fever serum.

[SS15, §2538-w5; C24, 27, 31, 35, 39, §**2720;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.16]

2012 Acts, ch 1095, §37, 38

Referred to in §166.41

166.17 through 166.28 Reserved.

166.29 Reports by manufacturers and dealers.

A person holding a permit as manufacturer or dealer shall make such written reports to the department relative to biological products as it may from time to time require.

[SS15, §2538-w5; C24, 27, 31, 35, 39, §**2733;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.29]

166.30 through 166.33 Reserved.

166.34 Seizure of samples.

The department may seize, at any time or place, for examination, samples of biological products manufactured or kept for use or sale within the state.

[S13, §2538-w6; C24, 27, 31, 35, 39, §**2738;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.34]

166.35 Condemnation and destruction.

The department shall have power to condemn and destroy any biological products which it deems unsafe.

[S13, §2538-w6; C24, 27, 31, 35, 39, §**2739;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.35]

166.36 Defacing labels.

No person shall remove or deface any label upon the bottles or packages containing any biological products or change the contents from the original container except for immediate use.

[SS15, §2538-w8; C24, 27, 31, 35, 39, §**2740;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.36]

166.37 Price of virus.

Persons holding permits, either as manufacturers or dealers, shall sell all biological products at a uniform price to all persons to whom sales are made. No rebate on said price shall be given, either directly or indirectly, in any manner whatsoever.

[C24, 27, 31, 35, 39, §**2741;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.37]

166.38 Compensation.

No licensed veterinarian shall receive, directly or indirectly, any compensation of any kind for the handling, sale, or use of any biological products, other than the veterinarian's charges for administering the same, unless the veterinarian makes known in writing the amount of such compensation, if requested to do so by the person using biological products. Any veterinarian violating this section shall be guilty of a simple misdemeanor.

[C24, 27, 31, 35, 39, §**2742;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.38]

Revocation of license, §169.13

166.39 Violations.

Any person who violates any provision of this chapter, or any rule of the department, or who shall hinder or attempt to hinder the department or any duly authorized agent or official thereof in the discharge of that person's duty, shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars.

[S13, §2538-w7; C24, 27, 31, 35, 39, §**2743;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §166.39]

166.40 Reserved.

166.41 Classical swine fever vaccine prohibited — emergency.

The sale or use of classical swine fever vaccine, except as provided in section 166.16, is prohibited and a person shall not use such a product in this state. However, in the case of an emergency as defined in section 166.42, a special permit for the use of vaccines may be issued by the secretary.

[C66, 71, 73, 75, 77, 79, 81, §166.41]

2012 Acts, ch 1095, §39

166.42 Biological products reserve — use.

1. The secretary may establish a reserve supply of biological products of approved modified live virus classical swine fever vaccine and of anti-classical swine fever serum or its equivalent in antibody concentrate to be used as directed by the secretary in the event of an emergency resulting from a classical swine fever outbreak. Vaccine and serum or antibody concentrate from the reserve supply, if used for such an emergency, shall be made available to swine producers at a price which will not result in a profit. Payment shall be made by the producer to the department and such vaccine shall be administered by a licensed practicing veterinarian. The secretary may cooperate with other states in the accumulation, maintenance and disbursement of such reserve supply of biological products. The secretary, with the advice and written consent of the state veterinarian, and the advice and written consent of the veterinarian-in-charge for Iowa of the animal and plant health inspection service — veterinary services, United States department of agriculture, shall determine when an emergency resulting from a classical swine fever outbreak exists.

2. The secretary is authorized to sell or otherwise dispose of classical swine fever vaccine or serum if the potency of such vaccine or serum is in doubt. Moneys received under provisions of this section shall be paid into the state treasury.

[C71, 73, 75, 77, 79, 81, §166.42]

99 Acts, ch 96, §17; 2000 Acts, ch 1058, §21; 2012 Acts, ch 1095, §40; 2017 Acts, ch 159, §24; 2019 Acts, ch 24, §104

Referred to in §166.41

CHAPTER 166A

SCABIES CONTROL IN SHEEP

166A.1 Definitions.
166A.2 Sheep dealer's license.
166A.3 Injunction.
166A.4 Treatment.
166A.5 Certificate. Repealed by 2012 Acts, ch 1095, §57.
166A.6 Records kept.
166A.7 Slaughter without treatment.
166A.8 Quarantine of infected sheep.
166A.9 Scabies-free areas.
166A.10 Restraint of movement.
166A.11 Sheep entering state.
166A.12 Shearers' reports.
166A.13 Rules.
166A.14 Penalty.

166A.1 Definitions.

1. *"Accredited veterinarian"* means a veterinarian who is licensed by the state in which the veterinarian practices, is approved by the department of agriculture and land stewardship or the livestock sanitary authority of that state, and is accredited by the United States department of agriculture.

2. *"Approved stockyard or livestock market"* means any place where sheep are assembled for public auction, private sale, or on a commission basis which is under state or federal supervision.

3. *"Area"* means one or more counties or portions thereof.

4. *"Certificate of veterinary inspection"* or *"certificate"* means the same as defined in section 163.2.

5. *"Certified scabies-free area"* means an area in which all sheep have been inspected by a representative of the Iowa department of agriculture and land stewardship or of the animal disease eradication division of the United States department of agriculture and are found to be free of any evidence of scabies and such fact is certified to by both agencies.

6. *"Dealer"* means any person who is engaged in the business of buying for resale, selling, or exchanging sheep as a principal or agent or who claims to be so engaged but does not include employees of a dealer doing business in the name of such dealer or the owner or operator of a farm who exchanges only sheep which have been kept by that person solely for feeding or breeding purposes and does not claim to be so engaged, or as a livestock auction market acting strictly on a consignment basis.

7. *"Department"* means the department of agriculture and land stewardship.

8. *"Division"* means the animal disease eradication division of the agricultural research service of the United States department of agriculture.

9. *"Infected animal"* means an animal of the ovine species which shows clinical evidence of scabies or in which the presence of the scabies mite is demonstrated.

10. *"Scabies"* means a communicable skin disease caused by infestation with mites of the species psoroptes, sarcoptes, chorioptes or psorergates.

11. *"Treatment"* includes but is not limited to administering medication.

[C66, 71, 73, 75, 77, 79, 81, §166A.1]

86 Acts, ch 1245, §618; 2004 Acts, ch 1163, §22; 2012 Acts, ch 1095, §50; 2017 Acts, ch 159, §25

Further definitions; see §159.1

166A.2 Sheep dealer's license.

1. A person shall not act as a dealer unless the person obtains a license issued by the department. The license fee is ten dollars. A license expires on the first day of the second July following date of issue. An initial license shall be numbered and any subsequent or renewed license issued to the dealer shall retain the same number. An application for a license must be prepared on a form furnished by the department.

2. For good and sufficient grounds the department may refuse to grant a license to any applicant. The department may also revoke a license obtained by a dealer for a violation of any provision of this chapter or for the refusal or failure of a dealer to obey the lawful directions of the department.

3. Any person who is licensed as a sheep dealer under chapter 172A shall be exempt from this section.

[C66, 71, 73, 75, 77, 79, 81, §166A.2]

2017 Acts, ch 54, §76; 2017 Acts, ch 159, §26, 56; 2018 Acts, ch 1026, §61

166A.3 Injunction.

Any person engaging in, or claiming to be in, the business of a dealer without obtaining a license may be restrained by injunction, and shall pay all costs made necessary by such procedure.

[C66, 71, 73, 75, 77, 79, 81, §166A.3]

166A.4 Treatment.

All breeding and feeding sheep offered for sale or exchange or otherwise moved or released from any premises, vehicle, or conveyance, shall, within ten days prior to exchange, release, or movement, be treated in an approved manner under the supervision of the department or the animal and plant health inspection service of the United States department of agriculture. When sheep are moved within or from a certified scabies-free area in this state, the sheep must be accompanied by a certificate of veterinary inspection as provided in chapter 163. The treatment shall not be required prior to such movement. Sheep may be moved from a premises to an approved facility for the purpose of treatment under such conditions as may be required by the rules of the department or the regulations of the animal and plant health inspection service of the United States department of agriculture. In addition, sheep are not required to be treated if moved to a livestock auction market until after sale. Sheep are not required to be treated if consigned directly for slaughter.

[C66, 71, 73, 75, 77, 79, 81, §166A.4]

2004 Acts, ch 1163, §23; 2012 Acts, ch 1095, §51

166A.5 Certificate. Repealed by 2012 Acts, ch 1095, §57.

166A.6 Records kept.

Market operators and dealers in sheep shall use satisfactory treatment, approved by the department. Market operators and dealers shall maintain records which show the true origin of the sheep including name and address of the seller or consignor, number, date of receipt, date of treatment, and including all certificates, permits, waybills, and bills of lading for each consignment of sheep consigned to and leaving the market or dealer's premises. All records shall be retained for a period of one year and made available upon demand by a representative of the department.

[C66, 71, 73, 75, 77, 79, 81, §166A.6]

2012 Acts, ch 1095, §52

166A.7 Slaughter without treatment.

Animals may be sold for slaughter without treatment. Sheep when inspected at the market or dealer's premises and found free of scabies or no known exposure thereto, may be sold for slaughter purposes without treatment if consigned directly and immediately on a slaughter affidavit to a slaughtering establishment operating under federal, state or municipal meat inspection service.

[C66, 71, 73, 75, 77, 79, 81, §166A.7]

2012 Acts, ch 1095, §53

166A.8 Quarantine of infected sheep.

1. Sheep found to be infected with or exposed to scabies shall be immediately treated, as directed by and under the supervision of the department, at owner's expense. Such sheep shall remain under quarantine until released by the department, except that sheep infected with or exposed to scabies may be moved, without treatment, directly to a slaughter establishment under federal inspection, under permit from the department. No sheep shall be moved into or within the state of Iowa for any purpose except as provided in this chapter

and the rules of the department, provided sheep may be moved without treatment between properties owned or rented by the owner of the sheep, if not moved from a noncertified scabies-free area to a certified scabies-free area.

2. Any person may sell or exchange sheep on the farm between November 1 and April 1 without treatment if accompanied by a certificate from a licensed veterinarian that the sheep are free from scabies issued within ten days prior to such sale or exchange until such time as the county is declared a scabies-free area.

[C66, 71, 73, 75, 77, 79, 81, §166A.8]

2012 Acts, ch 1095, §54

166A.9 Scabies-free areas.

When all flocks of sheep within a county have been inspected by a representative of the department and are found to be free of scabies, the department may certify the county as a "scabies-free area."

[C66, 71, 73, 75, 77, 79, 81, §166A.9]

166A.10 Restraint of movement.

Sheep from noncertified scabies-free areas within this state shall not enter certified scabies-free areas unless they have been treated in an approved manner under supervision within ten days preceding movement and satisfactory evidence of treatment accompanies the shipment. However, such sheep may be moved into certified scabies-free areas if consigned directly to a stockyard market, auction market, or slaughter establishment, under federal inspection, provided the sheep are accompanied by a certificate of veterinary inspection stating number, description, consignor, and consignee.

[C66, 71, 73, 75, 77, 79, 81, §166A.10]

2004 Acts, ch 1163, §24; 2012 Acts, ch 1095, §55

166A.11 Sheep entering state.

1. Sheep being moved into the state for breeding or feeding purposes shall be accompanied by a certificate of veterinary inspection stating the sheep are any of the following:

a. From a certified scabies-free area.

b. Treated in an approved manner within ten days prior to movement.

2. Livestock markets, dealers, and individuals shall retain all incoming waybills and certificates for a period of one year which shall be made available to the department upon demand.

[C66, 71, 73, 75, 77, 79, 81, §166A.11]

2004 Acts, ch 1163, §25; 2012 Acts, ch 1095, §56

166A.12 Shearers' reports.

All persons engaged in the shearing of sheep shall immediately report any suspicion of or evidence of scabies to the department.

[C66, 71, 73, 75, 77, 79, 81, §166A.12]

166A.13 Rules.

The department is empowered to make and promulgate rules necessary for carrying out the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §166A.13]

166A.14 Penalty.

Any person, firm or partnership or corporation violating the provisions of this chapter shall be guilty of a simple misdemeanor.

[C66, 71, 73, 75, 77, 79, 81, §166A.14]

CHAPTER 166B

ERADICATION OF CLASSICAL SWINE FEVER

166B.1	Definitions.	166B.5	Cooperation with United States.
166B.2	General authority.	166B.6	Rules.
166B.3	Appraisal and indemnification.		
166B.4	Institution of indemnification.	166B.7	Judicial review.

166B.1 Definitions.

As used in this chapter:

1. *"Classical swine fever"* means the contagious, infectious, and communicable disease of swine commonly known as hog cholera.

2. *"Destroy"* means condemn under state authority and slaughter or otherwise kill as a result of or pursuant to such condemnation.

3. *"Exposed"* means all swine in physical contact with a known infected herd or tended by a person having direct contact with an infected herd.

[C66, 71, 73, 75, 77, 79, 81, §166B.1]

86 Acts, ch 1245, §619; 2012 Acts, ch 1095, §41, 42

Further definitions; see §159.1

166B.2 General authority.

The department may destroy or require the destruction of any swine which the state veterinarian knows to be, or suspects is, affected with or exposed to classical swine fever, whenever the department finds such destruction to be necessary to prevent or reduce the danger of the spread of classical swine fever. Disposal of condemned swine shall be under the supervision of a regulatory employee. Salvage of apparently healthy marketable swine is permissible as a minimum provision and may be discontinued in favor of total herd disposition with indemnification as necessary and without such salvage in any case or at any time when it is determined by the department and the United States department of agriculture that the procedure would constitute an undue threat to the eradication program. Before being condemned and ordered to be destroyed, a positive diagnosis of classical swine fever affecting the herd must be confirmed by a state or federal laboratory or personnel approved by the department and the United States department of agriculture.

[C66, 71, 73, 75, 77, 79, 81, §166B.2]

2012 Acts, ch 1095, §43

166B.3 Appraisal and indemnification.

The department shall appraise any swine destroyed or ordered destroyed pursuant to this chapter at not to exceed current market value and shall indemnify the owner of such swine in an amount not to exceed two hundred dollars for purebred, inbred or hybrid or breeding swine; and not to exceed one hundred dollars for all other swine, provided that fifty percent or more of all such indemnities are paid by the United States department of agriculture.

[C66, 71, 73, 75, 77, 79, 81, §166B.3]

166B.4 Institution of indemnification.

It is hereby recognized and declared that indemnification for destruction of swine infected with or exposed to classical swine fever is an expression of the public policy of this state but employed only in the final stages of eradication of the disease, or as a means of preventing or minimizing its recurrence. The department shall not therefore institute an initial program of indemnification pursuant to the chapter until it is mutually agreed between the department and the United States department of agriculture that such action is necessary in order to carry out the classical-swine-fever eradication program.

[C66, 71, 73, 75, 77, 79, 81, §166B.4]

2012 Acts, ch 1095, §44

166B.5 Cooperation with United States.

The department may cooperate with the United States, or any department, agency or officer thereof, in the control and eradication of classical swine fever, including the sharing in payment of indemnities for swine destroyed.

[C66, 71, 73, 75, 77, 79, 81, §166B.5]

2012 Acts, ch 1095, §45

166B.6 Rules.

The department of agriculture and land stewardship may make, promulgate, amend, repeal, and enforce necessary rules for implementing this chapter.

[C66, 71, 73, 75, 77, 79, 81, §166B.6]

166B.7 Judicial review.

Judicial review of department action under this chapter may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county, wherein the hogs are situated.

[C66, 71, 73, 75, 77, 79, 81, §166B.7]

2003 Acts, ch 44, §114

CHAPTER 166C

RESERVED

CHAPTER 166D

PSEUDORABIES CONTROL

Referred to in §163.2, 163.30, 163.61

166D.1 Purpose — rules.
166D.2 Definitions.
166D.3 State pseudorabies advisory committee. Repealed by 2020 Acts, ch 1036, §13, 16.
166D.3A Departmental determination of pseudorabies prevalence.
166D.4 and 166D.5 Repealed by 2000 Acts, ch 1110, §22, 25.
166D.6 Reporting of test results.
166D.7 Noninfected herds.
166D.8 Infected herds.
166D.9 Quarantined herds.
166D.10 Movement of swine.
166D.10A Restricted movement — requirements.
166D.10B Approved premises.
166D.11 Vaccination and testing requirements.
166D.12 Concentration points.
166D.13 Exhibition of swine.
166D.14 Pseudorabies immunization products.
166D.15 Tracing pseudorabies to source or destination herds.
166D.16 Enforcement — penalty — certificates.

166D.1 Purpose — rules.

This chapter provides for measures to control the transmission and incidence, and for the eventual eradication, of pseudorabies among swine within this state. The department shall adopt rules to carry out the provisions of this chapter.

89 Acts, ch 280, §1

Referred to in §166D.10

166D.2 Definitions.

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

1. *"Approved premises"* means a dry lot facility located in an area with confirmed cases

of pseudorabies infection, which is certified by the department to receive, feed, and move or relocate infected swine as provided in section 166D.10B.

2. *"Approved premises permit"* means a permit issued by the department necessary for a person to own and operate an approved premises.

3. *"Breeding swine"* means swine over six months of age.

4. *"Certificate of inspection"* means a document approved by the United States department of agriculture or the department of agriculture and land stewardship, and issued by a licensed veterinarian prior to the interstate or intrastate movement of swine or to the relocation of swine. The certificate of inspection must state all of the following:

a. The number, description, and identification of the swine to be moved.

b. Whether the swine to be moved are known to be infected with or exposed to pseudorabies.

c. The farm of origin.

d. The purpose for moving the swine.

e. The point of destination of the swine.

f. The consignor and each consignee of the swine.

g. Additional information as required by state or federal law.

5. *"Certificate of veterinary inspection"* means the same as defined in section 163.2.

6. *"Cleanup plan"* means a herd cleanup plan or feeder pig cooperator herd cleanup plan as provided in section 166D.8.

7. *"Concentration point"* means a location or facility where swine are assembled for purposes of sale or resale for feeding, breeding, or slaughtering, and where contact may occur between groups of swine from various sources. *"Concentration point"* includes a public stockyard, auction market, street market, state or federal market, untested consignment sales location, buying station, or a livestock dealer's yard, truck, or facility.

8. *"Cull swine"* means mature swine fed for purposes of direct slaughter. However, *"cull swine"* does not include swine kept for purposes of breeding or reproduction.

9. *"Differentiable test"* means a laboratory procedure approved by the department to diagnose pseudorabies. The procedure must be capable of recognizing and distinguishing between vaccine-exposed and field-pseudorabies-virus-exposed swine.

10. *"Differentiable vaccinate"* means a swine which has only been exposed to a differentiable vaccine.

11. *"Differentiable vaccine"* means a vaccine which has a licensed companion differentiable test, and includes a modified-live differentiable vaccine.

12. *"Direct movement"* means movement of swine to a destination without unloading the swine en route, without contact with swine of lesser pseudorabies vaccinate status, and without contact with infected or exposed livestock.

13. *"Epidemiologist"* means a state or federal veterinarian designated to investigate and diagnose suspected pseudorabies in livestock. The epidemiologist must have had special training in the diagnosis and epidemiology of pseudorabies.

14. *"Exhibition"* means the same as defined in section 163.32.

15. *"Exposed"* means an animal that has not been kept separate and apart or isolated from livestock infected with pseudorabies, including all swine in a known infected herd.

16. *"Exposed livestock"* means livestock that have been in contact with livestock infected with pseudorabies, including all livestock in a known infected herd. However, livestock other than swine that have not been exposed to a clinical case of the disease for a period of ten consecutive days shall not be considered exposed livestock. Swine released from quarantine are no longer considered exposed.

17. *"Farm of origin"* means a location where the swine were born, or on which the swine have been located for at least ninety consecutive days immediately prior to movement.

18. *"Feeder pig"* means an immature swine fed for purposes of direct slaughter which weighs one hundred pounds or less.

19. *"Feeder pig cooperator herd"* means a swine herd not currently determined to be pseudorabies negative, that has not experienced clinical signs of pseudorabies in the last six months, that is capable of segregating offspring at weaning into separate and apart production facilities, and has implemented an approved pseudorabies eradication plan.

20. *"Feeder swine"* means swine fed for purposes of direct slaughter, including feeder pigs and cull swine. However, *"feeder swine"* does not include swine kept for purposes of breeding or reproduction.

21. *"Fixed concentration point"* means a concentration point which is a permanent location where swine are assembled for purposes of sale and movement to a slaughtering establishment as provided in section 166D.12.

22. *"Herd"* means a group of swine as established by departmental rule.

23. *"Herd cleanup plan"* means a plan to eliminate pseudorabies from a swine herd. The plan must be developed by an epidemiologist in consultation with the herd owner and the owner's veterinary practitioner. The plan must be approved and signed by the epidemiologist, the owner, and the practitioner. The plan must be approved and filed with the department.

24. *"Herd of unknown status"* means all swine except swine which are part of a known infected herd, swine known to have been exposed to pseudorabies, or swine which are part of a noninfected herd.

25. *"Infected"* means infected with pseudorabies as determined by an epidemiologist whose diagnosis is supported by test results.

26. *"Infected herd"* means a herd that is known to contain infected swine, a herd containing swine exhibiting clinical signs of pseudorabies, or a herd that is infected according to an epidemiologist.

27. *"Inspection service"* means the animal and plant health inspection service, United States department of agriculture.

28. *"Isolation"* means separation of swine within a physical barrier in a manner to prevent swine from gaining access to swine outside the barrier, including excrement or discharges from swine outside the barrier. Swine in isolation must not share a building with a ventilation system common to other swine. Swine in isolation must not be maintained within ten feet of other swine.

29. *"Isowean feeder pig"* means a feeder pig that weighs twenty pounds or less.

30. *"Known infected herd"* means a herd in which swine have been determined by an epidemiologist to be infected.

31. *"Licensed pseudorabies vaccine"* means a pseudorabies virus vaccine produced under license from the United States secretary of agriculture under the federal Virus-Serum-Toxin Act of March 4, 1913, 21 U.S.C. §151 et seq.

32. *"Livestock"* means swine, cattle, sheep, goats, horses, ostriches, rheas, or emus.

33. *"Monitored herd"* means a herd of swine, including a feeder swine herd, which has been determined within the past twelve months not to be infected, according to a statistical sampling.

34. *"Move"* or *"movement"* means the same as defined in section 163.30.

35. *"Noninfected herd"* means a herd which is one of the following:

a. A qualified pseudorabies negative herd.

b. A pseudorabies monitored herd.

c. A herd in which the animals have been individually tested negative within the past thirty days.

d. A herd which originates from an area with little or no incidence of pseudorabies as determined by the department based upon epidemiological studies and information relating to the area.

e. A qualified differentiable negative herd.

36. *"Nonvaccinate"* means a swine which has not been exposed to a pseudorabies vaccine.

37. *"Pseudorabies"* means the contagious, infectious, and communicable disease of livestock and other animals known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

38. *"Pseudorabies eradication plan"* means a written herd management program which is based on accepted statistical and epidemiological evaluation and designed to eradicate pseudorabies from the swine herds in a given area.

39. *"Qualified differentiable negative herd"* means a herd in which one hundred percent of the herd's breeding swine have been vaccinated and have reacted negatively to a differentiable test and which have been retested, as provided in this chapter.

40. *"Qualified negative herd"* means a herd in which one hundred percent of the herd's breeding swine have reacted negatively to a test, and have not been vaccinated, and which is retested as provided in this chapter.

41. *"Quarantined herd"* means a herd in which pseudorabies infected or exposed swine are bred, reared, or fed under the supervision and control of the department, as provided in section 166D.9.

42. *"Reaction"* means a result determined by an approved laboratory procedure designed to recognize pseudorabies virus infection or a nondifferentiable vaccinated animal.

43. *"Relocate"* or *"relocation"* means the same as defined in section 163.30.

44. *"Relocation record"* means a record as maintained by the owner of swine in a form and containing information as required by the rules adopted by the department, which indicates a relocation of swine as provided in section 166D.10.

45. *"Restricted movement"* means swine which are moved or relocated as provided in section 166D.10A.

46. *"Separate and apart"* means to hold swine so that neither the swine nor organic material originating from the swine has physical contact with other animals.

47. *"Slaughtering establishment"* means a slaughtering establishment operated under the provision of the federal Meat Inspection Act, 21 U.S.C. §601 et seq., or a slaughtering establishment which has been inspected by the state.

48. *"Stage II county"* means a county designated by the department as in stage II of the national pseudorabies eradication program.

49. *"Statistical sampling"* means a test based on at least a ninety percent probability of detecting at least a ten percent incidence of positive reaction within a herd.

50. *"Test"* means a serum neutralization (SN) test, virus isolation test, ELISA test, or other test approved by the department and performed by a laboratory approved by the department.

51. *"Transportation certificate"* means a written document evidencing that the movement or relocation of swine complies with the requirements of this chapter, and which may be a transportation certificate as provided in chapter 172B, or another document approved by the department, including but not limited to one or more types of forms covering different circumstances, as prescribed by the department.

89 Acts, ch 280, §2; 90 Acts, ch 1091, §1 – 3; 92 Acts, ch 1163, §42; 95 Acts, ch 43, §5; 97 Acts, ch 183, §2 – 6, 13; 2000 Acts, ch 1110, §1 – 4, 25; 2001 Acts, ch 24, §34; 2004 Acts, ch 1163, §26; 2010 Acts, ch 1061, §37; 2011 Acts, ch 84, §3, 5; 2019 Acts, ch 59, §56

Further definitions, see §159.1

166D.3 State pseudorabies advisory committee. Repealed by 2020 Acts, ch 1036, §13, 16.

166D.3A Departmental determination of pseudorabies prevalence.

The department shall periodically determine the prevalence of pseudorabies in each county in a manner and according to procedures established by rules adopted by the department.

97 Acts, ch 183, §7, 13

166D.4 and 166D.5 Repealed by 2000 Acts, ch 1110, §22, 25.

166D.6 Reporting of test results.

1. All tests under this chapter must be taken by a test administered by a licensed veterinarian. Test samples are to be collected by or under the direction of the department and a licensed veterinarian. If the test is determined by a laboratory located outside the state of Iowa, the person whose animal has been tested shall be responsible for assuring that the result is reported to the department within fourteen days following completion of the test. Swine sampled shall be identified with a numbered metal ear tag. The department shall make the ear tags available. Ear notches or other numbered identification methods approved by the department may be used at the herd owner's expense.

2. Test results shall be reported on forms prescribed by the department signed by the veterinarian and transmitted to the department within fourteen days following completion

of the tests. Copies shall be made available to the attending veterinarian. Upon receipt, the attending veterinarian shall provide copies to the herd owner.

89 Acts, ch 280, §6

166D.7 Noninfected herds.

In administering the pseudorabies eradication program, the department shall regulate noninfected herds as follows:

1. A qualified negative herd must be certified, recertified, and maintained as follows:

a. The herd shall be certified when all breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been moved or relocated directly from another qualified negative herd. To remain certified, the herd must be retested and recertified each month as provided by the department. The herd shall be recertified when the greater of five head of swine or at least ten percent of the herd's breeding swine react negatively to a test.

b. Before being added to the herd, new swine, including swine returning to the herd after contact with nonherd swine, shall be isolated until the new swine react negatively to a test conducted thirty days or more after the swine has been placed in isolation. Swine from a herd of unknown status must react negatively to a test not more than thirty days prior to movement from the herd of unknown status and retested in isolation at least thirty days after movement onto the premises where the qualified negative herd is located.

c. Swine from another qualified negative herd may be added without isolation or testing.

d. The owner shall make a request to the department for approval or reapproval of a qualified negative herd when the required tests are completed. Upon satisfactory proof that all requirements have been met, the herd shall be recertified by the department.

2. A monitored herd shall be initially certified, recertified, and maintained as follows:

a. The herd shall be certified when a statistical sampling of the herd is determined to be noninfected.

b. In order to remain certified the herd must be retested and recertified as provided by the department. The herd must be recertified annually. The herd shall be recertified when a statistical sampling of the herd is determined to be noninfected within twelve months from initial certification or the most recent recertification.

c. A monitored herd shall not be certified or recertified, if the herd is located within a county which is designated by the department as in stage II of the national pseudorabies eradication program, unless the herd is vaccinated with a modified-live differentiable vaccine pursuant to section 166D.11 and as required by the department.

d. A monitored herd may receive new swine into the herd from a noninfected herd.

3. A qualified differentiable negative herd shall be certified, recertified, and maintained as follows:

a. The herd shall be certified when one hundred percent of breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been directly moved or relocated from a qualified negative herd or qualified differentiable negative herd. A differentiable vaccine must be administered at intervals in accordance with the package insert for that vaccine. To remain certified, the herd must be retested and recertified as provided by the department. The herd shall be recertified when each month at least ten percent of the herd's breeding swine react negatively to a test.

b. Before adding to the herd new swine, including swine returning to the herd after contact with nonherd swine, the herd shall be isolated until the new swine react negatively to a test conducted thirty days or more after the swine have been placed in isolation. Swine from a herd of unknown status must react negatively to a test not more than fifteen days prior to movement from the herd of unknown status and retested in isolation at least thirty days after movement onto the premises where the qualified differentiable negative herd is located.

c. Swine from a qualified negative or qualified differentiable negative herd may be added without isolation or testing.

d. The owner shall make a request to the department for certification or recertification of a qualified differentiable negative herd when the required tests are completed. Upon satisfactory proof that all requirements have been met, the herd shall be recertified by the department.

89 Acts, ch 280, §7; 90 Acts, ch 1091, §5; 98 Acts, ch 1056, §4; 2000 Acts, ch 1110, §7 – 10, 25; 2000 Acts, ch 1232, §24, 39; 2002 Acts, ch 1119, §140; 2009 Acts, ch 133, §205; 2018 Acts, ch 1026, §62

Referred to in §166D.10

166D.8 Infected herds.

An infected herd which is not quarantined under section 166D.9, shall either adopt a herd cleanup plan or a feeder pig cooperator herd cleanup plan.

1. *a.* A herd cleanup plan shall apply to a herd if feeder pigs are not moved from the herd. The plan shall provide for one of the following:

(1) The testing of all swine capable of being accurately diagnosed with pseudorabies and the removal of infected swine from the herd.

(2) Depopulation.

b. A herd cleanup plan must be implemented as follows:

(1) If the plan provides for the testing and removal of swine, all breeding swine must be tested with a differentiable test and react negatively to the test within fifteen days after the herd is classified by the department as infected. All breeding swine reacting positively to the test must be removed as provided in this section. At least thirty days after removal of the breeding swine reacting positively, all remaining breeding swine must be tested and react negatively to the test. Subsequent testing and removal must be conducted as provided in this subparagraph until all breeding swine react negatively. When all breeding swine are tested and react negatively to the test, the department shall classify the herd as a noninfected herd.

(2) The herd cleanup plan may provide for the relocation of feeder pigs or cull swine. If the plan provides for the relocation of feeder pigs, the plan must provide for the segregation of feeder pigs and identify in writing the approved premises where feeder pigs or cull swine may be relocated upon approval by the department.

2. *a.* A feeder pig cooperator herd cleanup plan shall apply to a herd if feeder pigs are moved from the herd. The plan shall include all the requirements for a herd cleanup plan. In order to be subject to a feeder pig cooperator herd cleanup plan all of the following conditions must be satisfied:

(1) There must have been no clinical signs of pseudorabies during the past thirty days.

(2) The production operation must be capable of segregating offspring at weaning into facilities separate and apart from the remainder of the herd.

b. The feeder pig cooperator herd cleanup plan may provide for the movement or relocation of feeder pigs or cull swine. If the feeder pig cooperator herd cleanup plan provides for the movement or relocation of feeder pigs or cull swine, the plan must identify in writing the approved premises where the feeder pigs or cull swine may be moved or relocated as provided in section 166D.10B.

3. Costs of testing and vaccination may be paid as provided in section 166D.11.

4. An infected herd not subject to a cleanup plan shall be quarantined within fifteen days of becoming a known infected herd. An infected herd which is not subject to a cleanup plan is a quarantined herd.

5. Swine which are part of a herd subject to a cleanup plan shall only be moved or relocated as required pursuant to section 166D.10. If the location where the herd is kept is an approved premises as provided in section 166D.10B, the cleanup plan shall include terms and conditions for being certified as an approved premises.

89 Acts, ch 280, §8; 98 Acts, ch 1056, §5, 6; 2000 Acts, ch 1110, §11, 25

Referred to in §166D.2, 166D.10, 166D.10B

166D.9 Quarantined herds.

1. Swine which are part of a quarantined herd shall only be moved by restricted movement in accordance with section 166D.10A.

2. A herd shall be released from quarantine when no animal, including livestock, on the premises shows clinical symptoms of pseudorabies. In addition one of the following must occur:

a. The swine have been removed from the premises, and the premises have been cleaned and disinfected under supervision of the department or the inspection service. The disinfectant shall be approved by the department or inspection service. The premises must have been maintained free of swine for thirty days. However, the epidemiologist for good cause may determine that premises shall be maintained free of swine for a period greater or less than thirty days.

b. Swine reacting positively to a test have been removed from the premises. Remaining swine, except suckling pigs, must be tested and react negatively to the test thirty days or more after removal of the herd's swine reacting positively to the test.

c. The swine reacting positively to a test have been removed from the premises. At least thirty days after removal of the positive swine, breeding swine remaining plus a random sample equaling twenty-eight of grower-finishing swine more than two months of age must react negatively to the test. While the state is in stage III or IV of the national pseudorabies program pursuant to federal regulations, the grower-finisher swine must react negatively to a test at least thirty days after reacting negatively to the last test.

3. *a.* While the state is classified in stage I, II, or III of the national pseudorabies program pursuant to federal regulations, the following requirements must be satisfied:

(1) All swine present on the date the quarantine was imposed have been removed.

(2) There must have been no clinical signs of pseudorabies in the herd for at least six months.

(3) The epidemiologist must either conduct two successive statistical samplings at least ninety days apart, or conduct statistical samplings according to rules adopted by the department which are consistent with the national pseudorabies eradication program, which reveal no infection within the new breeding swine.

(4) The epidemiologist must either conduct two successive statistical samplings ninety days apart, or conduct statistical samplings according to rules adopted by the department which are consistent with the national pseudorabies eradication program, which reveal no infection in the herd's progeny at least four months of age.

b. A herd removed from quarantine under this subsection shall be tested by statistical sampling one year later, unless an epidemiologist determines that the herd must be tested earlier.

89 Acts, ch 280, §9; 90 Acts, ch 1168, §29; 97 Acts, ch 183, §8, 13; 98 Acts, ch 1056, §7; 2000 Acts, ch 1110, §12 – 14, 25; 2009 Acts, ch 41, §263

Referred to in §166D.2, 166D.8

166D.10 Movement of swine.

1. Except as otherwise provided in this section, a person shall not sell, lease, exhibit, loan, move, or relocate swine within the state unless the swine are accompanied by a certificate of inspection in the same manner as provided for a certificate of veterinary inspection as provided in section 163.30. The department may combine the certificate of inspection with a certificate of veterinary inspection.

2. A certificate of inspection is not required if any of the following apply:

a. The swine are moved to slaughter.

b. The swine are relocated, and all of the following apply:

(1) A transportation certificate accompanies the relocated swine.

(2) The swine's owner maintains information regarding the relocation in relocation records. The department may adopt rules excusing a person from maintaining relocation records, if the department determines that the purposes of the chapter as provided in section 166D.1 are not furthered by the requirement.

(3) A certificate of inspection, or a certificate of veterinary inspection as provided in

section 163.30, has been issued for the swine within thirty days prior to the date of relocation. The department may adopt rules excusing a person from complying with this subparagraph if the department determines that the purposes of the chapter as provided in section 166D.1 are not furthered by the requirement.

(4) The swine have a current negative pseudorabies status.

c. A person transfers ownership of all or part of a herd, if the herd remains on the same premises. However, the herd must be tested by statistical sampling. If any part of the herd is subsequently moved or relocated, the swine must be moved or relocated in accordance with this section and sections 166D.7, 166D.8, and 166D.10A.

3. A transportation certificate accompanying swine which are relocated as provided in subsection 2, paragraph *"b"*, shall cite the relevant relocation record and certificate of inspection, or certificate of veterinary inspection. The department may provide for the examination of the relocation records on the owner's premises during normal business hours, or may require that reports containing relevant information contained in relocation records and certificates of inspection, or certificates of veterinary inspection, be periodically submitted to the department. For purposes of this section, swine production information contained in relocation records is a trade secret as provided in section 22.7, unless otherwise provided by rules adopted by the department. The department shall provide for the disclosure of confidential information only to the extent required for enforcement of this chapter, the detection and prosecution of public offenses, or to comply with a subpoena or court order. The department shall adopt rules required to administer subsection 2, paragraph *"b"*, and this subsection.

4. *a.* Except as provided in paragraph *"b"*, swine that are moved shall be individually identified as provided in section 163.30, which may include requirements for affixing ear tags to swine.

b. (1) Native Iowa feeder pigs moved from farm to farm within the state shall be exempted from the identification requirements of this subsection if the owner transferring possession of the feeder pigs executes a written agreement with the person taking possession of the feeder pigs.

(a) The agreement shall provide that the feeder pigs shall not be commingled with other swine for a period of thirty days.

(b) The owner transferring possession shall be responsible for making certain that the agreement is executed and for providing a copy of the agreement to the person taking possession.

(2) Native Iowa feeder pigs that are moved shall be accompanied by a certificate of inspection, or a certificate of veterinary inspection as provided in section 163.30, unless swine are otherwise exempted from this requirement by this section.

(3) As used in this paragraph *"b"*, *"farm to farm within the state"* does not include the movement or relocation of native Iowa feeder pigs to the possession of a dealer licensed pursuant to section 163.30.

5. Swine from a herd located within this state must be moved or relocated in compliance with this section. If the swine is moved or relocated from a herd located within a county which is designated by the department as in stage II of the national pseudorabies eradication program, the swine shall not be moved or relocated unless in compliance with section 166D.11. Regardless of whether the swine is from a herd located in a stage II county, the following shall govern the movement or relocation of swine within this state:

a. For swine from a noninfected herd, a person shall not move swine for breeding purposes, unless one of the following applies:

(1) The swine is moved from a qualified negative herd or qualified differentiable negative herd.

(2) The swine reacts negatively to a differentiable test within thirty days prior to moving the swine.

b. For swine which is exposed, a person shall not move or relocate the swine, unless one of the following applies:

(1) The swine reacts negatively to a differentiable test within thirty days prior to moving or relocating the swine.

(2) The swine moves by restricted movement to either a fixed concentration point or slaughtering establishment.

c. For swine from a herd of unknown status, a person shall not move or relocate the swine, unless one of the following applies:

(1) The swine reacts negatively to a differentiable test within thirty days prior to moving or relocating the swine.

(2) The swine moves by restricted movement to either a fixed concentration point or slaughtering establishment. However, the swine is not required to move by restricted movement if the swine is moved from a fixed concentration point directly to another fixed concentration point or to a slaughtering establishment.

d. For swine which is from an infected herd, a person shall not move or relocate the swine, unless one of the following applies:

(1) If the swine is part of a cleanup plan, the following shall apply:

(a) For swine, other than feeder pigs or cull swine, which are part of a herd subject to a cleanup plan, a person shall only move swine by restricted movement to either a fixed concentration point or slaughtering establishment. A person shall not relocate the swine.

(b) For a feeder pig or cull swine which is part of a herd subject to a herd cleanup plan, a person shall only move the feeder pig or cull swine by restricted movement to either a fixed concentration point or slaughtering establishment or relocate the feeder pig or cull swine by restricted movement to an approved premises. For a feeder pig or cull swine which is part of a feeder pig cooperator herd cleanup plan, a person shall only move the feeder pig or cull swine by restricted movement to either a fixed concentration point or slaughtering establishment or move or relocate the feeder pig or cull swine by restricted movement to an approved premises. However, a person shall not move or relocate a feeder pig or cull swine to an approved premises, unless the approved premises is identified in a cleanup plan as provided in section 166D.8, or the department approves the move or relocation to another approved premises. A person shall not move or relocate a cull swine to an approved premises, unless the cull swine reacts negatively to a test and is vaccinated with a differentiable vaccine. The test and vaccine must be administered within thirty days prior to the movement or relocation to the approved premises. A noninfected feeder pig is not required to be tested or vaccinated prior to movement or relocation to an approved premises, if the feeder pig is vaccinated upon arrival at the approved premises.

(c) For swine from a herd kept on an approved premises, a person shall only move or relocate the swine by restricted movement as provided in the cleanup plan governing the herd and terms and conditions of the certification required for the approved premises as provided in section 166D.10B.

(2) If the swine is not part of a herd that is subject to a cleanup plan because the herd is quarantined, a person shall only move the swine by restricted movement to either a fixed concentration point or slaughtering establishment.

6. Swine from a herd located outside this state must be moved into and maintained in this state in compliance with this section. A person shall not move swine into this state, except as follows:

a. For swine from a herd, other than a noninfected herd, the swine must be moved either to a fixed concentration point or slaughtering establishment.

b. For swine from a noninfected herd, the swine may be moved to a concentration point or slaughtering establishment. If the swine is not moved to a concentration point or slaughtering establishment, the following shall apply:

(1) Unless the person moves the swine into a county designated by the department as in stage II of the national pseudorabies eradication program, the following shall apply:

(a) A person shall not move swine into this state for breeding purposes, unless one of the following applies:

(i) The swine is moved from a qualified negative herd or qualified differentiable negative herd.

(ii) The swine reacts negatively to a differentiable test, within thirty days prior to moving the swine.

(b) A person shall not move a feeder swine which is moved into this state, unless the

feeder swine reacts negatively to a differentiable test within thirty days prior to movement from a herd in this state.

(2) If a person moves the swine into a county which is designated by the department as in stage II of the national pseudorabies eradication program, the following shall apply:

(a) Except as provided in this subparagraph, the owner of swine shall vaccinate the swine with a modified-live differentiable vaccine, prior to moving swine into the stage II county. A person is not required to vaccinate swine prior to moving swine into the stage II county if one of the following applies:

(i) The swine is part of a herd that cannot be vaccinated under the law of the state or country in which the herd is kept immediately prior to being moved into the stage II county.

(ii) The swine is an isowean feeder pig.

(iii) The swine is moved either to a fixed concentration point or slaughtering establishment.

(b) For swine which are not vaccinated before being moved into a stage II county as provided in this paragraph, the following shall apply:

(i) For swine other than swine moved into a herd within a stage II county as an isowean feeder pig, the swine must be immediately vaccinated with a differentiable vaccine, as provided in section 166D.11. The swine shall be considered as part of a herd of unknown status, until tested negative and vaccinated.

(ii) For swine moved into a herd within a stage II county as an isowean feeder pig, the swine moved into the herd must be immediately vaccinated with a differentiable vaccine, as provided in section 166D.11. The department may require that the swine be revaccinated with a differentiable vaccine at a later date. The swine shall be considered as part of a herd of unknown status, until tested negative and vaccinated.

7. A person shall not move a swine within this state, other than to a fixed concentration point or slaughtering establishment, if the swine is vaccinated with a vaccine other than a differentiable vaccine approved by the department pursuant to section 166D.14.

8. Known infected swine moved through a fixed concentration point shall only be moved by restricted movement to a slaughtering establishment.

9. Swine moved under this section to a slaughtering establishment shall be for the exclusive purpose of slaughtering the swine. Swine moved under this section to a fixed concentration point shall be for the exclusive purpose of immediately moving the swine to a slaughtering establishment. Swine moved or relocated under this section to an approved premises shall be for the exclusive purpose of feeding the swine prior to movement or relocation to another approved premises, or movement to either a fixed concentration point or a slaughtering establishment.

89 Acts, ch 280, §10; 90 Acts, ch 1091, §6; 90 Acts, ch 1168, §30; 96 Acts, ch 1214, §30; 97 Acts, ch 183, §9 – 11, 13; 98 Acts, ch 1056, §8 – 10; 2000 Acts, ch 1110, §15, 16, 25; 2002 Acts, ch 1093, §1 – 5, 7; 2002 Acts, ch 1119, §141; 2003 Acts, ch 108, §124, 132; 2004 Acts, ch 1163, §27 – 30; 2009 Acts, ch 133, §71

Referred to in §166D.2, 166D.8, 166D.10A, 166D.10B, 166D.11

166D.10A Restricted movement — requirements.

1. If swine must be moved or relocated by restricted movement as provided in section 166D.10, the swine shall only be transported by direct movement.

2. *a.* If a person moves or relocates swine subject to restricted movement, the person shall only move the swine to either a fixed concentration point or slaughtering establishment or move or relocate the swine to an approved premises.

b. If a person receives swine subject to restricted movement, the person shall only receive the swine at either a fixed concentration point or slaughtering establishment or an approved premises.

3. Swine required to be moved or relocated by restricted movement must be accompanied by a restricted movement permit, as provided by rules which must be adopted by the department. The department shall issue a restricted movement permit to the person moving or relocating the swine. The permit shall include information required by the department, which shall at least include a description of the swine, the name and address of the owner,

the name and address of the person receiving the swine, the date of movement or relocation, and the seal number as prescribed by the department, if a seal is required. The moved or relocated swine must also be accompanied by a transportation certificate and certificate of inspection, if required in section 166D.10.

4. *a.* Except as provided in this section, a vehicle moving swine under restricted movement shall contain a cargo area for the swine which shall be sealed to prevent access. The seal shall conform with requirements adopted by the department. Each seal shall be identified by number as required by the department. The vehicle shall be sealed by an accredited veterinarian at the premises where the swine are kept. The seal shall only be removed by a departmental official, an accredited veterinarian, an official of the United States department of agriculture, or the person authorized by the department to receive the swine upon arrival at the fixed concentration point, slaughtering establishment, or approved premises.

b. The department may adopt rules or issue an order to provide that a vehicle moving or relocating feeder swine from a herd which is subject to a cleanup plan is not required to be sealed as otherwise provided in this subsection, if the herd is kept and moved or relocated in compliance with the cleanup plan.

2000 Acts, ch 1110, §17, 25
Referred to in §166D.2, 166D.9, 166D.10, 166D.12

166D.10B Approved premises.

1. A person shall not maintain swine other than feeder pigs or cull swine at an approved premises.

a. A person shall not move or relocate swine to an approved premises, unless all of the following apply:

(1) The swine is a feeder pig or cull swine.

(2) The swine is not exposed or from a herd of unknown status.

b. A person shall not receive swine at an approved premises, unless the swine is one of the following:

(1) The swine is a feeder pig or cull swine.

(2) The swine is not exposed or from a herd of unknown status.

2. If swine is moved or relocated to an approved premises, the following shall apply:

a. A cull swine shall not be moved or relocated to an approved premises, unless the cull swine reacts negatively to a test and is vaccinated prior to the movement or relocation, as provided in section 166D.10.

b. A noninfected feeder pig must be vaccinated upon arrival at the approved premises.

3. Dead swine must be disposed of in accordance with chapter 167. The dead swine must be held so as to prevent animals, including wild animals and livestock, from reaching the dead swine.

4. The following shall apply to the location of an approved premises:

a. An approved premises shall not be located within one and one-half miles from a noninfected herd, other than a qualified negative herd or qualified differentiable negative herd.

b. An approved premises shall not be located within three miles from a qualified negative herd or a qualified differentiable negative herd.

c. An approved premises shall not be located in any of the following:

(1) A county in stage III of the national pseudorabies eradication program, as designated by the department.

(2) A county which has a zero percent prevalence of infection among all herds in the county at any time on or after March 1, 2000, regardless of whether the county subsequently has a greater than zero percent prevalence of infection among all herds in the county.

5. A feeder pig or a cull swine may be kept at the approved premises only for purposes of feeding and restricted movement as provided in section 166D.10.

6. *a.* The department must certify a location as an approved premises pursuant to rules adopted by the department. The department may adopt rules providing for the renewal, suspension, or termination of a certification. The terms and conditions of the certification

shall be part of the cleanup plan required for the herd kept at the location pursuant to section 166D.8. Except as provided in this subsection, a location is certified as an approved premises, as long as all of the following apply:

(1) The approved premises complies with the requirements of this section and rules adopted by the department.

(2) The owner of the approved premises or the person managing the approved premises provides to the department during normal business hours access to the approved premises and records required by this subparagraph. Records of swine transfers must be kept for at least one year. Records of vaccinations occurring on the approved premises must be maintained by the owner for at least one year after vaccination. The records shall include information about purchases and sales, the names of buyers and sellers, the dates of transactions, and the number of swine involved in each transaction.

b. The department shall terminate the certification of an approved premises if the county in which the approved premises is located has a zero percent prevalence of infection among all herds in the county, not counting a herd kept at the approved premises. The department shall provide for the suspension or termination of the certification for a violation of a term or condition of the certification. When a certification is suspended, terminated, or not renewed, the location shall remain under a cleanup plan until released pursuant to the provisions of section 166D.8.

2000 Acts, ch 1110, §18, 25; 2002 Acts, ch 1119, §142
Referred to in §166D.2, 166D.8, 166D.10, 166D.11

166D.11 Vaccination and testing requirements.

1. A person shall not use in this state any vaccine that is not a differentiable vaccine.

2. *a.* Except as provided in this section, swine within a county which is designated by the department as in stage II of the national pseudorabies eradication program shall be vaccinated with a modified-live differentiable vaccine. The swine located in a stage II county shall be vaccinated as follows:

(1) Except as provided in subparagraph (2), the following applies:

(a) Breeding swine shall at a minimum receive quarterly vaccinations.

(b) Feeder swine shall at a minimum receive one vaccination. The feeder swine shall be vaccinated when the feeder swine reach eight to twelve weeks of age or one hundred pounds, whichever occurs earlier.

(2) If swine are required to be vaccinated prior to or after movement, as provided in section 166D.10, to a stage II county, the swine shall be vaccinated with a modified-live differentiable vaccine as otherwise required in that section.

b. The department shall adopt rules or issue an order that exempts swine from being vaccinated with a modified-live vaccine, as provided in this subsection, based on any of the following:

(1) The swine is part of a qualified negative herd or a qualified differentiable negative herd.

(2) The swine belong to a herd located within a county, if all of the following apply:

(a) The county has a history of zero percent prevalence of infection among all herds in the county, regardless of whether the county currently has a higher than zero percent prevalence of infection among all herds in the county.

(b) All contiguous counties have a zero percent prevalence of infection among herds in that county, as designated by the department.

3. *a.* The person who owns the swine when the swine is required to be vaccinated under this chapter shall be solely liable for providing the vaccine and administering the vaccination. A noninfected feeder pig required to be vaccinated upon arrival at an approved premises as provided in section 166D.10B shall be vaccinated at the expense of the owner who moves the feeder pig. If the swine is transported into this state, the owner shall be deemed to be the person who owns the swine immediately prior to transportation.

b. This subsection does not prohibit the owner of swine from contracting with a person, including a person receiving ownership of swine moved into this state, to provide the

vaccination, if the person receives fair compensation for providing the vaccination and the sale price for the swine is not increased because the owner must comply with this subsection.

4. The cost, or any segment of the cost, of purchasing a laboratory product used for testing and vaccination provided in this chapter may be paid for by federal or state funds or a combination of both. Federal or state funds shall not be paid to the owner of a vaccinated herd other than the owner of a herd vaccinated with a modified-live differentiable vaccine.

89 Acts, ch 280, §11; 90 Acts, ch 1091, §7; 2000 Acts, ch 1110, §19, 25
Referred to in §166D.7, 166D.8, 166D.10

166D.12 Concentration points.

A person shall not move swine through a concentration point, except as provided in this section.

1. For swine from a noninfected herd, the swine may be moved through any concentration point. All of the following shall apply:

a. Breeding swine must be kept separate and apart from feeder pigs.

b. Breeding swine must be sold first.

2. *a.* For swine other than swine from a noninfected herd, the swine shall not be moved through a concentration point other than a fixed concentration point, as required by the department. A fixed concentration point shall be used exclusively for the following:

(1) The movement of livestock other than swine.

(2) The immediate movement of swine to a slaughtering establishment.

b. A fixed concentration point shall never be used for the movement of swine other than to a slaughtering establishment.

c. (1) Except as provided in subparagraph (2), a person shall not move swine subject to restricted movement to or from a fixed concentration point or receive swine subject to restricted movement at a fixed concentration point, unless the swine is moved and received in compliance with section 166D.10A.

(2) A person may move swine from a herd of unknown status from a fixed concentration point other than by restricted movement as provided in section 166D.10A, if the person moves the swine directly to another fixed concentration point or to a slaughtering establishment.

d. Livestock, other than swine, moved to the fixed concentration point must be kept separate and apart.

e. If an infected swine, exposed swine, or swine from a herd of unknown status is moved through a fixed concentration point, the owner of the fixed concentration point shall post and maintain a sign on the premises of the fixed concentration point. The sign must be posted in a conspicuous place clearly visible to persons moving livestock through the fixed concentration point. The notice shall appear in black letters a minimum of one inch high and in the following form:

NOTICE
This facility may sell swine which
have been exposed to pseudorabies.
However, all swine are moved
immediately to slaughter.

89 Acts, ch 280, §12; 98 Acts, ch 1056, §11; 2000 Acts, ch 1110, §20, 25; 2001 Acts, ch 24, §35; 2002 Acts, ch 1093, §6, 7
Referred to in §166D.2

166D.13 Exhibition of swine.

1. Swine from an infected herd shall not be displayed or shown at any exhibition.

2. Animals infected shall not be shown or displayed at an exhibition.

3. Rules controlling exhibition movement requirements may be adopted by the department in addition to the requirements of this section.

89 Acts, ch 280, §13; 98 Acts, ch 1056, §12; 2011 Acts, ch 84, §4, 5

166D.14 Pseudorabies immunization products.

1. A person shall not use, sell, or distribute or offer to sell or distribute a pseudorabies

immunization product within the state unless the products are approved by the secretary. However, the secretary shall approve a pseudorabies immunization product for purposes of product research or testing by a biological laboratory, government authority, or manufacturer of biological products if the secretary concludes that the use will not be detrimental to the state pseudorabies disease program.

2. Only a licensed veterinarian may buy and dispense a department-approved immunization product. The veterinarian must report information relating to the use of the product to the department, including the name and address of the owner and the number of doses used. The report shall be signed by the owner or the owner's agent. The report shall be mailed to the department immediately after the use of the product.

3. A differentiable vaccinate to be classified as a noninfected animal must react negatively to field strains of pseudorabies virus as determined by a companion differentiable serologic test. The swine must be identified as differentiable vaccinated animals.

89 Acts, ch 280, §14; 2017 Acts, ch 54, §76
Referred to in §166D.10

166D.15 Tracing pseudorabies to source or destination herds.

1. The owner of a known infected herd shall furnish to the department all of the following information:

a. A list of sources of feeder pigs or breeding swine during the preceding twelve months.

b. A list of sales of feeder pigs or breeding swine during the preceding twelve months.

2. If pseudorabies is diagnosed in breeding swine or feeder pigs which have been purchased from or sold to another swine producer within ninety days from the sale, the department may require a statistical sample of the breeding herd of the seller or buyer and a statistical sample of the herd progeny over four months. If the owner of the herd refuses to allow the test, the herd shall be classified as a known infected herd.

3. Tests conducted pursuant to this section shall be completed at the owner's expense unless state funds are available for this purpose.

89 Acts, ch 280, §15

166D.16 Enforcement — penalty — certificates.

1. The provisions of this chapter including departmental rules adopted pursuant to this chapter shall be administered and enforced by the department.

2. Except as provided in this subsection, a person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars.

a. A person who falsifies a certificate of inspection issued pursuant to this chapter shall be subject to a civil penalty of not more than five thousand dollars for each swine falsified on the certificate. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of swine falsified on the certificate.

b. The person who owns swine when the swine are required to be vaccinated under this chapter shall be subject to a civil penalty of two dollars for each swine which is not vaccinated as required.

3. In addition to any other remedies provided, the department may file a petition in the district court seeking an injunction restraining any person from violating provisions of this chapter including a rule adopted pursuant to this chapter.

89 Acts, ch 280, §16; 91 Acts, ch 32, §4; 92 Acts, ch 1163, §43; 2000 Acts, ch 1110, §21, 25
Referred to in §163.61

CHAPTER 167

USE AND DISPOSAL OF DEAD ANIMALS

Referred to in §159.6, 166D.10B

Definitions applicable to chapter; see §159.1

167.1 Scope.
167.2 Disposal of dead animals.
167.3 "Disposing" defined.
167.4 Licensing procedure — fees.
167.5 Inspection of place.
167.6 Repealed by 2004 Acts, ch 1162, §5.
167.7 Record of licenses.
167.8 Inspection revealing unsuitable place.
167.9 and 167.10 Repealed by 2004 Acts, ch 1162, §5.
167.11 Disposal plants — specifications.
167.12 Disposing of bodies.
167.13 Rules.
167.14 Annual inspection.
167.15 Transportation of animals — carcasses, parts, or offal material.
167.16 Driving upon premises of another.
167.17 Disinfecting outfit.
167.18 Duty to dispose of dead bodies.
167.19 Penalty.
167.20 Appropriation.
167.21 Reciprocal agreements with other states.
167.22 Chronic wasting disease.

167.1 Scope.

This chapter shall not apply to licensed slaughterhouses, or to the disposal, by licensed slaughterhouses, of the bodies of animals, or any part thereof, slaughtered for human food.

[C24, 27, 31, 35, 39, §**2744;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.1]

167.2 Disposal of dead animals.

No person shall engage in the business of disposing of the bodies of dead animals without first obtaining a license for that purpose from the department.

[C24, 27, 31, 35, 39, §**2745;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.2]

167.3 "Disposing" defined.

1. A person who receives from any other person the body of any dead animal for the purpose of obtaining the hide, skin, or grease from such animal, in any way whatsoever, or any part thereof, shall be deemed to be engaged in the business of disposing of the bodies of dead animals, and must be the operator or employee of a licensed disposal plant.

2. A disposal plant does not include an operation where the body of a dead animal is cremated, so long as the operation does not use the body of a dead animal for any other purpose described in subsection 1.

[C24, 27, 31, 35, 39, §**2746;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.3]

2009 Acts, ch 154, §1

167.4 Licensing procedure — fees.

1. The following shall apply to a person required to be licensed under this chapter:

a. The person shall submit an application for a license to the department in a manner and according to procedures required by the department.

b. The person shall include in the application information as required by the department, on forms prescribed by the department, which shall include at least all of the following:

(1) For a disposal plant, the person shall state the person's name and address, the person's proposed place of business, and the total number of vehicles to be involved in the operation.

(2) For a collection point involving the accumulation of whole animal carcasses or their parts for ultimate transportation to a disposal plant, the person's name and address, the person's proposed place of business, and the total number of vehicles to be involved in the operation.

(3) For a delivery service which transports whole animal carcasses or their parts to a disposal plant or collection point, the person's name and address, the total number of vehicles to be involved in the operation, and the location where the vehicles involved in the operation are to be maintained.

c. The person shall submit a separate application for each location that the person is to operate as a disposal plant, collection point, or a delivery service.

d. The person shall pay a license fee as follows:

(1) For a disposal plant, one hundred dollars.

(2) For a collection point, one hundred dollars. However, a person is not required to pay the license fee for a collection point which is operated by a disposal plant.

(3) For a delivery service which is not part of the operation of a disposal plant or collection point, fifty dollars.

e. A license issued to a person under this section shall expire on December 31 of each year. The person may renew the license by completing a renewal form as prescribed by the department in a manner and according to procedures required by the department. However, the renewal form must be submitted to the department prior to the license's expiration date. The person shall pay a renewal license fee which shall be for the same amount as the original license fee.

f. A person's license is subject to suspension or revocation by the department if the department determines that the person has committed a material violation of this chapter, including rules adopted by this chapter, or a term or condition of the license. The person may contest the department's action as provided in chapter 17A.

2. Fees collected pursuant to this section shall be deposited into the general fund of the state.

[C24, 27, 31, 35, 39, §**2747;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.4]
2004 Acts, ch 1162, §1; 2005 Acts, ch 3, §42; 2009 Acts, ch 133, §206
Referred to in §167.15

167.5 Inspection of place.

On receipt of such application, the secretary of agriculture or some person appointed by the secretary, shall at once inspect the building in which the applicant proposes to conduct such business. If the inspector finds that said building complies with the requirements of this chapter, and with the rules of the department, and that the applicant is a responsible and suitable person, the inspector shall so certify in writing to such specific findings, and forward the same to the department.

[C24, 27, 31, 35, 39, §**2748;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.5]

167.6 Repealed by 2004 Acts, ch 1162, §5. See §167.4.

167.7 Record of licenses.

The department shall keep a record of all licenses applied for or issued, which shall show the date of application and by whom made, the cause of all rejections, the date of issue, to whom issued, the date of expiration, and the location of the licensed business.

[C24, 27, 31, 35, 39, §**2750;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.7]

167.8 Inspection revealing unsuitable place.

If the inspector finds that said building does not comply with the requirements of this chapter or with the rules of the department, the inspector shall notify the applicant wherein the same fails to so comply. If within a reasonable time thereafter, to be fixed by the inspector, the specified defects are remedied, the department shall make a second inspection, and proceed therewith as in case of an original inspection. Not more than two inspections need be made under one application.

[C24, 27, 31, 35, 39, §**2751;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.8]

167.9 and 167.10 Repealed by 2004 Acts, ch 1162, §5. See §167.4.

167.11 Disposal plants — specifications.

Each place for the carrying on of said business shall, to the satisfaction of the department, be provided with floors constructed of concrete, or some other nonabsorbent material, adequate drainage, be thoroughly sanitary, and adapted to carrying on the business.

This section shall not apply where the state building code, as adopted pursuant to section 103A.7, has been adopted or when the state building code applies throughout the state.

[C24, 27, 31, 35, 39, §**2754;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.11]

2004 Acts, ch 1086, §42

167.12 Disposing of bodies.

The following requirements shall be observed in the disposal of such bodies:

1. Cooking vats or tanks shall be airtight, except proper escapes for live steam.
2. Steam shall be so disposed of as not to cause unnecessary annoyance or create a nuisance.
3. The skinning and dismembering of bodies shall be done within said building.
4. The building shall be so situated and arranged, and the business therein so conducted, as not to interfere with the comfortable enjoyment of life and property.
5. Such portions of bodies as are not entirely consumed by cooking or burning shall be disposed of by burying as hereafter provided, or in such manner as the department may direct.
6. In case of disposal by burying, the burial shall be to such depth that no part of such body shall be nearer than four feet to the natural surface of the ground, and every part of such body shall be covered with quicklime, and by at least four feet of earth.
7. All bodies shall be disposed of within twenty-four hours after death.

[C24, 27, 31, 35, 39, §**2755;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.12]

167.13 Rules.

The department shall make such reasonable rules for the carrying on and conducting of such business as it may deem advisable, and all persons engaging in such business shall comply therewith.

[C24, 27, 31, 35, 39, §**2756;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.13]

167.14 Annual inspection.

The department shall inspect each place licensed under this chapter at least once each year, and as often as it deems necessary, and shall see that the licensee conducts the business in conformity to this chapter and the rules made by the department. For a failure or refusal by any licensee to obey the provisions of this chapter or said rules, the department shall suspend or revoke the license held by such licensee.

[C24, 27, 31, 35, 39, §**2757;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.14]

167.15 Transportation of animals — carcasses, parts, or offal material.

1. A person required to be licensed under section 167.4 shall transport a whole or part of an animal carcass or offal material according to requirements adopted by departmental rule.

a. The delivery vehicle's container used for loading and transporting the carcass or offal material shall be constructed according to departmental rules in a manner that prevents parts or liquids associated with the carcass or offal material from escaping during transport.

b. The department shall adopt rules requiring that the delivery vehicle's container be covered when transporting an animal carcass or offal material. However, this requirement shall not apply to a route delivery vehicle used primarily to transport animal carcasses from a farm to another location, unless the department issues a special order as provided in this paragraph. The department may issue such an order and require that the delivery vehicle's container be covered, if the state veterinarian determines that an animal or animal carcass on the farm has been infected or exposed to an infectious or contagious disease or that there has been an outbreak of an infectious or contagious disease in the area where the farm is located.

c. The person shall not overload the delivery vehicle's container with carcasses or offal material.

2. The department shall provide for the inspection of delivery vehicles used to transport carcasses or offal material, and for the inspection of disposal plants, collection points, or other

locations in which carcasses or offal material is stored or processed before being delivered to a disposal plant.

[C24, 27, 31, 35, 39, §**2758;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.15]

2004 Acts, ch 1162, §2; 2005 Acts, ch 3, §43

167.16 Driving upon premises of another.

Vehicles when loaded with the carcass of an animal which has died of disease shall be driven directly to the place of disposal or transfer, except that the driver in so driving may stop on the highway for other like carcasses, but the driver shall not drive into the yard or upon the premises of any person unless the driver first obtains the permission of the person to do so.

[C24, 27, 31, 35, 39, §**2759;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.16]

167.17 Disinfecting outfit.

The driver or owner of a vehicle used in conveying animals which said driver or owner has reason to believe died of disease, shall, immediately after unloading said animals, cause the bed, box, tank or other container of such vehicle, the wheels thereof, all canvas and covers, the feet of the animals drawing said conveyance, and the outer clothing of all persons who have handled said carcasses to be disinfected with a solution of at least one part of creosol dip to four parts of water, or with some other equally effective disinfectant.

[C24, 27, 31, 35, 39, §**2760;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.17]

167.18 Duty to dispose of dead bodies.

1. A person who has been caring for or who owns an animal that has died shall not allow the carcass to lie about the person's premises. The carcass shall be disposed of within a reasonable time after death by composting, cooking, burying, or burning, as provided in this chapter, or by disposing of it, within the allowed time, to a person licensed to dispose of it.

2. Subsection 1 does not apply to a veterinarian, issued a valid license or a valid temporary permit by the Iowa board of veterinary medicine as provided in chapter 169, who contains a dead animal's carcass in a manner that prevents an outbreak of disease.

[C24, 27, 31, 35, 39, §**2761;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.18]

87 Acts, ch 96, §1; 2009 Acts, ch 154, §2

167.19 Penalty.

A person who violates this chapter or a rule adopted by the department pursuant to this chapter is guilty of a simple misdemeanor. The person may be subject to a civil penalty of not less than one hundred dollars and not more than one thousand dollars for each violation. However, the state shall be precluded from bringing a criminal action against the person if the department has initiated a civil enforcement proceeding. Moneys collected in civil penalties shall be deposited into the general fund of the state.

[C97, §5019; C24, 27, 31, 35, 39, §**2762;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.19]

2004 Acts, ch 1162, §3

167.20 Appropriation.

The expense attending the inspection provided for in this chapter shall be paid from any unappropriated funds in the state treasury.

[C24, 27, 31, 35, 39, §**2763;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §167.20]

167.21 Reciprocal agreements with other states.

The department is authorized to enter into reciprocal agreements in behalf of this state with any one or more of the states adjacent to this state, providing for permits to be issued to rendering plants located in either state to transport carcasses to their plants over public highways of this state and the reciprocating state.

[C62, 66, 71, 73, 75, 77, 79, 81, §167.21]

167.22 Chronic wasting disease.

1. As used in this section *"chronic wasting disease"* means the same as defined in section 170.1.

2. Except as otherwise provided in this subsection, a person licensed under this chapter shall not transport the carcass of a deer or elk into this state if the carcass originates from an area outside this state that has a significant prevalence of chronic wasting disease as determined by the state veterinarian. In order to transport the carcass into this state, the person must obtain approval by the state veterinarian in a manner and according to procedures required by the department.

2004 Acts, ch 1162, §4, 6

CHAPTER 168

BABY CHICKS

168.1	Definitions.	168.5	Requirements of dealers.
168.2	License of dealers.	168.6	Inspection.
168.3	License fee and expiration.	168.7	Administration of chapter.
168.4	Disposal of fees.	168.8	Penalty.

168.1 Definitions.

For the purpose of this chapter:

1. *"Baby chicks"* shall mean all domestic fowls six weeks of age or under.

2. *"Person"* shall include an individual, partnership, a corporation, company, firm, society, association, community sales, public sale pavilions, or other holders of public auctions any place in the state, operating in the state, but the term *"person"* shall not be construed to include any person who hatches for sale one thousand chicks per year or less; and the act, omission, or conduct of any officer, agent or other person acting in a representative capacity may be imputed to the organization or person represented, and the person acting in such capacity shall also be liable for violation of this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.1]

86 Acts, ch 1245, §621

Referred to in §10D.1

Further definitions; see §159.1

168.2 License of dealers.

Every person engaged in the business of custom hatching, producing baby chicks for sale in this state, or of selling or offering for sale baby chicks from any place located in this state shall obtain a license from the department for each establishment at which said business is conducted. Applications for such licenses shall be made upon blanks furnished by the department and shall conform to the prescribed rules of the department.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.2]

Referred to in §168.3

168.3 License fee and expiration.

The fee for obtaining a license issued under section 168.2 shall be twenty dollars and each such license shall expire on the second July 1 after the date of issue.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.3]

2017 Acts, ch 159, §27, 56

168.4 Disposal of fees.

All fees collected under the provisions of this chapter shall be paid into the state treasury.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.4]

168.5 Requirements of dealers.

All establishments licensed under this chapter shall:

1. Before baby chicks are delivered for sale, determine that the same are in a healthy condition.

2. Provide ample facilities for the proper care and handling of baby chicks on the premises.

3. Maintain sanitary measures such as will properly suppress and prevent the spread of contagious and infectious diseases of baby chicks.

4. When selling or delivering baby chicks to a purchaser in the state, place the same in a box, crate, coop, or other sanitary container for delivery. Each such box, crate, coop, or other container shall be plainly labeled with the name of seller and description of contents. Such description of contents shall include name of breed and variety, percent of guarantee if chicks are sold as sexed chicks, date of hatch, number of chicks, and any tests made on parent stock.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.5]
Referred to in §168.6

168.6 Inspection.

All establishments licensed under this chapter shall be subject to inspection by the department to determine that the requirements of section 168.5 are fully met. The failure to comply with section 168.5 or any of the provisions thereof shall constitute a violation of this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.6]

168.7 Administration of chapter.

The secretary of agriculture shall be charged with administration and enforcement of this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.7]

168.8 Penalty.

Any person who violates any provision of this chapter shall be guilty of a simple misdemeanor.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §168.8]
2017 Acts, ch 29, §47

CHAPTER 169

VETERINARY PRACTICE

Referred to in §159.6, 162.13, 162.20, 163.3A, 163.3G, 163.32, 167.18, 261.120, 272C.1, 272C.6, 351.45, 351.46, 581.1A, 714H.4, 716.7A, 717.1A, 717.2A, 717.3, 717A.1, 717A.2, 717B.1, 717B.2, 717B.3A, 717B.5, 717D.3, 717F.7

169.1 Title.
169.2 Legislative purpose.
169.3 Definitions.
169.4 License requirement and exceptions.
169.4A Provision of veterinary services.
169.5 Board of veterinary medicine.
169.6 Disclosure of confidential information.
169.7 Status of persons previously licensed.
169.8 Qualifications.
169.9 Examinations.
169.10 License by endorsement.
169.11 Temporary permit.
169.12 License renewal.
169.13 Discipline of licensees.
169.14 Procedure for suspension or revocation.
169.15 Appeal.
169.16 Reinstatement.
169.17 Forgeries.
169.18 Fraud.
169.19 Enforcement — penalties.
169.20 Veterinary assistants.
169.21 Limitations of actions.

169.1 Title.

This chapter shall be known as the *"Iowa Veterinary Practice Act"*.

[C79, 81, §169.1]

169.2 Legislative purpose.

This chapter is enacted as an exercise of the police powers of the state to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine. It is declared that the right to practice veterinary medicine is a privilege conferred by legislative grant to persons possessed of the personal and professional qualifications specified in this chapter. This chapter shall be liberally construed to effect the legislative purpose.

[C79, 81, §169.2]

169.3 Definitions.

When used in this chapter:

1. *"Accepted livestock management practice"* includes but is not limited to: Dehorning, castration, docking, vaccination, pregnancy testing, clipping swine needle teeth, ear notching, drawing of blood, relief of bloat, draining of abscesses, branding, and other surgical acts of no greater magnitude; artificial insemination, collecting of semen, implanting of growth hormones, feeding commercial feed defined in section 198.3, or administration or prescription of drugs performed by the owner or contract-feeder thereof of livestock, a bona fide employee, or anyone rendering gratuitous assistance with respect to such livestock. Nothing contained herein shall be construed to permit any person except those persons enumerated in this subsection, to provide purportedly gratuitous assistance with regard to the treatment of animals other than advisory assistance, in return for the purchase of goods or services.

2. *"Accredited or approved college of veterinary medicine"* means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation or approval by the board.

3. *"Animal"* means any nonhuman primate, dog, cat, rabbit, rodent, fish, reptile, and other vertebrate or nonvertebrate life forms, living or dead, except domestic poultry.

4. *"Board"* means the Iowa board of veterinary medicine.

5. *"ECFVG certificate"* means a current certificate issued by the American veterinary medical association educational commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

6. *"Fee"* means monetary compensation given for a service consisting primarily of an act or acts described in subsection 10, paragraph *"a"*.

7. *"Licensed veterinarian"* means a person who is validly and currently licensed to practice veterinary medicine in the state of Iowa.

8. *"Owner"* means any person, association, partnership, corporation, or other legal entity in whom is vested the ownership, dominion over, or title to an animal, including one who is obligated by law to care for such animal.

9. *"Person"* means natural person or individual.

10. *"Practice of veterinary medicine"* means any of the following:

a. To diagnose, treat, correct, change, relieve or prevent, for a fee, any animal disease, deformity, defect, injury or other physical or mental conditions or cosmetic surgery; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, for a fee; or to evaluate or correct sterility or infertility, for a fee; or to render, advise or recommend with regard to any of the above for a fee.

b. To represent, directly or indirectly, publicly or privately, an ability or willingness to do an act described in paragraph *"a"*.

c. To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph *"a"*.

11. *"Veterinarian"* means a person who has received a doctor of veterinary medicine degree or its equivalent from an accredited or approved college of veterinary medicine.

12. *"Veterinary assistant"* means an assistant employed by a licensed veterinarian as an animal technician and any other assistant the board designates by rule.

13. *"Veterinary medicine"* includes veterinary surgery, veterinary obstetrics, veterinary dentistry, and all other branches or specialties of veterinary medicine.

[S13, §2538-m; C24, 27, 31, 35, 39, §**2764, 2765;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.1, 169.2; C79, 81, §169.3]

83 Acts, ch 115, §2

Further definitions; see §159.1

169.4 License requirement and exceptions.

A person may not practice veterinary medicine in the state who is not a licensed veterinarian or the holder of a valid temporary permit issued by the board. This chapter shall not be construed to prohibit:

1. An employee of the federal, state, or local government from performing official duties.

2. A person who is a veterinary student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian. The board shall issue to any veterinary medicine student who attends an accredited veterinary medicine college or school and who has been certified as being competent by an instructor of such college or school to perform veterinary duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian, a certificate authorizing the veterinary medicine student to perform such functions.

3. A veterinarian currently licensed in another state from consulting with a licensed veterinarian in this state.

4. Any manufacturer, wholesaler, or retailer from advising with respect to or selling in the ordinary course of trade or business, drugs, feeds, including, but not limited to customer-formula feeds as defined in section 198.3, appliances, and other products used in the prevention or treatment of animal diseases.

5. The owner of an animal or the owner's bona fide employees from caring for and treating the animal in the possession of such owner except where the ownership of the animal was transferred solely for the purpose of circumventing this chapter.

6. A member of the faculty of an accredited college of veterinary medicine from performing functions in the classrooms or continuing education. However, those faculty members who have professional responsibility to the owner must be licensed. A temporary permit may be granted for a period not to exceed two years to interns or residents who are on the staff of the college of veterinary medicine of Iowa state university of science and technology. Such permit shall be renewable annually upon the application of the dean of the college of veterinary medicine.

7. Any person from manufacturing, selling, offering for sale, or applying any pesticide, insecticide, or herbicide.

8. Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals.

9. Any veterinary assistant employed by a licensed veterinarian from performing duties other than diagnosis, prescription, or surgery under the direct supervision of such veterinarian which assistant has been issued a certificate by the board subject to section 169.20.

10. A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate for performing duties or actions under the direction or supervision of a licensed veterinarian.

11. Any person from advising with respect to or performing accepted livestock management practices.

12. Any person from engaging in the full-time study of the improvement of the quality of livestock.

13. Any person from performing post-mortem examinations on swine or cattle.

14. Any person from collecting or evaluating semen from livestock or poultry, or artificial insemination of livestock and poultry.

15. Any person from castrating, dehorning or branding notwithstanding section 169A.14.

[S13, §2538-a; C24, 27, 31, 35, 39, §**2766;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.3; C79, 81, §169.4]

83 Acts, ch 115, §3

169.4A Provision of veterinary services.

1. A person, including a corporation, limited liability company, or partnership, established on or after July 1, 1994, shall not provide veterinary medical services, own a veterinary clinic, or practice veterinary medicine in this state, except as otherwise provided in this chapter.

2. Subsection 1 shall not do any of the following:

a. Apply to a veterinarian licensed under this chapter, a partnership formed under chapter 486A and composed of licensed veterinarians, a limited liability partnership formed under chapter 486A and composed of licensed veterinarians, a professional limited liability company organized under chapter 489 and engaging in the practice of veterinary medicine, or a professional corporation organized under chapter 496C and engaging in the practice of veterinary medicine.

b. Prohibit a person from owning an interest in real property or a building where a veterinary clinic is located, if veterinary medical services or a veterinary medicine practice is conducted at the clinic by a person described in paragraph *"a"*.

94 Acts, ch 1198, §35; 2015 Acts, ch 77, §1

169.5 Board of veterinary medicine.

1. *a.* The governor shall appoint, subject to confirmation by the senate pursuant to section 2.32, a board of five individuals, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians and shall represent the general public. The board shall be known as the Iowa board of veterinary medicine.

b. Each licensed veterinarian board member shall be actively engaged in veterinary medicine and shall have been so engaged for a period of five years immediately preceding appointment, the last two of which shall have been in Iowa. The representatives of the general public shall be knowledgeable in the area of animal husbandry. A member of the board shall not be employed by or have any material or financial interest in any wholesale or jobbing house dealing in supplies, equipment, or instruments used or useful in the practice of veterinary medicine.

c. Professional associations or societies composed of licensed veterinarians may recommend the names of potential board members to the governor, but the governor is not bound by the recommendations.

2. The members of the board shall be appointed for a term of three years, except the terms of the members of the initial board shall be rotated in such a manner that at least one member shall retire each year and a successor be appointed. The term of each member shall commence and end as provided by section 69.19. Members shall serve no more than three terms or nine years total, whichever is less. Any vacancy in the membership of the board caused by death, resignation, removal, or otherwise, shall be filled for the period of the unexpired term in the same manner as original appointments.

3. The board shall meet at least once each year as determined by the board. Other necessary meetings may be called by the president of the board by giving proper notice. Except as provided, a majority of the board constitutes a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer, or grade examinations, or to deliberate the qualifications of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

4. At its annual meeting, the board shall organize by electing a president and such other officers as may be necessary. Officers of the board serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairperson of board meetings. The person designated as the state veterinarian shall serve as secretary of the board.

5. The duties of the board shall include carrying on the correspondence of the board, keeping permanent accounts and records of all receipts and disbursements by the board

and of all board proceedings, including the disposition of all applications for a license, and keeping a register of all persons currently licensed by the board. The representatives of the general public shall not prepare, grade, or otherwise administer examinations to applicants for a license to practice veterinary medicine. All board records shall be open to public inspection during regular office hours.

6. Members of the board shall set their own per diem compensation, at a rate not exceeding the per diem specified in section 7E.6 for each day actually engaged in the discharge of their duties, as well as compensation for necessary traveling and other expenses. Compensation for veterinarian members of the board shall include compensation for the time spent traveling to and from the place of conducting the examination and for a reasonable number of days for the preparation of examination and the reading of papers, in addition to the time actually spent in conducting examinations, within the limits of funds appropriated to the board.

7. Upon a three-fifths vote, the board may:

a. Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the state.

b. Issue, renew, or deny issuance or renewal of licenses and temporary permits to practice veterinary medicine in this state.

c. Establish and publish annually a schedule of fees for licensing and registration of veterinarians. The fees shall be set by rule and shall include fees for a license to practice veterinary medicine issued upon the basis of the examination, a license granted on the basis of reciprocity, a renewal of a license to practice veterinary medicine, a certified statement that a licensee is licensed to practice in this state, and an issuance of a duplicate license when the original is lost or destroyed. The fee schedule shall be based on the board's anticipated financial requirements for the year, which shall include but not be limited to the following:

(1) Per diem, expenses, and travel of board members.

(2) Costs to the department for administration of this chapter.

d. Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining licensed veterinarians.

e. Hold hearings on all matters properly brought before the board and administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. An administrative law judge may be appointed pursuant to section 17A.11 to perform those functions which properly repose in an administrative law judge.

f. Employ full-time or part-time personnel, professional, clerical, or special, as are necessary to effectuate the provisions of this chapter.

g. Appoint from its own membership one or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable.

h. Bring proceedings in the courts for the enforcement of this chapter or any regulations made pursuant to this chapter.

i. Adopt, amend, or repeal rules relating to the standards of conduct for, testing of, and revocation or suspension of certificates issued to veterinary assistants. However, a certificate shall not be suspended or revoked by less than a two-thirds vote of the entire board in a proceeding conducted in compliance with section 17A.12.

j. Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect the provision of this chapter, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

8. The powers enumerated in subsection 7 are granted for the purpose of enabling the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

9. A person who provides veterinary medical services, owns a veterinary clinic, or practices in this state shall obtain a certificate from the board and be subject to the same standards of conduct, as provided in this chapter and rules adopted by the board, as apply to a licensed veterinarian, unless the board determines that the same standards of conduct

are inapplicable. The board shall issue, renew, or deny a certificate; adopt rules relating to the standards of conduct; and take disciplinary action against the person, including suspension or revocation of a certificate, in accordance with the procedures established in section 169.14. Certification fees shall be established by the board pursuant to subsection 7, paragraph *"j"*. Fees shall be established in an amount sufficient to fully offset the costs of certification pursuant to this subsection. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department shall retain fees collected to administer the program of certifying veterinary clinics and the fees retained are appropriated to the department for the purposes of this subsection. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, notwithstanding section 8.33, fees which remain unexpended at the end of the fiscal year shall not revert to the general fund of the state but shall be available for use for the following fiscal year to administer the program. For the fiscal year beginning July 1, 2002, and succeeding fiscal years, certification fees shall be deposited in the general fund of the state and are appropriated to the department to administer the certification provisions of this subsection. This subsection shall not apply to an animal shelter, as defined in section 162.2, that provides veterinary medical services to animals in the custody of the shelter.

10. The department shall furnish the board with all articles and supplies required for the public use and necessary to enable the board to perform the duties imposed upon it by law. Such articles and supplies shall be obtained by the department in the same manner in which the regular supplies for the department are obtained, and the department shall assess the costs to the board for such articles and supplies. The board shall also reimburse the department for direct and indirect administrative costs incurred in issuing and renewing the licenses.

[S13, §2538-f, -h, -i, -j, -t; C24, 27, 31, 35, §2799-d1, -d5; C39, §**2773, 2777-2780, 2782, 2784, 2785, 2799.1, 2799.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.11, 169.15 – 169.19, 169.21, 169.22, 169.37, 169.41; C79, 81, §169.5]

83 Acts, ch 115, §4; 84 Acts, ch 1067, §23; 88 Acts, ch 1109, §17; 90 Acts, ch 1256, §31; 98 Acts, ch 1202, §32, 46; 2000 Acts, ch 1183, §1, 3; 2001 Acts, ch 24, §70, 74; 2005 Acts, ch 159, §1; 2009 Acts, ch 133, §72

169.6 Disclosure of confidential information.

1. A member of the board shall not disclose information relating to the following:

a. Criminal history or prior misconduct of the applicant.

b. Information relating to the contents of the examination.

c. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate information in violation of subsection 1, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor for each separate offense.

[C75, 77, §169.56; C79, 81, §169.6]

2009 Acts, ch 133, §207

169.7 Status of persons previously licensed.

Any person holding a valid license to practice veterinary medicine in this state on January 1, 1979 shall be recognized as a licensed veterinarian and shall be entitled to retain this status as long as licensee complies with the provisions of this chapter.

[C79, 81, §169.7]

169.8 Qualifications.

1. *a.* Any person desiring a license to practice veterinary medicine in this state shall make written application to the board on a form approved by the board. The application shall show that the applicant is a graduate of an accredited or approved college of veterinary medicine or the holder of an ECFVG certificate. The application shall also show such other information

and proof as the board may require by rule. The application shall be accompanied by a fee in the amount established and published by the board.

b. If the board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next examination, or if the applicant is eligible for license without examination under section 169.10, the board may grant a license to the applicant.

c. If an applicant is found not qualified to take the examination or for a license without examination, the secretary of the board shall immediately notify the applicant in writing of such finding and the grounds therefor. An applicant found unqualified may request a hearing on the question of the applicant's qualification under the procedure set forth in section 169.14. Any applicant who is found not qualified shall be allowed the return of the application fee.

d. Based upon an applicant's education, experience, and training, the board may grant a limited license to an applicant to perform a restricted range of activities within the practice of veterinary medicine, as specified by the board.

2. *a.* The name, location, number of years of practice of the person to whom a license is issued, the number of the certificate, and the date of registration thereof shall be entered in a book kept in the office of the department of agriculture and land stewardship, to be known as the "registry book", and the same shall be open to public inspection.

b. When any person licensed to practice under this chapter changes residence, the board shall be notified within thirty days and such change shall be noted in the registry book.

3. Every individual licensed under this chapter shall keep the license displayed in the place at which an office is maintained.

[S13, §2538-e, -i, -j; C24, 27, 31, 35, 39, §**2767, 2768, 2775, 2776, 2786;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.4, 169.5, 169.13, 169.14, 169.23; C79, 81, §169.8]

83 Acts, ch 115, §5, 6; 90 Acts, ch 1117, §1; 2009 Acts, ch 41, §63

169.9 Examinations.

1. The board shall hold at least one examination during each year and may hold such additional examinations as it deems necessary. The secretary shall give public notice of the time and place for each examination at least ninety days in advance of the date set for the examination. A person desiring to take an examination shall make application at least thirty days before the date of the examination.

2. The preparation, administration, and grading of examinations shall be governed by rules prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to establish competency to practice veterinary medicine in the judgment of the board. All examinees shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the board may deem necessary. The board may adopt and use the examination prepared by the national board of veterinary examiners as a part of the examination given to examinees.

3. After each examination, the board shall notify each examinee of the examination result, and the board shall issue licenses to the individuals successfully completing the examination. The board shall record the new licenses and issue a certificate of registration to the new licensees. Any individual failing an examination shall be admitted to any subsequent examination on payment of the application fee.

4. In all written examinations the identity of the individual taking the same shall not be disclosed upon the examination papers in such a way as to enable the members of the examining board to know by whom written until after the papers have been passed upon.

[S13, §2538-e, -f, -i; C24, 27, 31, 35, 39, §**2772, 2790 – 2792;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.10, 169.27 – 169.29; C79, 81, §169.9]

83 Acts, ch 115, §7; 2017 Acts, ch 54, §76

169.10 License by endorsement.

1. The board may issue a license to practice veterinary medicine in this state without written examination to an applicant who meets all of the following requirements:

a. Has graduated from an accredited college of veterinary medicine or has received a

certificate from the educational commission for foreign veterinary graduates at least five years prior to application.

b. Has actively practiced for at least two thousand hours during the five years preceding application.

c. Has not previously failed and not subsequently passed a veterinary licensing examination in this state.

d. Holds a current license to practice veterinary medicine in another state or United States territory or province of Canada.

e. Is not subject to license investigation, suspension, or revocation in any state, United States territory, or province of Canada.

f. Provides other information and proof as the board may require by rule.

2. The board may issue a license to practice veterinary medicine in this state without written or oral examination to an applicant who meets all of the following requirements:

a. Holds a current certification as a diplomate of a national specialty board or college recognized by the board by rule.

b. Is not subject to license investigation, suspension, or revocation in any state, United States territory, or province of Canada.

c. Provides other information and proof as the board may require by rule.

[S13, §2538-i, -i1; C24, 27, 31, 35, 39, §**2794 – 2797;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.31 – 169.34; C79, 81, §169.10]

90 Acts, ch 1117, §2

Referred to in §169.8

169.11 Temporary permit.

The board may issue without examination a temporary permit to practice veterinary medicine in this state:

1. To a qualified applicant for license pending examination and the temporary permit shall expire the day after the notice of results of the first examination given after the permit is issued. The temporary permit holder should keep the secretary continually advised of the permit holder's current address.

2. To a nonresident veterinarian validly licensed in another state, territory, or district of the United States or a foreign country who pays the fee established and published by the board. Such temporary permit shall be issued for a period of no more than one hundred eighty days and no more than one permit shall be issued to a person during each calendar year.

[C79, 81, §169.11]

169.12 License renewal.

1. All licenses shall expire in multiyear intervals as determined by the board but may be renewed by registration with the board and payment of the registration renewal fee established and published by the board. Prior to expiration the secretary shall mail a notice to each licensed veterinarian that the license will expire and provide the licensee with a form for registration.

2. Any person who shall practice veterinary medicine after license expiration is practicing in violation of this chapter. However, a person may renew an expired license within five years of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed since the date of expiration, a license may not be renewed, and the holder must make application for a new license and take the license examination.

3. The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when the veterinarian is on active duty with any branch of the armed services of the United States.

4. Any licensee who is desirous of changing residence to another state or territory shall,

upon application to the department and payment of the legal fee, receive a certified statement that the licensee is a duly licensed practitioner in this state.

[S13, §2538-j; C24, 27, 31, 35, 39, §**2769, 2769.1, 2798;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.6, 169.35; C79, 81, §169.12]

2017 Acts, ch 54, §76

Referred to in §169.13

169.13 Discipline of licensees.

1. The board of veterinary medicine, after due notice and hearing, may revoke or suspend a license to practice veterinary medicine if it determines that a veterinarian licensed to practice veterinary medicine is guilty of any of the following acts or offenses:

a. Knowingly making misleading, deceptive, untrue, or fraudulent representation in the practice of the profession.

b. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication or guilt is either withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state is conclusive evidence.

c. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of veterinary medicine.

d. Having the person's license to practice veterinary medicine revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.

e. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice veterinary medicine.

f. Being adjudged mentally incompetent by a court of competent jurisdiction. The adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

g. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of veterinary medicine as defined in rules adopted by the board, in which proceeding actual injury to an animal need not be established; or the committing by a veterinarian of an act contrary to honesty, justice, or good morals, whether the act is committed in the course of the practice or otherwise, and whether committed within or without this state.

h. Inability to practice veterinary medicine with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition.

i. Willful or repeated violation of lawful rules adopted by the board or violation of a lawful order of the board, previously entered by the board in a disciplinary hearing.

2. *a.* The board, upon probable cause, may compel a veterinarian to submit to a mental or physical examination by designated physicians. Failure of a veterinarian to submit to an examination constitutes an admission to the allegations made against that veterinarian and the finding of fact and decision of the board may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a veterinarian shall be afforded an opportunity to demonstrate that the veterinarian can resume the competent practice of veterinary medicine with reasonable skill and safety to animals.

b. A person licensed to practice veterinary medicine who makes application for the renewal of the person's license as required by section 169.12 gives consent to submit to a mental or physical examination as provided by this paragraph when directed in writing by the board. All objections shall be waived as to the admissibility of the examining physician's testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a

veterinarian in another proceeding and are confidential except for other actions filed against a veterinarian to revoke or suspend that person's license.

[S13, §2538-e; C24, 27, 31, 35, 39, §**2799;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.36; C79, 81, §169.13]

83 Acts, ch 115, §8; 2009 Acts, ch 41, §64

Referred to in §169.14, 272C.3, 272C.4

169.14 Procedure for suspension or revocation.

A proceeding for the revocation or suspension of a license to practice veterinary medicine or to discipline a person licensed to practice veterinary medicine shall be substantially in accord with the following:

1. The board, upon its own motion or upon a verified complaint in writing, may request the department of inspections and appeals to conduct an investigation of the charges contained in the complaint. The department of inspections and appeals shall report its findings to the board, and the board may issue an order fixing the time and place for hearing if a hearing is deemed warranted. A written notice of the time and place of the hearing, together with a statement of the charges, shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action.

2. If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by those rules. If the licensee fails to appear either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing.

3. The hearing shall be before a member or members designated by the board or before an administrative law judge appointed by the board according to the requirements of section 17A.11, subsection 1. The presiding board member or administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The member or officer shall issue subpoenas at the request and on behalf of the licensee.

4. A mechanized or stenographic record of the proceedings shall be kept. The licensee shall be given the opportunity to appear personally and by attorney, with the right to produce evidence in one's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

5. If a person refuses to obey a subpoena issued by the presiding member or administrative law judge or to answer a proper question put to that person during the hearing, the presiding member or administrative law judge may invoke the aid of a court of competent jurisdiction in requiring the attendance and testimony of that person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

6. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and attorney shall be given the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge upon the merits on the basis of the evidence in the record before it.

7. Upon three members of the board voting in favor of finding the licensee guilty of an act or offense specified in section 169.13, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

a. Suspend the license to practice veterinary medicine for a period to be determined by the board.

b. Revoke the license to practice veterinary medicine.

c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the veterinarian on probation. The probation ordered may be vacated upon noncompliance. The board may restore and reissue a license to practice veterinary medicine, and may impose a disciplinary or corrective measure which it might originally have imposed.

8. Judicial review of the board's action may be sought in accordance with chapter 17A.

9. The filing of a petition for review does not in itself stay execution or enforcement of board action. Upon application, the board or the review court, in appropriate cases, may order a stay pending the outcome of the review proceedings.

[C31, 35, §2799-d1, -d3, -d4, -d6; C39, §**2799.1, 2799.3, 2799.4, 2799.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.37, 169.39, 169.40, 169.42; C79, 81, §169.14]

83 Acts, ch 115, §9; 88 Acts, ch 1109, §18; 88 Acts, ch 1158, §44; 89 Acts, ch 296, §19; 98 Acts, ch 1202, §33, 46

Referred to in §169.5, 169.8, 169.20

169.15 Appeal.

Any party aggrieved by a decision of the board may appeal the matter to the district court as provided in section 17A.19.

[C79, 81, §169.15]

83 Acts, ch 115, §10

169.16 Reinstatement.

A person whose license is suspended or revoked may be relicensed or reinstated at any time by a vote of five members of the board after written application made to the board showing cause justifying relicensing or reinstatement. Examination of the applicant may be waived by the board.

[C79, 81, §169.16]

83 Acts, ch 115, §11

169.17 Forgeries.

Any person who shall file or attempt to file with the department or board of veterinary medicine any false or forged diploma or certificate or affidavit of identification or qualification is guilty of a fraudulent practice.

[C24, 27, 31, 35, 39, §**2803;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.43; C79, 81, §169.17]

169.18 Fraud.

Any person who shall present to the department or board of veterinary medicine a diploma or certificate of which the person is not the rightful owner, for the purpose of procuring a license, or who shall falsely impersonate anyone to whom a license has been granted by said department, is guilty of a fraudulent practice.

[C24, 27, 31, 35, 39, §**2804;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.44; C79, 81, §169.18]

169.19 Enforcement — penalties.

1. Any person who practices veterinary medicine without a currently valid license or temporary permit is guilty of a fraudulent practice. Each act of such unlawful practice shall constitute a distinct and separate offense.

2. A person who shall practice veterinary medicine without a currently valid license or temporary permit shall not receive any compensation for services so rendered.

3. The county attorney of the county in which any violation of this chapter occurs shall conduct the necessary prosecution for such violation. Notwithstanding this provision, the board of veterinary medicine or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. The action brought to restrain a person from engaging in the practice of veterinary medicine without possessing a license shall be brought in the name of the state of Iowa. If the court finds that the individual is violating or threatening to violate this chapter it shall enter an injunction restraining the individual from such unlawful acts.

4. The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other remedy set forth in this section.

5. The department shall cooperate with the board of veterinary medicine in the enforcement of the provisions of this chapter.

[S13, §2538-l; C24, 27, 31, 35, 39, §**2805 – 2807;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §169.45 – 169.48; C79, 81, §169.19]

83 Acts, ch 115, §12; 2012 Acts, ch 1023, §157

Referred to in §331.756(27)

169.20 Veterinary assistants.

1. A veterinarian may employ certified veterinary assistants for any purpose other than diagnosis, prescription or surgery. Veterinary assistants must act under the direct supervision of a licensed veterinarian.

2. The board shall issue certificates to veterinary assistants who have met the educational, experience and testing requirements as the board shall specify by rule. The certificate is not a license and does not expire. The certificate may be suspended or revoked, or any other disciplinary action may be taken as specified in section 272C.3, subsection 2. All disciplinary actions shall be taken pursuant to section 169.14.

83 Acts, ch 115, §1

Referred to in §169.4

169.21 Limitations of actions.

Any action for professional negligence against an individual licensed under this chapter resulting in damage to property shall not be brought more than two years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of, the injury for which damages were sought in the action, whichever of the dates occurs first. For purposes of this section, *"property"* includes an animal.

2021 Acts, ch 81, §1

NEW section

CHAPTER 169A

MARKING AND BRANDING OF LIVESTOCK

Referred to in §169C.3

169A.1	Definitions.	169A.10	Evidence of ownership — investigations.
169A.2	Adoption of brand.	169A.11	Publication of brands list.
169A.3	Must be recorded.	169A.12	Repealed by 2001 Acts, ch 183, §23.
169A.4	Recording — fee.	169A.13	Renewal of brand and fee.
169A.5	Effect of record.	169A.13A	Branding administration fund.
169A.6	Certified copy furnished.	169A.14	Tampering.
169A.7	Unlawful use of brand — penalty.	169A.15	Repealed by 95 Acts, ch 60, §10.
169A.8	Sale or assignment of brand.	169A.16	Repealed by 96 Acts, ch 1119, §2.
169A.9	Certified copy to new owner.		

169A.1 Definitions.

When used in this chapter:

1. *"Animal"* means a creature belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section 170.1; or poultry.

2. *"Brand"* means an identification mark that is burned into the hide of a live animal by a hot iron or another method approved by the secretary. A brand shall include a cryo-brand.

3. *"Computer"* means the same as defined in section 22.3A.

4. *"Cryo-brand"* means a brand produced by application of extreme cold temperature.

5. *"Identification device"* means a device which when installed is designed to store information regarding an animal or the animal's owner in an electronic format which may be accessed by a computer for purposes of reading or manipulating the information.

6. *"Install"* means to place an identification device onto or beneath the hide or skin of an animal, including but not limited to fixing the device into the ear of an animal or implanting the device beneath the skin of the animal.

7. *"Livestock"* means horses, cattle, sheep, mules, or asses.

[C66, 71, 73, 75, 77, 79, 81, §187.1]
86 Acts, ch 1245, §635
C93, §169A.1
95 Acts, ch 60, §1; 98 Acts, ch 1208, §1; 2003 Acts, ch 149, §2, 23
Further definitions; see §159.1

169A.2 Adoption of brand.

Any person owning livestock may adopt a brand for the purpose of branding the livestock. The person shall have the exclusive right to use the brand in this state, after recording the brand as provided in sections 169A.4 and 169A.6 or 169A.9.

[C66, 71, 73, 75, 77, 79, 81, §187.2]
C93, §169A.2
95 Acts, ch 60, §2

169A.3 Must be recorded.

Evidence of an animal's ownership shall not be established in court by the animal's brand, unless the animal is livestock, the brand complies with the requirements of this chapter, and the brand is recorded as provided in sections 169A.4 and 169A.6 or 169A.9.

[C66, 71, 73, 75, 77, 79, 81, §187.3]
C93, §169A.3
95 Acts, ch 60, §3

169A.4 Recording — fee.

A person desiring to adopt a brand shall forward to the secretary a brand application on forms approved by the secretary and providing for the desired brand, together with a recording fee of twenty-five dollars. Upon receipt, the secretary shall file the application and fee, unless the brand is of record of another person or conflicts with or closely resembles the brand of another person. If the secretary determines that such brand is of record or conflicts with or closely resembles the brand of another person, the secretary shall not record it but shall return the facsimile and fee to the forwarding person. However, the secretary shall renew a conflicting brand if the brand was originally recorded prior to July 1, 1996, and the brand is renewed as provided in section 169A.13. The department may notify each owner of a conflicting brand that the owner may record a nonconflicting brand. The power of examination, approval, acceptance, or rejection shall be vested in the secretary. The secretary shall file all brands offered for record pending the examination provided for in this section. The secretary shall make such examination as promptly as possible. If the brand is accepted, the brand's ownership shall vest in the person recording it from the date of filing.

[C51, §921 – 923; R60, §1556 – 1558; C73, §1480, 1481, 3809; C97, §2335, 2336; C24, 27, 31, 35, 39, §**2977, 2978;** C46, 50, 54, 58, 62, §187.2, 187.3; C66, 71, 73, 75, 77, 79, 81, §187.4]
C93, §169A.4
96 Acts, ch 1119, §1; 2001 Acts, ch 183, §20; 2002 Acts, ch 1050, §61, 65
Referred to in §169A.2, 169A.3, 169A.5, 169A.8, 169A.13

169A.5 Effect of record.

The recording provided for in sections 169A.4 and 169A.6 or 169A.9 shall secure the brand to the person and shall be considered personal property of said owner.

[C66, 71, 73, 75, 77, 79, 81, §187.5]
C93, §169A.5

169A.6 Certified copy furnished.

As soon as the brand is recorded by the secretary, the secretary shall furnish the owner of the brand with a certified copy of the record of the brand.

[C66, 71, 73, 75, 77, 79, 81, §187.6]
C93, §169A.6
95 Acts, ch 60, §4
Referred to in §169A.2, 169A.3, 169A.5, 169A.10

169A.7 Unlawful use of brand — penalty.

A person shall not use any brand for branding livestock, unless the brand has been recorded as provided by this chapter. A person may use an unrecorded hot brand or an unrecorded cryo-brand, consisting only of Arabic numerals, if the person uses the unrecorded brand in conjunction with the person's recorded brand, and only for purposes of identifying animals within a herd. However, the unrecorded brand shall not be evidence of ownership. A person convicted of violating this section shall be guilty of an aggravated misdemeanor.

[C66, 71, 73, 75, 77, 79, 81, §187.7]
C93, §169A.7
95 Acts, ch 60, §5

169A.8 Sale or assignment of brand.

Any brand recorded as provided in section 169A.4 shall be the property of the person causing such record to be made and shall be subject to sale, assignment, transfer, devise, and descent as personal property. Instruments of writing, evidencing the sale, assignment, or transfer of such brand shall be recorded by the secretary and the fee for recording such sale, assignment, or transfer shall be in an amount established by rule of the secretary pursuant to chapter 17A, which amount shall be based upon the administrative costs of maintaining the brand program provided for by this chapter.

[C66, 71, 73, 75, 77, 79, 81, §187.8]
C93, §169A.8

169A.9 Certified copy to new owner.

As soon as instruments of writing evidencing the sale, assignment, or transfer of a brand have been recorded by the secretary, the secretary shall furnish such new owner one certified copy of such sale, assignment, or transfer.

[C66, 71, 73, 75, 77, 79, 81, §187.9]
C93, §169A.9
Referred to in §169A.2, 169A.3, 169A.5, 169A.10

169A.10 Evidence of ownership — investigations.

1. In a suit at law or equity or in any criminal proceedings in which the title to an animal is an issue, the following shall be admissible as evidence:

a. A certified copy of a record as provided for in section 169A.6 or 169A.9. The certified copy shall be prima facie evidence of the ownership of livestock by the person in whose name the brand is recorded.

b. Information stored in an identification device which identifies the owner of an animal. The information shall be prima facie evidence of the ownership of the animal, if all of the following apply:

(1) The identification device meets applicable design standards adopted by the international standard organization, or which may be adopted by the department.

(2) The identification device is installed according to manufacturer's requirements.

(3) The information is not in conflict with a certified copy of a record as provided for in section 169A.6 or 169A.9.

c. The results of a sheriff's investigation as provided in this section.

2. A dispute involving the custody or ownership of an animal branded or subject to electronic identification under this chapter shall be investigated, on request, by the sheriff of the county where the animal is located. The sheriff may call upon the services of an authorized person, approved by the secretary, in reading the brands on animals. The cost

of the services shall be paid by the person requesting the investigation. The results of the sheriff's investigation are a public record.

[C66, 71, 73, 75, 77, 79, 81, §187.10]
C93, §169A.10
95 Acts, ch 60, §6; 98 Acts, ch 1208, §2
Referred to in §331.653

169A.11 Publication of brands list.

The secretary from time to time shall publish on the internet a list of all brands on record at the time of the publication. The publication shall contain a facsimile of all brands recorded and the owner's name and post office address. The records shall be arranged in convenient form for reference.

[C66, 71, 73, 75, 77, 79, 81, §187.11]
C93, §169A.11
95 Acts, ch 60, §7; 2012 Acts, ch 1095, §60

169A.12 Repealed by 2001 Acts, ch 183, §23.

169A.13 Renewal of brand and fee.

Each owner of a brand which is recorded pursuant to section 169A.4 shall renew the brand every five years after originally recording the brand and pay a renewal fee. The amount of the renewal fee is twenty-five dollars. The secretary shall notify every owner of a brand of record at least thirty days prior to the date of the renewal period. If the owner of a brand of record does not renew the brand and pay the renewal fee within six months after it is due, the owner shall forfeit the brand and the brand shall no longer be recorded. A forfeited brand shall not be issued to any other person for five years following date of forfeiture.

[C66, 71, 73, 75, 77, 79, 81, §187.13]
C93, §169A.13
95 Acts, ch 60, §8; 96 Acts, ch 1034, §8; 2001 Acts, ch 183, §21; 2002 Acts, ch 1119, §24
Referred to in §169A.4

169A.13A Branding administration fund.

1. A branding administration fund is created in the state treasury under the control of the department. The fund is composed of moneys collected in fees as provided in this chapter, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund.

2. The fund is subject to warrants written by the director of the department of administrative services, drawn upon the written requisition of the department.

3. Moneys in the fund are appropriated to the department for the exclusive purpose of supporting the administration of this chapter by the department.

4. The department may adopt rules pursuant to chapter 17A to administer this section.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

2001 Acts, ch 183, §22; 2003 Acts, ch 145, §286

169A.14 Tampering.

1. A person shall not do any of the following to an animal:

a. Brand, attempt to brand, or cause to be branded livestock, without authorization from the owner.

b. Efface, deface, or obliterate or attempt to efface, deface, or obliterate a brand, without authorization from the owner of the livestock.

c. Brand, attempt to brand, or cause to be branded a recorded brand on livestock, without authorization of the owner of the brand.

d. Install an electronic device or remove or damage an installed electronic device, without authorization from the owner of an animal.

2. A person violating this section is guilty of a fraudulent practice as provided in chapter 714.

[C66, 71, 73, 75, 77, 79, 81, §187.14]
C93, §169A.14
98 Acts, ch 1208, §3
Referred to in §169.4

169A.15 Repealed by 95 Acts, ch 60, §10.

169A.16 Repealed by 96 Acts, ch 1119, §2.

CHAPTER 169B

RESERVED

CHAPTER 169C

TRESPASSING OR STRAY LIVESTOCK

Referred to in §314.30

169C.1	Definitions.	169C.4	Liability.
169C.2	Custody.	169C.5	Satisfaction for damages.
169C.3	Notice to livestock owner.	169C.6	Habitual trespass.

169C.1 Definitions.

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

1. *"Aggrieved party"* means a landowner or a local authority.
2. *"County system"* means the same as defined in section 445.1.
3. *"Fence"* means a fence as described in chapter 359A which is lawful and tight as provided in that chapter, including but not limited to a partition fence. For purposes of this chapter, *"fence"* includes a fence bordering a public road.
4. *"Landowner"* means a person who holds an interest in land, including a titleholder or tenant.
5. *"Livestock"* means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; ostriches, rheas, or emus; farm deer as defined in section 170.1; or poultry.
6. *"Livestock care provider"* means a person designated by a local authority to provide care to livestock which is distrained by a local authority.
7. *"Livestock owner"* means the person who holds title to livestock or who is primarily responsible for the care and feeding of the livestock as provided by the titleholder.
8. *"Local authority"* means a city as defined in section 362.2 or a county as provided in chapter 331.
9. *"Maintenance"* means the provision of shelter, food, water, or a nutritional formulation as required pursuant to chapter 717.
10. *"Public road"* means a thoroughfare and its right-of-way, whether reserved by public ownership or easement, for use by the traveling public.

97 Acts, ch 57, §1; 2003 Acts, ch 149, §3, 23; 2007 Acts, ch 64, §1; 2010 Acts, ch 1118, §1
Referred to in §314.30
Further definitions, see §159.1

169C.2 Custody.

A landowner may take custody of livestock if the livestock trespasses upon the landowner's land or strays from the livestock owner's control on a public road which adjoins the landowner's land. A local authority may take custody of the livestock as provided by the local authority. The landowner shall not transfer custody of the livestock to a person other

than the livestock owner or a local authority, unless the livestock owner approves of the transfer. A local authority shall not transfer custody of the livestock to a person other than the livestock owner or a livestock care provider.

97 Acts, ch 57, §2
Referred to in §169C.4, 169C.5, 314.30

169C.3 Notice to livestock owner.

1. *a.* If livestock trespasses upon a landowner's land or the landowner takes custody of the livestock, the landowner shall deliver notice of the trespass or custody to the livestock owner within forty-eight hours following discovery of the trespass or taking custody of livestock which has not trespassed. If a local authority takes custody of the livestock, the local authority shall deliver notice of the custody to the livestock owner within forty-eight hours after taking custody of the livestock. The forty-eight-hour period shall exclude any time that falls on a Sunday or a holiday recognized by the state or the United States. The notice shall be made in writing and delivered by certified mail or personal service to the last known mailing address of the livestock owner.

b. If the aggrieved party does not know the name and address of the livestock owner, the aggrieved party shall make reasonable efforts to determine the identity of the livestock owner. The reasonable efforts shall include obtaining the name and address of the owner of the brand appearing on the livestock from the department of agriculture and land stewardship under chapter 169A. If the name and address of the livestock owner cannot be determined, the aggrieved party shall publish the notice as soon as possible at least once each week for two consecutive weeks in a newspaper having general circulation in the county where the livestock is located.

2. A notice required under this section shall at least provide all of the following:

a. The name and address of the landowner or local authority.

b. A description of the livestock and where it trespassed or strayed.

c. An estimate of the amount of the livestock owner's liability.

97 Acts, ch 57, §3
Referred to in §169C.4, 169C.5

169C.4 Liability.

1. A livestock owner shall be liable to the following persons:

a. To a landowner for damages caused by the livestock owner's livestock which have trespassed on the landowner's land, including but not limited to property damage and costs incurred by the landowner's custody of the livestock including maintenance costs. A livestock owner's liability is not affected by the failure of a landowner to take custody of the livestock. A livestock owner shall not be liable for damages incurred by a landowner if the livestock trespassed through a fence that was not maintained by the landowner as required pursuant to chapter 359A.

b. To a landowner who takes custody of livestock on a public road as provided in section 169C.2 for costs incurred by the landowner in taking custody of the livestock, including maintenance costs.

c. To a local authority which takes custody of livestock for costs incurred by the local authority in taking custody of the livestock, including maintenance costs.

2. An aggrieved party who fails to provide timely notice of a livestock's trespass or custody as required by section 169C.3 shall not be entitled to compensation for damages for the period of time during which the aggrieved party fails to provide timely notice.

3. A landowner is not liable for an injury or death suffered by the livestock in the landowner's custody, unless the landowner caused the injury or death. The landowner is not liable for livestock that strays from the landowner's land. An aggrieved party is not liable for livestock that strays from the control of the aggrieved party.

97 Acts, ch 57, §4; 98 Acts, ch 1100, §21, 22
Referred to in §314.30

169C.5 Satisfaction for damages.

1. *a.* After receiving notice by an aggrieved party as required by section 169C.3, the

livestock owner shall pay all damages to the aggrieved party for which the livestock owner is liable.

b. The aggrieved party or the livestock owner may bring a civil action in order to determine the livestock owner's liability and the amount of any claim for damages. The aggrieved party or livestock owner must bring the action within thirty days following receipt or publication of the notice as required by section 169C.3. The court may join all other claims arising out of the same facts that are alleged in the claim for damages. The civil action may be heard by a district judge or a district associate judge. The civil action may be heard by the district court sitting in small claims as provided in chapter 631.

c. If the livestock is in the custody of an aggrieved party or livestock care provider, a rebuttable presumption arises that the livestock has trespassed or strayed from the control of the livestock owner. The rebuttable presumption shall not apply if a criminal charge has been filed involving the removal or transfer of the livestock. The burden of proof regarding all other matters of dispute shall be on the aggrieved party.

d. The failure of an aggrieved party to provide notice as required by section 169C.3 shall not bar the aggrieved party from being awarded a judgment, if the court determines that the livestock owner had actual knowledge that the livestock had trespassed or strayed and the name and address of the aggrieved party.

2. If a civil action is brought by the livestock owner or aggrieved party, the matter shall be heard by a court on an expedited basis. The aggrieved party shall provide for the transfer of the livestock to the livestock owner, if the livestock owner posts a bond or other security with the court in the amount of the aggrieved party's claim. If a bond or security is not posted, the aggrieved party or livestock care provider shall keep custody of and provide maintenance to the livestock. However, the livestock owner shall post the bond or other security if the matter is set for hearing more than thirty days from the date that the petition bringing the civil action is filed. The court shall order the immediate disposition of the livestock as provided in chapter 717, if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

3. If a civil action is not timely brought as provided in this section, title to the livestock shall transfer to the aggrieved party thirty days following receipt of the notice by the livestock owner or the first date of the notice's publication as required pursuant to section 169C.3, if the parties fail to agree to the amount, terms, or conditions of payment or if the identity of the livestock owner cannot be determined. Title to the livestock shall transfer subject to any applicable security interests or liens.

4. A landowner is liable to the livestock owner for twice the fair market value of livestock that the landowner transfers to a person other than a local authority in violation of section 169C.2.

5. If the aggrieved party is a local authority, the local authority shall reimburse the landowner for the landowner's damages from proceeds received from the sale of the livestock, after satisfying any superior security interests or liens.

97 Acts, ch 57, §5

169C.6 Habitual trespass.

A habitual trespass occurs when livestock trespasses from the land where the livestock are kept onto the land of a neighboring landowner or strays from the land where the livestock are kept onto a public road, and on three or more separate occasions within the prior twelve-month period the same or different livestock kept on that land have trespassed onto the land of the same neighboring landowner or strayed from the land where the livestock are kept onto the same public road.

1. The local authority upon its own initiative or upon receipt of a complaint shall determine whether livestock are trespassing or straying from the land where the livestock are kept onto a public road, and make a record of its findings.

2. *a.* Once a habitual trespass occurs, a neighboring landowner may request that the responsible landowner of the land where the trespassing or stray livestock are kept erect or maintain a fence on the land. The neighboring landowner shall make the request to the responsible landowner in writing. The responsible landowner may compel an adjacent

landowner to contribute to the erection or maintenance of the fence as provided in chapter 359A.

b. If the responsible landowner does not erect or maintain a fence within thirty days after receiving the request, the neighboring landowner may apply to the fence viewers as provided in chapter 359A as if the matter were a controversy between the responsible landowner and an adjacent landowner, and the matter shall be resolved by an order issued by the fence viewers, subject to appeal, as provided in chapter 359A. The neighboring landowner shall be a party to the controversy as if the neighboring party were an adjacent landowner. The neighboring landowner is not liable for erecting or maintaining the fence, unless the neighboring landowner is an adjacent landowner who is otherwise required to make a contribution under chapter 359A.

3. If the fence is not erected or maintained as required in section 359A.6, and upon the written request of the board of township trustees, the board of supervisors of the county where the fence is to be erected or maintained shall act in the same manner as the board of township trustees under that section, including by erecting or maintaining the fence, ordering payment from a defaulted party, and certifying an amount due to the county treasurer in the same manner as in section 359A.6. The amount due shall include the total costs required to erect or maintain the fence and a penalty equal to five percent of the total costs. The amount shall be placed upon the county system and collected in the same manner as ordinary taxes. Upon certification to the county treasurer, the amount assessed shall be a lien on the parcel until paid.

2007 Acts, ch 64, §2; 2010 Acts, ch 1118, §2
Referred to in §314.30, 359A.22A, 445.1

CHAPTER 170

FARM DEER

Referred to in §481A.124, 484B.3, 484B.12, 484C.2, 484C.6, 484C.8

170.1	Definitions.	170.3C	Farm deer administration fund — appropriation.
170.1A	Application of chapter.	170.4	Requirements for keeping whitetail — fence certification.
170.2	Farm deer council.	170.5	Requirements for releasing whitetail — property interests.
170.3	Departmental jurisdiction — administration and enforcement.	170.6	Disciplinary proceedings.
170.3A	Chronic wasting disease control program.	170.7	Department of natural resources — investigations.
170.3B	Farm deer administration fee.	170.8	Penalties.

170.1 Definitions.

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

1. *"Chronic wasting disease"* means the animal disease afflicting deer, elk, or moose that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain and that belongs to the group of diseases that is known as transmissible spongiform encephalopathies (TSE).

2. *"Council"* means the farm deer council established pursuant to section 170.2.

3. *"Department"* means the department of agriculture and land stewardship.

4. *a. "Farm deer"* means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; part of the virginianus species of the odocoileus genus, commonly referred to as whitetail; part of the hemionus species of the odocoileus genus, commonly referred to as mule deer; part of the nippon species of the cervus genus, commonly referred to as sika; or part of the alces species of the alces genus, commonly referred to as moose.

b. *"Farm deer"* does not include any unmarked free-ranging elk, whitetail, or mule deer.

"Farm deer" also does not include preserve whitetail which are kept on a hunting preserve as provided in chapter 484C.

5. *"Fence"* means a boundary fence which encloses farm deer within a landowner's property as required to be constructed and maintained pursuant to section 170.4.

6. *"Landowner"* means a person who holds an interest in land, including a titleholder or tenant.

2003 Acts, ch 149, §4, 23; 2005 Acts, ch 139, §1; 2012 Acts, ch 1095, §58, 59

Referred to in §10.1, 167.22, 169A.1, 169C.1, 189A.2, 190A.2, 423.1, 481A.1, 481A.134, 481A.135, 673A.3, 716.7, 716.7A, 716.8, 716.13, 716.14, 717.1

170.1A Application of chapter.

1. A landowner shall not keep whitetail unless the whitetail are kept as farm deer under this chapter or kept as preserve whitetail on a hunting preserve pursuant to chapter 484C.

2. This chapter authorizes the department of agriculture and land stewardship to regulate whitetail kept as farm deer. However, the department of natural resources shall regulate preserve whitetail kept on a hunting preserve pursuant to chapter 484C.

2005 Acts, ch 139, §2

170.2 Farm deer council.

1. A farm deer council is established within the department.

a. The council shall consist of not more than seven members who shall be appointed by the secretary of agriculture. All members must be actively engaged in the production of farm deer and at least four members must be actively engaged in the production of whitetail as farm deer.

b. The members of the council shall serve staggered terms of two years, except that the initial council members shall serve terms of unequal length. A person appointed to fill a vacancy for a member shall serve only for the unexpired portion of the term. A member is eligible for reappointment for three successive terms.

c. The council shall elect a chairperson and meet according to rules adopted by the council. A majority of the council constitutes a quorum and an affirmative vote of a majority of members is necessary for substantive action taken by the council. The majority shall not include any member who has a conflict of interest and a statement by a member of a conflict of interest shall be conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the council.

d. A member of the council is not entitled to receive expenses incurred in the discharge of the member's duties on the council. A member is also not entitled to receive compensation as otherwise provided in section 7E.6.

2. The council shall do all of the following:

a. Monitor conditions relating to the production of farm deer, the processing of farm deer products, and the marketing of such products. The council shall advise the department about health issues affecting farm deer, including but not limited to chronic wasting disease, and related regulations or practices.

b. Advise the department about the administration and enforcement of this chapter, including but not limited to consulting with the department regarding the rules adopted under this chapter, the certification of fences, and disciplinary actions. However, the council shall not control policy decisions or direct the administration or enforcement of this chapter.

2003 Acts, ch 149, §5, 23

Referred to in §170.1, 170.3B

170.3 Departmental jurisdiction — administration and enforcement.

1. Farm deer are livestock as provided in this title and are principally subject to regulation by the department of agriculture and land stewardship, and also the department of natural resources as specifically provided in this chapter. The regulations adopted by the department of agriculture and land stewardship may include but are not limited to providing for the importation, transportation, and disease control of farm deer. The department of natural resources shall not require that the landowner be issued a license or permit for keeping farm deer or for the construction of a fence for keeping farm deer.

2. The department of agriculture and land stewardship and the department of natural resources shall cooperate in administering and enforcing this chapter.

2003 Acts, ch 149, §6, 23

170.3A Chronic wasting disease control program.

The department shall establish and administer a chronic wasting disease control program for the control of chronic wasting disease which threatens farm deer. The program shall include procedures for the inspection and testing of farm deer, responses to reported cases of chronic wasting disease, and methods to ensure that owners of farm deer may engage in the movement and sale of farm deer.

2005 Acts, ch 172, §21

Referred to in §170.3C

See also §167.22

170.3B Farm deer administration fee.

The department may establish a farm deer administration fee which shall be annually imposed on each landowner who keeps farm deer in this state. The amount of the fee shall not exceed two hundred dollars per year. The fee shall be collected by the department in a manner specified by rules adopted by the department after consulting with the farm deer council established in section 170.2. The collected fees shall be credited to the farm deer administration fund created pursuant to section 170.3C.

2005 Acts, ch 172, §22

Referred to in §170.3C

170.3C Farm deer administration fund — appropriation.

A farm deer administration fund is created in the state treasury under the control of the department.

1. The fund shall be composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund. The fund shall include all moneys collected from the farm deer administration fee as provided in section 170.3B.

2. The moneys in the fund are appropriated exclusively to the department for the purpose of administering the chronic wasting disease control program as provided in section 170.3A.

3. Section 8.33 shall not apply to moneys credited to the fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

2005 Acts, ch 172, §23

Referred to in §170.3B

170.4 Requirements for keeping whitetail — fence certification.

A landowner shall not keep whitetail as farm deer, unless the whitetail is kept on land which is enclosed by a fence. The fence must be constructed and maintained as prescribed by rules adopted by the department. A landowner shall not keep the whitetail unless the fence is certified in a manner and according to procedures required by the department. The fence shall be constructed and maintained to ensure that whitetail are kept in the enclosure and that other deer are excluded from the enclosure. A fence that is constructed on or after May 23, 2003, shall be at least eight feet in height above ground level. The department of agriculture and land stewardship may require that the fence is inspected and approved prior to certification. The department of natural resources may periodically inspect the fence according to appointment with the enclosure's landowner.

2003 Acts, ch 149, §7, 23

Referred to in §170.1, 170.5, 170.6, 170.8

170.5 Requirements for releasing whitetail — property interests.

A person shall not release whitetail kept as farm deer onto land unless the landowner complies with all of the following:

1. The landowner must notify the department of natural resources and the department of agriculture and land stewardship at least thirty days prior to first releasing the whitetail on

the land. The notice shall be provided in a manner required by the departments. The notice must at least provide all of the following:

a. A statement verifying that the fence which encloses the land is certified by the department of agriculture and land stewardship pursuant to section 170.4.

b. The landowner's name.

c. The location of the land enclosed by the fence.

2. The landowner shall cooperate with the department of natural resources and the department of agriculture and land stewardship to remove any whitetail from the enclosed land. However, after the thirtieth day following receipt of the notice, the state shall relinquish its property interest in any remaining whitetail that the landowner and the cooperating departments were unable to remove from the enclosed land. Any remaining whitetail existing at that time on the enclosed land, and any progeny of the whitetail, shall become property of the landowner.

2003 Acts, ch 149, §8, 23

Referred to in §170.6, 481A.130

170.6 Disciplinary proceedings.

1. The department of agriculture and land stewardship may suspend or revoke a certification issued pursuant to section 170.4 if the department determines that a landowner has done any of the following:

a. Provided false information to the department in an application for certification pursuant to section 170.4.

b. Failed to provide notice or access to the department of natural resources and the department of agriculture and land stewardship as required by section 170.5.

c. Failed to maintain a fence enclosing the land where a whitetail is kept as required in section 170.4.

d. Forces or lures a whitetail that is property of the state onto the enclosed land.

e. Restrains or inhibits a whitetail that is property of the state from leaving the enclosed land.

f. Takes a whitetail that is property of the state which is enclosed on the property in violation of a chapter in Title XI, subtitle 6.

2. If the department suspends a landowner's certification, the landowner shall not release additional whitetail onto the enclosed land, unless otherwise provided in the department's order for suspension. If the department revokes a landowner's certification under this section, the landowner shall provide for the disposition of the enclosed whitetail by any lawful means.

2003 Acts, ch 149, §9, 23; 2003 Acts, ch 179, §66

170.7 Department of natural resources — investigations.

This chapter does not prevent the department of natural resources from conducting an investigation of a violation of fish and game laws, including but not limited to a provision of Title XI, subtitle 6. The department of natural resources may obtain a warrant to search the enclosed land pursuant to chapter 808. This chapter does not prevent the department of natural resources from examining the landowner's business records according to appointment with the enclosure's landowner. The records include but are not limited to those relating to whitetail inventories, health, inspections, or shipments; and the enclosure's fencing.

2003 Acts, ch 149, §10, 23

170.8 Penalties.

A person is guilty of taking a whitetail in violation of section 481A.48 if the whitetail is on the land enclosed by a fence required to be certified as provided in section 170.4 and the person does any of the following:

1. Forces or lures a whitetail that is property of the state onto the enclosed land.

2. Restrains or inhibits a whitetail that is property of the state from leaving the enclosed land.

3. Takes a whitetail that is property of the state that is within the enclosure in violation of a chapter in Title XI, subtitle 6.

2003 Acts, ch 149, §11, 23

CHAPTERS 170A to 171

RESERVED

CHAPTER 172

FROZEN FOOD LOCKER PLANTS

Repealed by 2000 Acts, ch 1100, §2

CHAPTER 172A

BONDING OF SLAUGHTERHOUSE OPERATORS

Referred to in §166A.2

172A.1 Definitions.
172A.2 License required.
172A.3 Application for license.
172A.4 Proof of financial responsibility required.
172A.5 Bonded packers registration.
172A.6 Low volume dealers exempt from license and bond.
172A.7 Access to records.
172A.8 Reciprocal agreements.
172A.9 Payment for livestock.
172A.10 Injunctions — criminal penalties.
172A.11 Suspension of license.
172A.12 Revocation of license.
172A.13 Rules.

172A.1 Definitions.

When used in this chapter, unless the context otherwise requires:

1. *"Agent"* means a person engaged in the buying or soliciting in this state of livestock for slaughter exclusively on behalf of a dealer or broker.

2. *"Animals"* or *"livestock"* includes cattle, calves, swine, sheep, goats, turkeys, chickens, or horses.

3. *"Dealer"* or *"broker"* means any person, other than an agent, who is engaged in this state in the business of slaughtering live animals or receiving, buying or soliciting live animals for slaughter, the meat products of which are directly or indirectly to be offered for resale or for public consumption.

4. *"Department"* means the department of agriculture and land stewardship.

5. *"Person"* means an individual, partnership, association or corporation, or any other business unit.

6. *"Secretary"* means the secretary of agriculture.

[C73, 75, 77, 79, 81, §172A.1]

86 Acts, ch 1245, §623; 2012 Acts, ch 1095, §61; 2017 Acts, ch 159, §28

172A.2 License required.

1. A person shall not act as a dealer or broker without obtaining a license issued by the secretary. A person shall not act for any dealer or broker as an agent unless such dealer or broker is licensed, has designated such agent to act in the dealer's or broker's behalf, and has notified the secretary of the designation in the dealer's or broker's application for license or has given official notice in writing of the appointment of the agent and the secretary has issued to the agent an agent's license. A dealer or broker shall be accountable and responsible for

contracts made by an agent in the course of the agent's employment. The license of an agent whose employment by the dealer or broker is terminated shall be void on the date written notice of termination is received by the secretary.

2. The license of a dealer, broker, or agent, unless revoked, shall expire on the last day of the second June following the date of issue. The fee for obtaining a license as a dealer or broker is one hundred dollars. The fee for obtaining a license as an agent is twenty dollars.

3. A person shall not be issued a license if that person previously has had a license revoked, or previously was issued a license and the secretary suspended that license, unless the order of suspension or revocation is thereafter terminated by the secretary.

[C73, 75, 77, 79, 81, §172A.2]

2017 Acts, ch 159, §29

172A.3 Application for license.

1. Application for a license as a dealer or broker or as an agent shall be made in writing to the department. The application shall state the nature of the business, the municipal corporation, township and county, the post office address at which the business is to be conducted, and such additional information as the department may prescribe.

2. The applicant upon satisfying the department of the applicant's character and good faith in seeking to engage in such business and upon complying with such other requirements specified in this chapter, shall be issued by the department a license to conduct the business of a dealer, broker, or agent at the place named in the application.

[C73, 75, 77, 79, 81, §172A.3]

172A.4 Proof of financial responsibility required.

1. A license shall not be issued by the secretary to a dealer or broker until the applicant has furnished proof of financial responsibility as provided in this section. The proof may be in the following forms:

a. (1) A bond of a surety company authorized to do business in the state of Iowa in the form prescribed by and to the satisfaction of the secretary, conditioned for the payment of a judgment against the applicant furnishing the bond because of nonpayment of obligations in connection with the purchase of animals.

(a) The amount of bond for an established dealer or broker who does not maintain a business location in this state shall be not less than the nearest multiple of five thousand dollars above twice the average daily value of purchases of livestock originating in this state, handled by such applicant during the preceding twelve months or such parts thereof as the applicant was purchasing livestock. The bond of a person who does not maintain a business location in this state shall be conditioned for the payment only of those claims which arise from purchases of livestock originating in this state.

(b) The amount of bond for an established dealer or broker who maintains one or more business locations in this state shall be not less than the nearest multiple of five thousand dollars above twice the average daily value of purchases of livestock originating in this state handled by the applicant during the preceding twelve months or such parts thereof as the applicant was purchasing livestock. The bond of a person who maintains one or more business locations in this state shall be conditioned for the payment only of those claims which arise from purchases of livestock originating in this state.

(c) If a new dealer or broker not previously covered by this chapter applies for a license, the amount of bond shall be based on twice the estimated average daily value of purchases of livestock originating in this state.

(d) For the purpose of computing average daily value, two hundred sixty is deemed the number of business days in a year.

(e) Whenever a dealer or broker's weekly purchases exceed one hundred fifty percent of the dealer's or broker's average weekly volume, the department shall require additional bond in an amount determined by the department.

(2) The licensee and surety of the bond shall be held and firmly bound unto the secretary as trustee for all persons who may be damaged because of nonpayment of obligations in connection with the purchase of animals originating in this state. Any person damaged

because of such nonpayment may maintain suit in the person's own behalf to recover on the bond, even though not named as a party to the bond.

(3) For purposes of this paragraph *"a"*, *"purchases of livestock originating in this state"* shall not include purchases by dealers or brokers from their subsidiaries.

b. A bond equivalent may be filed in lieu of a bond. The bond equivalent shall be in the form of a trust agreement and the fund of the trust shall be in the form of fully negotiable obligations of the United States or certificates of deposit insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation.

(1) The trust agreement shall be in the form prescribed by the secretary and executed to the satisfaction of the secretary. The trustee of the trust agreement shall be an institution located in this state in which the funds are invested or deposited.

(2) The trust agreement shall provide as beneficiary, the secretary for the benefit of those persons damaged because of nonpayment of obligations in connection with the purchase of animals originating in this state. The fund in trust shall be an amount calculated in the exact manner as provided in paragraph *"a"*. The fund in trust shall not be subject to attachment for any other claim, or to levy of execution upon a judgment based on any other claim.

c. A person who is not a resident of this state and who either maintains no business location in this state or maintains one or more business locations in this state, and a person who is a resident of this state and who maintains more than one business location in this state, may submit a consolidated proof of financial responsibility. The consolidated proof of financial responsibility shall consist of a bond or a trust agreement meeting all of the requirements of this section, except that the calculation of the amount of the bond or the amount of the trust fund shall be based on the average daily value of all purchases of livestock originating in this state. A person who submits consolidated proof of financial responsibility shall maintain separate records for each business location, and shall maintain such other records respecting purchases of livestock as the secretary by rule shall prescribe.

2. *a.* Any person damaged by nonpayment of obligations or by any misrepresentation or fraud on the part of a broker or dealer may maintain an action against the broker or dealer, and the sureties on the bonds or the trustee of a trust fund. The aggregate liability of the sureties or the trust for all such damage shall not exceed the amount of the bond or trust. In the event that the aggregate claims exceed the total amount of the bond or trust, the amount payable on account of any claim shall be in the same proportion to the amount of the bond or trust as the individual claim bears to the aggregate claims.

b. Unless the person damaged files claim with the dealer or broker, and with the sureties or trustee, and with the department within ninety days after the date of the transaction on which the claim is based, the claimant shall be barred from maintaining an action on the bond or trust and from receiving any proceeds from the bond or trust.

3. Whenever the secretary determines that the business volume of the applicant or licensee is such as to render the bond or trust inadequate, the amount of the bond or trust shall be, upon notice, adjusted.

4. All bonds and trust agreements shall contain a provision requiring that at least thirty days' prior notice in writing be given to the secretary by the party terminating the bond or trust agreement as a condition precedent to termination.

5. *a.* Whenever a bond or a trust agreement is to be terminated by a cancellation by the surety or trustee, the secretary shall cause to be published notices of the proposed cancellation not less than ten days prior to the date the cancellation is effective. The notices shall be published as follows:

(1) In the Iowa administrative code.

(2) In a newspaper of general circulation in the county in which the licensee maintains a business location, or if the licensee maintains no business location in this state, then in the county where the licensee transacts a substantial part of the licensee's business.

(3) By general news release to all news media. Failure by the secretary to cause the publication of notice as required by this subparagraph shall not be deemed to prevent or delay the cancellation.

b. The termination of a bond or a trust agreement shall not release the parties from any liability arising out of the facts or transactions occurring prior to the termination date.

c. Trust funds shall not be withdrawn from trust by a licensee until the expiration of ninety days after the date of termination of the trust, and then only if no claims secured by the agreement have been filed with the secretary. If any claims have been filed with the secretary, the withdrawal of funds by the licensee shall not be permitted until the claims have been satisfied or released and evidence of the satisfaction or release filed with the secretary.

[C73, 75, 77, 79, 81, §172A.4]

2009 Acts, ch 41, §65

172A.5 Bonded packers registration.

A dealer or broker who has a bond required by the United States department of agriculture under the Packers and Stockyards Act of 1921 as amended, 7 U.S.C. §181 – 231, shall be exempt from the provisions of this chapter upon registration with the secretary. Registration shall be effective upon filing with the secretary a certified copy of the bond filed with the United States department of agriculture, and shall continue in effect until that bond is terminated.

[C73, 75, 77, 79, 81, §172A.5]

2010 Acts, ch 1061, §38

172A.6 Low volume dealers exempt from license and bond.

1. The license and financial responsibility provisions of this chapter do not apply to a person who is licensed as provided in chapter 137F who purchases livestock for slaughter valued at less than an average daily value of two thousand five hundred dollars during any period of the preceding twelve months. A person licensed under that chapter is subject to other provisions of this chapter, including the regulatory and penal provisions of this chapter.

2. The provisions of this chapter shall not apply to any other person who purchases livestock for slaughter valued at less than an average daily value of two thousand five hundred dollars based upon the preceding twelve months or such part thereof as the person was purchasing livestock.

[C73, 75, 77, 79, 81, §172A.6]

98 Acts, ch 1032, §4; 98 Acts, ch 1162, §25, 30; 2000 Acts, ch 1100, §1

172A.7 Access to records.

Every dealer or broker shall during all reasonable times permit an authorized representative of the department to examine all records relating to the business necessary in the enforcement of this chapter.

[C73, 75, 77, 79, 81, §172A.7]

172A.8 Reciprocal agreements.

The department shall have the power and authority to enter into reciprocal agreements with the authorized representatives of other federal or state jurisdictions for the exchange of information and audit reports on a cooperative basis which may assist the department in the proper administration of this chapter.

[C73, 75, 77, 79, 81, §172A.8]

172A.9 Payment for livestock.

1. Each dealer, or broker purchasing livestock, before the close of the next business day following either the purchase of livestock or the determination of the amount of the purchase price, whichever is later, shall transmit or deliver to the seller or the seller's duly authorized agent the full amount of the purchase price. If livestock is bought on a yield or grade and yield basis, a dealer or broker shall upon the express request in writing of the seller, transmit or deliver to the seller or the seller's duly authorized agent before the close of the next business day following such purchase or delivery, whichever is later, up to eighty percent of the estimated purchase price, and pay the remaining balance on the next business day following the determination of the purchase price.

2. Payment to the seller shall be made by cash, check, or wire transfer of funds. If payment to the seller is by check, the check shall be drawn on a bank located in this state or on a bank

located in an adjacent state and in the nearest city to Iowa in which a check processing center of a federal reserve bank district is located. For the purpose of this subsection, *"wire transfer"* means any telephonic, telegraphic, electronic, or similar communication between the bank of the purchaser and the bank of the seller which results in the transfer of funds or credits of the purchaser to an account of the seller.

3. Provisions of this section may be modified by an agreement signed by both the buyer and the seller or their duly authorized agents at the time of the sale. However, such an agreement shall not be a condition of sale unless expressly requested by the seller.

4. Failure to comply with this section shall be a violation of this chapter.

[C77, 79, 81, §172A.9]

Referred to in §172A.11

172A.10 Injunctions — criminal penalties.

1. If any person who is required by this chapter to be licensed fails to obtain the required license, or if any person who is required by this chapter to maintain proof of financial responsibility fails to obtain or maintain such proof, or if any licensee fails to discontinue engaging in licensed activities when that person's license has been suspended, such failure shall be deemed a nuisance and the secretary may bring an action on behalf of the state to enjoin such nuisance. Such actions may be heard on not less than five days' notice to the person whose activities are sought to be enjoined. The failure to obtain a license when required, or the failure to obtain or maintain proof of financial responsibility shall constitute a violation of this chapter.

2. Any person convicted of violating any provision of this chapter shall be guilty of a serious misdemeanor.

[C73, 75, §172A.9; C77, 79, 81, §172A.10]

2014 Acts, ch 1092, §33; 2015 Acts, ch 30, §64

Nuisances in general, chapter 657

172A.11 Suspension of license.

1. *a.* The secretary shall have the authority to suspend the license of any dealer or broker or agent if upon hearing it is found that the dealer or broker or agent has committed any of the following acts or omissions:

(1) Failure to submit a larger bond amount or trust fund when ordered by the secretary.

(2) Failure to pay for purchases of livestock in the manner required by section 172A.9.

b. An order of suspension issued by the secretary shall be effective for an indefinite period, unless and until the person establishes to the satisfaction of the secretary that the person has taken reasonable precautions to prevent a recurrence of the act or omission in the future.

2. *a.* The secretary shall have the authority temporarily to suspend without hearing the license of any licensee in any of the following circumstances:

(1) The licensee fails to maintain proof of financial responsibility, or the surety on the licensee's bond loses its authorization to issue bonds in this state, or the trustee of a trust fund loses its authorization to engage in the business of a fiduciary.

(2) Claims are filed with the secretary against the bond or trust in an aggregate amount equal to ten percent or more of the amount of the bond.

b. A temporary suspension shall be effective on the date of issuance of the order of suspension, and until a revocation hearing has been held and the secretary either has entered an order of revocation of the license, or has terminated the order of suspension.

[C77, 79, 81, §172A.11]

2009 Acts, ch 41, §263

172A.12 Revocation of license.

1. The secretary shall have the authority to revoke the license of a dealer or broker or agent upon notice and hearing if any of the following conditions exist:

a. Grounds exist for the temporary suspension of the license without hearing, and it is established that the person is or will be unable to meet obligations to producers of livestock when due.

b. The person has refused access to the secretary to the books and records of the person as required by this chapter.

c. Any other conditions exist which in the opinion of the secretary reasonably establish that it would be financially detrimental to livestock producers of this state to permit the person to engage in licensed activities in this state.

2. An order of revocation shall be effective upon the issuance of the order of revocation, and until the order is rescinded by the secretary, or until the decision of the secretary is reversed by a final order of a court of this state.

[C77, 79, 81, §172A.12]

172A.13 Rules.

The secretary is authorized to adopt rules pursuant to chapter 17A which are reasonable and necessary for the enforcement of this chapter.

[C77, 79, 81, §172A.13]

CHAPTER 172B

LIVESTOCK TRANSPORTATION

Referred to in §166D.2, 331.653, 716.13

172B.1	Definitions.	172B.4	Execution and retention of records.
172B.2	Transportation certificate exhibited — public offense.	172B.5	Authority of law enforcement officers.
172B.3	Form of certificate — substitutes.	172B.6	Offenses and penalties.

172B.1 Definitions.

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

1. *"Driver's license"* means any license or permit issued to a person to operate a motor vehicle on the highways.

2. *"Law enforcement officer"* means a state patrol officer, a sheriff, or other peace officer so designated by this state or by a county or municipality.

3. *"Livestock"* means and includes live cattle, swine, sheep, horses, ostriches, rheas, or emus, and the carcasses of such animals whether in whole or in part.

4. *"Owner"* means a person having legal title to livestock.

5. *"Transportation certificate"* means the document specified in section 172B.3 and includes either the standard form prescribed by the secretary, or a substitute document the use of which has been authorized by the secretary.

6. *"Transporting livestock"* means being in custody of or operating a vehicle in this state, whether or not on a highway, in which are confined one or more head of livestock. Vehicle includes a truck, trailer, and other device used for the purpose of conveying objects, whether or not the device has motive power or is attached to a vehicle with motive power at the time the livestock are confined.

[C77, 79, 81, §172B.1]

86 Acts, ch 1245, §624; 90 Acts, ch 1230, §1; 95 Acts, ch 43, §6; 98 Acts, ch 1073, §9; 98 Acts, ch 1074, §18; 2005 Acts, ch 35, §31

Further definitions; see §159.1

172B.2 Transportation certificate exhibited — public offense.

A person transporting livestock shall execute in the presence of a law enforcement officer, at the request of the officer, a transportation certificate. A person who fails to comply with this section commits a public offense punishable as provided in section 172B.6. A person who

fails to execute a transportation certificate upon the request of the officer fails to comply with this section even though the person possesses a transportation certificate.

[C77, 79, 81, §172B.2]

Referred to in §172B.5, 172B.6

172B.3 Form of certificate — substitutes.

1. *Duties of secretary.* The secretary, pursuant to chapter 17A, shall prescribe a standard form of the transportation certificate required by this chapter. Where the laws of this state or of the United States require the possession of another shipping document by a person transporting livestock, or where the industry practice of carriers requires the possession of a shipping document by a person transporting livestock, and where such a document contains all of the information other than signatures which is prescribed in subsection 2, upon application of a carrier the secretary by rule shall authorize the use of a specific document in lieu of the standard form prescribed by the secretary, but subject to any conditions the secretary may impose.

a. A person who is in possession of a shipping document approved by the secretary shall not be required to possess the standard form transportation certificate prescribed by the secretary, but the person may be required by a law enforcement officer to execute the standard form transportation certificate.

b. The form prescribed or authorized by the secretary shall be executed in triplicate, and shall be retained as provided in section 172B.4.

c. The secretary shall distribute, upon request, copies of the prescribed standard form to veterinarians, marketing agencies, carriers, law enforcement officers, and other persons, and may collect a fee from the recipient totaling not more than the cost of printing and postage. Nothing in this chapter shall be construed to prohibit a person from causing the reproduction of the standard form, and an accurate reproduction of a standard current form may be used as a transportation certificate for all purposes.

2. *Contents.* The transportation certificate shall contain the following information:

a. The date of execution of the certificate.

b. The name, driver's license number, and address of the owner of the livestock.

c. The name and address of the shipper if other than the owner.

d. The address of the loading point of the livestock, or the nearest post office and county.

e. The date of loading of the livestock.

f. The name and address of the purchaser, consignee, or other person receiving shipment.

g. The address of the destination of the livestock, or the nearest post office and county.

h. The name and address of the carrier or person transporting livestock.

i. The driver's license number of the person transporting livestock.

j. The vehicle registration plate number and the state of issuance.

k. The vehicle seal number, if any.

l. The form number and state of issuance of any certificate of veterinary inspection accompanying the livestock.

m. A description of the livestock including number, breed, sex, age, and brands, if any.

n. The signature of the owner or shipper, or the signature of the person transporting livestock, or the signatures of either the owner or shipper and the person transporting livestock.

[C77, 79, 81, §172B.3]

89 Acts, ch 202, §1; 90 Acts, ch 1230, §2; 98 Acts, ch 1073, §9; 2004 Acts, ch 1163, §31; 2009 Acts, ch 41, §204

Referred to in §172B.1, 172B.5

172B.4 Execution and retention of records.

1. *Shipper.* A person who causes the transporting of livestock shall cause to be executed and to be delivered to the person transporting livestock, at the request of that person, duplicate copies of a transportation certificate.

2. *Transporter.* A person transporting livestock who has been given a receipt by a law

enforcement officer shall retain that receipt until the person relinquishes custody of the livestock.

3. *Law enforcement officer.*

a. A law enforcement officer, upon requesting and receiving a transportation certificate, shall retain a copy of the certificate and shall submit the certificate to the law enforcement agency by which the officer is employed.

b. The law enforcement officer shall give to the person transporting livestock, in a form prescribed by the commissioner of public safety or the commissioner's designee, a receipt for the certificate given to the officer. The commissioner of public safety may authorize the use of any method of giving receipt, including endorsement by the officer on the certificate retained by the person transporting livestock. The receipt shall make the law enforcement officer issuing the receipt identifiable by other law enforcement officers.

c. A law enforcement officer shall not retain a copy of the certificate if the person transporting livestock has a receipt issued by another law enforcement officer.

[C77, 79, 81, §172B.4]

2008 Acts, ch 1031, §38

Referred to in §172B.3, 172B.5, 172B.6

172B.5 Authority of law enforcement officers.

1. *Investigation.* A law enforcement officer may stop and detain a person, whether on or off a highway, who is transporting livestock for the purpose of obtaining compliance with section 172B.2, and the officer may request the presentation or execution of a transportation certificate. The officer may examine the livestock for identification, the vehicle for the purpose of obtaining the vehicle registration plate number, and the registration of the vehicle and the driver's license of the driver or person detained. However, nothing in this chapter shall be construed to authorize any law enforcement officer to open or require the opening of the cargo compartment of any vehicle manufactured for use in carrying refrigerated cargo when both the cargo is actually under refrigeration at the time the vehicle is detained by the law enforcement officer, and the person operating the vehicle has in possession when stopped a valid transportation certificate or approved shipping document which was executed by the shipper and which identifies the cargo as processed livestock and otherwise complies with section 172B.3, subsection 2.

2. *Execution of certificate.* If the person transporting livestock does not possess a completed transportation certificate, or if in the opinion of the officer the form possessed is improper, the officer may provide the person with a blank standard form, and may request that the person execute the form, including the person's signature. The person shall be permitted to view any documents in the person's possession for the purpose of completing the form. Except as provided in section 172B.4, the officer shall retain a copy of the certificate and shall give the person a receipt for that certificate.

3. *Detention.* A law enforcement officer may detain a person transporting livestock for a reasonable period of time not to exceed thirty minutes for the purpose of verifying any information obtained by the officer.

4. *Arrest.* A detention for the purposes of subsections 1, 2, and 3 shall not constitute an arrest. If the law enforcement officer has probable cause to believe that the person transporting livestock has committed a public offense, the officer may place the person under arrest. The officer may require the person to move the vehicle to a place determined by the officer, or the officer may make other provisions for the vehicle and the livestock, as the officer shall determine. If the owner of the livestock is not available, the officer is authorized to incur reasonable expense for the care of the livestock which expense shall be charged to and paid by the owner of the livestock.

[C77, 79, 81, §172B.5]

90 Acts, ch 1230, §3; 98 Acts, ch 1073, §9

172B.6 Offenses and penalties.

1. A person who is convicted of violating section 172B.2 shall be guilty of a simple misdemeanor.

2. A person who makes or utters a transportation certificate with knowledge that some or all of the information contained in the certificate is false, or a person who alters, forges, or counterfeits a transportation certificate, or the receipt prescribed in section 172B.4, commits a class "C" felony.

[C77, 79, 81, §172B.6]
Referred to in §172B.2

CHAPTER 172C
RESERVED

CHAPTER 172D
LIVESTOCK FEEDLOTS

Referred to in §657.8

172D.1 Definitions.
172D.2 Compliance — a defense to nuisance actions.
172D.3 Compliance with rules of the department.
172D.4 Compliance with zoning requirements.

172D.1 Definitions.

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

1. *"City"* means a municipal corporation, but not including a county, township, school district, or any special-purpose district or authority.

2. *"Department"* means the department of environmental quality in a reference to a time before July 1, 1983, the department of water, air and waste management in a reference to a time on or after July 1, 1983, and through June 30, 1986, and the department of natural resources on or after July 1, 1986, and includes any officer or agency within that department.

3. *"Established date of operation"* means the date on which a feedlot commenced operating with not more livestock than reasonably could be maintained by the physical facilities existing as of that date. If the physical facilities of the feedlot are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent "established date of operation" established as of this date of commencement of the expanded operations, and the commencement of expanded operations shall not divest the feedlot of a previously established date of operation.

4. *"Established date of ownership"* means the date of the recording of an appropriate muniment of title establishing the ownership of realty.

5. *"Establishment cost of a feedlot"* means the cost or value of the feedlot on its established date of operation and includes the cost or value of the building, machinery, vehicles, equipment or other real or personal property used in the operation of the feedlot.

6. *"Feedlot"* means a lot, yard, corral, or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter. The term does not include areas which are used for the raising of crops or other vegetation and upon which livestock are allowed to graze or feed.

7. A rule pertaining to *"feedlot design standards"* means a rule, the implementation of which, or the compliance with which, requires the expenditure of funds in excess of two percent of the establishment cost of the feedlot.

8. A rule pertaining to *"feedlot management standards"* means a rule, the implementation of which, or the compliance with which, requires the expenditure of funds not in excess of two percent of the establishment cost of the feedlot.

9. *"Livestock"* means cattle, sheep, swine, ostriches, rheas, emus, poultry, and other

animals or fowl, which are being produced primarily for use as food or food products for human consumption.

10. *"Materially affects"* means prohibits or regulates with respect to the location, or the emission of noise, effluent, odors, sewage, waste, or similar products resulting from the operation or the location or use of buildings, machinery, vehicles, equipment, or other real or personal property used in the operation, of a livestock feedlot.

11. *"Nuisance"* means and includes public or private nuisance as defined either by statute or by the common law.

12. *"Nuisance action or proceeding"* means and includes every action, claim or proceeding, whether brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

13. *"Owner"* shall mean the person holding record title to real estate to include both legal and equitable interests under recorded real estate contracts.

14. *"Rule of the department"* means a rule as defined in section 17A.2 which materially affects the operation of a feedlot and which has been adopted by the department. The term includes a rule which was in effect prior to July 1, 1975. Except as specifically provided in section 172D.3, subsection 2, paragraph *"b"*, subparagraph (5) and paragraph *"c"*, subparagraph (5) nothing in this chapter shall be deemed to empower the department to make any rule.

15. *"Zoning requirement"* means a regulation or ordinance, which has been adopted by a city, county, township, school district, or any special-purpose district or authority, and which materially affects the operation of a feedlot. Nothing in this chapter shall be deemed to empower any agency described in this subsection to make any regulation or ordinance.

[C77, 79, 81, §172D.1; 82 Acts, ch 1199, §92, 96]
84 Acts, ch 1219, §7; 89 Acts, ch 83, §31; 95 Acts, ch 43, §7
Referred to in §203.1
Further definitions, see §159.1

172D.2 Compliance — a defense to nuisance actions.

In any nuisance action or proceeding against a feedlot brought by or on behalf of a person whose date of ownership of realty is subsequent to the established date of operation of that feedlot, proof of compliance with sections 172D.3 and 172D.4 shall be an absolute defense, provided that the conditions or circumstances alleged to constitute a nuisance are subject to regulatory jurisdiction in accordance with either section 172D.3 or 172D.4.

[C77, 79, 81, §172D.2]

172D.3 Compliance with rules of the department.

1. *Requirement.* A person who operates a feedlot shall comply with applicable rules of the department. The applicability of a rule of the department shall be as provided in subsection 2. A person complies with this section as a matter of law where no rule of the department exists.

2. *Applicability of rules.*

a. Exclusion for federally mandated requirements. This section shall apply to the department's rules except for rules required for delegation of the national pollutant discharge elimination system permit program pursuant to the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pt. 124.

b. Applicability of rules of the department other than those relating to air quality under chapter 455B, subchapter II, and chapter 459, subchapter II.

(1) A rule of the department in effect on November 1, 1976, shall apply to a feedlot with an established date of operation prior to November 1, 1976.

(2) A rule of the department shall apply to a feedlot with an established date of operation subsequent to the effective date of the rule.

(3) A rule of the department adopted after November 1, 1976, does not apply to a feedlot holding a wastewater permit from the department and having an established date of operation prior to the effective date of the rule until either the expiration of the term of the permit in

effect on the effective date of the rule, or ten years from the established date of operation of the feedlot, whichever time period is greater.

(4) A rule of the department adopted after November 1, 1976, does not apply to a feedlot not previously required to hold a wastewater permit from the department and having an established date of operation prior to the effective date of the rule for either a period of ten years from the established date of operation of the feedlot or five years from the effective date of the rule, whichever time period is greater.

(5) To achieve compliance with applicable rules the department shall issue an appropriate compliance schedule.

c. Applicability of rules of the department relating to air quality under chapter 455B, subchapter II, and chapter 459, subchapter II.

(1) A rule of the department under chapter 455B, subchapter II, in effect on November 1, 1976, shall apply to a feedlot with an established date of operation prior to November 1, 1976.

(2) A rule of the department under chapter 455B, subchapter II, or chapter 459, subchapter II, shall apply to a feedlot with an established date of operation subsequent to the effective date of the rule.

(3) A rule of the department under chapter 455B, subchapter II, or chapter 459, subchapter II, pertaining to feedlot management standards adopted after November 1, 1976, shall not apply to any feedlot having an established date of operation prior to the effective date of the rule until one year after the effective date of the rule.

(4) A rule of the department under chapter 455B, subchapter II, or chapter 459, subchapter II, pertaining to feedlot design standards adopted after November 1, 1976, shall not apply to any feedlot having an established date of operation prior to the effective date of the rule for either a period of ten years from the established date of operation of the feedlot or two years from the effective date of the rule, whichever time period is greater. However, any design standard rule pertaining to the siting of any feedlot shall apply only to a feedlot with an established date of operation subsequent to the effective date of the rule.

(5) To achieve compliance with applicable rules the department shall issue an appropriate compliance schedule.

[C77, 79, 81, §172D.3]

84 Acts, ch 1219, §8; 2003 Acts, ch 108, §42; 2010 Acts, ch 1061, §39; 2021 Acts, ch 76, §150

Referred to in §172D.1, 172D.2

Code editor directive applied

172D.4 Compliance with zoning requirements.

1. *Requirement.* A person who operates a feedlot shall comply with applicable zoning requirements. The applicability of a zoning requirement shall be as provided in subsection 2 of this section. A person complies with this section as a matter of law where no zoning requirement exists.

2. *Applicability.*

a. A zoning requirement shall apply to a feedlot with an established date of operation subsequent to the effective date of the zoning requirement.

b. A zoning requirement, other than one adopted by a city, shall not apply to a feedlot with an established date of operation prior to the effective date of the zoning requirement for a period of ten years from the effective date of that zoning requirement.

c. A zoning requirement which is in effect on November 1, 1976, shall apply to a feedlot with an established date of operation prior to November 1, 1976.

d. A zoning requirement adopted by a city shall apply to a feedlot located within an incorporated or unincorporated area which is subject to regulation by that city as of November 1, 1976, regardless of the established date of operation of the feedlot.

e. A zoning requirement adopted by a city shall not apply to a feedlot which becomes located within an incorporated or unincorporated area subject to regulation by that city by virtue of an incorporation or annexation which takes effect after November 1, 1976 for a period of ten years from the effective date of the incorporation or annexation.

[C77, 79, 81, §172D.4]

Referred to in §172D.2

CHAPTER 172E

DAIRY CATTLE SOLD FOR SLAUGHTER

172E.1 Definitions.
172E.2 Marketing practices — dairy cattle sold for slaughter.
172E.3 Penalties.

172E.1 Definitions.

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

1. *"Dairy cattle"* means cattle belonging to a breed that is used to produce milk for human consumption, including but not limited to Holstein and Jersey breeds.
2. *"Livestock"* means the same as defined in section 717.1.
3. *"Livestock market"* means any place where livestock are assembled from two or more sources for public auction, private sale, or sale on a commission basis, which is under state or federal supervision, including a livestock auction market, if such livestock are kept in the place for ten days or less.
4. *"Packer"* means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter. As used in this chapter, *"packer"* includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer.

2001 Acts, ch 101, §6; 2001 Acts, ch 176, §63

172E.2 Marketing practices — dairy cattle sold for slaughter.

1. If a livestock market accepts dairy cattle upon condition that the dairy cattle are to be moved directly to slaughter, the dairy cattle shall be segregated with other livestock to be moved directly to slaughter until sold to a packer. A person shall not knowingly sell the dairy cattle to a purchaser other than to a packer at the livestock market. A person other than a packer shall not knowingly purchase the dairy cattle at the livestock market.
2. This section shall not supersede requirements relating to the movement or marketing of livestock infected with an infectious or contagious disease, including but not limited to those diseases enumerated in section 163.2.

2001 Acts, ch 101, §7; 2002 Acts, ch 1100, §1
Referred to in §172E.3

172E.3 Penalties.

1. The department, with assistance by the attorney general, shall have the same authority to enforce this chapter as it does under chapter 165A. A person who violates section 172E.2 is subject to the same penalties as provided in section 165A.5.
2. This section does not prevent a person from commencing a civil cause of action based on any right that the person may assert under statute or common law.

2001 Acts, ch 101, §8

SUBTITLE 3

AGRICULTURAL DEVELOPMENT AND MARKETING

Referred to in §159.1, 159.5

CHAPTER 173

STATE FAIR

Referred to in §8.32, 8A.502, 163.32, 165B.5, 174.2, 307.24, 322.5, 421.17, 423.3, 717E.1, 717F.7

173.1 State fair authority.
173.1A Definitions.
173.2 Convention.
173.3 Certification of state aid associations.
173.4 Voting power — election of district directors.
173.4A State fair board districts.
173.5 Duties of the convention.
173.6 Terms of office.
173.7 Vacancies.
173.8 Compensation and expenses.
173.9 Secretary.
173.10 Salary of secretary.
173.11 Treasurer.
173.12 Salary of treasurer. Repealed by 2011 Acts, ch 131, §131, 158.
173.13 Executive committee — meetings.
173.14 Functions of the board.
173.14A General corporate powers of the authority.
173.14B Bonds and notes.
173.15 Management of state fair.
173.16 Maintenance of state fair.
173.17 Claims.
173.18 Warrants.
173.19 Examination of financial affairs.
173.20 Report.
173.21 Annual report to governor.
173.22 Iowa state fair foundation — foundation fund.
173.22A Iowa state fairgrounds trust fund.
173.23 Lien on property.
173.24 Exemption of state fair by the state's purchasing procedures.

173.1 State fair authority.

The Iowa state fair authority is established as a public instrumentality of the state. The authority is not an agency of state government. However, the authority is considered a state agency and its employees state employees for the purposes of chapters 17A, 20, 91B, 97B, 509A, and 669. The authority is established to conduct an annual state fair and exposition on the Iowa state fairgrounds and to conduct other interim events consistent with its rules. The powers of the authority are vested in the Iowa state fair board. The Iowa state fair board consists of the following:

1. The governor of the state, the secretary of agriculture, and the president of the Iowa state university of science and technology or their qualified representatives.
2. Two district directors from each state fair board district to be elected at a convention as provided in section 173.4.
3. A president and vice president to be elected by the state fair board from the elected directors.
4. A treasurer to be elected by the board from the elected directors.
5. A secretary to be appointed by the board who shall serve as a nonvoting member.

[S13, §1657-c; C24, 27, 31, 35, 39, §**2873;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.1; 81 Acts, ch 67, §1]

86 Acts, ch 1245, §625, 626; 87 Acts, ch 233, §225; 91 Acts, ch 248, §1, 2; 95 Acts, ch 13, §2; 98 Acts, ch 1114, §1; 2001 Acts, ch 29, §1; 2010 Acts, ch 1069, §22; 2011 Acts, ch 131, §130, 158

Referred to in §99D.13, 173.1A, 673.1

173.1A Definitions.

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

1. *"Board"* means the Iowa state fair board as provided in section 173.1.
2. *"Convention"* means the convention held each year, to elect members of the state fair board and conduct other business of the board, as provided in section 173.2.

3. *"District director"* means a director of the Iowa state fair board who represents a state fair board district.

4. *"State fair board district"* or *"district"* means any of the six geographic regions established in section 173.4A.

2001 Acts, ch 29, §2; 2002 Acts, ch 1119, §25

173.2 Convention.

A convention shall be held at a time and place in Iowa to be designated by the Iowa state fair board each year, to elect members of the state fair board and conduct other business of the board. The board shall give sixty days' notice of the location of the convention to all agricultural associations and persons eligible to attend. The convention shall be composed of:

1. The members of the state fair board as then organized.

2. The president or secretary of each county or district agricultural society entitled to receive aid from the state, or a regularly elected delegate therefrom accredited in writing, who shall be a resident of the county.

3. One delegate, a resident of the county, to be appointed by the board of supervisors in each county where there is no such society, or when such society fails to report to the association of Iowa fairs in the manner provided by law as a basis for state aid. The association shall promptly report such failure to the county auditor.

[R60, §1701, 1704; C73, §1103, 1112; C97, §1653, 1661; S13, §1657-d; SS15, §1661-a; C24, 27, 31, 35, 39, §**2874;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.2; 81 Acts, ch 67, §2 – 4]

87 Acts, ch 115, §29; 96 Acts, ch 1028, §1; 98 Acts, ch 1114, §2; 99 Acts, ch 204, §28

Referred to in §173.1A, 173.3, 174.2, 174.12, 331.321

173.3 Certification of state aid associations.

On or before November 15 of each year, the secretary of agriculture shall certify to the secretary of the state fair board the names of the various associations, fairs, and societies which have qualified for state aid under the provisions of chapters 176A through 178, 181, 182, 186, and 352, and which are entitled to representation in the convention as provided in section 173.2.

[C24, 27, 31, 35, 39, §**2875;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.3]

90 Acts, ch 1009, §2; 98 Acts, ch 1032, §5; 2002 Acts, ch 1017, §3, 8; 2003 Acts, ch 44, §43, 116; 2004 Acts, ch 1019, §5

173.4 Voting power — election of district directors.

1. Except as provided in this subsection, each member present at the convention shall be entitled to not more than one vote. A member shall not vote by proxy.

2. A successor to a district director shall be elected by a majority of convention members from the same state fair board district as the district director, according to rules adopted by the convention. A member who is also a district director shall not be entitled to vote for a successor to a district director.

[S13, §1657-d; C24, 27, 31, 35, 39, §**2876;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.4]

91 Acts, ch 248, §3; 98 Acts, ch 1114, §3; 2001 Acts, ch 29, §3

Referred to in §173.1, 173.5

173.4A State fair board districts.

The state shall be divided into six geographic regions known as state fair board districts. The regions shall include all of the following:

1. The northwest state fair board district which shall contain all of the following counties: Buena Vista, Calhoun, Cherokee, Clay, Dickinson, Emmet, Ida, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, and Woodbury.

2. The north central state fair board district which shall contain all of the following counties: Boone, Butler, Cerro Gordo, Floyd, Franklin, Grundy, Hamilton, Hancock,

Hardin, Humboldt, Kossuth, Marshall, Mitchell, Story, Tama, Webster, Winnebago, Worth, and Wright.

3. The northeast state fair board district which shall contain all of the following counties: Allamakee, Benton, Black Hawk, Bremer, Buchanan, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Howard, Jackson, Jones, Linn, and Winneshiek.

4. The southwest state fair board district which shall contain the following counties: Adair, Adams, Audubon, Carroll, Cass, Crawford, Fremont, Greene, Guthrie, Harrison, Mills, Monona, Montgomery, Page, Pottawattamie, Shelby, and Taylor.

5. The south central state fair board district which shall contain the following counties: Appanoose, Clarke, Dallas, Decatur, Jasper, Lucas, Madison, Mahaska, Marion, Monroe, Polk, Poweshiek, Ringgold, Union, Warren, and Wayne.

6. The southeast state fair board district which shall contain the following counties: Cedar, Clinton, Davis, Des Moines, Henry, Iowa, Jefferson, Johnson, Keokuk, Lee, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington.

2001 Acts, ch 29, §4

Referred to in §173.1A

173.5 Duties of the convention.

1. The convention shall establish staggered terms of office for the elected directors. Notwithstanding section 173.6, the convention may establish terms of office for initial elected directors for more or less than two years.

2. Each year, the convention shall elect a successor to one of the two district directors whose term expires following the adjournment of the convention, as provided in section 173.4.

3. The Iowa state fair board shall present a financial report to the convention. The report is not required to include an audit, but shall provide an estimate of the accounts under the authority of the board.

[R60, §1700; C73, §1104; C97, §1654; S13, §1657-e; C24, 27, 31, 35, 39, §**2877;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.5]

91 Acts, ch 248, §4; 96 Acts, ch 1028, §2; 98 Acts, ch 1114, §4; 2001 Acts, ch 29, §5

173.6 Terms of office.

1. The term of the president and vice president of the board shall be one year. A person shall not hold the office of president for more than three consecutive years, plus any portion of a year in which the person was first elected by the board to fill a vacancy.

2. A member of the board who is a district director shall serve a term of two years. The term of a district director shall begin following the adjournment of the convention at which the district director was elected and shall continue until a successor is elected and qualified as provided in this chapter.

[R60, §1700; C73, §1104; C97, §1654; S13, §1657-e; C24, 27, 31, 35, 39, §**2878;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.6]

91 Acts, ch 248, §5; 98 Acts, ch 1114, §5; 99 Acts, ch 96, §18; 2001 Acts, ch 29, §6; 2020 Acts, ch 1062, §94

Referred to in §173.5

173.7 Vacancies.

If, after the adjournment of the convention, a vacancy occurs in the office of any member of the board elected by the convention the board shall fill the vacancy by election. The elected member shall qualify at once and serve until noon of the day following the adjournment of the next convention. If, by that time, the member elected by the board will not have completed the full term for which the member's predecessor was elected, the convention shall elect a member to serve for the unexpired portion of the term. The member elected by the convention shall qualify at the same time as other members elected by the convention.

[S13, §1657-e; C24, 27, 31, 35, 39, §**2879;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.7]

91 Acts, ch 248, §6

173.8 Compensation and expenses.

A member of the board elected at the annual convention shall be paid a per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses incurred while engaged in official duties. All per diem and expense moneys paid to a member shall be paid from funds of the state fair board.

[S13, §1657-p; C24, 27, 31, 35, 39, §**2880;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.8]

90 Acts, ch 1256, §32

173.9 Secretary.

The board shall appoint a secretary who shall serve at the pleasure of the board. The secretary shall do all of the following:

1. Administer the policies set by the board.
2. Employ other employees and agents as the secretary deems necessary for carrying out the policies of the board and to conduct the affairs of the state fair. The secretary may fix the duties and compensation of any employees or agents with the approval of the board.
3. Keep a complete record of the annual convention and of all meetings of the board.
4. Draw all warrants on the treasurer of the board and keep a correct account of them.
5. Perform other duties as the board directs.

[R60, §1700, 1703; C73, §1104, 1107; C97, §1654, 1656; S13, §1657-k; C24, 27, 31, 35, 39, §**2881;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.9]

86 Acts, ch 1245, §627; 87 Acts, ch 233, §226; 93 Acts, ch 176, §34

173.10 Salary of secretary.

The compensation and employment terms of the secretary shall be set by the Iowa state fair board with the approval of the governor, taking into consideration the level of knowledge and experience of the secretary.

[S13, §1657-n; C24, 27, 31, 35, 39, §**2882;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.10]

87 Acts, ch 233, §227; 2008 Acts, ch 1191, §24

173.11 Treasurer.

The board shall elect a treasurer who shall hold office for one year, and the treasurer shall:

1. Keep a correct account of the receipts and disbursements of all moneys belonging to the board.
2. Make payments on all warrants signed by the president and secretary from any funds available for such purpose.
3. Administer the foundation fund under the control of the Iowa state fair foundation, as directed by the board in its capacity as the board of the Iowa state fair foundation. The treasurer shall administer the fund in accordance with procedures of the treasurer of state, and maintain a correct account of receipts and disbursements of assets of the foundation fund.

[R60, §1700; C73, §1104; C97, §1654; S13, §1657-o; C24, 27, 31, 35, 39, §**2883;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.11]

91 Acts, ch 132, §1; 91 Acts, ch 248, §7; 2011 Acts, ch 79, §3; 2012 Acts, ch 1021, §48

173.12 Salary of treasurer. Repealed by 2011 Acts, ch 131, §131, 158.

173.13 Executive committee — meetings.

The president, vice president, and secretary shall constitute an executive committee, which shall transact such business as may be delegated to it by the board. The president may call meetings of the board or executive committee when the interests of the work require it.

[R60, §1104; C73, §1700; C97, §1654; S13, §1657-h; C24, 27, 31, 35, 39, §**2885;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.13]

173.14 Functions of the board.

The state fair board has the custody and control of the state fairgrounds, including the buildings and equipment on it belonging to the state, and may:

1. Hold an annual fair and exposition on those grounds. All revenue generated by the fair and any interim uses shall be retained solely by the board.
2. Prepare premium lists and establish rules of exhibitors for the fair which shall be published by the board not later than sixty days prior to the opening of the fair.
3. Grant a written permit to persons as it deems proper to sell fruit, provisions, and other lawful articles under rules the board prescribes.
4. Appoint, as the president deems necessary, security personnel and peace officers qualified according to standards adopted by the board.
5. Take and hold property by gift, devise, or bequest for fair purposes. The president, secretary, and treasurer of the board shall have custody and control of the property, subject to the action of the board. Those officers shall give bonds as required in the case of executors, to be approved by the board and filed with the secretary of state.
6. Erect and repair buildings on the grounds and make other necessary improvements.
7. Grant written permission to persons to use the fairgrounds when the fair is not in progress.
8. Take, acquire, hold, and dispose of property by deed, gift, devise, bequest, lease, or eminent domain. The title to real estate acquired under this subsection and improvements erected on the real estate shall be taken and held in the name of the state of Iowa and shall be under the custody and control of the board. In the exercise of the power of eminent domain the board shall proceed in the manner provided in chapters 6A and 6B.
9. Solicit and accept contributions from private sources for the purpose of financing and supporting the fair.
10. Make an agreement with the department of public safety to provide for security during the annual fair and exposition and interim events.
11. Administer the Iowa state fair foundation created in section 173.22 in its capacity as the board of the Iowa state fair foundation.

a. The board shall administer the foundation fund by authorizing all payments from the foundation fund. The board on behalf of the foundation fund may contract, sue and be sued, and adopt rules necessary to carry out the provisions of this subsection, but the board in administering the foundation fund shall not in any manner, directly or indirectly, pledge the credit of the state.

b. The board shall administer the Iowa state fairgrounds trust fund as trustees of an institutional endowment fund as provided in section 173.22A.

[R60, §1702; C73, §1106; C97, §1655; S13, §1657-i, -j, -r; C24, 27, 31, 35, 39, §**2886;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.14]

83 Acts, ch 195, §23; 86 Acts, ch 1244, §28; 87 Acts, ch 233, §228; 88 Acts, ch 1055, §1; 91 Acts, ch 132, §2; 91 Acts, ch 248, §8; 2011 Acts, ch 79, §4

173.14A General corporate powers of the authority.

The authority has all of the general corporate powers needed to carry out its purposes and duties, and to exercise its specific powers including, but not limited to, the power to:

1. Issue its negotiable bonds and notes as provided in this chapter.
2. Sue and be sued in its own name.
3. Have and alter a corporate seal.
4. Make and alter bylaws for its management consistent with this chapter.
5. Make and execute agreements, contracts, and other instruments, with any public or private entity.
6. Accept appropriations, gifts, grants, loans, or other aid from public or private entities.
7. Make, alter, and repeal rules consistent with this chapter, subject to chapter 17A.

87 Acts, ch 233, §229

173.14B Bonds and notes.

1. The board may issue and sell negotiable revenue bonds of the authority in

denominations and amounts as the board deems for the best interests of the fair. However, the board must first submit a list of the purposes ranked by priority and a purpose must be authorized by a constitutional majority of each house of the general assembly and approved by the governor. A purpose must be one of the following:

a. To acquire real estate to be devoted to uses for the fair.

b. To pay any expenses or costs incidental to a building or repair project.

c. To provide sufficient funds for the advancement of any of its corporate purposes.

2. The board may issue negotiable bonds and notes of the authority in principal amounts which are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the board incident to and necessary or convenient to carry out its purposes and powers, subject to authorization and approval required under subsection 1. However, the total principal amount of bonds and notes outstanding at any time under subsection 1 and this subsection shall not exceed twenty-five million dollars. The bonds and notes are deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

3. Bonds and notes are payable solely out of the moneys, assets, or revenues of the authority and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets, or revenues. Bonds or notes are not an obligation of this state or its political subdivisions other than the authority within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority payable solely from sources provided in this chapter, and the authority shall not pledge the credit or taxing power of this state or its political subdivisions other than the authority or make its debts payable out of any moneys except those of the authority.

4. Bonds shall:

a. State the date and series of the issue, be consecutively numbered, and state on their face that they are payable both as to principal and interest solely out of the assets of the authority and do not constitute an indebtedness of this state or its political subdivisions other than the authority within the meaning of any constitutional or statutory debt limit.

b. Be either registered, registered as to principal only, or in coupon form, issued in denominations as the board prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the president or vice president, attested by the manual or facsimile signature of the secretary, have impressed or imprinted on it the seal of the authority or facsimile of it, and coupons attached shall be signed with the facsimile signature of the president or vice president, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places and with reserved rights of prior redemption, as the board prescribes, be sold at prices, at public or private sale, and in a manner as the board prescribes, and the board may pay all expenses, premiums, and commissions which it deems necessary or advantageous in connection with the issuance and sale; and be issued subject to the terms, conditions, and covenant providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter, as are found to be necessary by the board for the most advantageous sale, which may include, but are not limited to, covenants with the holders of the bonds as to those matters set forth in section 16.26, subsection 4, paragraph *"b"*.

5. The board may issue bonds of the authority for the purpose of refunding any bonds or notes of the authority then outstanding, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of the bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with this chapter. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned

or realized on the investments may be returned to the authority for use by it in any lawful manner. All refunding bonds shall be issued and secured and subject to this chapter in the same manner and to the same extent as other bonds.

6. The board may issue negotiable bond anticipation notes of the authority and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the authority not otherwise pledged or from the proceeds of the sale of bonds in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the authority. Notes shall be issued in the same manner as bonds and notes and the resolution of the board may contain any provisions, conditions, or limitations, not inconsistent with this subsection, which the bonds or a bond resolution of the board may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders have all the remedies provided in this chapter for bondholders. Notes shall be as fully negotiable as bonds of the authority.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust, or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code as provided in chapter 554, or any other law of the state is required to perfect the security interest in the collateral or any additions to it or substitutions for it, and the lien and trust so created is binding from and after the time it is made against all parties having claims of any kind in tort, contract, or otherwise against the pledgor.

8. Members of the board and any person executing the authority's bonds, notes, or other obligations are not liable personally on the bonds, notes, or other obligations or subject to personal liability or accountability by reason of the issuance of the authority's bonds or notes.

9. The board shall publish a notice of intention to issue bonds or notes in a newspaper published and of general circulation in the state. The notice shall include a statement of the maximum amount of bonds or notes proposed to be issued, and in general, what net revenues will be pledged to pay the bonds or notes and interest on them. An action shall not be brought questioning the legality of the bonds or notes, the power of the board to issue the bonds or notes, or the legality of any proceedings in connection with the authorization or issuance of the bonds or notes after sixty days from the date of publication of the notice.

87 Acts, ch 233, §230; 91 Acts, ch 268, §228, 229; 94 Acts, ch 1198, §36; 2005 Acts, ch 3, §44

173.15 Management of state fair.

The board may delegate the management of the state fair to the executive committee and two or more additional members of the board; and in carrying on such fair it may employ such assistance as may be deemed necessary.

[S13, §1657-i; C24, 27, 31, 35, 39, §**2887;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.15]

173.16 Maintenance of state fair.

1. All expenses incurred in maintaining the state fairgrounds and in conducting the annual fair on the state fairgrounds, including the compensation and expenses of the officers, members, and employees of the board, shall be recorded by the secretary and paid from the state fair receipts, unless a specific appropriation has been provided for that purpose. The board may request special capital improvement appropriations from the state and may request emergency funding from the executive council for natural disasters. The board may request that the department of transportation provide maintenance in accordance with section 307.24, subsection 5.

2. In order to efficiently administer facilities and events on the state fairgrounds, and to

promote Iowa's conservation ethic, the Iowa state fair board shall handle or dispose of waste generated on the state fairgrounds under supervision of the department of natural resources.

[S13, §1657-i, -t; C24, 27, 31, 35, 39, §**2888;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.16]

87 Acts, ch 233, §231; 89 Acts, ch 311, §25; 92 Acts, ch 1239, §21; 2001 Acts, ch 7, §2; 2002 Acts, ch 1162, §36; 2015 Acts, ch 123, §27; 2020 Acts, ch 1062, §94

173.17 Claims.

The board shall prescribe rules for the presentation and payment of claims out of the state fair receipts and other funds of the board and no claim shall be allowed which does not comply therewith.

[C24, 27, 31, 35, 39, §**2889;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.17]

173.18 Warrants.

No claim shall be paid by the treasurer except upon a warrant signed by the president and secretary of the board, but this section shall not apply to the payment of state fair premiums.

[S13, §1657-o; C24, 27, 31, 35, 39, §**2890;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.18]

173.19 Examination of financial affairs.

The auditor of state shall annually examine and report to the executive council all financial affairs of the board.

[S13, §1657-q; C24, 27, 31, 35, 39, §**2891;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.19]

96 Acts, ch 1028, §3

173.20 Report.

The board shall file each year with the department, at such time as the department may specify, a report containing such information relative to the state fair and exposition and the district and county fairs as the department may require.

[C24, 27, 31, 35, 39, §**2892;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.20]

173.21 Annual report to governor.

The board shall file with the governor each year by February 15 a report containing the following information relative to the state fair and exposition and the district and county fairs:

1. A complete account of the annual state fair and exposition.
2. The proceedings of the annual state agricultural convention.
3. The proceedings of the annual county and district fair managers convention.

[R60, §1703; C73, §1107; C97, §1656; S13, §1657-k; C24, 27, 31, 35, 39, §**2893;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §173.21]

87 Acts, ch 233, §232

173.22 Iowa state fair foundation — foundation fund.

1. An Iowa state fair foundation is established under the authority of the Iowa state fair board.

2. A foundation fund is created within the state treasury composed of moneys appropriated or available to and obtained or accepted by the foundation. The foundation fund shall also include moneys transferred to the fund.

3. The foundation may solicit or accept gifts, including donations and bequests. A gift, to the greatest extent possible, shall be used according to the expressed desires of the person providing the gift.

4. Moneys in the foundation fund shall be used to support foundation activities, including foundation administration, or capital projects or major maintenance improvements at the Iowa state fairgrounds or to property under the control of the board.

5. *a.* Foundation moneys credited to the foundation fund may be expended on a matching basis with public moneys or Iowa state fair authority receipts. All interest earned on moneys

in the foundation fund shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

b. The auditor of state shall conduct regular audits of the foundation fund and shall make a certified report relating to the condition of the foundation fund to the treasurer of the state, and to the treasurer and secretary of the state fair board.

91 Acts, ch 132, §3; 93 Acts, ch 144, §1, 6; 94 Acts, ch 1199, §3 – 6; 2011 Acts, ch 79, §5; 2019 Acts, ch 152, §48; 2021 Acts, ch 177, §76

Referred to in §173.14, 173.22A, 422.12D
Subsection 2 amended

173.22A Iowa state fairgrounds trust fund.

1. An Iowa state fairgrounds trust fund is created as an endowment fund under the authority and in the custody of the Iowa state fair board in its capacity as the board of the Iowa state fair foundation. The Iowa state fairgrounds trust fund is not part of the state treasury. The fund shall be composed exclusively of gifts accepted by the board in trust from private donors or testators. The board may accept these gifts in trust and shall fulfill its duties as trustee of gifts accepted notwithstanding section 633.63. The trust beneficiaries shall include all future attendees of events held on the Iowa state fairgrounds. The fund shall be an endowment fund to be used exclusively for the maintenance and improvement of the Iowa state fairgrounds and for no other purpose. The board shall decline any gifts not consistent with these purposes.

2. Moneys in the Iowa state fairgrounds trust fund shall not be deposited in the state treasury, but shall be held separate and apart from both the state fair's operating moneys and the state fair foundation fund established in section 173.22. The board as trustee shall hold only legal title to these moneys, which shall not form any part of the general fund of the state. The moneys shall not be subject to appropriation by the general assembly or subject to transfer pursuant to chapter 8. The moneys are not and shall not be deemed public funds for any purpose. The fund shall be an institutional endowment fund within the meaning of and subject to chapter 540A. The fund shall not be subject to audit by the auditor of state, but shall be audited annually by a certified public accountant. The annual audit shall be delivered to the auditor of state, who may include it in any further report that the auditor of state deems appropriate. However, an annual audit shall be a confidential record to the extent required in section 22.7, subsection 52. The moneys may be held in perpetuity, subject to the provisions for release or modification of restrictions on the moneys as provided in chapter 540A.

2011 Acts, ch 79, §6

Referred to in §22.7(52)(a), 173.14

173.23 Lien on property.

The board has a prior lien upon the property of any concessionaire, exhibitor, or person, immediately upon the property being brought onto the grounds, to secure existing or future indebtedness.

87 Acts, ch 233, §233

173.24 Exemption of state fair by the state's purchasing procedures.

The state fair is exempt from the state system of uniform purchasing procedures. However, the board may contract with the department of administrative services to purchase any items through the state system. The board shall adopt its own system of uniform standards and specifications for purchasing.

87 Acts, ch 233, §234; 2003 Acts, ch 145, §286

CHAPTER 174

COUNTY AND DISTRICT FAIRS

Referred to in §21.2, 22.1, 99B.1, 163.32, 165B.5, 322.5, 331.427, 423.3, 490.1801, 717E.1, 717F.7

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174.8A	Liability insurance.	174.20	Fraudulent entries of horses.
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174.10	Appropriation — availability.	174.22	Entry under changed name.
174.11	Repealed by 99 Acts, ch 204, §38.	174.23	Class determined.

174.1 Terms defined.

For the purposes of this chapter:

1. *"Association"* means the association of Iowa fairs.

2. *"Fair"* means an organization which is incorporated under the laws of this state, including as a county or district fair or as an agricultural society, for the purpose of conducting a fair event, if all of the following apply:

a. The organization owns or leases at least ten acres of fairgrounds. An organization may meet the requirement of owning or leasing land, buildings, and improvements through ownership by a joint entity under chapter 28E.

b. The organization owns buildings and other improvements situated on the fairgrounds which have been specially constructed for purposes of conducting a fair event.

c. The market value of the fairgrounds and buildings and other improvements located on the fairgrounds is at least twenty-five thousand dollars.

3. *"Fair event"* means an annual gathering of the public on fairgrounds that incorporates agricultural exhibits, demonstrations, shows, or competitions that include programs or projects sponsored by 4-H clubs, future farmers of America, or the Iowa cooperative extension service in agriculture and home economics of Iowa state university. Other activities may include any of the following:

a. Commercial exhibits sponsored by manufacturers or other businesses.

b. Educational programs or exhibits sponsored by governmental entities or nonprofit organizations.

c. Competition in culinary arts, fine arts, or home craft arts.

4. *"Fairgrounds"* or *"grounds"* means the real estate, including land, buildings, and improvements where a fair event is conducted.

5. *"Management"* shall mean president, vice-president, secretary, or treasurer of a fair.

6. *"State aid"* means moneys appropriated by the treasurer of state to the association of Iowa fairs for payments to eligible fairs pursuant to this chapter.

[C24, 27, 31, 35, 39, §**2894;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.1]

97 Acts, ch 215, §32; 2004 Acts, ch 1019, §6 – 8; 2004 Acts, ch 1175, §366; 2010 Acts, ch 1193, §113, 114

Referred to in §68A.405A, 87.4, 99D.13, 137F.5, 142D.3, 421.17, 423.4, 423.33, 427.1(39), 669.25, 670.7, 673.1, 717D.3, 726.23

174.2 Powers of a fair.

1. A fair may annually conduct a fair event to further interest in agriculture and to encourage the improvement of agricultural commodities and products, livestock, articles of domestic industry, implements, and other mechanical devices. It may offer and award such premiums as will induce general competition.

2. In addition to the powers granted in this chapter, a fair shall have the powers of a

corporation not for pecuniary profit under the laws of this state and those powers enumerated in its articles of incorporation, such powers to be exercised before and after the holding of a fair event.

3. No salary or compensation of any kind shall be paid to the president, vice president, treasurer, or to a director of the fair for such duties. However, the president, vice president, treasurer, or a director of the fair may be reimbursed for actual expenses incurred by carrying out duties under this chapter or chapter 173, including but not limited to attending the convention provided under section 173.2. A person claiming expenses under this subsection shall be reimbursed to the same extent that a state employee is entitled to be reimbursed for expenses.

[R60, §1697; C73, §1109; C97, §1658; S13, §1658; C24, 27, 31, 35, 39, §**2895;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.2]

91 Acts, ch 248, §9; 2004 Acts, ch 1019, §9; 2007 Acts, ch 126, §39; 2017 Acts, ch 54, §76

Nonprofit corporations, see chapter 504

174.3 Control of fair event and fairgrounds.

An ordinance or resolution of a county or city shall not in any way impair the authority of a fair. The fair shall have sole and exclusive control over and management of a fair event and fairgrounds.

[C73, §1116; C97, §1664; C24, 27, 31, 35, 39, §**2896;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.3]

99 Acts, ch 204, §29; 2004 Acts, ch 1019, §10

174.4 Permits to sell articles.

The management of a fair may grant a written permit to a person determined proper by the management, to sell fruit, provisions, and other articles not prohibited by law, under such regulations as the management may prescribe.

[C73, §1115; C97, §1663; C24, 27, 31, 35, 39, §**2897;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.4]

2004 Acts, ch 1019, §11

174.5 Appointment of police. Repealed by 2004 Acts, ch 1019, §32.

174.6 Removal of obstructions.

The management of a fair may order the removal of any obstruction to a fair event or on the fairgrounds, including but not limited to shows, swings, booths, tents, or vehicles.

[C73, §1116; C97, §1664; C24, 27, 31, 35, 39, §**2899;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.6]

2004 Acts, ch 1019, §12

174.7 Refusal to remove obstructions.

Any person owning, occupying, or using any such obstruction who shall refuse or fail to remove the same when ordered to do so by the management shall be guilty of a simple misdemeanor.

[C73, §1116; C97, §1664; C24, 27, 31, 35, 39, §**2900;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.7]

174.8 Publication of financial statement.

A fair shall annually publish in one newspaper of the county a financial statement of receipts and disbursements for the current year.

[R60, §1698; C73, §1110; C97, §1659; S13, §1659; C24, 27, 31, 35, 39, §**2901;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.8]

2004 Acts, ch 1019, §13

174.8A Liability insurance.

The association of Iowa fairs, or a fair, shall have the power to join a local government risk pool as provided in section 670.7.

2008 Acts, ch 1139, §2

174.9 State aid.

An eligible fair which is a member of the association of Iowa fairs as provided in the association's bylaws and which conducts a fair event shall be entitled to receive state aid as provided in this chapter. The moneys paid as state aid must be used exclusively for capital expenditures relating to the acquisition of land for fairgrounds and improvements on the fairgrounds such as the construction of new facilities and the renovation of existing facilities. In order to be eligible for state aid, a fair must file with the association of Iowa fairs on or before November 15 of each year, a statement which provides information as required by the association of Iowa fairs. The information shall at least include all of the following:

1. The amount that the fair paid in cash premiums at its fair for the current year. The statement must correspond with its published offer of premiums.
2. A statement that no part of the amount of state aid was paid for any of the following:

a. Entertainment venues, including but not limited to speed events.

b. To secure games or amusements.

c. Supplies, rentals, equipment, payroll, inventory, fees, or routine operating expenses.

3. A full and accurate statement of the receipts and expenditures of the fair for the current year.
4. A statement of statistical data relative to exhibits and attendance for the year.
5. A copy of the published financial statement published as required by law, together with proof of such publication showing an itemized list of premiums awarded.

[R60, §1698, 1704; C73, §1110, 1112; C97, §1659, 1661; S13, §1659; SS15, §1661-a; C24, 27, 31, 35, 39, §**2902;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.9]

96 Acts, ch 1218, §30, 31; 97 Acts, ch 215, §33, 34; 99 Acts, ch 204, §30, 31; 2004 Acts, ch 1019, §14

Referred to in §174.10

174.10 Appropriation — availability.

1. Any moneys appropriated for state aid shall be paid to the office of treasurer of state for allocation to the association of Iowa fairs. The association shall distribute the moneys to eligible fairs pursuant to this chapter.

2. *a.* The association shall maintain a list of each fair in a county which is a member of the association and conducts a fair event in that county as provided in this chapter. If a county has more than one fair event, the association shall list the name of each fair conducting a fair event in that county for three or more years. The association shall not make a payment to a fair under this chapter unless the fair complies with section 174.9, the name of the fair appears on the association's list, and the fair is a member in good standing according to the bylaws of the association.

b. The association shall prepare a report at the end of each fiscal year concerning the state aid that it received, the manner in which such aid was allocated to eligible fairs, and the manner in which the aid was expended by the fairs. The association shall submit the report to the governor and the general assembly by February 1 of each year. The association shall not use moneys appropriated for state aid, or interest earned on such moneys, for administrative or other expenses.

3. The association's board of directors shall determine the amount of state aid allocated to each eligible fair.

4. If no fair in a county is eligible to receive state aid, that county's share shall be divided equally among the eligible fairs.

[R60, §1698, 1704; C73, §1110, 1112; C97, §1661; S13, §1659; SS15, §1661-a; C24, 27, §2902; C31, 35, §2902-d1; C39, §**2902.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §174.10; 81 Acts, ch 117, §1023]

95 Acts, ch 67, §53; 96 Acts, ch 1218, §32; 97 Acts, ch 215, §35; 99 Acts, ch 204, §32; 2004 Acts, ch 1019, §15

174.11 Repealed by 99 Acts, ch 204, §38.

174.12 Payment of state aid — participation by delegates.

1. The association of Iowa fairs shall pay a fair the amount due in state aid, less one thousand dollars, as provided in this chapter. The association must certify to the treasurer that the fair is eligible under this chapter to receive the amount to be paid to the fair by the association. The association shall pay the fair the remaining one thousand dollars, if all of the following apply:

a. The secretary of the state fair board certifies to the association that the fair had an accredited delegate in attendance at the annual convention for the election of members of the Iowa state fair board as provided in section 173.2.

b. A district director of the association representing the district in which the county is located, and the director of the Iowa state fair board representing the state fair board district in which the county is located, certify to the association that the fair had an accredited delegate in attendance at at least one of the district meetings and at the association's annual meeting.

2. Any moneys appropriated in state aid remaining due to the failure of a fair to comply with this section shall be distributed equally among the eligible fairs which have qualified for state aid under this section. The treasurer of state shall allocate to the association the total amount to be paid by the association to eligible fairs under this chapter.

[R60, §1698; C73, §1110; C97, §1659; S13, §1659; C24, 27, 31, 35, 39, §**2904;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.12]

96 Acts, ch 1218, §33; 97 Acts, ch 215, §36; 99 Acts, ch 204, §33; 2004 Acts, ch 1019, §16; 2004 Acts, ch 1175, §367; 2009 Acts, ch 41, §263

174.13 County aid.

The board of supervisors of the county in which a fair is located may appropriate moneys to be used for purchasing fairgrounds, constructing or restoring facilities on the fairgrounds, aiding 4-H club work, and paying agricultural and livestock premiums in connection with the fair event.

[C73, §1111; C97, §1660; SS15, §1660; C24, 27, 31, 35, 39, §**2905;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §174.13; 81 Acts, ch 117, §1024; 82 Acts, ch 1104, §5]

83 Acts, ch 123, §75, 209; 85 Acts, ch 67, §19; 2004 Acts, ch 1019, §17

174.14 Fairground aid.

1. The board of supervisors of a county which has acquired real estate for fairgrounds and which has a fair using the fairgrounds may appropriate moneys to be used for any of the following:

a. The erection and repair of buildings or other permanent improvements on the fairgrounds.

b. The payment of debts contracted in the erection or repair and payment of agricultural and livestock premiums.

2. In addition, the net proceeds from the sale of real estate or structures or improvements on the fairgrounds shall be used for the purchase of real estate or the erection of permanent buildings and installation of improvements on new fairgrounds, or the cost of moving structures from the old fairgrounds to the new fairgrounds.

83 Acts, ch 123, §76, 209; 84 Acts, ch 1178, §2; 2004 Acts, ch 1019, §18

174.15 Purchase or gift of real property — management.

1. Title to land purchased or received for purposes of conducting a fair event shall be taken in the name of the county or a fair. However, the board of supervisors shall place the land under the control and management of a fair. The fair may act as agent for the county in the erection of buildings and maintenance of the fairgrounds, including the buildings and improvements constructed on the grounds. Title to new buildings or improvements shall be taken in the name of the county or a fair. However, the county is not liable for the improvements or expenditures for them.

2. Notwithstanding section 364.7, subsection 3, a city may dispose of real property by gift to a fair.

[SS15, §1660; C24, 27, 31, 35, 39, §**2907;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §174.15; 81 Acts, ch 117, §1025]

98 Acts, ch 1219, §16; 2004 Acts, ch 1019, §19; 2005 Acts, ch 19, §35; 2009 Acts, ch 92, §1

174.16 Termination of rights of fair.

The right of a fair to the control and management of its fairgrounds may be terminated by the board of supervisors whenever well-conducted fair events are not annually held on the fairgrounds.

[SS15, §1660; C24, 27, 31, 35, 39, §**2908;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.16]

2004 Acts, ch 1019, §20

174.17 Issuance of revenue bonds — standby tax levy.

1. The governing body of a fair may issue bonds payable from revenue generated by the operations of the fair event and the use or rental of the real and personal property owned or leased by the fair. The governing body of a fair shall comply with all of the following procedures in issuing such bonds:

a. A fair may institute proceedings for the issuance of bonds by causing a notice of the proposal to issue the bonds to be published at least once in a newspaper of general circulation within the county at least ten days prior to the meeting at which the fair proposes to take action for the issuance of the bonds. The notice shall include a statement of the amount and purpose of the bonds, the maximum rate of interest the bonds are to bear, and the right to petition for an election.

b. If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by three percent of the registered voters of the county is filed with the board of supervisors, asking that the question of issuing the bonds be submitted to the registered voters, the board of supervisors shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. The proposition of issuing bonds under this subsection is not approved unless the vote in favor of the proposition is equal to at least sixty percent of the vote cast. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the board of supervisors acting on behalf of the fair may proceed with the authorization and issuance of the bonds. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

c. All bonds issued under this subsection shall be payable solely from and shall be secured by an irrevocable pledge of a sufficient portion of the net rents, profits, and income derived from the operation of the fair event and the use or rental of the real and personal property owned or leased by the fair. Bonds issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under this subsection shall not limit or restrict the authority of the fair as otherwise provided by law.

2. To further secure the payment of the bonds, the board of supervisors may, by resolution, provide for the assessment of an annual levy of a standby tax upon all taxable property within the county. A copy of the resolution shall be sent to the county auditor. The revenues from the

standby tax shall be deposited in a special fund and shall be expended only for the payment of principal of and interest on the bonds issued as provided in this section, when the receipt of revenues pursuant to subsection 1 is insufficient to pay the principal and interest. If payments are necessary and made from the special fund, the amount of the payments shall be promptly repaid into the special fund from the first available revenues received which are not required for the payment of principal of or interest on bonds due. Reserves shall not be built up in the special fund in anticipation of a projected default. The board of supervisors shall adjust the annual standby tax levy for each year to reflect the amount of revenues in the special fund and the amount of principal and interest which is due in that year.

3. In order for the governing body of a fair to issue bonds under this section, the governing body must conduct a fair event that has a verifiable annual attendance of at least one hundred fifty thousand persons and annual outside gate admission revenues of at least four hundred thousand dollars.

99 Acts, ch 204, §34; 2004 Acts, ch 1019, §21, 22

174.18 Reserved.

174.19 Report of county aid.

A fair shall not receive an appropriation from a county under this chapter until the fair submits a financial statement to the county board of supervisors. The statement shall show all expenditures of moneys appropriated to the fair from the county in the previous year. The financial statement submitted to the board of supervisors shall include vouchers related to the expenditures.

[C73, §1113; C97, §1662; C24, 27, 31, 35, 39, §**2911;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.19]

91 Acts, ch 98, §1; 2004 Acts, ch 1019, §23

174.20 Fraudulent entries of horses.

A person shall not knowingly enter or cause to be entered any horse of any age or sex under an assumed name, or out of its proper class, to compete for any purse, prize, premium, stake, or sweepstake offered or given by any person in the state, or drive any such horse under an assumed name, or out of its proper class, where such prize, purse, premium, stake, or sweepstake is to be decided by a contest of speed.

[C97, §1665; C24, 27, 31, 35, 39, §**2912;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.20]

2004 Acts, ch 1019, §24

Referred to in §174.21

174.21 Violations — penalty.

Any person convicted of a violation of section 174.20 shall be guilty of a fraudulent practice.

[C97, §1666; C24, 27, 31, 35, 39, §**2913;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.21]

Fraudulent practices, see §714.8 – 714.14

174.22 Entry under changed name.

The name of any horse for the purpose of entry for competition in any contest of speed shall not be changed after having once contested for a prize, purse, premium, stake, or sweepstake, except as provided by the code of printed rules of the fair or association under which the contest is advertised to be conducted, unless the former name is given.

[C97, §1667; C24, 27, 31, 35, 39, §**2914;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.22]

2004 Acts, ch 1019, §25

174.23 Class determined.

The class to which a horse belongs for the purpose of an entry in any contest of speed, as provided by the printed rules of the fair or association under which such contest is to be made, shall be determined by the public record of said horse in any such former contest.

[C97, §1668; C24, 27, 31, 35, 39, §**2915;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §174.23]

2004 Acts, ch 1019, §26

CHAPTER 175

AGRICULTURAL DEVELOPMENT

Repealed by 2014 Acts, ch 1080, §112, 114; see chapter 16
Chapter repeal is effective January 1, 2015; repeal of any intervening amendments;
2014 Acts, ch 1080, §113, 114

CHAPTER 175A

GRAPE AND WINE DEVELOPMENT

Repealed by 2010 Acts, ch 1031, §252

CHAPTER 175B

IOWA FARMERS' MARKET NUTRITION PROGRAM

175B.1 Short title.
175B.2 Definitions.
175B.3 Iowa farmers' market nutrition program — establishment and administration.
175B.4 Other programs.
175B.5 Administrative rules.

175B.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Farmers' Market Nutrition Program Act"*.

2007 Acts, ch 84, §1

175B.2 Definitions.

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

1. *"Department"* means the department of agriculture and land stewardship.
2. *"Federal program"* means the WIC farmers' market nutrition program and the senior farmers' market nutrition program.
3. *"Iowa farmers' market nutrition program"* means one or both of the federal programs as established and administered by the department pursuant to section 175B.3.
4. *"Senior farmers' market nutrition program"* means the federal senior farmers' market nutrition program as authorized by the federal Farm Security and Rural Investment Act of 2002, 7 U.S.C. §3007, and provided for in 7 C.F.R. pt. 249.
5. *"WIC farmers' market nutrition program"* means the federal women, infants, and children farmers' market nutrition program as authorized by the federal Child Nutrition Act of 1966, 42 U.S.C. §1786, and as regulated by 7 C.F.R. pt. 248.

2007 Acts, ch 84, §2

175B.3 Iowa farmers' market nutrition program — establishment and administration.

An Iowa farmers' market nutrition program is established.

1. The department shall administer the Iowa farmers' market nutrition program as a state agency approved by the United States department of agriculture to participate in the federal programs. The department may apply to and submit a state plan for approval by the United States department of agriculture as required to administer the Iowa farmers' market nutrition program.
2. The department and any other state agency, local government agency, or nonprofit entity participating in the federal programs shall cooperate as necessary in order to carry

out the federal programs, including by entering into written agreements. The department and any other state agency shall cooperate under the auspices of the governor.

2007 Acts, ch 84, §3

Referred to in §175B.2

175B.4 Other programs.

Nothing in this chapter restricts the department from providing for other programs which promote the purposes of the federal programs.

2007 Acts, ch 84, §4; 2009 Acts, ch 133, §73

175B.5 Administrative rules.

The department shall adopt rules in order to administer the Iowa farmers' market nutrition program. If another state agency is involved in the administration of this chapter, the other state agency shall cooperate with the department in adopting its rules.

2007 Acts, ch 84, §5

Licensing of vendors at farmers' markets, see chapter 137F

CHAPTER 176

FARM AID ASSOCIATIONS

Repealed by 2002 Acts, ch 1017, §7, 8;
see chapter 504

CHAPTER 176A

COUNTY AGRICULTURAL EXTENSION

Referred to in §159.6, 173.3

176A.1 Short title.
176A.2 Declaration of policy.
176A.3 Definition of terms.
176A.4 Establishment — body corporate — county agricultural extension districts.
176A.5 County agricultural extension council.
176A.6 Elections.
176A.7 Terms — meetings.
176A.8 Powers and duties of county agricultural extension council.
176A.9 Limitation on powers and activities of extension council.
176A.10 County agricultural extension education tax.
176A.11 Annual levy by board of supervisors.
176A.12 County agricultural extension fund.
176A.13 Cooperation extension council — extension service.
176A.14 Extension council officers — duties.
176A.15 Consolidation of extension districts.
176A.16 General election law applicable.

176A.1 Short title.

This chapter may be known and cited as the *"County Agricultural Extension Law"*.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.1]

176A.2 Declaration of policy.

It is the policy of the legislature to provide for aid in disseminating among the people of Iowa useful and practical information on subjects relating to agriculture, home economics, and community and economic development, and to encourage the application of the information in the counties of the state through extension work to be carried on in cooperation with Iowa state university of science and technology and the United States department of agriculture

as provided in the Act of Congress known as the Smith-Lever Act, adopted May 8, 1914, as amended, 38 Stat. 372 – 374, codified at 7 U.S.C. §341 – 349.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.2]

86 Acts, ch 1245, §838; 2006 Acts, ch 1010, §57

176A.3 Definition of terms.

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. *"County agricultural extension council"*, hereinafter referred to as *"extension council"*, means the agency created and constituted as provided in section 176A.5.

2. *"County agricultural extension district"*, hereinafter referred to as *"extension district"*, means a governmental subdivision of this state, and a public body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers, and subject to the restrictions set forth in this chapter.

3. *"Director of extension"* means the "director of Iowa state university of science and technology extension service", and shall hereinafter be referred to as *"director of extension"*.

4. *"Extension service"* means the "cooperative extension service in agriculture and home economics of Iowa state university", and shall hereinafter be referred to as *"extension service"*.

5. *"Iowa state university"* means the "Iowa state university of science and technology", and shall hereinafter be referred to as *"Iowa state university"*.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.3]

2009 Acts, ch 41, §69

176A.4 Establishment — body corporate — county agricultural extension districts.

1. Each county, except Pottawattamie, is constituted and established as a "county agricultural extension district" and shall be a public body corporate organized in accordance with the provisions of this chapter for the purposes, with the powers and subject to the restrictions set forth in this chapter.

2. Pottawattamie county shall be divided into and constitute two districts as follows:

a. A district to be known as "East Pottawattamie" which shall include the following townships: Pleasant, Layton, Knox, James, Valley, Lincoln, Washington, Belknap, Center, Wright, Carson, Macedonia, Grove, Waveland.

b. A district to be known as "West Pottawattamie" which shall include the following townships: Rockford, Boomer, Neola, Minden, Hazel Dell, York, Crescent, Norwalk, Lake, Garner, Hardin, Kane, Lewis, Keg Creek, Silver Creek.

[C24, 27, 31, 35, 39, §**2930;** C46, 50, 54, §176.8; C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.4]

2020 Acts, ch 1063, §68

176A.5 County agricultural extension council.

There shall be elected in each extension district an extension council consisting of nine members. Each member of the extension council shall be a resident registered voter of the extension district.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.5]

90 Acts, ch 1149, §1; 94 Acts, ch 1169, §64

Referred to in §176A.3

176A.6 Elections.

An election shall be held biennially at the time of the general election in each extension district for the election of members of the extension council. All registered voters of the extension district are entitled to vote in the election.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.6]

90 Acts, ch 1149, §2; 95 Acts, ch 67, §53

Referred to in §39.21

176A.7 Terms — meetings.

1. Except as otherwise provided pursuant to law for members elected in 1990, the term

of office of an extension council member is four years. The term shall commence on the first day of January following the date of the member's election which is not a Sunday or legal holiday.

2. Each extension council shall meet at least two times during a calendar year and at other times during the year as the council determines. The date, time, and place of each meeting shall be fixed by the council.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.7]
90 Acts, ch 1149, §3; 99 Acts, ch 133, §1

176A.8 Powers and duties of county agricultural extension council.

The extension councils of each extension district of the state shall have, exercise, and perform the following powers and duties:

1. To elect from their own number annually a chairperson, vice chairperson, secretary and a treasurer who shall serve and be the officers of the extension council for a term of one year, and perform the functions and duties as herein in this chapter provided.

2. To serve as an agency of the state and to manage and transact all of the business and affairs of its district and have control of all of the property acquired by it and necessary for the conduct of the business of the district for the purposes of this chapter.

3. *a.* To, at least ninety days prior to the date fixed for the election of council members, appoint a nominating committee consisting of four persons who are not council members and designate the chairperson. The membership of the nominating committee shall be gender balanced. The nominating committee shall consider the geographic distribution of potential nominees in nominating one or more resident registered voters of the extension district as candidates for election to each office to be filled at the election. To qualify for the election ballot, each nominee shall file a nominating petition signed by at least twenty-five eligible electors of the district with the county commissioner of elections at least sixty-nine days before the date of election.

b. To provide for the nomination by petition of candidates for election to membership on the extension council. A nominating petition shall be signed by at least twenty-five eligible electors of the extension district and shall be filed with the county commissioner of elections at least sixty-nine days before the date of the election.

4. To enter into a memorandum of understanding with the extension service setting forth the cooperative relationship between the extension service and the extension district.

5. To employ all necessary extension professional personnel from qualified nominees furnished to it and recommended by the director of extension and not to terminate the employment of any such without first conferring with the director of extension, and to employ such other personnel as it shall determine necessary for the conduct of the business of the extension district, and to fix the compensation for all such personnel in cooperation with the extension service and in accordance with the memorandum of understanding entered into with such extension service.

6. To prepare annually before March 15 a budget for the fiscal year beginning July 1 and ending the following June 30, in accordance with the provisions of chapter 24 and certify the budget to the board of supervisors of the county of their extension district as required by law.

7. To be responsible for the preparation and adoption of the educational program on extension work in agriculture, home economics, and 4-H club work, and periodically review the program, and for the carrying out of the program in cooperation with the extension service in accordance with the memorandum of understanding with the extension service.

8. To make and adopt such rules not inconsistent with the law as it may deem necessary for its own government and the transaction of the business of the extension district.

9. To fill all vacancies in its membership to serve for the unexpired term of the member creating the vacancy by appointing a resident registered voter of the extension district. However, if an unexpired term in which the vacancy occurs has more than seventy days to run after the date of the next general election and the vacancy occurs seventy-four or more days before the election, the vacancy shall be filled at the next general election.

10. To, as soon as possible following the meeting at which the officers are elected, file in the office of the board of supervisors and of the county treasurer a certificate signed by

the chairperson and secretary of the extension council certifying the names, addresses, and terms of office of each member, and the names and addresses of the officers of the extension council with the signatures of the officers affixed to the certificate. The certificate shall be conclusive as to the organization of the extension district, its extension council, and as to its members and officers.

11. To deposit all funds received from the "county agricultural extension education fund" in a bank or banks approved by the extension council in the name of the extension district. These receipts shall constitute a fund known as the "county agricultural extension education fund" which shall be disbursed by the treasurer of the extension council on vouchers signed by its chairperson and secretary and approved by the extension council and recorded in its minutes.

12. To expend the "county agricultural extension education fund" for salaries and travel, expense of personnel, rental, office supplies, equipment, communications, office facilities and services, and in payment of such other items as shall be necessary to carry out the extension district program; provided, however, it shall be unlawful for the county agricultural extension council to lease any office space which is occupied or used by any other farm organization or farm cooperative, and provided further, that it shall be lawful for the county agricultural extension council to lease space in a building owned or occupied by a farm organization or farm cooperative.

13. To carry over unexpended county agricultural extension education funds into the next year so that funds will be available to carry on the program until such time as moneys received from taxes are collected by the county treasurer. However, the unencumbered funds in the county agricultural extension education fund in excess of one-half the amount expended from the fund in the previous year shall be paid over to the county treasurer. The treasurer of the extension council with the approval of the council may invest agricultural extension education funds retained by the council and not needed for current expenses in the manner authorized for treasurers of political subdivisions under section 12C.1.

14. To file with the county auditor and to publish in two newspapers of general circulation in the district before September 1 full and detailed reports under oath of all receipts, from whatever source derived, and expenditures of such county agricultural extension education fund showing from whom received, to whom paid and for what purpose for the last fiscal year.

[S13, §1683-j, -m; C24, 27, 31, 35, 39, §**2930, 2933, 2938;** C46, 50, 54, §176.8, 176.11, 176.16; C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.8]

83 Acts, ch 123, §77, 209; 87 Acts, ch 43, §5; 90 Acts, ch 1149, §4 – 6; 91 Acts, ch 129, §22; 94 Acts, ch 1169, §64; 99 Acts, ch 133, §2, 3; 2001 Acts, ch 56, §10; 2009 Acts, ch 41, §70; 2019 Acts, ch 64, §1 – 3; 2020 Acts, ch 1063, §69

Referred to in §176A.9, 331.427

2019 amendment to subsection 9 applies to all vacancies occurring on or after May 2, 2019; 2019 Acts, ch 64, §2, 3

176A.9 Limitation on powers and activities of extension council.

1. The extension council has for its sole purpose the dissemination of information, the giving of instruction and practical demonstrations on subjects relating to agriculture, home economics, and community and economic development, and the encouragement of the application of the information, instruction, and demonstrations to and by all persons in the extension district, and the imparting to the persons of information on those subjects through field demonstrations, publications, or other media.

2. The extension district, its council, or a member or an employee as a representative of either one or the other shall not engage in commercial or other private enterprises, legislative programs, nor attempt in any manner by the adoption of resolutions or otherwise to influence legislation, either state or national, or other activities not authorized by this chapter.

3. The extension council or a member or employee thereof as a representative of either the extension district or the extension council shall not give preferred services to any individual, group or organization or sponsor the programs of any group, organization or private agency other than as herein provided by this chapter.

4. The extension council may collect reasonable fees and may seek and receive grants,

donations, gifts, bequests, or other moneys from public and private sources to be used for the purposes set forth in this section, and may enter into contracts to provide educational services.

5. The extension council and its employed personnel may cooperate with and give information and advice to organized and unorganized groups, but shall not promote, sponsor, or engage in the organization of any group for any purpose except the promoting, organization, and the development of the programs of 4-H clubs. Nothing in this chapter shall prevent the county extension council or extension agents employed by it from using or seeking opportunities to reach an audience of persons interested in agricultural extension work through the help of interested farm organizations, civic organizations, or any other group. However, in using or seeking such opportunities, the county extension council or agents employed by the extension council shall make available to all groups and organizations in the county equal opportunity to cooperate in the educational extension program.

6. Members of the council shall serve without compensation, but may receive actual and necessary expenses, including in-state travel expenses at not more than the state rate, incurred in the performance of official duties other than attendance at regular local county extension council meetings. Payment shall be made from funds available pursuant to section 176A.8, subsection 12.

[SS15, §1683-e; C24, 27, 31, 35, 39, §**2929, 2931;** C46, 50, 54, §176.7, 176.9; C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.9]

86 Acts, ch 1245, §839; 98 Acts, ch 1166, §1, 2; 2020 Acts, ch 1063, §70

176A.10 County agricultural extension education tax.

1. The extension council of each extension district shall, at a meeting held before March 15, estimate the amount of money required to be raised by taxation for financing the county agricultural extension education program authorized in this chapter. The annual tax levy and the amount of money to be raised from the levy for the county agricultural extension education fund shall not exceed the following:

a. (1) Except as provided in subparagraph (2), for an extension district having a population of less than thirty thousand, an annual levy of twenty and one-fourth cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of seventy thousand dollars for the fiscal year commencing July 1, 1985, and seventy-five thousand dollars for each subsequent fiscal year.

(2) For an extension district having a population of less than thirty thousand and as provided in subsection 2, an annual levy of thirty cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of eighty-seven thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of six thousand dollars in the amount payable during each subsequent fiscal year.

b. (1) Except as provided in subparagraph (2), for an extension district having a population of thirty thousand or more but less than fifty thousand, an annual levy of twenty and one-fourth cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of eighty-four thousand dollars for the fiscal year commencing July 1, 1985, and ninety thousand dollars for each subsequent fiscal year.

(2) For an extension district having a population of thirty thousand or more but less than fifty thousand and as provided in subsection 2, an annual levy of twenty and one-fourth cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred four thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of seven thousand dollars in the amount payable during each subsequent fiscal year.

c. (1) Except as provided in subparagraph (2), for an extension district having a population of fifty thousand or more but less than ninety-five thousand, an annual levy of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred five thousand dollars for the fiscal year commencing July 1, 1985, and one hundred twelve thousand five hundred dollars for each subsequent fiscal year.

(2) For an extension district having a population of fifty thousand or more but less than ninety thousand and as provided in subsection 2, an annual levy of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred thirty thousand five hundred dollars payable during the fiscal year commencing July 1, 1992, and an increase of nine thousand dollars in the amount payable during each subsequent fiscal year.

d. (1) Except as provided in subparagraph (2), for an extension district having a population of ninety-five thousand or more, an annual levy of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred forty thousand dollars for the fiscal year commencing July 1, 1985, and one hundred fifty thousand dollars for each subsequent fiscal year.

(2) For an extension district having a population of ninety thousand or more but less than two hundred thousand and as provided in subsection 2, an annual levy of thirteen and one-half cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of one hundred eighty thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of fifteen thousand dollars in the amount payable during each subsequent fiscal year.

e. For an extension district having a population of two hundred thousand or more and as provided in subsection 2, an annual levy of five cents per thousand dollars of the assessed valuation of the taxable property in the district up to a maximum of two hundred thousand dollars payable during the fiscal year commencing July 1, 1992, and an increase of twenty-five thousand dollars in the amount payable during each subsequent fiscal year.

2. An extension council of an extension district may choose to be subject to the levy and revenue limits specified in subsection 1, paragraph *"a"*, subparagraph (2), paragraph *"b"*, subparagraph (2), paragraph *"c"*, subparagraph (2), and paragraph *"d"*, subparagraph (2), and subsection 1, paragraph *"e"*, for the purpose of the annual levy for the fiscal year commencing July 1, 1991, which levy is payable in the fiscal year beginning July 1, 1992. Before an extension district may be subject to the levy and revenue limits specified in subsection 1, paragraph *"a"*, subparagraph (2), paragraph *"b"*, subparagraph (2), paragraph *"c"*, subparagraph (2), and paragraph *"d"*, subparagraph (2), and subsection 1, paragraph *"e"*, for fiscal years beginning on or after July 1, 1992, which levy is payable in fiscal years beginning on or after July 1, 1993, the question of whether the district shall be subject to the levy and revenue limits as specified in such paragraphs must be submitted to the registered voters of the district. The question shall be submitted at the time of a general election. If the question is approved by a majority of those voting on the question the levy and revenue limits specified in subsection 1, paragraph *"a"*, subparagraph (2), paragraph *"b"*, subparagraph (2), paragraph *"c"*, subparagraph (2), and paragraph *"d"*, subparagraph (2), and subsection 1, paragraph *"e"*, shall thereafter apply to the extension district. The question need only be approved at one general election. If a majority of those voting on the question vote against the question, the district may continue to submit the question at subsequent general elections until approved.

3. The extension council in each extension district shall comply with chapter 24.

[C24, 27, 31, 35, 39, §**2930;** C46, 50, 54, §176.8; C58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §176A.10; 81 Acts, ch 69, §1]

91 Acts, ch 156, §1; 92 Acts, ch 1212, §7; 92 Acts, ch 1246, §25; 99 Acts, ch 133, §4; 2009 Acts, ch 41, §205; 2010 Acts, ch 1069, §24; 2013 Acts, ch 30, §39; 2014 Acts, ch 1026, §37

176A.11 Annual levy by board of supervisors.

The board of supervisors of each county shall annually, at the time of levying taxes for county purposes, levy the taxes necessary to raise the county agricultural extension education fund and certified to it by the extension council as provided in this chapter, but if the amount certified for such fund is in excess of the amount authorized by this chapter it shall levy only so much thereof as is authorized by this chapter.

[C24, 27, 31, 35, 39, §**2930;** C46, 50, 54, §176.8; C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.11]

176A.12 County agricultural extension fund.

A county agricultural extension education fund shall be established in each county and the county treasurer of each county shall keep the amount of tax levied under this chapter in that fund. Before the fifteenth day of each month, the treasurer shall notify the chairperson of the county extension council of the amount collected for this fund to the first day of that month and shall pay that amount to the treasurer of the extension council as provided in section 331.552, subsection 29.

83 Acts, ch 123, §78, 209; 84 Acts, ch 1003, §4

Referred to in §331.559

176A.13 Cooperation extension council — extension service.

The extension council is specifically authorized to cooperate with the extension service and the United States department of agriculture in the accomplishment of the county agricultural extension education program contemplated by this chapter, to the end that the federal funds allocated to the extension service and the county agricultural extension education fund of each district may be more efficiently used by the extension service and the extension council. The director of extension shall coordinate the county agricultural extension education program in the several extension districts.

[S13, §1683-p; C24, 27, 31, 35, 39, §**2931, 2932;** C46, 50, 54, §176.9, 176.10; C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.13]

176A.14 Extension council officers — duties.

1. The chairperson of the extension council shall preside at all meetings of the extension council, have authority to call special meetings of said council upon such notice as shall be fixed and determined by the extension council, and shall call special meetings of the extension council upon the written request of a majority of the members of said council, and in addition to the duties imposed in this chapter perform and exercise the usual duties performed and exercised by a chairperson or president of a board of directors of a corporation.

2. The vice chairperson, in the absence or disability of the chairperson, or the chairperson's refusal to act, shall perform the duties imposed upon the chairperson and act in the chairperson's stead.

3. The secretary shall perform the duties usually incident to this office. The secretary shall keep the minutes of all meetings of the extension council. The secretary shall sign such instruments and papers as are required to be signed by the secretary as such in this chapter, and by the extension council from time to time.

4. The treasurer shall receive, deposit and have charge of all of the funds of the extension council and pay and disburse the same as in this chapter required, and as may be from time to time required by the extension council. The treasurer shall keep an accurate record of receipts and disbursements and submit a report thereof at such times as may be required by the extension council.

5. Each of the officers of the extension council shall perform and carry out the officer's duties as provided in this section and shall perform and carry out any other duties as required by rules adopted by the extension council as authorized in this chapter. A member of the extension council, within fifteen days after the member's election, shall take and sign the usual oath of public officers which shall be filed in the office of the county auditor of the county of the extension district. The treasurer of the extension council, within ten days after being elected and before entering upon the duties of the office, shall execute to the extension council a corporate surety bond for an amount not less than twenty thousand dollars. The bond shall be continued until the treasurer faithfully discharges the duties of the office. The bond shall be filed with the county auditor of the county of the extension district. The county auditor shall notify the chairperson of the extension council of the bond's filing in the auditor's office. The cost of the surety bond shall be paid for by the extension council.

[S13, §1683-i, -j, -m; C24, 27, 31, 35, 39, §**2933, 2934, 2938;** C46, 50, 54, §176.11, 176.12, 176.16; C58, 62, 66, 71, 73, 75, 77, 79, 81, §176A.14]

97 Acts, ch 73, §1; 98 Acts, ch 1107, §2

Referred to in §331.502

176A.15 Consolidation of extension districts.

Any two or more extension districts may be consolidated to form a single extension district, by resolution duly adopted by the extension council of each such extension district. Upon adoption of such resolutions providing for such consolidation, the extension councils shall do all things which may be necessary or convenient to carry into effect such consolidation. The initial extension council for such new extension district shall consist of the members of the extension councils of the consolidated extension districts. The extension council of such new extension district shall promptly elect officers as provided in this chapter, and upon such election the terms of the officers of the extension councils of the consolidated extension districts shall terminate. The extension council of the new extension district shall select a name for such district and shall file the name, together with copies of the resolution providing for such consolidation, with the recorder of each county affected thereby. The new extension district shall be regarded for all purposes as an extension district, the same as if such extension district consisted of a single county, and its extension council and officers thereof shall have all the powers and duties which now or hereafter may pertain to extension councils and officers thereof. All assets and liabilities of the consolidated extension districts shall become the assets and liabilities of the new extension district. The tax rate for the "county agricultural extension education fund" shall be the same in each county included in an extension district formed by consolidation. For the purposes of any law requiring extension districts to file any document with or certify any information to any county officer or board, an extension district formed by consolidation shall file or certify the same with or to the appropriate officer or board of each county included in the extension district. An extension district formed by consolidation may be dissolved and the original extension districts as they existed prior to such consolidation may be reestablished, by resolution duly adopted by the extension council of such extension district; and upon adoption of such resolution, the extension council shall do all things which may be necessary or convenient to carry into effect such dissolution and the reestablishment of the original extension districts.

[C62, 66, 71, 73, 75, 77, 79, 81, §176A.15]

176A.16 General election law applicable.

The provisions of chapter 49 apply to the elections held pursuant to this chapter, and the county commissioner of elections has responsibility for the conducting of those elections.

[C75, 77, 79, 81, §176A.16]

90 Acts, ch 1149, §7

CHAPTER 176B

RESERVED

CHAPTER 177

CROP IMPROVEMENT ASSOCIATION

Referred to in §159.6, 173.3, 204.7

177.1	Recognition of organization.	177.3	Board of directors.
177.1A	Definitions.	177.4	Employees.
177.2	Powers and purposes.	177.5	Expenses of officers.

177.1 Recognition of organization.

The organization existing in and incorporated under the laws of this state and known as the Iowa crop improvement association shall be entitled to the benefits of this chapter.

[C24, 27, 31, 35, 39, §**2939;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §177.1]

2008 Acts, ch 1096, §1

Referred to in §177.1A

177.1A Definitions.

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

1. *"Association"* means the Iowa crop improvement association recognized in section 177.1.

2. *"Department"* means the department of agriculture and land stewardship.

2008 Acts, ch 1096, §2

177.2 Powers and purposes.

The Iowa crop improvement association shall have all powers necessary to carry out the following purposes:

1. Act as the official seed certifying agency for Iowa as provided by rules adopted by the department.

2. Adopt procedures for conducting seed and plant stock certification and planting stock quality assurance, pursuant to rules adopted by the department.

3. Provide educational and leadership opportunities to influence public policy regarding crop improvement.

4. Conduct, in cooperation with Iowa state university college of agriculture and life sciences, testing and disseminate information regarding the adaptation and performance of crop cultivars.

5. Coordinate all Iowa crop improvement association activities in a manner that is consistent with environmentally sound agricultural practices.

6. Provide a mechanism for commodity identity preservation.

7. Engage in such other activities that are reasonably connected to the purposes of this section.

[C24, 27, 31, 35, 39, §**2940;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §177.2]

87 Acts, ch 225, §204; 2008 Acts, ch 1096, §3; 2009 Acts, ch 41, §71

177.3 Board of directors.

The Iowa crop improvement association shall be governed by a board of directors.

1. The association's articles of incorporation or bylaws shall provide for all of the following:

a. The organization of the board, its procedures for meeting and voting, and the election of its board members and officers.

b. The business of the association, which shall be transacted as provided in this chapter.

2. The board shall include all of the following members:

a. The secretary of agriculture or the secretary's designee.

b. The following persons representing the college of agriculture and life sciences at Iowa state university:

(1) The director of the agricultural experiment station.

(2) The chair of the agronomy department.

(3) The director of the seed science center.

c. Six persons elected by the association's voting shareholders from among its voting shareholders.

[C24, 27, 31, 35, 39, §**2941;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §177.3]

87 Acts, ch 115, §30; 2008 Acts, ch 1096, §4; 2009 Acts, ch 41, §72

177.4 Employees.

The Iowa crop improvement association may employ one or more competent persons to carry out the provisions of this chapter as directed by the association's board of directors. The board may employ an executive director. A person employed by the board shall receive compensation and necessary expenses incurred while engaged in the business of the association as provided by its board of directors.

[C24, 27, 31, 35, 39, §**2942;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §177.4]

2008 Acts, ch 1096, §5

Referred to in §177.5

177.5 Expenses of officers.

A member of the board of directors or officer of the Iowa crop improvement association other than the executive director appointed pursuant to section 177.4 shall serve without compensation. However, a member of the board of directors or officer may receive necessary expenses while engaged in the business of the association pursuant to section 7E.6, as determined by the board.

[C24, 27, 31, 35, 39, §**2943;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §177.5]

2008 Acts, ch 1096, §6

CHAPTER 177A

CROP PESTS

Referred to in §159.6, 173.3

177A.1	Short title.	177A.13	Quarantines — seizure and destruction.
177A.2	Definitions.	177A.14	Right of access.
177A.3	State entomologist.	177A.15	Right to hearing.
177A.4	Employees — expenses.	177A.16	Violations.
177A.5	Duties — public nuisances.	177A.17	Duty of owner — assessment of costs.
177A.6	Rules.	177A.18	Violations.
177A.7	Infection — eradication — notice.	177A.19	Harmful barberry.
177A.8	Importation — regulations.	177A.20	Liability of principal.
177A.9	Inspection — certificate — fees.	177A.21	Party plaintiff.
177A.10	Report of violations.	177A.22	Construction.
177A.11	Quarantine — general powers.		
177A.12	Federal quarantine — seizures.		

177A.1 Short title.

This chapter shall be known by the short title of *"The Iowa Crop Pest Act"*.

[C27, 31, 35, §4062-b1; C39, §**4062.01;** C46, 50, 54, 58, 62, 66, 71, 73, §267.1; C75, 77, 79, 81, §177A.1]

177A.2 Definitions.

1. As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. For the purposes of this chapter, the following terms shall be construed, respectively, to mean:

a. "Insect pests and diseases." Insect pests and diseases injurious to plants and plant products, including any of the stages of development of such insect pests and diseases.

b. "Places." Vessels, cars, boats, trucks, automobiles, aircraft, wagons and other vehicles

or carriers, whether air, land or water, buildings, docks, nurseries, greenhouses, orchards, fields, gardens, and other premises or any container where plants and plant products are grown, kept or handled.

c. "Plants and plant products." Trees, shrubs, vines, berry plants, greenhouse plants and all other nursery plants; forage and cereal plants, and all other parts of plants; cuttings, grafts, scions, buds, and all other parts of plants; and fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all other plant products.

[C27, 31, 35, §4062-b2; C39, §**4062.02;** C46, 50, 54, 58, 62, 66, 71, 73, §267.2; C75, 77, 79, 81, §177A.2]

2000 Acts, ch 1148, §1

177A.3 State entomologist.

There is hereby created and established within the department of agriculture and land stewardship the office of state entomologist. The state entomologist shall be appointed by, responsible to and under the authority of the secretary of agriculture in the issuance of all rules, the establishment of quarantines and other official acts. The secretary of agriculture shall provide the state entomologist with suitable office space.

[S13, §2575-a47; C24, §4045; C27, 31, 35, §4062-b3; C39, §**4062.03;** C46, 50, 54, 58, 62, 66, 71, 73, §267.3; C75, 77, 79, 81, §177A.3; 81 Acts, ch 70, §1]

177A.4 Employees — expenses.

For the purpose of carrying out the provisions of this chapter, the state entomologist with the approval of the secretary of agriculture shall employ, prescribe the duties of, and fix the compensation of, such inspectors, and other employees as needed and incur such expenses as may be necessary, within the limits of appropriations made by law. The state entomologist shall cooperate with other departments, boards and officers of the state and of the United States as far as practicable.

[S13, §2575-a47; C24, §4046; C27, 31, 35, §4062-b4; C39, §**4062.04;** C46, 50, 54, 58, 62, 66, 71, 73, §267.4; C75, 77, 79, 81, §177A.4]

2012 Acts, ch 1023, §157

177A.5 Duties — public nuisances.

The state entomologist shall keep informed as to known species and varieties of insect pests and diseases, the origin, locality, nature and appearance thereof, the manner in which they are disseminated, and approved methods of treatment and eradication. In the rules made pursuant to this chapter the state entomologist shall list the dangerously injurious insect pests and diseases which the entomologist shall find should be prevented from being introduced into, or disseminated within, this state in order to safeguard the plants and plant products likely to become infested or infected with such insect pests and diseases. Every such insect pest and disease listed, and every plant product infested or infected therewith, is hereby declared to be a public nuisance. Every person who has knowledge of the presence in or upon any place of any insect pest or disease so listed, shall immediately report the fact and location to the state entomologist, or the assistant state entomologist, giving such detailed information relative thereto as the person may have. Every person who deals in or engages in the sale of plants and plant products shall furnish to the state entomologist or the entomologist's inspectors, when requested, a statement of the names and addresses of the persons from whom and the localities where the person purchased or obtained such plants and plant products.

[S13, §2575-a47; C24, §4047; C27, 31, 35, §4062-b5; C39, §**4062.05;** C46, 50, 54, 58, 62, 66, 71, 73, §267.5; C75, 77, 79, 81, §177A.5]

Referred to in §177A.19
Nuisances in general, chapter 657

177A.6 Rules.

1. The state entomologist shall, from time to time, adopt rules for carrying out the provisions and requirements of this chapter, including rules under which the inspectors and other employees shall:

a. Inspect places, plants and plant products, and things and substances used or connected therewith,

b. Investigate, control, eradicate and prevent the dissemination of insect pests and diseases, and

c. Supervise or cause the treatment, cutting and destruction of plants and plant products infested or infected therewith.

2. The state entomologist, the entomologist's inspectors, employees, or other authorized agents shall have authority to enforce these rules which shall be published in the same manner as are the other rules of the department.

3. A nursery stock dealer shall not sell, offer for sale, or distribute nursery products by any method, or under any circumstances or condition, which has the capacity and tendency or effect of deceiving purchasers or prospective customers as to quantity, size, grade, kind, species, age, maturity, viability, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect.

4. When under the provisions of this section it becomes necessary for the state entomologist to verify sizes and grades of nursery stock, or either of them, the entomologist shall use as a guide the "American Standard for Nursery Stock" as revised and approved by the American standards association, inc.

[S13, §2575-a48; C24, §4050, 4051, 4054; C27, 31, 35, §4062-b6; C39, §**4062.06;** C46, 50, 54, 58, 62, 66, 71, 73, §267.6; C75, 77, 79, 81, §177A.6]

2009 Acts, ch 41, §73

Referred to in §177A.19

177A.7 Infection — eradication — notice.

Whenever inspection discloses that any places, or plants or plant products, or things and substances used or connected therewith, are infested or infected with any dangerously injurious insect pest or disease listed as a public nuisance, written notice thereof shall be given the owner or person in possession or control of the place where found, who shall proceed to control, eradicate, or prevent the dissemination of such insect pest or disease, and to remove, cut, or destroy infested and infected plants and plant products, or things and substances used or connected therewith, as prescribed in the notice or the rules. Whenever such owner or person in possession cannot be found, or shall fail, neglect or refuse to obey the requirements of the notice and the rules, such requirements shall be carried out by the state entomologist, as required by section 177A.17.

[S13, §2575-a48; C24, §4050, 4052, 4053, 4055; C27, 31, 35, §4062-b7; C39, §**4062.07;** C46, 50, 54, 58, 62, 66, 71, 73, §267.7; C75, 77, 79, 81, §177A.7]

Referred to in §177A.19

177A.8 Importation — regulations.

It shall be unlawful for any person to bring or cause to be brought into this state any plant or plant product listed in the rules, unless there be plainly and legibly marked thereon or affixed thereto, or on or to the carrier, or the bundle, package, or container, in a conspicuous place, a statement or tag or device showing the names and addresses of the consignors or shippers and the consignees or persons to whom shipped, the general nature and quantity of the contents, and the name of the locality where grown, together with a certificate of inspection of the proper official of the state, territory, district, or country from which it was brought or shipped, showing that such plant or plant product was found or believed to be free from dangerously injurious insect pests and diseases, and giving any other information required by the state entomologist.

[S13, §2575-a50; C24, §4058; C27, 31, 35, §4062-b8; C39, §**4062.08;** C46, 50, 54, 58, 62, 66, 71, 73, §267.8; C75, 77, 79, 81, §177A.8]

Referred to in §177A.9, 177A.10, 177A.19

177A.9 Inspection — certificate — fees.

1. It shall be unlawful for any person to sell, give away, carry, ship, or deliver for carriage or shipment, within this state, any plants or plant products listed in the rules unless

such plants or plant products have been officially inspected and a certificate issued by an inspector of the state entomologist's office stating that such plants or plant products have been inspected and found to be apparently free from dangerously injurious insect pests and diseases, and giving any other facts provided for in the rules. For the issuance of such certificate, the state entomologist may require the payment of a reasonable fee to cover the expense of such inspection and certification. Provided, that if such plants or plant products were brought into this state in compliance with section 177A.8, the certificate required by that section may be accepted in lieu of the inspection and certificate required by this section, in such cases as shall be provided for in the rules. If it shall be found at any time that a certificate of inspection, issued or accepted under the provisions of this section, is being used in connection with plants and plant products which are infested or infected with dangerously injurious insect pests or diseases or in connection with uninspected plants, its further use may be prohibited, subject to such inspection and disposition of the plants and plant products involved as may be provided for by the state entomologist. All moneys collected under the provisions of this chapter shall be turned over to the secretary who shall deposit them in the state treasury.

2. The fees for inspections and certifications shall not be less than twenty-five dollars nor more than five hundred dollars. Certificates shall be issued to nursery stock growers and dealers on an annual basis. Inspection and certification fees for nursery stock growers shall be twenty-five dollars plus five dollars per acre or part thereof, according to the amount of stock inspected. The inspection and certification fee for nursery stock dealers shall be twenty-five dollars. All fees shall be paid at the time of inspection or before a certificate is issued. Inspection and certification shall take place when necessary to enforce this chapter and the rules pursuant to it. Certificates issued in accordance with this chapter may be revoked when inspection results determine that conditions violate the standards for which certification was issued.

[S13, §2575-a47, -a49; C24, §4047, 4048, 4057; C27, 31, 35, §4062-b9; C39, §**4062.09;** C46, 50, 54, 58, 62, 66, 71, 73, §267.9; C75, 77, 79, 81, §177A.9; 81 Acts, ch 70, §2]

88 Acts, ch 1272, §19

Referred to in §177A.10, 177A.19

177A.10 Report of violations.

Any person who receives from without the state any plant or plant product without section 177A.8 having been complied with, or who receives any plant or plant product sold, given away, carried, shipped or delivered for carriage or shipment within this state without section 177A.9 having been complied with, shall immediately inform the state entomologist or one of the entomologist's inspectors of such facts and isolate and hold the plant or plant product unopened or unused, subject to such inspection and disposition as may be provided for by the state entomologist.

[S13, §2575-a49; C24, §4057; C27, 31, 35, §4062-b10; C39, §**4062.10;** C46, 50, 54, 58, 62, 66, 71, 73, §267.10; C75, 77, 79, 81, §177A.10]

Referred to in §177A.19

177A.11 Quarantine — general powers.

Whenever the state entomologist shall find that there exists outside of this state any insect pest or disease, and that its introduction into this state should be prevented in order to safeguard plants and plant products in this state, the state entomologist is authorized to quarantine and promulgate quarantine restrictions covering areas within the states affected by the pest and may adopt, issue, and enforce rules supplemental to such quarantines for the control of the pest. Under such quarantines, the state entomologist or the state entomologist's authorized agents may prohibit and prevent the movement within the state without inspection, or the shipment or transportation within the state, of any agricultural or horticultural product, or any other material of any character whatsoever, capable of carrying any dangerously injurious insect pest or disease in any living state of its development; and, in the enforcement of such quarantine, may intercept, stop, and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon, vehicles or carriers or

any container, material, or substance believed or known to be carrying the insect pest or plant disease in any living state of its development in violation of said quarantines or of the rules issued supplemental thereto, and may seize, possess, and destroy any agricultural or horticultural product or other material of any character whatsoever, moved, shipped, or transported in violation of such quarantines or the rules.

[S13, §2575-a48; C24, §4049; C27, 31, 35, §4062-b11; C39, §**4062.11;** C46, 50, 54, 58, 62, 66, 71, 73, §267.11; C75, 77, 79, 81, §177A.11]

Referred to in §177A.19

177A.12 Federal quarantine — seizures.

1. Until the secretary of agriculture of the United States shall have made a determination that a federal quarantine is necessary, and has duly established the same with reference to any dangerous plant disease or insect infestation, the state entomologist of this state is authorized to promulgate and enforce quarantine regulations prohibiting or restricting the transportation of any class of plant material or product or article into this state from any state, territory or district of the United States, when the entomologist shall have information that a dangerous plant disease or insect infestation exists in such state, territory, district, or portion thereof.

2. The state entomologist, the entomologist's inspectors or duly authorized agents are authorized to seize, destroy, or return to the point of origin any material received in this state in violation of any state quarantine established under the authority of subsection 1, or in violation of any federal quarantine established under the authority of the federal Plant Protection Act, 7 U.S.C. §7701 et seq., or any amendment to that Act.

[C27, 31, 35, §4062-b12; C39, §**4062.12;** C46, 50, 54, 58, 62, 66, 71, 73, §267.12; C75, 77, 79, 81, §177A.12]

2006 Acts, ch 1010, §58; 2017 Acts, ch 29, §48

Referred to in §177A.19

177A.13 Quarantines — seizure and destruction.

1. Whenever the state entomologist shall find that there exists in this state, or any part thereof, any dangerously injurious insect pest or plant disease, and that its dissemination should be controlled or prevented, the entomologist may institute quarantines and promulgate quarantine restrictions covering areas within the state affected by such pest or disease, and may adopt, issue and enforce rules supplemental to such quarantines for the control of this pest. Under such quarantines, the state entomologist, the entomologist's inspectors or authorized agents may prohibit and prevent the movement within the state without inspection or the shipment or transportation within this state, of any agricultural or horticultural product, or any other material of any character whatsoever, capable of carrying any dangerously injurious insect pest or disease in any living state of its development; and, in the enforcement of such quarantine, may intercept, stop, and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon, or other vehicles or carriers of any kind or character, whether air, land, or water, or any container or material believed or known to be carrying such insect pest or plant disease in any living state of its development or any such material, in violation of said quarantine or of the rules issued supplemental thereto, and may seize, possess, and destroy any agricultural or horticultural product or other material of any character whatsoever, moved, shipped, or transported in violation of such quarantines or the said rules.

2. The state entomologist shall give public notice of such quarantines, specifying the plants and plant products infested or infected, or likely to become infested or infected; and the movement, planting or other use of any such plant or plant product, or other thing or substance specified in such notice as likely to carry and disseminate such insect pest or disease, except under such conditions as shall be prescribed as to inspection, treatment and disposition, shall be prohibited within such area as the entomologist may designate. When the state entomologist shall find that the danger of the dissemination of such insect pest or

disease has ceased to exist, the entomologist shall give public notice that the quarantine is raised.

[S13, §2575-a48; C24, §4049; C27, 31, 35, §4062-b13; C39, §**4062.13;** C46, 50, 54, 58, 62, 66, 71, 73, §267.13; C75, 77, 79, 81, §177A.13]

Referred to in §177A.19

177A.14 Right of access.

The state entomologist and the entomologist's authorized inspectors, employees, and agents shall have free access within reasonable hours to any farm, field, orchard, nursery, greenhouse, garden, elevator, seedhouse, warehouse, building, cellar, freight or express office or car, freight yard, truck, automobile, aircraft, wagon, vehicle, carrier, vessel, boat, container or any place which it may be necessary or desirable for such authorized agents to enter in carrying out the provisions of this chapter. It shall be unlawful to deny such access to such authorized agents or to hinder, thwart, or defeat such inspection or entrance by misrepresentation or concealment of facts or conditions, or otherwise.

[S13, §2575-a48; C24, §4049; C27, 31, 35, §4062-b14; C39, §**4062.14;** C46, 50, 54, 58, 62, 66, 71, 73, §267.14; C75, 77, 79, 81, §177A.14]

Referred to in §177A.19

177A.15 Right to hearing.

Any person affected by any rule made or notice given may have a review thereof by the secretary of agriculture for the purpose of having such rule or notice modified, suspended or withdrawn.

[C27, 31, 35, §4062-b15; C39, §**4062.15;** C46, 50, 54, 58, 62, 66, 71, 73, §267.15; C75, 77, 79, 81, §177A.15]

Referred to in §177A.19

177A.16 Violations.

Any person, partnership, association or corporation, or any combination of individuals, violating any provision of a quarantine promulgated under the authority of this chapter, or of any rules issued supplemental thereto, shall be guilty of a simple misdemeanor.

[S13, §2575-a50; C24, §4059; C27, 31, 35, §4062-b16; C39, §**4062.16;** C46, 50, 54, 58, 62, 66, 71, 73, §267.16; C75, 77, 79, 81, §177A.16]

2008 Acts, ch 1032, §106

Referred to in §177A.19

177A.17 Duty of owner — assessment of costs.

When treatment or destruction of an agricultural or horticultural plant or product, in field, feedlot, place of assemblage or storage, or elsewhere, or when a special type of plowing or any other agricultural or horticultural operation is required under the rules, the owner or person having charge of the plants, plant products or places, upon due notice from the state entomologist or the entomologist's authorized agents, shall take the action required within the time and in the manner designated by the notice. If the owner or person in charge refuses or neglects to obey the notice, the secretary of agriculture, or the secretary's authorized agents, may do what is required, and the secretary shall assess the expense to the owner after giving the owner legal notice and a hearing. No expense other than that incidental to normal and usual farm operations shall be so assessed. If the assessment is not paid, the secretary shall certify it to the treasurer of the proper county who shall enter it on the tax books and collect it as ordinary taxes are collected and remit it to the secretary.

[S13, §2575-a48; C24, §4055, 4056; C27, 31, 35, §4062-b17; C39, §**4062.17;** C46, 50, 54, 58, 62, 66, 71, 73, §267.17; C75, 77, 79, 81, §177A.17; 81 Acts, ch 70, §3]

Referred to in §177A.7, 177A.19, 331.559

177A.18 Violations.

Any person who shall violate any provision or requirement of this chapter, or of the rules made or of any notice given pursuant thereto, or who shall forge, counterfeit, deface, destroy,

or wrongfully use, any certificate provided for in this chapter, or in the rules and regulations made pursuant thereto, shall be deemed guilty of a simple misdemeanor.

[S13, §2575-a50; C24, §4059; C27, 31, 35, §4062-b18; C39, §**4062.18;** C46, 50, 54, 58, 62, 66, 71, 73, §267.18; C75, 77, 79, 81, §177A.18]

Referred to in §177A.19

177A.19 Harmful barberry.

1. No person, firm, or corporation shall receive, ship, accept for shipment, transport, sell, offer for sale, give away, deliver, plant, or permit to exist on the person's, firm's, or corporation's premises any plant of the harmful barberry, or any plant of a species that shall be designated by the state entomologist in published regulations to be a host or carrier of a dangerous plant disease or insect pest.

2. The state entomologist and the entomologist's inspectors, and authorized agents, are hereby empowered to eradicate any such plant found growing in the state. If the owner shall refuse or neglect to eradicate such plants within ten days after receiving a written notice, the expense of such eradication shall be assessed, collected, and enforced against the premises upon which such expense was incurred as taxes are assessed, collected and enforced.

3. The term "*harmful barberry*" shall be interpreted to consist of any species of Berberis or Mahonia susceptible to infection by Puccinia graminis, commonly called black stem rust of grain, but not including Japanese barberry (B. thunbergii), which does not propagate the rust.

4. The procedures provided in section 177A.17 and all other applicable provisions of sections 177A.5 through 177A.18 shall govern and apply to the enforcement of this section.

[C24, §4053; C27, 31, 35, §4062-b19; C39, §**4062.19;** C46, 50, 54, 58, 62, 66, 71, 73, §267.19; C75, 77, 79, 81, §177A.19]

2021 Acts, ch 80, §90

Subsection 4 amended

177A.20 Liability of principal.

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by an association, partnership or corporation within the scope of the person's authority shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

[C27, 31, 35, §4062-b20; C39, §**4062.20;** C46, 50, 54, 58, 62, 66, 71, 73, §267.20; C75, 77, 79, 81, §177A.20]

177A.21 Party plaintiff.

The secretary of agriculture, the state entomologist, or any of their inspectors or authorized agents shall be a proper party plaintiff in any action in any court of equity brought for the purpose of carrying out any of the provisions of this chapter.

[C27, 31, 35, §4062-b21; C39, §**4062.21;** C46, 50, 54, 58, 62, 66, 71, 73, §267.21; C75, 77, 79, 81, §177A.21]

177A.22 Construction.

This chapter shall not be so construed or enforced as to conflict in any way with any Act of Congress regulating the movement of plants and plant products in interstate or foreign commerce.

[C27, 31, 35, §4062-b22; C39, §**4062.22;** C46, 50, 54, 58, 62, 66, 71, 73, §267.22; C75, 77, 79, 81, §177A.22]

CHAPTER 178

STATE DAIRY ASSOCIATION

Referred to in §159.6, 173.3

178.1 Recognition of organization.
178.2 Duties and objects of association.
178.3 Executive committee.
178.4 Employees of committee.
178.5 Expenses of officers.

178.1 Recognition of organization.

The organization known as the Iowa state dairy association shall be entitled to the benefits of this chapter by filing each year with the department verified proofs of its organization, the names of its president, vice president, secretary, and treasurer, and that five hundred persons are bona fide members of said association, together with such other information as the department may require.

[C24, 27, 31, 35, 39, §**2944;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §178.1]

178.2 Duties and objects of association.

The Iowa state dairy association shall:

1. Promote dairy test associations, shows, and sales.
2. Publish a breeders' directory.
3. Furnish such general instruction and assistance, either by institutes or otherwise, as it may deem proper, to advance the general interests of the dairy industry.
4. Make an annual report of the proceedings and expenditures to the secretary of agriculture.

[C24, 27, 31, 35, 39, §**2945;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §178.2]

178.3 Executive committee.

The association shall conduct its business through an executive committee which shall consist of:

1. The president and the secretary of the association.
2. The dean of the college of agriculture and life sciences of the Iowa state university of science and technology.
3. A member of the faculty of said university engaged in the teaching of dairying to be designated by said dean.
4. The secretary of agriculture or the secretary's designee.

[C24, 27, 31, 35, 39, §**2946;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §178.3]

87 Acts, ch 115, §31; 2008 Acts, ch 1032, §29

178.4 Employees of committee.

The executive committee may employ two or more competent persons who shall devote their entire time, under the direction of the executive committee, in carrying out the provisions of this chapter. The salary of such persons so employed shall be set by the executive committee subject to the approval of the secretary of agriculture, and such persons shall hold office at the pleasure of the executive committee.

[C24, 27, 31, 35, 39, §**2947;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §178.4]

178.5 Expenses of officers.

The officers of the association shall serve without compensation, but shall receive their necessary expenses while engaged in the business of the association.

[C24, 27, 31, 35, 39, §**2948;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §178.5]

CHAPTER 179

DAIRY INDUSTRY COMMISSION

Referred to in §8A.502, 97B.1A, 159.6

179.1	Definitions.	179.6	Records of producers, first purchasers.
179.2	Commission created — suspension during national order — reactivation.	179.7	Returns filed with commission.
179.3	Powers and duties.	179.8	Payment of expenses — limitation.
179.4	Expenditure of funds.	179.9	Investigations by commission.
179.5	Excise tax — administration of moneys — appropriation.	179.10	Report.
179.5A	Right to refund not subject to legal process or transfer.	179.11	Penalties.
		179.12	Reserved.
		179.13	Referendum.
		179.14	Influencing legislation.

179.1 Definitions.

As used in this chapter:

1. *"Collection period"* means a calendar year.
2. The term *"commission"* shall mean the Iowa dairy industry commission.
3. *"First purchaser"* means a person who buys milk from a producer and resells that milk or products made from the milk to another person.
4. *"Nutrition education"* means activities intended to broaden the understanding of sound nutritional principles including the role of milk in a balanced diet.
5. The term *"person"* shall mean individuals, corporations, partnerships, trusts, associations, cooperatives, and any and all other business units.
6. *"Producer"* means a person who produces milk from cows and thereafter sells the same as milk.
7. *"Promotion"* means actions including but not limited to advertising, sales, promotion, and publicity to advance the image and sales of and demand for milk.
8. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.
9. *"Research"* means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of milk and to product utilization, and other related efforts to expand demand for milk.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.1]

85 Acts, ch 126, §1 – 4; 94 Acts, ch 1146, §1; 2012 Acts, ch 1017, §47; 2012 Acts, ch 1023, §157

179.2 Commission created — suspension during national order — reactivation.

1. There is created an Iowa dairy industry commission, referred to in this chapter as the commission. The commission shall be composed of the secretary of agriculture or the secretary's designee, the dean of agriculture at Iowa state university of science and technology or the dean's designee, and sixteen members appointed by the secretary of agriculture as provided in this section.
2. Commissioners shall serve until their successors are duly appointed and qualify. Vacancies occurring in the membership of the commission resulting from death, inability or refusal to serve, or failure to meet the definition of a producer, shall be filled within three months of the time the vacancy occurs in the manner provided by the commission. Vacancy appointments shall be only for the remainder of the unexpired term. A commissioner shall not serve more than two consecutive full terms.
3. Appointive members of the commission shall receive a per diem as specified in section 7E.6 for each day spent on official business of the commission, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in commission activity.
4. When a national promotional order is established by the United States department of agriculture pursuant to the Dairy Product Stabilization Act of 1983, collection of the excise

tax in section 179.5 shall be suspended for the period in which the national order is in effect. The commission shall continue to operate thereafter for only the period of time necessary to pay refunds and disburse the funds remaining in the dairy industry fund for the purposes enumerated in this chapter. Upon completion of these acts, the existence of the Iowa dairy industry commission shall be suspended. The secretary of agriculture shall certify the suspension of the commission as of a date certain to the Iowa dairy industry commission and the Iowa state dairy association. When the existence of the commission is suspended, the terms of office being served by individual commissioners shall terminate.

5. When the national promotional order expires, the period of suspension of the excise tax in section 179.5 shall terminate and the secretary of agriculture shall take the steps necessary to collect that excise tax and otherwise fulfill the duties of the commission, except that of expending funds collected under the excise tax, until those duties can be resumed by the reactivated commission. When the national promotional order expires, the period of suspension of the commission shall terminate. The secretary of agriculture shall call the first meeting of the reactivated commission. Upon reactivation, the commission shall reimburse the secretary of agriculture for expenses incurred in carrying out the duties provided in this subsection.

6. When the national dairy promotion program expires and the suspension of the Iowa dairy industry commission terminates pursuant to subsection 5, all first purchasers shall, in a manner designed to reflect their proportionate contributions to the national dairy promotion program in its most recently completed fiscal year, nominate two resident producers for each of the sixteen offices of the commission. The secretary of agriculture shall then appoint one nominee from each set of two nominees as commissioners of the reactivated Iowa dairy industry commission. The secretary of agriculture shall stagger the terms of the reactivated commission resulting in as nearly as possible one third of the commissioners serving for one year, one third of the commissioners serving for two years, and one third of the commissioners serving for three years. After the initial staggering of terms by the secretary, commissioners shall be appointed to three-year terms.

7. After the reactivated commission has been formed, nominations for commissioners shall be made by first purchasers in a manner designed to reflect their proportionate contributions to the Iowa dairy industry commission in its most recently completed fiscal year.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.2]

84 Acts, ch 1183, §1; 85 Acts, ch 126, §5 – 8; 91 Acts, ch 258, §32

179.3 Powers and duties.

The powers and duties of the commission shall include the following:

1. To elect a chairperson, a secretary, and from time to time such other officers as it may deem advisable, and from time to time to adopt, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its power and the performance of its duties, which rules and orders shall have the force and effect of law when not inconsistent with existing laws.

2. To administer and enforce this chapter, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purpose of this chapter.

3. To employ at its pleasure and discharge at its pleasure such attorneys, advertising counsel, advertising agencies, clerks and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation.

4. To establish offices and incur any and all expense, and to enter into any and all contracts and agreements for the proper administration and enforcement of this chapter.

5. To report alleged violations of this chapter to the attorney general of the state of Iowa.

6. To conduct scientific research for the purpose of developing and discovering the health, food, therapeutic, dietetic, and industrial uses for products of milk or its derivatives.

7. To make in the name of the commission such advertising contracts and other agreements as it deems necessary to promote the sale and consumption of dairy products on either a state or national basis.

8. To keep accurate books, records, and accounts of all its dealings, which books, records, and accounts shall be audited annually by the auditor of state.

9. To receive, administer, disburse and account for, in addition to the funds received from the excise tax hereinafter imposed by section 179.5, all such other funds as may be voluntarily contributed to said commission for the purpose of promoting dairy products.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.3]

85 Acts, ch 126, §9

179.4 Expenditure of funds.

Funds collected through the excise tax are to be used for purposes of advertising and promotion, product, process, and nutrition, dietetics, and physiology research, nutrition education, public relations, research and development, and for other activities that contribute to producer efficiency and productivity. In addition, the commission shall use these funds to maintain existing markets, to make contributions to organizations working toward the purposes of this section, and to assist in the development of new or enlarged markets for milk, both domestic and foreign. The primary purpose for use of these funds is to increase consumption of milk. The commission may contract for advertising, publicity, sales promotion, research, and educational services the committee deems appropriate to further the objectives of this section.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.4]

85 Acts, ch 126, §10

179.5 Excise tax — administration of moneys — appropriation.

1. There is levied and imposed an excise tax on all producers within the state of three-fourths of one percent of the gross value of milk produced in the state.

2. All taxes levied and imposed under this chapter shall be deducted from the price received by the producer and shall be collected by the first purchaser, except as follows:

a. If the producer produces milk from cows and sells the milk directly to the consumer, the taxes shall be remitted by that producer.

b. If the producer sells milk to a first purchaser outside the state, the taxes are due and payable by that producer before the shipment is made, except that the commission may make agreements with extra state purchasers for the keeping of records and the collection of the taxes as necessary to secure the payment of the taxes within the time fixed by this chapter.

3. All taxes levied and imposed under this chapter and other contributions made to the dairy industry commission shall be paid to and collected by the commission within thirty days after the end of the month during which the milk was marketed. The commission shall remit the taxes and other contributions to the treasurer of the state each quarter, and at the same time render to the director of the department of administrative services an itemized and verified report showing the source from which the taxes and voluntary contributions were obtained. All taxes and voluntary contributions received, collected, and remitted shall be placed in a special fund by the treasurer of state and the director of the department of administrative services, to be known as the "*dairy industry fund*" to be used by the Iowa dairy industry commission for the purposes set out in this chapter and to administer and enforce the laws relative to this chapter. The department of administrative services shall transfer moneys from the fund to the commission for deposit into an account established by the commission in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the commission. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. Moneys deposited in the fund and transferred to the commission as provided in this section are appropriated and shall be used for the purpose of carrying out the provisions of this chapter.

4. A person from whom the excise tax provided in this chapter is collected may, by

application filed with the commission within thirty days after the collection of the tax, have the tax refunded to that person by the commission.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.5]

85 Acts, ch 126, §11; 94 Acts, ch 1146, §2; 2003 Acts, ch 145, §286

Referred to in §179.2, 179.3, 179.8

Suspension during national order; see §179.2

179.5A Right to refund not subject to legal process or transfer.

The right of a person to a refund under this chapter or under chapter 181, 182, 183A, 184A, 185, or 185C is not subject to execution, levy, attachment, garnishment, or other legal process, and is not transferable or assignable at law or in equity.

86 Acts, ch 1100, §1; 89 Acts, ch 137, §1

179.6 Records of producers, first purchasers.

Every producer shipping milk to a first purchaser outside of Iowa who is not by agreement with the commission collecting the tax imposed by this chapter, and every first purchaser within the state, and every producer distributing milk directly to the consumer, shall keep a complete and accurate record of all milk produced or purchased by the person during the period for which an excise tax levy is imposed under this chapter. The records shall be in the form and contain the information prescribed by the commission, shall be preserved by the person charged with their making for a period of two years, and shall be offered or submitted for inspection at any time upon written or oral request by the commission or its duly authorized agent or employee.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.6]

85 Acts, ch 126, §12; 86 Acts, ch 1238, §8

179.7 Returns filed with commission.

Every person charged by this chapter or by agreement with the commission with the keeping of records provided for in this chapter shall at the times the commission may by rule require, file with the commission a return on forms to be prescribed and furnished by the commission. Producers shall state the quantity of milk produced. First purchasers shall state the quantity of milk handled, bottled, processed, distributed, delivered to, or purchased by the person from the producers of dairy products or their agents in the state. Returns shall contain other information as the commission may require, and shall be made in triplicate, one copy of which shall be for the files of the person making the return, one copy available at the office of the person for the use of the person's patrons, and the original filed with the commission.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.7]

85 Acts, ch 126, §13; 86 Acts, ch 1238, §9

179.8 Payment of expenses — limitation.

1. No part of the expense incurred by the commission shall be paid out of moneys in the state treasury except moneys transferred to the commission from the dairy industry fund. Moneys transferred from the fund to the commission, as provided in section 179.5, shall be used for the payment of all salaries and other expenses necessary to carry out the provisions of this chapter. However, in no event shall the total expenses exceed the total taxes collected and transferred from the fund to the commission.

2. No more than five percent of the excise tax collected and received by the commission pursuant to section 179.5 shall be utilized for administrative expenses of the commission.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.8]

85 Acts, ch 126, §14; 94 Acts, ch 1146, §3; 2018 Acts, ch 1041, §50

179.9 Investigations by commission.

The commission shall have the power to cause its authorized agents to enter upon the premises of any person charged by this chapter or by agreement with the commission with the collection of the excise tax imposed by this chapter, and to cause to be examined by any such agent any books, records, documents, or other instruments bearing upon the amount

of such tax collected or to be collected by such person; provided that the commission has reasonable ground to believe that all the tax herein levied has not been collected, or if it has not been fully accounted for as herein provided.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.9]

179.10 Report.

The commission shall each year prepare and submit a report summarizing the activities of the commission under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.10]

85 Acts, ch 126, §15; 94 Acts, ch 1146, §4

179.11 Penalties.

Except as otherwise provided, any person who shall violate or aid in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor. All prosecutions for alleged violations of the provisions of this chapter shall be by the county attorney of the county in which such alleged violation occurred and shall be instituted and conducted under the direction and authority of the attorney general of the state.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §179.11]

Referred to in §331.756(30)

179.12 Reserved.

179.13 Referendum.

1. At a time designated by the commission within eighteen months after termination of the national promotional order made pursuant to the Dairy Production Stabilization Act of 1983, 7 U.S.C. §4501 et seq., the commission shall conduct a referendum under administrative procedures prescribed by the department.

2. Upon signing a statement certifying to the department that the person is a bona fide producer as defined in this chapter, each producer is entitled to one vote in each referendum. When the secretary is required to determine the approval or disapproval of producers under this section, the secretary shall consider the approval or disapproval of a cooperative association of producers, engaged in a bona fide manner in marketing milk, as the approval or disapproval of the producers who are members of or contract with the cooperative association of producers. If a cooperative association elects to vote on behalf of its members, the cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval with a description of the question presented in the referendum together with a statement of the manner in which the cooperative association intends to cast its vote on behalf of the membership. The information shall inform the producer of procedures to follow to cast an individual ballot if the producer chooses to do so within the period of time established by the secretary for casting ballots. The notification shall be made at least thirty days prior to the referendum and shall include an official ballot. The ballots shall be tabulated by the secretary and the vote of the cooperative association shall be adjusted to reflect the individual votes.

3. The department shall count and tabulate the ballots filed during the referendum within thirty days of the close of the referendum. If from the tabulation the department determines that a majority of the total number of producers voting in the referendum favors the proposal, the excise tax provided for in this chapter shall be continued. The ballots cast pursuant to this section constitute complete and conclusive evidence for use in determinations made by the department under this chapter.

4. The secretary may conduct a referendum at any time after the Iowa dairy industry commission is reactivated, and shall hold a referendum on request of a representative group comprising ten percent or more of the number of producers eligible to vote, to determine whether the producers favor the termination or suspension of the excise tax. The secretary shall suspend or terminate collection of the excise tax within six months after the secretary

determines that suspension or termination of the excise tax is favored by a majority of the producers voting in the referendum, and shall terminate the excise tax in an orderly manner as soon as practicable after the determination.

[C75, 77, 79, 81, §179.13]

85 Acts, ch 126, §16; 2017 Acts, ch 29, §49

179.14 Influencing legislation.

Neither commissioners, nor employees of the commission, shall attempt in any manner to influence legislation affecting any matters pertaining to the activities of the commission. No portion of the dairy industry fund shall be used in any manner to influence legislation or support any political candidate for public office, either directly or indirectly, or to support any political party.

[C75, 77, 79, 81, §179.14]

CHAPTER 180

RESERVED

CHAPTER 181

BEEF CATTLE PRODUCERS ASSOCIATION

Referred to in §8A.502, 97B.1A, 159.6, 173.3, 179.5A

181.1	Definitions.	181.11	Collection of state assessment.
181.1A	Recognition of organization.	181.12	Remission of state assessment on application.
181.2	Duties and objects of association.		
181.3	Executive committee — creation and operation.	181.13	Administration of moneys originating from state assessment — appropriation.
181.4	Executive committee — employees.	181.14	Notice. Repealed by 2004 Acts, ch 1037, §18, 19.
181.5	Expenses of officers.	181.15	Referendum — procedures.
181.6	Reserved.	181.16	Moneys remaining in fund. Repealed by 2004 Acts, ch 1037, §18, 19.
181.6A	Executive committee — election.	181.17	Executive committee — election — voting by nonmember producers.
181.7	Executive committee — research and education programs.	181.18	Rules.
181.7A	Commencement of federal assessment — suspension and recommencement of state assessment — rate.	181.18A	Not a state agency.
181.8	Executive committee — entering premises — examining records.	181.18B	Report.
181.9	and 181.10 Repealed by 2004 Acts, ch 1037, §18, 19.	181.19	Initial and special referendums.
		181.19A	Continuance referendum.
		181.20	Misdemeanors.

181.1 Definitions.

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

1. *"Association"* means the Iowa beef cattle producers association.
2. *"Cattle"* means any live domesticated bovine animal regardless of age.
3. *"Executive committee"* means the executive committee of the association as created in section 181.3.
4. *"Federal Act"* means the federal Beef Promotion and Research Act of 1985, 7 U.S.C. §2901 et seq.
5. *"Federal assessment"* means an excise tax on the sale of bovine animals imposed pursuant to the federal Act.

6. *"Producer"* means any person who owns or acquires ownership of cattle. However, a person shall not be considered a producer if any of the following apply:

a. The person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

b. The person acquired ownership of cattle to facilitate the transfer of ownership of such cattle from the seller to a third party; resold such cattle no later than ten days from the date on which the person acquired ownership; and certified as required by rules adopted by the executive committee.

7. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

8. *"Records"* means books, papers, documents, accounts, agreements, memoranda, electronic records of accounts, or correspondence relating to a matter regulated under this chapter.

9. *"Secretary"* means the secretary of agriculture.

10. *"State assessment"* means an excise tax on the sale of cattle imposed pursuant to this chapter.

[C71, 73, 75, 77, 79, 81, §181.6]
86 Acts, ch 1100, §5; 94 Acts, ch 1146, §6; 97 Acts, ch 30, §2, 9
CS97, §181.1
2004 Acts, ch 1037, §1, 19; 2012 Acts, ch 1017, §48; 2016 Acts, ch 1043, §1, 2, 21

181.1A Recognition of organization.

The Iowa beef cattle producers association now existing in and incorporated under the laws of this state is entitled to the benefits of this chapter by filing, each year, with the department of agriculture and land stewardship, verified proof of the names of its president, vice president, secretary, and treasurer, together with other information required by the department of agriculture and land stewardship.

[C24, 27, 31, 35, 39, §**2949;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §181.1]
86 Acts, ch 1100, §2
CS97, §181.1A
Referred to in §181.17

181.2 Duties and objects of association.

The Iowa beef cattle producers association shall do all of the following:

1. Aid in the marketing and promotion of the cattle industry of the state.
2. Conduct research on beef production and evaluate Iowa beef production needs.
3. Provide educational materials and opportunities to consumers, producers, and youth regarding the benefits of Iowa's beef cattle industry.
4. Prepare an annual report of the proceedings and expenditures of the executive committee as provided in section 181.18B.

[C24, 27, 31, 35, 39, §**2950;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §181.2]
94 Acts, ch 1146, §5; 2004 Acts, ch 1037, §2, 19; 2016 Acts, ch 1043, §3, 21

181.3 Executive committee — creation and operation.

1. An executive committee of the Iowa beef cattle producers association is created. The executive committee consists of ten members, including all of the following:

a. Five producers elected by the Iowa beef cattle producers association pursuant to section 181.6A.

b. Two producers appointed by the Iowa cattlemen's association.

c. One livestock market representative appointed pursuant to subsection 2.

d. The secretary of agriculture or a designee, who shall serve as an ex officio, voting member.

e. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or a designee, who shall serve as an ex officio, voting member.

2. The Iowa livestock auction market association shall nominate two livestock market representatives. The secretary of agriculture shall appoint one of the nominees or another

livestock market representative of the secretary's choice, who shall serve at the pleasure of the secretary.

3. The executive committee shall elect a chairperson, secretary, and other officers it deems necessary.

4. *a.* A member who is a producer or livestock market representative described in subsection 1, paragraphs "*a*" through "*c*", shall serve a three-year term. The member shall not serve more than two consecutive full terms.

b. Except for an ex officio member, a vacancy in the executive committee resulting from death, inability or refusal to serve, or failure to meet the qualifications of this chapter shall be filled by the executive committee. If the executive committee fails to fill a vacancy, the secretary shall appoint a person to fill the vacancy. A vacancy appointment shall be filled only for the remainder of the unexpired term.

[C24, 27, 31, 35, 39, §**2951;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §181.3]

86 Acts, ch 1100, §3; 97 Acts, ch 30, §1; 2004 Acts, ch 1037, §3, 4, 19; 2008 Acts, ch 1032, §30; 2016 Acts, ch 1043, §4, 21; 2017 Acts, ch 29, §50

Referred to in §181.1

181.4 Executive committee — employees.

The executive committee may employ two or more competent persons who shall devote their entire time, under the direction of the executive committee, in carrying out the provisions of this chapter. The salary of persons so employed shall be set by the executive committee, and the persons shall hold office at the pleasure of the executive committee.

[C24, 27, 31, 35, 39, §**2952;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §181.4]

86 Acts, ch 1100, §4; 2004 Acts, ch 1037, §5, 19; 2016 Acts, ch 1043, §5, 21

181.5 Expenses of officers.

The officers of the association shall serve without compensation, but shall receive their necessary expenses while engaged in the business of the association.

[C24, 27, 31, 35, 39, §**2953;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §181.5]

181.6 Reserved.

181.6A Executive committee — election.

1. The Iowa beef cattle producers association shall hold an annual meeting of producers. An election shall be held at the annual meeting, as necessary, for election of producers to the executive committee.

2. Prior to the annual meeting, the association shall appoint a nominating committee. At least sixty days prior to the annual meeting of the association, the nominating committee shall nominate two producers as candidates for each position on the executive committee for which an election is to be held. At least forty-five days prior to the annual meeting of the association, additional candidates may be nominated by a written petition of fifty producers. Procedures governing the place of filing and the contents of the petition shall be promulgated and publicized by the executive committee.

3. Producers attending the annual meeting of the association may vote for one nominee for each position on the executive committee for which an election is held. Producers not attending the annual meeting of the association may vote by absentee ballot if the ballot is requested and mailed, with proper postage, to the executive committee prior to the annual meeting of the association. For each position for which an election is held, the candidate receiving the highest number of votes shall be elected.

4. Notice of election for executive committee membership shall be given by the executive committee by publication in a newspaper of general circulation in the state and in any other reasonable manner as determined by the executive committee, and shall set forth the date, time, and place of the annual meeting of the association. The executive committee shall administer the elections, with the assistance of the secretary.

86 Acts, ch 1100, §6; 2004 Acts, ch 1037, §6, 19; 2016 Acts, ch 1043, §6, 21

Referred to in §181.3

181.7 Executive committee — research and education programs.

The executive committee shall initiate, administer, or participate in research and education programs directed toward the better and more efficient production, promotion, and utilization of cattle and the marketing of products made from cattle. The executive committee shall provide for the methods and means that it determines are necessary to further the purposes of this section, including but not limited to any of the following:

1. Providing public relations and other promotion techniques for the maintenance of present markets.
2. Making donations to nonprofit organizations furthering the purposes of this section.
3. Assisting in the development of new or larger domestic markets for products made from cattle.
4. Assisting in the development of new or larger foreign markets for cattle and products made from cattle.

[C71, 73, 75, 77, 79, 81, §181.7]
2004 Acts, ch 1037, §7, 19; 2016 Acts, ch 1043, §7, 21
Referred to in §181.13

181.7A Commencement of federal assessment — suspension and recommencement of state assessment — rate.

1. Prior to the commencement of the collection of the federal assessment, the executive committee may seek certification as a qualified state beef council within the meaning of the federal Act.
2. The executive committee shall suspend the state assessment upon collection of the federal assessment. The state assessment shall recommence upon the earlier of the following:

a. The noncollection of the federal assessment. The recommenced state assessment shall be imposed for a four-year period. Its effective date shall be the first date for which the federal assessment is not collected.

b. The passage of a special referendum pursuant to section 181.19 regardless of whether a federal assessment is being collected.

3. The rate of the recommenced state assessment shall be the same as the rate that was last in effect under section 181.19 immediately prior to the suspension of the state assessment.

86 Acts, ch 1100, §7; 2004 Acts, ch 1037, §8, 19; 2016 Acts, ch 1043, §8, 21
Referred to in §181.13, 181.19

181.8 Executive committee — entering premises — examining records.

The executive committee may authorize its agents to enter at a reasonable time upon the premises of any purchaser charged by this chapter with remitting the state assessment to the executive committee, and to examine records and other instruments relating to the collection of the state assessment. However, the executive committee must first have reasonable grounds to believe that the state assessment has not been remitted or fully accounted for.

[C71, 73, 75, 77, 79, 81, §181.8]
2004 Acts, ch 1037, §9, 19; 2016 Acts, ch 1043, §9, 21

181.9 and 181.10 Repealed by 2004 Acts, ch 1037, §18, 19.

181.11 Collection of state assessment.

1. A state assessment imposed as provided in this chapter shall be levied and collected from the purchaser on each sale of cattle at a rate provided in this chapter. The state assessment shall be imposed on any person selling cattle and shall be deducted by the purchaser from the price paid to the seller. The purchaser, at the time of the sale, shall make and deliver to the seller a separate invoice for each sale showing the names and addresses of the seller and the purchaser, the number of cattle sold, and the date of sale. The purchaser shall forward the state assessment to the executive committee at a time prescribed by the executive committee, but not later than the last day of the month following the end of the prior reporting period in which the cattle are sold.

2. The executive committee may enter into arrangements with persons purchasing cattle outside of this state for remitting the state assessment by such purchasers.

2004 Acts, ch 1037, §10, 19; 2016 Acts, ch 1043, §10, 21

Referred to in §181.15

181.12 Remission of state assessment on application.

A person from whom a state assessment is collected may, by written application filed with the executive committee within ninety days after its collection, have the amount remitted to the person by the executive committee. The information that the state assessment is refundable and the address of the executive committee to which application for a refund may be made shall appear on the invoice of sale form supplied by the purchaser to the producer near the area on the form which shows the amount of the state assessment paid. The executive committee shall furnish uniform application for refund forms and make the refund forms readily available to all producers. A purchaser charged by this chapter with remitting the state assessment shall make the forms readily available to all producers.

[C71, 73, 75, 77, 79, 81, §181.12; 81 Acts, ch 71, §1]

2004 Acts, ch 1037, §11, 19; 2016 Acts, ch 1043, §11, 21

Right to refund not subject to execution or transfer; §179.5A

181.13 Administration of moneys originating from state assessment — appropriation.

1. All state assessments imposed under this chapter shall be paid to and collected by the executive committee and deposited with the treasurer of state in a separate cattle promotion fund which shall be created by the treasurer of state. The department of administrative services shall transfer moneys from the fund to the executive committee for deposit into an account established by the executive committee in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the executive committee. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From the moneys collected, deposited, and transferred to the executive committee, in accordance with the provisions of this chapter, the executive committee shall first pay the costs of referendums held pursuant to this chapter, the costs of collection of such state assessments, and the expenses of its agents. At least ten percent of the remaining moneys shall be remitted to the association in proportions determined by the executive committee, for use in a manner not inconsistent with section 181.7. The remaining moneys, with approval of a majority of the executive committee, shall be expended as the executive committee finds necessary to carry out the provisions and purposes of this chapter. However, in no event shall the total expenses exceed the total amount transferred from the fund for use by the executive committee.

2. All moneys deposited in the cattle promotion fund and transferred to the executive committee pursuant to this section are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

3. If the state assessment is suspended as provided in section 181.7A or a continuance referendum fails to pass as provided in section 181.19A, moneys remaining in the cattle promotion fund and transferred to the executive committee shall continue to be transferred and expended in accordance with the provisions of this chapter until exhausted.

[C71, 73, 75, 77, 79, 81, §181.13]

86 Acts, ch 1100, §8; 94 Acts, ch 1146, §7; 97 Acts, ch 30, §3; 2003 Acts, ch 145, §286; 2004 Acts, ch 1037, §12, 19; 2006 Acts, ch 1030, §17; 2016 Acts, ch 1043, §12, 21

181.14 Notice. Repealed by 2004 Acts, ch 1037, §18, 19.

181.15 Referendum — procedures.

Upon receiving a petition to conduct a referendum as provided in section 181.19 or 181.19A, the secretary shall conduct the referendum as follows:

1. The secretary shall provide for the publication of a notice of the referendum for a period of not less than five days in a newspaper of general circulation in the state and in such other newspapers as the secretary may prescribe. The notice of referendum shall set

forth the period for voting and the voting places for the referendum and the amount of the state assessment. A referendum shall not be commenced prior to fourteen days after the last day of such period of publication.

2. Each producer upon signing a statement certifying that the person is a bona fide producer shall be entitled to one vote. At the close of the referendum period, the secretary shall count and tabulate the ballots filed during the referendum period. The ballots cast in the referendum shall constitute complete and conclusive evidence for use in any determination made by the secretary under the provisions of this chapter.

3. The secretary shall tabulate the ballots to determine whether the referendum has passed. If from such tabulation the secretary determines that a majority of the total number of producers voting approves the imposition of a state assessment, the state assessment shall be imposed as provided in section 181.11 at a rate provided for in section 181.19.

4. The secretary may prescribe such additional procedures as may be necessary to conduct a referendum.

[C71, 73, 75, 77, 79, 81, §181.15]

86 Acts, ch 1195, §3; 2004 Acts, ch 1037, §13, 19

181.16 Moneys remaining in fund. Repealed by 2004 Acts, ch 1037, §18, 19.

181.17 Executive committee — election — voting by nonmember producers.

A producer who is not a member of the Iowa beef cattle producers association shall be entitled to vote in elections of persons to be members of the executive committee in the same manner as if the producer were a member. The members elected to the executive committee shall elect from their number the officers referred to in section 181.1A.

[C71, 73, 75, 77, 79, 81, §181.17]

97 Acts, ch 30, §5; 2005 Acts, ch 3, §46; 2016 Acts, ch 1043, §13, 21

181.18 Rules.

All rules adopted by the executive committee shall be subject to the provisions of chapter 17A.

[C71, 73, 75, 77, 79, 81, §181.18]

2005 Acts, ch 3, §47; 2016 Acts, ch 1043, §14, 21

181.18A Not a state agency.

The Iowa beef cattle producers association is not an agency of state government.

93 Acts, ch 102, §1

181.18B Report.

Each year, the executive committee shall prepare and submit a report summarizing the activities of the executive committee under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under this chapter.

94 Acts, ch 1146, §9; 2004 Acts, ch 1037, §14, 19; 2016 Acts, ch 1043, §15, 21

Referred to in §181.2

181.19 Initial and special referendums.

1. The secretary shall, upon the petition of five hundred producers, conduct an initial referendum to determine whether a state assessment is to be imposed, at a rate established by the executive committee not to exceed one dollar per head on all cattle sold for any purpose.

2. The secretary shall, upon the petition of five hundred producers, conduct a special referendum to do any of the following:

a. Determine whether a state assessment already imposed shall be increased to a rate, established by the executive committee, not to exceed one dollar per head on all cattle sold for any purpose.

b. Determine whether a state assessment suspended pursuant to section 181.7A is to be

in addition to a federal assessment. The state assessment shall be imposed at a rate not to exceed one dollar per head on all cattle sold for whatever purpose.

3. If a referendum passes, the secretary shall establish an effective date to commence the state assessment. However, the state assessment must be commenced within ninety days from the date that the secretary determines that the referendum has passed.

4. If a special referendum to increase the rate of the state assessment does not pass, the result of the special referendum shall not affect the existence or length of the state assessment in effect on the date that the special referendum was conducted.

[C75, 77, 79, 81, §181.19; 81 Acts, ch 71, §2]

86 Acts, ch 1195, §4; 97 Acts, ch 30, §6, 7; 2004 Acts, ch 1037, §15, 19; 2016 Acts, ch 1043, §16, 21

Referred to in §181.7A, 181.15

181.19A Continuance referendum.

1. The secretary shall, upon the petition of producers, conduct a continuance referendum to determine whether a state assessment should be renewed. The secretary must receive the petition not less than one hundred fifty and not more than two hundred forty days before the four-year anniversary of a state assessment's effective date. The petition must be signed within that period by a number of producers equal to or greater than two percent of the number of producers in this state reported in the most recent United States census of agriculture, requesting a referendum to determine whether to continue the state assessment. The referendum shall be conducted not earlier than thirty days before the four-year anniversary date of the state assessment.

2. If the secretary determines that a continuance referendum has passed, the state assessment shall continue in effect for four additional years from the anniversary of its effective date.

3. If the secretary determines that the referendum has not passed, the secretary and the executive committee shall terminate the assessment in an orderly manner as soon as practicable after the determination. Another referendum shall not be held for at least one hundred eighty days from the date that the assessment is terminated.

4. If no valid petition for a continuance referendum is received by the secretary within the time period provided in this section, the state assessment shall continue in effect for four additional years from the anniversary of its effective date.

2004 Acts, ch 1037, §16, 19; 2016 Acts, ch 1043, §17, 21

Referred to in §181.13, 181.15

181.20 Misdemeanors.

Any person who shall violate or assist in the violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor.

[C71, 73, §181.19; C75, 77, 79, 81, §181.20]

CHAPTER 182

IOWA SHEEP AND WOOL PROMOTION BOARD

Referred to in §159.6, 173.3, 179.5A

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182.1 Definitions.

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

1. *"Assessment"* means an excise tax on the sale of sheep or wool as provided in this chapter.

2. *"Board"* means the Iowa sheep and wool promotion board established pursuant to section 182.5.

3. *"Concentration point"* means a location or facility where sheep are assembled for purposes of sale or resale for feeding, breeding, or slaughtering, and where contact may occur between groups of sheep from various sources. *"Concentration point"* includes a public stockyard, auction market, street market, state or federal market, untested consignment sales location, buying station, or a livestock dealer's yard, truck, or facility.

4. *"District"* means an official crop reporting district formed by the United States department of agriculture and set out in the annual farm census published by the Iowa department of agriculture and land stewardship.

5. *"First purchaser"* means a person who purchases sheep or wool from a producer.

6. *"Producer"* means a person who is actively engaged within this state in the business of producing or marketing sheep or wool and who receives income from the production of sheep or wool.

7. *"Sale"* or *"sold"* means a transaction in which the property in or to sheep or wool is transferred from the producer to a first purchaser for full or partial consideration.

8. *"Secretary"* means the secretary of agriculture.

9. *"Sheep"* means an animal of the ovine species, regardless of age, produced or marketed in this state.

10. *"Wool"* means the natural fiber produced by sheep.

85 Acts, ch 207, §1; 86 Acts, ch 1245, §631; 99 Acts, ch 50, §1 – 4; 2012 Acts, ch 1109, §1, 2, 7

Further definitions; see §159.1

182.2 Petition for referendum election.

Upon receipt of a petition signed by at least fifty producers in each district requesting a referendum by election to determine whether to establish the board and to impose an assessment, the secretary shall call a referendum to be conducted within sixty days following receipt of the petition.

85 Acts, ch 207, §2; 99 Acts, ch 50, §5

182.3 Notice of referendum.

1. The secretary shall give notice of the referendum on the question of whether to establish an Iowa sheep and wool promotion board and to impose the assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation

in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the secretary.

2. A referendum shall not be commenced until five days after the last date of publication.

85 Acts, ch 207, §3; 2020 Acts, ch 1062, §94
Referred to in §182.13B

182.4 Establishment of sheep and wool promotion board — assessment — termination.

1. Each producer who signs a statement certifying that the producer is a bona fide producer is entitled to one vote. At the close of the referendum, the secretary shall count and tabulate the ballots cast. If a majority of voters favor establishing an Iowa sheep and wool promotion board and imposing an assessment, an Iowa sheep and wool promotion board shall be established. The assessment shall be imposed commencing not more than sixty days following the referendum as determined by the Iowa sheep and wool promotion board, and shall continue until terminated by a referendum as provided in subsection 2. If a majority of the voters do not favor establishing an Iowa sheep and wool promotion board and imposing the assessment, the assessment shall not be imposed and the board shall not be established until another referendum is held under this chapter and a majority of the voters favor establishing a board and imposing the assessment. If a referendum fails, another referendum shall not be held within one hundred eighty days.

2. Upon receipt of a petition signed by at least twenty-five producers in each district requesting a referendum election to determine whether to terminate the establishment of the Iowa sheep and wool promotion board and to terminate the imposition of the assessment, the secretary shall call a referendum to be conducted within sixty days following the receipt of the petition. The petitioners shall guarantee the payment of the costs of a referendum held under this subsection. If the majority of the voters of a referendum do not favor termination, an additional referendum may be held when the secretary receives a petition signed by at least twenty-five producers in each district. However, the additional referendum shall not be held within one hundred eighty days.

85 Acts, ch 207, §4
Referred to in §182.13B

182.5 Composition of board.

The Iowa sheep and wool promotion board established under this chapter shall be composed of nine producers, one from each district. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or the dean's representative and the secretary or the secretary's designee shall serve as ex officio nonvoting members of the board. The board shall annually elect a chairperson from its membership.

85 Acts, ch 207, §5; 2008 Acts, ch 1032, §31
Referred to in §182.1

182.6 Nominations for initial board.

Candidates for positions on the initial board are nominated by filing a petition with the secretary containing the signatures of at least twenty-five producers in the candidate's district qualified to vote on the referendum. Candidates shall be resident producers of the district from which they are nominated. The secretary shall receive the nominations, and shall call an election for members of the initial board within thirty days following passage of the question at the referendum election.

85 Acts, ch 207, §6

182.7 Notice of election for directors.

1. Notice of the initial election for directors of the board shall be given by the secretary by publication in a newspaper of general circulation in the state at least five days prior to the date of the election and in any other reasonable manner as determined by the secretary. The notice shall set forth the period of time for voting, voting places, and other information as the secretary deems necessary.

2. Notice of subsequent elections for the membership position for a district shall be given

by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as determined by the board and shall set forth the period of time for voting, voting places, and other information as the board deems necessary.

85 Acts, ch 207, §7; 2020 Acts, ch 1062, §94

182.8 Terms.

The term of office for members of the board shall be three years and no member shall serve more than two complete consecutive terms. The producers on the initial board shall determine their terms by lot, so that three producers shall serve a one-year term, three producers shall serve a two-year term, and three producers shall serve a three-year term.

85 Acts, ch 207, §8

182.9 Subsequent membership — nominations — election.

After the appointment of the initial board, the board shall administer subsequent elections for members of the board with the assistance of the secretary. Before the expiration of a member's term of office, the board shall appoint a nominating committee for the district represented by the member. The nominating committee shall consist of five producers who are residents of the district from which a member must be elected. The nominating committee shall nominate two resident producers as candidates for the membership position for which an election is to be held. Additional candidates may be nominated by a written petition of twenty-five resident producers. The board shall provide by rule and shall publish procedures governing the time and place of filing the nominations.

85 Acts, ch 207, §9

182.10 Vacancies.

The board shall by appointment fill an unexpired term if a vacancy occurs on the board. The appointee shall be a resident producer in the district having a vacancy.

85 Acts, ch 207, §10

182.11 Purposes of board.

The purposes of the board shall be to:

1. Enter into contracts or agreements with or make grants to recognized and qualified agencies, individuals, or organizations for the development and carrying out of research and education programs directed toward better and more efficient production, marketing, and utilization of sheep and wool and their products.
2. Provide methods and means, including, but not limited to, public relations and other promotion techniques for the maintenance of present markets.
3. Assist in development of new or larger markets, both domestic and foreign, for sheep and wool and their products.

85 Acts, ch 207, §11

Referred to in §182.18

182.12 Powers and duties.

The board may:

1. Administer and enforce this chapter and perform acts reasonably necessary to effectuate the purposes of this section.
2. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.
3. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
4. Adopt, rescind, and amend all proper and necessary rules for the exercise of its powers and duties.
5. Enter into arrangements for collection of the assessment on sheep and wool.
6. Formulate and execute assessment procedures and methods of collection.
7. Receive and investigate complaints and violations of this chapter and take necessary action.

8. Confer and cooperate with legally constituted authorities of other states and the United States.

9. Establish accounts in adequately protected financial institutions to receive, hold, and disburse board moneys.

85 Acts, ch 207, §12
Referred to in §182.13B, 182.16

182.13 Compensation — meetings.

Members of the board may receive payment for their actual expenses and travel in performing official board functions. Payment shall be made from amounts collected from the assessment. No member of the board shall be a salaried employee of the board or any organization or agency receiving funds from the board. The board shall meet at least once every three months, and at other times it deems necessary.

85 Acts, ch 207, §13
Referred to in §182.24

182.13A Not a state agency.

The Iowa sheep and wool promotion board is not an agency of state government.

93 Acts, ch 102, §2

182.13B Assessment rate.

1. If a majority of voters at a referendum conducted pursuant to section 182.4 approve the establishment of an Iowa sheep and wool promotion board and the imposition of an assessment, the assessment shall be imposed on wool and sheep at the following rates:

a. For wool, two cents imposed on each pound of wool sold by a producer.

b. For sheep, ten cents imposed on each head of sheep sold by a producer.

2. *a.* Notwithstanding subsection 1, upon a resolution adopted by the board, the secretary shall call a special referendum for voters to authorize increasing the assessment rate imposed on sheep as provided in this section.

b. The special referendum shall be conducted in the same manner as a referendum conducted upon receipt of a petition as provided in this chapter, unless otherwise provided in the board's resolution. Only producers are eligible to vote in an election and each producer is entitled to one vote.

3. The special referendum conducted pursuant to subsection 2 shall allow a voter to cast a ballot for the following two questions:

a. For the first question, whether to authorize an increase in the assessment rate to twenty-five cents imposed on each head of sheep.

b. For the second question, if the first question is approved by a majority of voters, whether to also authorize the board to increase that assessment rate by future resolution as provided in this section.

4. If a majority of voters approve the first question, twenty-five cents shall be imposed on each head of sheep sold by a producer as effectuated by the board pursuant to section 182.12.

5. If a majority of voters approve both the first and second questions, all of the following apply:

a. Twenty-five cents shall be imposed on each head of sheep sold by a producer as effectuated by the board pursuant to section 182.12.

b. The board may adopt one or more resolutions to further impose an increased assessment rate. The increased assessment rate shall be imposed on each head of sheep sold by a producer as effectuated by the board pursuant to section 182.12. The board shall comply with all of the following:

(1) The board must wait three or more years from the effective date of the previous action imposing an increase in order to adopt a resolution. For the first increase, the effective date is the date of the special referendum. For any subsequent increase, the effective date is the date that the board last adopted a resolution imposing an increased rate as provided in this paragraph *"b"*.

(2) The board shall not adopt a resolution until it provides notice to producers of the proposed increase and an opportunity for producers to submit written or oral comments to

the board regarding the proposed increase. The board may provide notice by publication in the same manner as provided in section 182.3, publication on its internet site, mail bearing a United States postal service postmark, electronic transmission, or hand-delivery.

(3) The increase in the assessment rate imposed by a resolution adopted by the board must equal five cents. However, the assessment rate imposed by a resolution of the board shall not equal more than fifty cents.

6. *a.* If a majority of voters do not authorize increasing the assessment rate pursuant to a special referendum conducted pursuant to this section, the assessment rate shall be the same as provided in subsection 1.

b. Not more than one special referendum shall be conducted pursuant to this section.

2012 Acts, ch 1109, §3, 6, 7

182.14 Assessment.

1. An assessment provided in this chapter shall be imposed on the producer as follows:

a. If the producer sells wool or sheep to the first purchaser within this state, the following shall apply:

(1) If the sale occurs at a concentration point, the assessment shall be imposed at the time of delivery. The first purchaser shall deduct the assessment from the price paid to the producer at the time of sale.

(2) If the sale does not occur at a concentration point, the producer shall deduct the assessment from the amount received from the sale and shall forward the amount deducted to the board within thirty days following each calendar quarter.

b. If the producer sells, ships, or otherwise disposes of wool or sheep to any person outside this state, the producer shall deduct the assessment from the amount received from the sale and shall forward the amount deducted to the board.

2. The assessment imposed by this section shall be remitted to the board not later than thirty days following each calendar quarter during which the assessment amount was deducted.

85 Acts, ch 207, §14; 99 Acts, ch 50, §6; 2000 Acts, ch 1154, §16; 2012 Acts, ch 1109, §4 – 7
Referred to in §182.16

182.15 Invoice required.

1. At the time of sale, the first purchaser shall sign and deliver to the producer separate invoices for each purchase. The invoices shall show:

a. The name and address of the producer and the seller, if different from the producer.

b. The name and address of the first purchaser.

c. The pounds of wool or head of sheep sold.

d. The date of the purchase.

e. The rate of withholding and the total amount of the assessment withheld.

2. Invoices shall be legibly written and shall not be altered.

85 Acts, ch 207, §15; 99 Acts, ch 50, §7; 2009 Acts, ch 41, §263

182.16 Deposit and disbursement of funds.

The board shall deposit amounts collected from the assessment imposed pursuant to section 182.14 in an account established pursuant to section 182.12. Expenses and disbursements incurred and made pursuant to this chapter shall be made by voucher, draft, or check bearing the signature of a person designated by majority vote of the board.

85 Acts, ch 207, §16; 99 Acts, ch 50, §8

182.17 Refunds.

A producer who has paid the assessment may, by application in writing to the board, secure a refund of all or part of the amount paid. The refund shall be payable only when the application has been made to the board within sixty days after the deduction has been made by the producer or within sixty days after the remittance has been made by the first purchaser. Each application for refund by a producer shall have attached proof that the

assessment was paid. The proof of the assessment paid may be in the form of a duplicate or certified copy of the purchase invoice by the purchaser.

85 Acts, ch 207, §17

Right to refund not subject to execution or transfer; §179.5A

182.18 Use of moneys.

1. Moneys collected under this chapter are subject to audit by the auditor of state and shall be used by the Iowa sheep and wool promotion board first for the payment of collection and refund expenses, second for payment of the costs and expenses arising in connection with conducting referendums, third for the purposes identified in section 182.11, and fourth for the cost of audits for the auditor of state. Moneys of the board remaining after a referendum is held at which a majority of the voters favor termination of the board and the assessment shall continue to be expended in accordance with this chapter until exhausted. The auditor of state may seek reimbursement for the cost of the audit.

2. The board shall not engage in any political activity, and it shall be a condition of any allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

85 Acts, ch 207, §18; 2010 Acts, ch 1189, §31

182.19 Bond required.

All persons holding positions of trust under this chapter shall give bond in the amount required by the board. The premiums for bond costs shall be paid from the moneys of the board.

85 Acts, ch 207, §19

182.20 Examination of records.

Persons subject to this chapter shall furnish on forms provided by the board information needed to enable the board to effectuate the policies of this chapter. For the purpose of ascertaining the correctness of a report made to the board under this chapter, the secretary may examine books, papers, records, copies of tax returns not confidential by law, and accounts, which are in the control of any person. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas in connection with the administration of this chapter.

85 Acts, ch 207, §20

182.21 Penalty.

A person who willfully violates a provision of this chapter, willfully gives a false report, statement, or record required by the board, or willfully fails to furnish or render a report, statement or record required by the secretary is guilty of a simple misdemeanor.

85 Acts, ch 207, §21

182.22 Purchasers outside Iowa.

The secretary may enter into arrangements with first purchasers from outside Iowa for payment of the assessment.

85 Acts, ch 207, §22

182.23 Report.

During the period of collection of the assessment, the board in cooperation with the auditor of state shall make an annual report which shall show all income, expenses and other relevant information.

85 Acts, ch 207, §23

182.24 Board member disclosure.

Notwithstanding section 182.13, a member of the board may receive compensation, including a salary, from an organization or agency, including an educational institution, receiving funds from the board. If a member of the board has a pecuniary interest, either direct or indirect, in a matter considered by the board, the interest shall be disclosed by

the member to the board and included in the minutes for that meeting of the board. The member having the pecuniary interest shall not participate in an action taken by the board on the matter.

88 Acts, ch 1284, §66

CHAPTER 183

RESERVED

CHAPTER 183A

IOWA PORK PRODUCERS COUNCIL

Referred to in §8A.502, 97B.1A, 179.5A

183A.1	Definitions.	183A.8	Refund of assessment.
183A.2	Iowa pork producers council.	183A.9	Referendum.
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183A.1 Definitions.

As used in this chapter:

1. *"Assessment"* means an excise tax on the sale of porcine animals as provided in this chapter.

2. *"First purchaser"* means a person who buys porcine animals from a seller in the first instance.

3. *"Iowa pork producers council"* or *"council"* means the body established under section 183A.2.

4. *"Market development"* means research, education, and other programs directed at better and more efficient production, marketing, and utilization of pork; public relations and other promotion techniques for the maintenance of existing markets for pork, including but not limited to contributions to organizations working toward the purposes of this subsection; development of new or larger markets for pork both domestic and foreign, including but not limited to public relations and other promotion techniques; and the adoption, prevention, modification, or elimination of trade barriers which bear on the flow of pork in commercial channels.

5. *"Porcine animals"* means swine raised for slaughter, feeder pigs, or swine seedstock.

6. *"Pork"* means porcine animals and all parts of porcine animals.

7. *"Pork Promotion Act"* means the federal Pork Promotion, Research, and Consumer Information Act of 1985.

8. *"Producer"* means a person engaged in this state in the business of producing and marketing porcine animals in the previous calendar year.

9. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

85 Acts, ch 199, §1; 86 Acts, ch 1100, §9, 10; 86 Acts, ch 1245, §632; 94 Acts, ch 1146, §10; 2012 Acts, ch 1017, §49

Referred to in §183A.7

Further definitions; see §159.1

183A.2 Iowa pork producers council.

The Iowa pork producers council is created. The council consists of seven members, including two producers from each of three districts of the state designated by the secretary, and one producer from the state at large. The secretary shall appoint these members. The Iowa pork producers association may recommend the names of potential members, but the secretary is not bound by the recommendations. The secretary, the dean of the college of agriculture and life sciences of Iowa state university of science and technology, and the state veterinarian, or their designees, shall serve on the council as nonvoting ex officio members.

85 Acts, ch 199, §2; 86 Acts, ch 1100, §11; 2008 Acts, ch 1032, §32

Referred to in §183A.1, 183A.9A

183A.3 Terms.

The voting members of the council shall serve terms of three years, and shall not serve for more than two complete consecutive terms.

85 Acts, ch 199, §3; 86 Acts, ch 1100, §12

Referred to in §183A.9A

183A.4 Vacancies.

A vacancy in the voting membership of the council resulting from death, inability or refusal to serve, or failure to meet the qualifications established in this chapter, shall be filled by the council for the remainder of the unexpired term. If the council fails to fill the vacancy, the secretary shall fill it.

85 Acts, ch 199, §4; 86 Acts, ch 1100, §13

183A.5 Duties, objects, and powers of the council.

1. The council shall:

a. Aid in the promotion of the pork industry of the state.

b. Make an annual report of its proceedings and expenditures to the secretary.

c. Elect a chairperson, secretary, and other officers it deems advisable.

d. Administer and enforce this chapter, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purposes and requirements of this chapter.

e. Hire and discharge employees and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.

f. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.

g. Report alleged violations of this chapter to the attorney general or appropriate county attorney.

h. Keep accurate books, records, and accounts of all its dealings.

i. Receive, administer, disburse and account for, in addition to the funds received from the assessment provided in this chapter, other funds voluntarily contributed to the council for the purpose of promoting the pork industry.

2. The council or its designated agent may enter into arrangements with persons purchasing Iowa produced pork outside Iowa, for collection of the assessment from those persons.

3. The council is a state agency only for the purposes of chapters 21 and 22. Chapter 17A does not apply to the council.

85 Acts, ch 199, §5; 86 Acts, ch 1100, §14, 15; 2009 Acts, ch 41, §263

183A.6 Assessment.

1. The council shall make an assessment of not less than point zero zero two nor more than point zero zero three of the gross sale price of all porcine animals. The assessment shall be point zero zero two five of the gross sale price of porcine animals until consent to an assessment has been given through the initial referendum referred to in this chapter. After approval of the initial referendum, the rate of assessment shall be determined by the council. The assessment shall be made at the time of delivery of the animals for sale, and shall be deducted by the first purchaser from the price paid to the seller. The first purchaser, at the time of sale, shall make and deliver to the seller an invoice for each purchase showing the

names and addresses of the seller and the first purchaser, the number and kind of animals sold, the date of sale, and the assessment made on the sale.

2. Assessments shall be paid to the Iowa pork producers council or its designated agent by first purchasers at a time prescribed by the council, but not later than the last day of the month following the month in which the animals were purchased.

85 Acts, ch 199, §6; 86 Acts, ch 1100, §16; 2017 Acts, ch 54, §76
Referred to in §183A.9A

183A.7 Administration of moneys — appropriation.

1. Assessments imposed under this chapter paid to and collected by the Iowa pork producers council shall be deposited in the pork promotion fund which is established in the office of the treasurer of state. The department of administrative services shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.

2. All moneys deposited in the pork promotion fund and transferred to the council as provided in this section are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

3. From the moneys collected, deposited, and transferred to the council as provided in this chapter, the council shall first pay the costs of referendums held pursuant to this chapter. Of the moneys remaining, at least twenty-five percent shall be remitted to the national pork producers council and at least fifteen percent shall be remitted to the Iowa pork producers association, in the proportion the committee determines, for use by recipients in a manner not inconsistent with market development as defined in section 183A.1. Moneys remaining shall be spent as found necessary by the council to further carry out the provisions and purposes of this chapter.

4. However, in no event shall the total expenses exceed the total amount of moneys transferred from the fund for use by the council.

85 Acts, ch 199, §7; 86 Acts, ch 1100, §17; 94 Acts, ch 1146, §11; 2002 Acts, ch 1119, §143; 2003 Acts, ch 145, §286; 2016 Acts, ch 1011, §121
Referred to in §183A.9A

183A.8 Refund of assessment.

A producer from whom the assessment has been deducted, upon written application filed with the council within thirty days after its collection, shall have that amount refunded by the council. Application forms shall be given by the council to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for a refund by a producer shall have attached a proof of assessment deducted. The proof of assessment deducted shall be in the form of the original or a copy of the purchase invoice by the first purchaser. The council shall have no more than thirty days from the date the application for refund is received to remit the refund to the producer.

85 Acts, ch 199, §8; 86 Acts, ch 1076, §1
Right to refund not subject to execution or transfer; §179.5A

183A.9 Referendum.

1. At a time designated by the council within eighteen months after the termination of the collection of assessments under the Pork Promotion Act, the secretary shall conduct an initial referendum under administrative procedures prescribed by the department of agriculture and land stewardship.

2. Upon signing a statement certifying to the secretary that the person is a bona fide producer as defined in this chapter, each producer is entitled to one vote in each referendum. The secretary shall determine the qualification of producers under this section.

3. The secretary shall count and tabulate the ballots filed during the referendum within thirty days of the close of the referendum. If from the tabulation the secretary determines that a majority of the total number of producers voting in the referendum favors the assessment,

the assessment provided for in the referendum shall be levied. The ballots cast pursuant to this section constitute complete and conclusive evidence for use in determinations made by the secretary under this chapter.

4. The secretary shall hold subsequent referendums on request of ten percent or more of the number of producers eligible to vote, to determine whether the producers favor the termination or suspension of the assessment. The secretary shall suspend or terminate collection of the assessment within six months after the secretary determines that suspension or termination of the assessment is favored by a majority of the producers voting in the referendum, and shall terminate the assessment in an orderly manner as soon as practicable after the determination.

85 Acts, ch 199, §9; 86 Acts, ch 1100, §18; 2016 Acts, ch 1011, §121

183A.9A Suspension during national order.

1. The terms of all voting members serving on the council on January 31, 1986 terminate at the time provided in subsection 2.

2. On the date of the commencement of the collection of assessments under the Pork Promotion Act, the collection of the assessments under section 183A.6 shall be suspended. The council shall continue to operate after suspension until all refunds are paid and all funds remaining in the pork promotion fund, less a reserve for future refunds, are disbursed for the purposes enumerated in this chapter. Notwithstanding section 183A.7, the council need not retain a reserve for future referendums. Upon completion of these acts, the existence of the Iowa pork producers council is suspended. The secretary of agriculture shall certify the suspension of the council as of a date certain to the Iowa pork producers council and the Iowa pork producers association. When the existence of the council is suspended, the terms of office of council members terminate.

3. On the date of the termination of the collection of assessments under the Pork Promotion Act, the period of suspension of the assessments under subsection 2 terminates. The secretary shall collect the assessments under section 183A.6 until this duty can be resumed by the reactivated council.

4. On the date of the termination of the collection of assessments under the Pork Promotion Act, the period of suspension of the council under subsection 2 terminates. Within sixty days from this date, the secretary shall appoint voting members to the council. For purposes of section 183A.3, a voting member so appointed is deemed not to have served a previous consecutive term. The terms of office of voting members of the initial reactivated council shall be determined by lot, but members from the same district shall not serve the same terms. As nearly as possible one-third of the voting members shall serve for one year, one-third of the voting members shall serve for two years, and one-third of the voting members shall serve for three years. Subsequent voting members shall be appointed pursuant to section 183A.2.

5. The secretary shall call the first meeting of the reactivated council. Upon reactivation, the council shall reimburse the secretary for expenses incurred in carrying out the duties provided in this section.

86 Acts, ch 1100, §19

183A.10 Per diem and expenses.

The members of the council shall receive a per diem as specified in section 7E.6 for each day spent on official business of the council, not to exceed six hundred dollars per annum, and their actual necessary expenses, while engaged in council activity.

85 Acts, ch 199, §10; 91 Acts, ch 258, §33

183A.11 Audit.

Moneys collected, deposited in the fund, and transferred to the council, as provided in this chapter shall be supervised by a certified public accountant employed by the council using generally accepted accounting principles and shall be subject to audit by the auditor of state.

85 Acts, ch 199, §11; 94 Acts, ch 1146, §12

183A.12 Examination of books.

Persons subject to this chapter and first purchasers shall furnish any information needed to enable the council and secretary to carry out the provisions of this chapter. For the purpose of ascertaining the correctness of any information given to the council or the secretary under this chapter, the secretary may examine books, papers, records, copies of tax returns, accounts, correspondence, contracts, or other documents and memoranda the secretary deems relevant which are in the control of any person and which are not otherwise confidential as provided by law. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this chapter.

85 Acts, ch 199, §12

183A.12A Report.

The council shall prepare and submit a report summarizing the activities of the council under this chapter each year to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

94 Acts, ch 1146, §13

183A.13 Misdemeanors.

A person who violates or assists in the violation of any of the provisions of this chapter is guilty of a simple misdemeanor.

85 Acts, ch 199, §13

183A.14 Influencing legislation.

Neither council members nor employees of the council shall attempt in any manner to influence legislation affecting any matters pertaining to the council's activities. No portion of the pork promotion fund shall be used, directly or indirectly, to influence legislation, to support any candidate for public office, or to support any political party.

85 Acts, ch 199, §14

CHAPTER 184

IOWA EGG COUNCIL

Referred to in §8A.502, 97B.1A

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184.1 Definitions.

As used in this chapter, unless the context indicates otherwise:

1. *"Assessment"* means an excise tax on the sale of eggs as provided in this chapter.
2. *"Council"* means the Iowa egg council.
3. *"Egg product"* means a product produced in whole or in part from eggs or spent fowl.

4. *"Eggs"* means eggs produced from a layer-type chicken. *"Eggs"* includes shell eggs or eggs broken for further processing. However, *"eggs"* does not include any of the following:

a. Fertile eggs that are incubated, hatched, or used for vaccines.

b. Organic eggs which are produced as part of a production operation which is certified by the department pursuant to chapter 190C.

5. *"Eligible voter"* means a producer who is qualified to vote in a referendum conducted under this chapter according to the requirements of section 184.2 or 184.3.

6. *"Market development"* means programs which are directed toward any of the following:

a. Better and more efficient production, marketing, and utilization of eggs or egg products.

b. The maintenance of present markets and the development of new or larger markets for the sale of eggs or egg products.

c. Prevention, modification, or elimination of trade barriers which obstruct the free flow of eggs or egg products in commerce.

7. *"Processor"* means the first purchaser of eggs from a producer, or a person who both produces and processes eggs.

8. *"Producer"* means any person who owns, or contracts for the care of, thirty thousand or more layer-type chickens raised in this state.

9. *"Purchaser"* means a person who resells eggs purchased from a producer or offers for sale a product produced from the eggs for any purpose.

10. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

[C75, 77, 79, 81, §196A.1]

86 Acts, ch 1245, §641; 94 Acts, ch 1146, §39; 95 Acts, ch 7, §4; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §1, 2, 13

C99, §184.1

2005 Acts, ch 43, §1; 2012 Acts, ch 1017, §50

184.2 Establishment of Iowa egg council and assessment.

1. The secretary shall call and the department shall conduct a referendum upon the department's receipt of a petition which is signed by at least twenty producers requesting a referendum to determine whether to establish an Iowa egg council and to impose an assessment as provided in section 184.3. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The department shall give notice of the referendum on the question whether to establish a council and to impose an assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

3. *a.* Each producer who signs a statement certifying that the producer is a bona fide producer shall be an eligible voter under this section. An eligible voter is entitled to cast one vote in each referendum conducted under this section.

b. At the close of the referendum, the secretary shall count and tabulate the ballots cast.

(1) If a majority of eligible voters approve establishing an Iowa egg council and imposing an assessment, a council shall be established, and an assessment shall be imposed commencing not more than sixty days following the referendum as determined by the council and shall continue until eligible voters voting in a referendum held pursuant to section 184.5 vote to abolish the council and terminate the imposition of the assessment.

(2) If a majority of the voters do not approve establishing the council and imposing the assessment, the council shall not be established and an assessment shall not be imposed until another referendum is held under this chapter and a majority of the eligible voters approve establishing a council and imposing the assessment. If a referendum should fail, another referendum shall not be held within one hundred eighty days.

4. Immediately after passage of the question at the referendum, the secretary shall appoint

seven members to the council in accordance with section 184.6 based on nominations made by the Iowa poultry association. The association shall nominate and the secretary shall appoint two members representing large producers, two members representing medium producers, and three members representing small producers. The department, in consultation with the association, shall determine initial classifications for small, medium, and large producers. The secretary shall complete the appointments within thirty days following passage of the question at the referendum.

[C75, 77, 79, 81, §196A.4]
95 Acts, ch 7, §5; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §3, 13
C99, §184.2
Referred to in §184.1, 184.5

184.3 Assessment.

1. *a.* Except as provided in paragraph *"b"*, an assessment of two and one-half cents is imposed on each thirty dozen eggs produced in this state. The assessment shall be imposed on a producer at the time of delivery to a purchaser who shall deduct the assessment from the price paid to a producer at the time of sale. The assessment shall not be refundable. The assessment is due to be paid to the council within thirty days following each calendar quarter, as provided by the council.

b. Upon request of the council, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the assessment to an amount that is more than two and one-half cents imposed on each thirty dozen eggs produced in this state. Notice shall be given and the special referendum shall be conducted in the manner provided in section 184.5. If a majority of the producers voting approves the increase, the council may increase the assessment for the amount approved. However, the assessment shall not exceed fifteen cents imposed on each thirty dozen eggs produced in this state.

2. If the producer sells eggs to a purchaser outside the state of Iowa, the producer shall deduct the assessment from the amount received from the sale and shall forward the amount deducted to the council within thirty days following each calendar quarter. If the producer and processor are the same person, then that person shall pay the assessment to the council within thirty days following each calendar quarter.

3. The council may charge interest on any amount of the assessment that is delinquent. The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue pursuant to section 421.7. The interest amount shall be computed from the date the assessment is delinquent, unless the council designates a later date. The interest amount shall accrue for each month in which there is delinquency calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount due shall become a part of the assessment due.

[C75, 77, 79, 81, §196A.15]
95 Acts, ch 7, §14
CS95, §196A.4A
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §4, 13
C99, §184.3
2000 Acts, ch 1164, §1; 2003 Acts, ch 145, §286; 2005 Acts, ch 43, §2
Referred to in §184.1, 184.2, 184.13

184.4 Invoice required.

1. At the time of sale, the purchaser shall sign and deliver to the producer separate invoices for each purchase. The invoices shall show:

a. The name and address of the producer and the seller, if different from the producer.
b. The name and address of the purchaser.
c. The quantity of eggs sold.
d. The date of the purchase.
e. The rate of withholding and the total amount of assessment withheld.

2. Invoices shall be legibly written and shall not be altered.
[C75, 77, 79, 81, §196A.16]
95 Acts, ch 7, §15
CS95, §196A.4B
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.4
2009 Acts, ch 41, §263

184.5 Referendums conducted to abolish the council and terminate imposition of the assessment.

1. A referendum may be called to abolish the council and terminate the imposition of the assessment. The secretary shall call, and the department shall conduct, the referendum upon the department's receipt of a petition requesting the referendum. The petition must be signed by at least twenty eligible voters or fifty percent of all eligible voters, whichever is greater. In order to be an eligible voter under this section, a producer must have paid an assessment in the year of the referendum. The referendum shall be conducted within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The following procedures shall apply to a referendum conducted pursuant to this section:

a. The department shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state. The notice shall state the voting places, period of time for voting, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the secretary that the producer is an eligible voter, a producer is entitled to one vote in each referendum conducted pursuant to this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. The department shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of the total number of eligible voters who vote in the referendum approve the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of the total number of eligible voters who vote in the referendum held pursuant to this section do not approve continuing the council and the imposition of the assessment, the secretary shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The secretary shall terminate the activities of the council in an orderly manner as soon as practicable after the determination. An additional referendum may be held as provided in section 184.2. However, the subsequent referendum shall not be held within one hundred eighty days.

95 Acts, ch 7, §6
CS95, §196A.4C
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §5, 13
C99, §184.5
Referred to in §184.2, 184.3, 184.14

184.6 Composition of council.

The Iowa egg council established under this chapter shall be composed of seven members. Each member must be a natural person who is a resident of this state and a producer or an officer, equity owner, or employee of a producer. A producer shall not be represented by more than two members of the council. Two persons shall represent large producers, two persons shall represent medium producers, and three persons shall represent small producers. The council shall adopt rules pursuant to chapter 17A establishing classifications for large, medium, and small producers. The following persons or their designees shall serve as ex officio nonvoting members:

1. The secretary.

2. The director of the economic development authority.
3. The chairperson of the poultry science section of the department of animal science at Iowa state university of science and technology.

[C75, 77, 79, 81, §196A.5]
95 Acts, ch 7, §7; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §6, 13
C99, §184.6
2003 Acts, ch 15, §1; 2011 Acts, ch 118, §85, 89
Referred to in §184.2

184.7 Terms and administration procedures.

1. A person shall serve as a member on the council for a term of three years. A person may serve as a member on the council for more than one term.
2. The council shall elect a chairperson, and other officers as needed, from among its voting members.
3. A majority of voting members of the council present during a meeting shall constitute a quorum. A majority of the members present during a meeting is necessary to carry out the duties and exercise the powers of the council as provided in this chapter, unless the council requires a greater number.
4. The council shall meet at least once every three months and at other times the council determines are necessary.

95 Acts, ch 7, §8
CS95, §196A.5A
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.7
99 Acts, ch 109, §1, 8

184.8 Election and appointment procedures.

1. The council shall appoint a committee to nominate candidates to stand for election to the council. The council may require that the committee nominate candidates to be appointed by the council to fill a vacancy in a position for the unexpired term of a member.
2. The council shall appoint a producer to fill a member's position occurring because of a vacancy on the council. The person appointed to fill the vacancy must meet the same requirements as a person elected to that position. The person shall serve for the remainder of the unexpired term.
3. The council shall provide a notice of an election for members of the council by any means deemed reasonable by the council. The notice shall include the period of time for voting, voting places, and any other information determined necessary by the council.

95 Acts, ch 7, §9
CS95, §196A.5B
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §7, 13
C99, §184.8
Referred to in §184.10

184.9 Duties of the council — marketing.

The council shall develop new and expand existing markets for eggs and egg products, and may provide for any of the following:

1. Increasing the utilization of eggs or egg products.
2. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.
3. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

[C75, 77, 79, 81, §196A.11]
95 Acts, ch 7, §10; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §8, 13
C99, §184.9
2005 Acts, ch 43, §3

184.9A Duties of the council — research.

The council shall participate in research programs or projects, including by conducting or financing such programs or projects, relating to any of the following:

1. Increasing the utilization of eggs or egg products.
2. Improving the production or processing of eggs or egg products.
3. Preventing, modifying, or eliminating barriers to trade which obstruct the free flow of eggs or egg products in commerce.

2005 Acts, ch 43, §4

184.9B Duties of the council — education.

The council shall participate in education programs or projects, including by conducting or financing such programs or projects, as follows:

1. The council's education programs or projects may provide for any of the following:

a. The utilization of eggs or egg products.

b. The production or processing of eggs or egg products.

c. The safe consumption of eggs or egg products.

d. The prevention, modification, or elimination of barriers to trade which obstruct the free flow of eggs or egg products in commerce.

e. Increasing the awareness of the health benefits associated with the consumption of eggs or egg products.

f. Increasing the awareness of the economic benefits associated with the production and processing of eggs or egg products.

2. The council's education programs or projects may be designed to increase consumers' knowledge of the production or processing of eggs, the preparation of eggs or egg products, or the consumption of eggs or egg products.
3. As part of the council's education programs or projects, the council may provide for the dissemination of information of public interest, including but not limited to the development or publication of materials in a printed or electronic format.

2005 Acts, ch 43, §5; 2006 Acts, ch 1010, §59

184.10 Powers of council.

The council may perform any function that it deems necessary to carry out its purposes and duties as provided in this chapter, including but not limited to doing any of the following:

1. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers and fix their compensation.
2. Establish offices, incur expenses and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
3. Adopt, rescind and amend all proper and necessary rules for the exercise of its powers and duties.
4. Enter into arrangements for the collection of the assessment.
5. Receive gifts, rents, royalties, license fees or other moneys for deposit in the Iowa egg fund as provided in section 184.13.
6. Become a dues-paying member of an organization carrying out a purpose related to any of the following:

a. The production or processing of eggs or egg products.

b. The consumption or utilization of eggs or egg products.

7. Administer elections for members of the council and provide for the appointment of persons to fill vacancies occurring on the council, as provided in section 184.8. The department may assist the council in administering an election, upon request to the secretary by the council.

[C75, 77, 79, 81, §196A.12]

95 Acts, ch 7, §11; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §9, 10, 13

C99, §184.10

99 Acts, ch 109, §2, 3, 8; 2005 Acts, ch 43, §6 – 8

184.11 Prohibited actions.

The Iowa egg council shall not do any of the following:

1. Execute a contract or act as an agent of a person who executes a contract for any of the following:

a. Selling eggs or egg products.

b. Selling equipment used in the manufacturing of egg products.

2. *a.* Make any contribution of council moneys, either directly or indirectly, to any political party or organization or in support of a political candidate for public office.

b. Make payments to a political candidate including but not limited to a member of Congress or the general assembly for honoraria, speeches, or for any other purposes above actual and necessary expenses.

[C75, 77, 79, 81, §196A.13]
95 Acts, ch 7, §12; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §11, 13
C99, §184.11
99 Acts, ch 109, §4, 5, 8

184.12 Compensation.

Members of the council may receive payment for their actual expenses and travel in performing official council functions. A voting member of the council shall not be a salaried employee of the council or any organization or agency receiving moneys from the council.

[C75, 77, 79, 81, §196A.14]
95 Acts, ch 7, §13; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.12
99 Acts, ch 109, §6, 8

184.13 Administration of moneys.

Subject to the provisions of section 184.3, the assessment imposed by this chapter shall be remitted by the purchaser to the council not later than thirty days following each calendar quarter during which the assessment was collected. Amounts collected from the assessment shall be deposited in the office of the treasurer of state in a separate fund to be known as the Iowa egg fund. The department of administrative services shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.

[C75, 77, 79, 81, §196A.17]
94 Acts, ch 1146, §40; 95 Acts, ch 209, §22; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.13
2003 Acts, ch 145, §286
Referred to in §184.10, 184.14

184.14 Use of moneys — appropriation — audit.

1. All moneys deposited in the Iowa egg fund and transferred to the council as provided in section 184.13 are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

2. Moneys collected, deposited in the fund, and transferred to the council as provided in this chapter are subject to audit by the auditor of state. The auditor of state may seek reimbursement for the cost of the audit. The moneys transferred to the council shall be used by the council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, third to perform the functions and carry out the duties of the council as provided in this chapter, and fourth for the cost of audits by the auditor of state. Moneys remaining after the council is abolished and the imposition of an assessment is terminated pursuant to a referendum conducted pursuant to section 184.5 shall continue to be expended in accordance with this chapter until exhausted.

[C75, 77, 79, 81, §196A.19]

86 Acts, ch 1100, §24; 89 Acts, ch 137, §3; 94 Acts, ch 1146, §41; 95 Acts, ch 7, §16; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §12, 13
C99, §184.14
2005 Acts, ch 43, §9; 2010 Acts, ch 1189, §32

184.15 Bond required.
The council shall provide a bond for all persons holding positions of trust under this chapter.
[C75, 77, 79, 81, §196A.21]
94 Acts, ch 1146, §42; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.15
99 Acts, ch 109, §7, 8

184.16 Examination of records.
Persons subject to the provisions of this chapter shall furnish on forms provided by the council any information needed to enable the council to effectuate the policies of this chapter. For the purpose of ascertaining the correctness of any report made to the council under the provisions of this chapter, the secretary may examine books, papers, records, copies of tax returns not confidential by law, and accounts, which are in the control of any person. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas in connection with the administration of this chapter.
[C75, 77, 79, 81, §196A.22]
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.16

184.17 Penalty.
Any person who willfully violates any provision of this chapter, willfully gives a false report, statement, or record required by the council, or willfully fails to furnish or render any report, statement or record required by the secretary shall be guilty of a simple misdemeanor.
[C75, 77, 79, 81, §196A.23]
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.17

184.18 Purchasers outside Iowa.
The secretary may enter into arrangements with purchasers from outside Iowa for payment of the assessment.
[C75, 77, 79, 81, §196A.24]
95 Acts, ch 7, §17; 98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.18

184.19 Not a state agency.
The Iowa egg council is not an agency of state government.
93 Acts, ch 102, §3
CS93, §196A.14A
CS95, §196A.26
98 Acts, ch 1032, §11; 98 Acts, ch 1038, §13
C99, §184.19

CHAPTER 184A

EXCISE TAX ON TURKEYS

Referred to in §8A.502, 97B.1A, 179.5A

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184A.1 Definitions.

As used in this chapter, unless the context indicates otherwise:

1. *"Account"* means the turkey council account created pursuant to section 184A.4.

2. *"Council"* means the Iowa turkey marketing council established pursuant to sections 184A.1A and 184A.1B.

3. *"Fund"* means the Iowa turkey fund created pursuant to section 184A.4.

4. *"Integrator"* means any person who is both a producer and a processor.

5. *"Market development"* means research and education programs to provide better and more efficient production, marketing, and utilization of turkey and turkey products produced for resale. The programs may include, but are not limited to, supporting public relations, promotion, and research efforts. The programs may provide for all of the following:

a. The maintenance of present markets and the development of new or larger domestic or foreign markets.

b. The prevention, modification, or elimination of trade barriers which obstruct the free flow of commerce.

c. The education of consumers regarding the benefits of purchasing and consuming turkey products and the role of turkey producers and processors.

d. Participation in activities and events sponsored by the national turkey federation, and the national turkey federation research fund which provide for research and promotion regarding the production and marketing of turkeys and turkey products.

6. *"Processor"* means a person who purchases more than one thousand turkeys for slaughter each year. A processor includes an integrator.

7. *"Producer"* means a person residing within this state or outside this state who does business in this state and who raises more than five thousand turkeys for slaughter each year. A producer includes an integrator.

8. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

9. *"Qualified producer"* means a producer who resides within this state.

10. *"Turkey"* means a turkey raised for slaughter.

11. *"Turkey product"* means a product produced in whole or in part from a turkey.

[C73, 75, 77, 79, 81, §184A.1]

86 Acts, ch 1100, §20; 94 Acts, ch 1146, §14; 99 Acts, ch 158, §1, 18, 19; 2012 Acts, ch 1017, §51

184A.1A Referendum conducted to establish an Iowa turkey marketing council and impose an assessment.

1. The department shall call and conduct a referendum upon the department's receipt of a petition which is signed by at least twenty eligible voters requesting a referendum to determine whether to establish an Iowa turkey marketing council as provided in section 184A.1B and impose an assessment as provided in section 184A.2. In order to be an eligible voter under this section, a petitioner must be a qualified producer. The referendum shall be conducted by election within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The department shall give notice of the referendum on the question whether to establish a council and to impose an assessment by publishing the notice for a period of not less than five days in at least one newspaper of general circulation in the state, and for a similar period in other newspapers as prescribed by the department. The notice shall state the voting places, period of time for voting, the manner of voting, the amount of the assessment, and other information deemed necessary by the department. A referendum shall not be commenced until five days after the last date of publication.

3. *a.* Each eligible voter who signs a statement certifying that the eligible voter is a qualified producer shall be an eligible voter under this section. An eligible voter is entitled to cast one vote in each referendum conducted under this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters.

b. At the close of the referendum, the department shall count and tabulate the ballots cast.

(1) If a majority of eligible voters who vote in the referendum approve establishing the council and imposing an assessment, a council shall be established, and an assessment shall be imposed commencing not more than sixty days following the referendum as determined by the council. The council and assessment shall continue for five years as provided in section 184A.12.

(2) If a majority of eligible voters who vote in the referendum do not approve establishing the council and imposing the assessment, the council shall not be established and an assessment shall not be imposed until another referendum is held under this section and a majority of the eligible voters voting approve establishing a council and imposing the assessment. If a referendum should fail, another referendum shall not be held within one hundred eighty days from the date of the last referendum.

4. Within thirty days after approval at the referendum to establish a council and to impose an assessment, the department shall organize the council as provided in section 184A.1B.

99 Acts, ch 158, §2, 18, 19; 2000 Acts, ch 1058, §22
Referred to in §184A.1, 184A.2, 184A.12, 184A.12A

184A.1B Turkey marketing council — composition and procedures.

1. The council shall consist of the following members:

a. The secretary of agriculture or the secretary's designee who shall serve at the pleasure of the secretary.

b. Six persons appointed by the board of the Iowa turkey federation. The appointees shall be knowledgeable about the care and management of poultry. The board shall appoint and replace the appointees by election as provided by the board. An appointee shall serve on the council at the pleasure of the board.

c. Any number of ex officio nonvoting members appointed by the board of the Iowa turkey federation. The board shall appoint and replace the appointees by election as provided by the board. An appointee shall serve on the council at the pleasure of the board.

2. The council shall elect a chairperson, and other officers, as needed, from among its members. An officer shall serve for a term as provided by the council and may be reelected to serve subsequent terms unless otherwise provided by the council.

3. A majority of voting members of the council present during a meeting shall constitute a quorum. A majority of the voting members present during a meeting is necessary to carry out the duties and exercise the powers of the council as provided in this chapter, unless the council requires a greater number.

4. The council shall meet on the call of the chairperson or as otherwise provided by the council.

99 Acts, ch 158, §3, 18, 19
Referred to in §184A.1, 184A.1A, 184A.12A

184A.1C Powers of the council.

The council may do all of the following:

1. Employ, manage, and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and provide for their compensation.

2. Establish offices, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.

3. Adopt rules necessary to administer the functions of the council as provided in this chapter.

4. Enter into arrangements for the collection and deposit of the assessment.

5. Require that any administrator, employee, or other person occupying a position of trust under this chapter give bond in the amount required by the council. The premiums for bonds shall be part of the costs of collecting the assessment.

6. Receive money, including in the form of gifts, rents, royalties, or license fees which shall be deposited in the turkey council account as provided in section 184A.4.

99 Acts, ch 158, §4, 18, 19
Referred to in §184A.4

184A.2 Assessment.

1. If an assessment is approved by a majority of the eligible voters voting at a referendum as provided in section 184A.1A or 184A.12, all of the following shall apply:

a. The assessment shall be imposed on each turkey delivered for processing.

b. The council shall establish a rate of assessment for each turkey delivered for processing. The council may establish different rates based on attributes or characteristics of turkeys. However, a rate shall not be more than three cents for each turkey delivered for processing.

c. The assessment shall be imposed on the producer and collected at the time of delivery of a turkey to the processor. The assessment shall be deducted by the processor at the time of delivery from the price paid to the producer at the time of the sale to the processor. A processor shall remit assessments to the council on a monthly basis as provided by the council. The council shall deposit the remitted assessments in the Iowa turkey fund as provided in section 184A.4.

2. The council may enter into agreements with processors from outside this state for the payment of the assessment.

3. The council shall provide for a refund of an assessment according to rules adopted by the council.

[C73, 75, 77, 79, 81, §184A.2]
99 Acts, ch 158, §5, 18, 19
Referred to in §184A.1A, 184A.4, 184A.10, 184A.12, 184A.12A
Right to refund not subject to execution or transfer; §179.5A

184A.3 Assessment documentation.

A processor receiving turkeys for slaughter shall do all of the following:

1. At the time of payment to the producer, the processor shall sign and submit a receipt to the producer which includes the rate of assessment imposed and the amount of the assessment for all turkeys delivered for processing.

2. Within a period established by rules adopted by the council, the processor shall regularly sign and submit to the council an invoice or other records required by the council to expedite collection of the assessment. The council may require that the processor submit a separate invoice for each purchase. The invoice shall be legibly printed and shall not be altered. An invoice shall include all of the following:

a. The name and address of the producer and the seller, if the seller's name is different from the producer.

b. The name and address of the processor.
c. The number of turkeys sold.
d. The date of the delivery.
[C73, 75, 77, 79, 81, §184A.3]
99 Acts, ch 158, §6, 18, 19

184A.4 Administration of moneys.
1. The assessments collected by the council as provided in section 184A.2 shall be deposited in the office of the treasurer of state in a special fund known as the Iowa turkey fund. The department of administrative services shall transfer moneys from the fund to the council for deposit into the turkey council account established by the council pursuant to this section. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.
2. The council shall establish a turkey council account in a qualified financial institution. The council shall provide for the deposit of all of the following into the account:
a. The assessment collected, deposited in the Iowa turkey fund, and transferred to the council as provided in this section.
b. Moneys, other than assessments, including moneys in the form of gifts, rents, royalties, or license fees received by the council pursuant to section 184A.1C.
[C73, 75, 77, 79, 81, §184A.4]
94 Acts, ch 1146, §15; 99 Acts, ch 158, §7, 18, 19; 2003 Acts, ch 145, §286
Referred to in §184A.1, 184A.1C, 184A.2, 184A.6, 184A.9

184A.5 Repealed by 99 Acts, ch 158, §17, 19.

184A.6 Use of moneys.
1. All moneys deposited in the turkey council account pursuant to section 184A.4 shall be used by the council for purposes of administering this chapter.
2. The council shall expend moneys from the account first for the payment of expenses for the collection of assessments, second for the payment of expenses related to conducting a referendum as provided in section 184A.12, and third for the cost of audits by the auditor of state as required in section 184A.9. The council shall expend remaining moneys for market development, producer education, and the payment of refunds to producers as provided in this chapter.
[C73, 75, 77, 79, 81, §184A.6]
94 Acts, ch 1146, §16; 99 Acts, ch 158, §8, 18, 19; 2000 Acts, ch 1154, §17; 2010 Acts, ch 1189, §33
Referred to in §184A.19

184A.7 Repealed by 94 Acts, ch 1146, §46.

184A.8 Repealed by 99 Acts, ch 158, §17, 19.

184A.9 Audit.
Moneys required to be deposited in the turkey council account as provided in section 184A.4 shall be subject to audit by the auditor of state. The auditor of state may seek reimbursement for the cost of the audit from moneys deposited in the turkey council account.
[C73, 75, 77, 79, 81, §184A.9]
94 Acts, ch 1146, §17; 99 Acts, ch 158, §9, 18, 19; 2010 Acts, ch 1189, §34
Referred to in §184A.6

184A.10 Referendum.
Upon receipt of a petition signed by at least twenty-five producers requesting an initial referendum election to determine whether to impose the fee as provided in section 184A.2 the secretary shall call and conduct an initial referendum.
[C73, 75, 77, 79, 81, §184A.10]

184A.11 Repealed by 99 Acts, ch 158, §17, 19.

184A.12 Referendum conducted to continue the council and the imposition of the assessment.

1. The council shall call for a referendum to continue the council established pursuant to section 184A.1A, and to continue the assessment established pursuant to section 184A.2. The council shall call and conduct the referendum by election as provided in this section. The department shall oversee the conduct of the referendum. The referendum shall be conducted in the fifth year following the referendum establishing the council and assessment.

2. The following procedures shall apply to a referendum conducted pursuant to this section:

a. The council shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state and for a similar period in other newspapers as prescribed by the council. The notice shall state the voting places, period of time for voting, manner of voting, and other information deemed necessary by the council. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the council that a producer is an eligible voter, the producer is entitled to one vote in each referendum conducted pursuant to this section. In order to be an eligible voter under this section, a producer must be a qualified producer who paid an assessment in the year in which the referendum is held. The council may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. The council shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of eligible voters who vote in the referendum approves the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of eligible voters who vote in the referendum does not approve continuing the council and the imposition of the assessment, the department shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The department shall terminate the activities of the council in an orderly manner as soon as practicable after the referendum. A subsequent referendum may be held as provided in section 184A.1A. However, the subsequent referendum shall not be held within one hundred eighty days from the date of the last referendum.

[C73, 75, 77, 79, 81, §184A.12]
99 Acts, ch 158, §10, 18, 19
Referred to in §184A.1A, 184A.2, 184A.6

184A.12A Referendum conducted to abolish the council and terminate the imposition of the assessment.

1. A referendum may be called to abolish the council established pursuant to sections 184A.1A and 184A.1B, and to terminate the imposition of the assessment established pursuant to section 184A.2. The department shall call and conduct the referendum upon the department's receipt of a petition requesting the referendum. The petition must be signed by at least twenty eligible voters or fifty percent of all eligible voters, whichever is greater. In order to be an eligible voter under this section, a producer must be a qualified producer who paid an assessment in the year in which the referendum is held. The referendum shall be conducted by election within sixty days following receipt of the petition. The petitioners shall guarantee payment of the cost of the referendum by providing evidence of financial security as required by the department.

2. The following procedures shall apply to a referendum conducted pursuant to this section:

a. The department shall publish a notice of the referendum for a period of not less than five days in at least one newspaper of general circulation in the state and for a similar period in other newspapers as prescribed by the department. The notice shall state the voting places, period of time for voting, manner of voting, and other information deemed necessary by

the department. A referendum shall not be commenced until five days after the last date of publication.

b. Upon signing a statement certifying to the department that a producer is an eligible voter, the producer is entitled to one vote in each referendum conducted pursuant to this section. The department may conduct the referendum by mail, electronic means, or a general meeting of eligible voters. The department shall conduct the referendum and count and tabulate the ballots filed during the referendum within thirty days following the close of the referendum.

(1) If a majority of eligible voters who vote in the referendum approves the continuation of the council and the imposition of the assessment, the council and the imposition of the assessment shall continue as provided in this chapter.

(2) If a majority of eligible voters who vote in the referendum does not approve continuing the council and the imposition of the assessment, the department shall terminate the collection of the assessment on the first day of the year for which the referendum was to continue. The department shall terminate the activities of the council in an orderly manner as soon as practicable after the referendum. A subsequent referendum may be held as provided in section 184A.1A. However, the subsequent referendum shall not be held within one hundred eighty days from the date of the last referendum.

99 Acts, ch 158, §11, 18, 19

184A.13 Repealed by 99 Acts, ch 158, §17, 19.

184A.14 Examination of books.

Any person subject to the provisions of this chapter shall furnish, on forms provided by the council, information required by the council to effectuate the provisions of this chapter. In order to administer this chapter, the council may examine books, papers, records, copies of tax returns, accounts, correspondence, contracts, or other documents and memoranda that it deems relevant which are in the control of a person subject to this chapter and which are not otherwise confidential as provided by law. The council may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas duces tecum in connection with the administration of this section.

[C73, 75, 77, 79, 81, §184A.14]

99 Acts, ch 158, §12, 18, 19

184A.15 Misdemeanor.

A person is guilty of a simple misdemeanor for willfully violating any provision of this chapter, or for willfully rendering or furnishing a false or fraudulent report, statement, or record required by the council.

[C73, 75, 77, 79, 81, §184A.15]

99 Acts, ch 158, §13, 18, 19

184A.16 Repealed by 99 Acts, ch 158, §17, 19.

184A.17 Report.

The council shall prepare and submit a report summarizing the activities of the council under this chapter each year to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning assessments collected and expended under the provisions of this chapter.

[C73, 75, 77, 79, 81, §184A.17]

94 Acts, ch 1146, §18; 99 Acts, ch 158, §14, 18, 19

184A.18 Not a state agency.

The council is not a state agency.

[C73, 75, 77, 79, 81, §184A.18]

99 Acts, ch 158, §15, 18, 19

184A.19 Prohibited activities.

The council shall not do any of the following:

1. Operate with a deficit or use deficit financing for administration of this chapter.

2. Expend moneys from the account in a manner that is not authorized pursuant to section 184A.6.

3. Become involved in supporting a political campaign or issue, by making a contribution of moneys from the account, either directly or indirectly, to any political party or organization or in support of a political candidate for public office. The council shall not expend the moneys to a political candidate including but not limited to a member of Congress or the general assembly for honoraria, speeches, or for any other purposes above actual and necessary expenses.

[C73, 75, 77, 79, 81, §184A.19]

99 Acts, ch 158, §16, 18, 19

CHAPTER 185

IOWA SOYBEAN ASSOCIATION

Referred to in §8A.502, 97B.1A, 179.5A

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185.1 Definitions.

As used in this chapter:

1. *"Association"* means the Iowa soybean association as recognized in section 185.1A.

2. *"Board"* means the Iowa soybean association board of directors established by this chapter.

3. *"Bushel"* means sixty pounds of soybeans by weight.

4. *"District"* means an official crop reporting district formed by the United States department of agriculture and set out in the annual farm census published by the Iowa department of agriculture and land stewardship.

5. *"First purchaser"* means a person, public or private corporation, governmental subdivision, association, cooperative, partnership, commercial buyer, dealer, or processor who purchases soybeans from a producer for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the soybeans purchased for the purchaser's personal consumption.

6. *"Influencing legislation"* means the same as defined in 26 C.F.R. §56.4911 as that section exists on July 1, 2005.

7. *"Market development"* means to engage in research and educational programs directed toward better and more efficient production and utilization of soybeans; to provide methods and means, including but not limited to, public relations and other promotion techniques for the maintenance of present markets; to provide for the development of new or larger domestic and foreign markets; and to provide for the prevention, modification, or elimination of trade barriers which obstruct the free flow of soybeans.

8. *"Marketed in this state"* refers to a sale of soybeans to a first purchaser who is a resident of or doing business in this state where actual delivery of the soybeans occurs in this state.

9. *"National assessment"* means the assessment on soybeans collected pursuant to 7 U.S.C. ch. 92.

10. *"Net market price"* means the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors.

11. *"Producer"* means a person engaged in this state in the business of producing and marketing in the person's name at least two hundred fifty bushels of soybeans in the previous year.

12. *"Promotional order"* means an order administered pursuant to this chapter which establishes a program for the promotion, research, and market development of soybeans and provides for a state assessment to finance the program.

13. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

14. *"Sale"* or *"purchase"* includes but is not limited to the pledge or other encumbrance of soybeans as security for a loan extended under a federal price support loan program. Sale and actual delivery of the soybeans under the federal price support loan program occurs when the soybeans are marketed following redemption by the producer or when the soybeans are forfeited in lieu of loan repayment. If the soybeans are forfeited in lieu of repayment, the purchase price of the soybeans is the principal amount of the loan extended and the state assessment shall be collected at the time of loan settlement.

15. *"Secretary"* means the secretary of agriculture.

16. *"Soybeans"* means and includes all kinds of varieties of soybeans marketed or sold as soybeans by the producer.

17. *"State assessment"* or *"assessment"* means an excise tax on each bushel of soybeans marketed in this state which is imposed pursuant to a promotional order as provided in this chapter.

[C73, 75, 77, 79, 81, §185.1]

83 Acts, ch 22, §1, 2; 86 Acts, ch 1245, §633; 94 Acts, ch 1146, §19, 20; 2005 Acts, ch 82, §1 – 3; 2012 Acts, ch 1017, §52; 2012 Acts, ch 1023, §157

Further definitions; see §159.1

185.1A Recognition of Iowa soybean association.

The corporation known as the Iowa soybean association incorporated under the laws of this state shall be entitled to the benefits of this chapter by filing each year with the secretary a verified proof of its organization, the names of its officers, and any other information required by the secretary.

2005 Acts, ch 82, §4

Referred to in §185.1

185.1B Duties and objects of the association.

The Iowa soybean association shall aid in the promotion of the soybean industry through research, education, public relations, promotion, and market development projects and programs as directed by the board to accomplish its purposes as provided in section 185.11.

2005 Acts, ch 82, §5

185.2 Petition for election.

Upon receipt of a petition signed by at least five hundred producers requesting an initial referendum election to determine whether a promotional order shall be placed in effect, the

secretary shall call an initial referendum election to be conducted within sixty days following receipt of the petition. Producers shall vote by written ballot in the manner provided by this chapter for referendum elections.

[C73, 75, 77, 79, 81, §185.2]

185.3 Board established — elections.

The Iowa soybean association board of directors shall administer this chapter.

1. *a.* The board shall consist of directors who are producers residing in Iowa at the time of the election. The directors shall be elected as follows:

(1) Four directors shall be elected from producers from the state at large.

(2) One director per district shall be elected from producers from each district in the state. However, two directors shall be elected from the producers from a district if more than an average of twenty-five million bushels of soybeans were produced in that district in the three years prior to the election.

b. A producer shall be entitled to vote in the election regardless of whether the producer is a member of the association.

2. The following persons shall serve on the board as nonvoting, ex officio directors:

a. The secretary or the secretary's designee.

b. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or the dean's designee.

c. The director of the economic development authority or the director's designee.

d. Any other person that the board appoints.

[C73, 75, 77, 79, 81, §185.3]

2005 Acts, ch 82, §6; 2008 Acts, ch 1031, §40; 2008 Acts, ch 1032, §33; 2011 Acts, ch 118, §85, 89

185.4 Reserved.

185.5 Notice of election for directors.

Notice of elections for directors of the board in a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as determined by the board and shall set forth the period of time for voting, voting procedures, and other information the board deems necessary.

[C73, 75, 77, 79, 81, §185.5]

88 Acts, ch 1134, §35; 2005 Acts, ch 82, §7

185.6 Manner of election — tie votes.

In districts electing one director, the candidate receiving the highest number of votes shall be elected. In districts electing two directors, producers shall vote for two directors, and the two candidates receiving the highest number of votes shall be elected. If the election results in a tie vote, the board shall appoint a director from among the candidates who received the same number of votes.

[C73, 75, 77, 79, 81, §185.6]

2005 Acts, ch 82, §8

185.7 Terms.

A director's term shall be for three years. A director shall not serve for more than three full terms.

[C73, 75, 77, 79, 81, §185.7]

88 Acts, ch 1134, §36; 2005 Acts, ch 82, §9

185.8 Election administration — candidate nominations.

The board shall administer elections for its directors with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee of five producers. The nominating committee shall nominate two resident producers as candidates for each director position for which an election is to be held.

Additional candidates may be nominated by a written petition of one hundred producers. Procedures governing the time and place of filing shall be adopted and publicized by the board. A place shall not be reserved on the ballot for write-in candidates, and votes cast for write-in candidates shall not be counted.

[C73, 75, 77, 79, 81, §185.8]

88 Acts, ch 1134, §37; 2005 Acts, ch 82, §10

185.9 Vacancies — removal.

1. The board shall by appointment fill an unexpired term if a vacancy occurs in the board.
2. The secretary may remove a director for any reason enumerated in section 66.1A.

[C73, 75, 77, 79, 81, §185.9]

2005 Acts, ch 82, §11

185.10 Ex officio members. Repealed by 2005 Acts, ch 82, §28. See §185.3.

185.11 Purpose of board.

The purposes of the board shall be to:

1. Provide for research and education programs directed toward better and more efficient production, marketing, and utilization of soybeans and soybean products.
2. Provide methods and means, including, but not limited to, public relations and other promotion techniques for the maintenance of present markets.
3. Assist in development of new or larger markets, both domestic and foreign, for soybeans and soybean products.
4. Work for prevention, modification, or elimination of trade barriers which obstruct the free flow of soybeans and soybean products to market.

[C73, 75, 77, 79, 81, §185.11]

2005 Acts, ch 82, §12

Referred to in §185.1B, 185.13, 185.26, 185.29

185.12 Officers.

The board shall:

1. Elect a chairperson and other officers as advisable.
2. Administer this chapter, and perform all acts reasonably necessary to effectuate the purposes of this chapter.

[C73, 75, 77, 79, 81, §185.12]

185.13 Powers and duties.

The board shall carry out its purposes as provided in section 185.11. The board shall administer this chapter, including by doing all of the following:

1. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.
2. Acquire and establish offices, issue negotiable instruments, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.
3. Adopt, rescind, and amend all proper and necessary rules for the exercise of its powers and duties.
4. Enter into arrangements for collection of the state assessment on soybeans marketed in this state.
5. Periodically review or evaluate each program conducted pursuant to this chapter to ensure that the program contributes to one of the purposes of the board.
6. Administer the soybean checkoff account as provided in section 185.26.

[C73, 75, 77, 79, 81, §185.13]

94 Acts, ch 1146, §22; 2005 Acts, ch 82, §13 – 15; 2009 Acts, ch 95, §1

185.14 Compensation — meetings.

Each director of the board shall receive a per diem of one hundred dollars and actual expenses in performing official board functions, notwithstanding section 7E.6. A director of

the board shall not be a salaried employee of the board or any organization or agency which is receiving moneys from the board. The board shall meet at least four times each year.

[C73, 75, 77, 79, 81, §185.14]

91 Acts, ch 258, §34; 2005 Acts, ch 82, §16; 2008 Acts, ch 1046, §1

185.15 Term of promotional order.

A promotional order shall be effective for four years from its effective date, and upon each four-year anniversary of its effective date shall be either extended or terminated as provided in this chapter.

[C73, 75, 77, 79, 81, §185.15]

86 Acts, ch 1195, §5; 88 Acts, ch 1134, §38

185.16 Notice of referendum.

Notice of a referendum election to initiate or extend a promotional order shall be given by publication in a newspaper of general circulation in this state at least ten days prior to the date of the referendum and in any other reasonable manner as may be determined by the secretary for the initial referendum and by the board for extension of the promotional order.

[C73, 75, 77, 79, 81, §185.16]

185.17 Contents of notice.

The notice of referendum shall set forth the period of time for voting, voting places and such other information as the secretary may deem necessary in an initial referendum. The board shall make such determinations in any subsequent referendum.

[C73, 75, 77, 79, 81, §185.17]

185.18 Counting.

At the close of a referendum voting period, the secretary shall count and tabulate the ballots cast during the referendum period.

[C73, 75, 77, 79, 81, §185.18]

185.19 Effect.

The ballots shall constitute conclusive evidence as to the validity of the promotional order.

[C73, 75, 77, 79, 81, §185.19]

185.20 Producers only to vote.

Only producers are eligible to vote in an election for directors or a referendum election and only in the district in which they reside. A producer shall sign an affidavit at the time of voting certifying the producer's eligibility to vote. Each qualified producer shall be entitled to one vote.

[C73, 75, 77, 79, 81, §185.20]

2005 Acts, ch 82, §17

185.21 Assessment.

1. A state assessment which is adopted upon the initiation of a promotional order shall be collected during the effective period of the promotional order, and shall be of no force or effect upon termination of the promotional order.

2. The state assessment shall be paid into the soybean promotion fund established in section 185.26.

3. The rate of the state assessment shall be as follows:

a. If the national assessment is being collected, the rate of the state assessment shall be one-quarter of one percent of the net market price of the soybeans marketed in this state.

b. If the national assessment is not being collected, the rate of the state assessment shall be one-half of one percent of the net market price of soybeans marketed in this state.

[C73, 75, 77, 79, 81, §185.21]

94 Acts, ch 1146, §23; 2005 Acts, ch 82, §18

185.22 Promotional order.

After a promotional order has been issued, the first purchaser at the time of payment for soybeans shall show the total amount of state assessment deducted from the sale on the purchase invoice.

[C73, 75, 77, 79, 81, §185.22]

2005 Acts, ch 82, §19

185.23 Deduction of assessment.

The state assessment shall be deducted from the purchase price of soybeans at the time of sale, and forwarded to the board by the first purchaser in the manner and at intervals determined by the board.

[C73, 75, 77, 79, 81, §185.23]

2005 Acts, ch 82, §20

185.24 Termination of a promotional order.

If a promotional order is not extended as determined by a referendum, the secretary and the board shall terminate the promotional order in an orderly manner as soon as practicable. After all moneys collected from the state assessment are expended, the board shall remain in existence as provided in its articles of incorporation or bylaws. The directors shall no longer be elected as required in this chapter. The ex officio directors shall no longer serve on the board. The board shall cease to administer this chapter, and the board shall no longer carry out its duties or exercise its powers as provided in this chapter. However, if a future referendum passes, the board shall be reorganized by the secretary and the directors then serving on the board shall be deemed to be the same directors who served on the board when the promotional order was terminated. The directors shall serve out their terms as though there had been no lapse of time between the two effective orders.

[C73, 75, 77, 79, 81, §185.24]

94 Acts, ch 1146, §24; 2005 Acts, ch 82, §21

Referred to in §185.25

185.25 Special referendum — producer petition.

1. Upon receipt of a petition not less than one hundred fifty nor more than two hundred forty days from a four-year anniversary of the effective date of an initial promotional order signed within that same period by a number of producers equal to or greater than one percent of the number of producers reported in the most recent United States census of agriculture, requesting a referendum to determine whether to extend the promotional order, the secretary shall call a referendum to be conducted not earlier than thirty days before the four-year anniversary date. If the secretary determines that extension of the promotional order is not favored by a majority of the producers voting in the referendum, the promotional order shall be terminated as provided in section 185.24. If the promotional order is terminated, another referendum shall not be held within one hundred eighty days. A succeeding referendum shall be called by the secretary upon the petition of a number of producers equal to or greater than one percent of the number of producers reported in the most recent United States census of agriculture requesting a referendum, who shall guarantee the costs of the referendum.

2. If no valid petition is received by the secretary within the time period described in subsection 1, or if a petition is received but the referendum to extend the promotional order passes, the promotional order shall continue in effect for four additional years from the anniversary of its effective date.

[C73, 75, 77, 79, 81, §185.25]

86 Acts, ch 1195, §6; 94 Acts, ch 1146, §25; 2018 Acts, ch 1041, §51

185.25A Special referendum — request by the board. Repealed by 2005 Acts, ch 82, §28.

185.26 Administration of moneys.

1. The state assessment collected by the board shall be deposited in a special fund known as the soybean promotion fund, in the office of the treasurer of state. The fund may also

contain any gifts or federal or state grant received by the board. Moneys collected, deposited into the fund, and transferred to the board, as provided in this chapter, shall be subject to audit by the auditor of state. The department of administrative services shall transfer moneys from the fund to the board for deposit into an account known as the soybean checkoff account which shall be established by the board in a qualified financial institution. The department shall transfer the moneys into the account as provided in a resolution adopted by the board. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From moneys collected, deposited, and transferred to the soybean checkoff account as provided in this section, the board shall first pay the costs of referendums, elections, and other expenses incurred in the administration of this chapter, before moneys may be expended to carry out the purposes of the board as provided in section 185.11. The board shall strictly segregate moneys in the soybean checkoff account from all other moneys of the board. Moneys in the soybean checkoff account shall be expended by the board exclusively for carrying out the purposes of the board as provided in section 185.11. The account shall be subject to audit by the auditor of state.

2. The fiscal year of the association shall commence on October 1 and end on September 30.

[C73, 75, 77, 79, 81, §185.26]

94 Acts, ch 1146, §27; 2003 Acts, ch 145, §286; 2005 Acts, ch 82, §22; 2006 Acts, ch 1030, §18

Referred to in §185.13, 185.21, 185.29, 185.30, 185.34

185.27 Refund of assessment.

A producer who has sold soybeans and had the state assessment deducted from the sale price may, by application in writing to the board, secure a refund in the amount deducted. The refund shall be payable only when the application is made to the board within sixty days after the deduction. Application forms shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for refund by a producer shall have attached thereto proof of assessment deducted. The proof of assessment may be in the form of a duplicate or certified copy of the purchase invoice by the first purchaser. The board shall have thirty days from the date the application for refund is received to remit the refund to the producer.

[C73, 75, 77, 79, 81, §185.27]

2005 Acts, ch 82, §23

Right to refund not subject to execution or transfer, §179.5A

185.28 Use of moneys — appropriation.

All moneys collected, deposited, and transferred to the board as provided in this chapter, are appropriated and shall be used for the administration of this chapter by the board and for the payment of claims by the board based upon obligations incurred in the performance of board activities and functions provided in this chapter.

[C73, 75, 77, 79, 81, §185.28]

94 Acts, ch 1146, §28

185.29 Remission of remaining moneys.

After the board has paid the costs of elections, referendum, necessary board expenses, and administrative costs, the remaining moneys collected, deposited in the fund, and transferred to the soybean checkoff account as provided in section 185.26 shall be expended by the board as is necessary to carry out its purposes as provided in section 185.11.

[C73, 75, 77, 79, 81, §185.29]

94 Acts, ch 1146, §29; 2005 Acts, ch 82, §24

185.30 Bond.

Every person occupying a position of trust under any provisions of this chapter shall provide a bond in an amount required by the board. The premium for the bond shall be paid out of moneys transferred from the soybean promotion fund to the board pursuant to section 185.26.

[C73, 75, 77, 79, 81, §185.30]

94 Acts, ch 1146, §30

185.31 Penalty.

It is a simple misdemeanor for any person to willfully violate any provision of this chapter or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the secretary.

[C73, 75, 77, 79, 81, §185.31]

185.32 First purchaser information.

Every first purchaser shall upon request furnish the secretary with such information as is necessary to enable the secretary and the board to carry out the provisions of this chapter. Such information shall be provided as prescribed by the secretary. The secretary may examine any records relating to the purchase, sale, storage, processing, handling, or assessment of soybeans by any first purchaser. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas as may be necessary for the proper administration of this chapter.

[C73, 75, 77, 79, 81, §185.32]

185.33 Report.

The board shall each year prepare and submit a report summarizing the activities of the board under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

[C73, 75, 77, 79, 81, §185.33]

94 Acts, ch 1146, §31

185.34 Not a state agency.

1. The association is not a state agency.

2. *a.* Except as provided in paragraph *"b"*, the board is not a state agency or a governmental entity as defined in section 8A.101, public employer as defined in section 20.3, or an authority or instrumentality of the state.

b. The board is deemed to be all of the following:

(1) A department for purposes of chapter 11.

(2) A public body for purposes of chapter 12C. Moneys deposited into the soybean checkoff account as established in section 185.26 shall be deemed to be public funds under chapter 12C.

(3) An agency for purposes of an appeal from its final decision under chapter 17A. A person who is aggrieved or adversely affected by the board's final agency action is entitled to judicial review as provided in section 17A.19.

(4) A governmental body for purposes of chapter 21.

[C73, 75, 77, 79, 81, §185.34]

2005 Acts, ch 82, §25

185.35 Political activity — influencing legislation prohibited.

1. Except as provided in subsection 2, all of the following shall apply:

a. The board shall not expend any moneys on political activity or on any attempt to influence legislation.

b. It shall be a condition of any allocation of moneys that an organization receives from the board, that the organization shall not expend the moneys on a political activity or on an attempt to influence legislation.

2. Subsection 1 does not apply to a communication or action taken by the board if any of the following applies:

a. The board may communicate or take action directed to an appropriate government official or government relating to the marketing of soybeans or soybean products to a foreign country.

b. The communication or action relates to the prevention, modification, or elimination of trade barriers.

2005 Acts, ch 82, §26

CHAPTER 185A

IOWA SOYBEAN ASSOCIATION

Repealed by 2005 Acts, ch 82, §27; see chapter 185

CHAPTER 185B

CORN GROWERS ASSOCIATION

185B.1 Recognition of organization. 185B.2 Duties and objects of association.

185B.1 Recognition of organization.

The corporation known as the Iowa corn growers association incorporated under the laws of this state shall be entitled to the benefits of this chapter by filing each year with the department verified proofs of its organization, names of its officers, and five hundred persons who are bona fide members thereof together with such other information as the department may require.

[C71, 73, 75, 77, 79, 81, §185B.1]

185B.2 Duties and objects of association.

The Iowa corn growers association shall:

1. Aid the promotion of corn growers and the corn industry of Iowa through education, research, marketing, transportation study, and public relations programs, and to foster research designed to develop new additional and improved uses for corn products and determine better methods of converting them to various industrial and human uses.

2. Make an annual report of the proceedings to the secretary of agriculture.

[C71, 73, 75, 77, 79, 81, §185B.2]

CHAPTER 185C

CORN PROMOTION BOARD

Referred to in §8A.502, 97B.1A, 179.5A

185C.1 Definitions.
185C.2 Petition for election.
185C.3 Establishment of corn promotion board.
185C.4 Repealed by 88 Acts, ch 1134, §116.
185C.5 Notice of election.
185C.6 Number and election of directors.
185C.7 Terms of directors.
185C.8 Administration of elections for directors.
185C.9 Vacancies.
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185C.11 Purposes and powers of the board.
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185C.12 Officers.
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185C.15 Term of promotional order — automatic extension.
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185C.21 State assessment.
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185C.25 Effective period of promotional order — termination.
185C.25A Collection of federal assessment.
185C.26 Deposit of moneys — corn promotion fund.
185C.27 Refund of assessment.
185C.28 Use of moneys — appropriation.
185C.29 Remission of excess funds.
185C.30 Bond.
185C.31 Penalty.
185C.32 First purchaser information.
185C.33 Report.
185C.34 Not a state agency.

185C.1 Definitions.

As used in this chapter:

1. *"Assessment"* means a state or federal assessment.
2. *"Board"* means the Iowa corn promotion board established by this chapter.
3. *"Bushel"* means fifty-six pounds of corn by weight.
4. *"Corn"* means and includes all kinds of varieties of corn marketed or sold as corn by the producer but shall not include sweet corn or popcorn or seed corn.
5. *"Director"* means a district elected director or a board elected director as provided in section 185C.6.
6. *"District"* means an official crop reporting district formed by the United States department of agriculture for use on January 1, 2013, and set out in the annual farm census published in that year by the department of agriculture and land stewardship.
7. *"Federal assessment"* means a federal excise tax or other charge which is imposed for purposes related to market development.
8. *"First purchaser"* means a person, public or private corporation, governmental subdivision, association, cooperative, partnership, commercial buyer, dealer, or processor who purchases corn from a producer for the first time for any purpose except to feed it to the purchaser's livestock or to manufacture a product from the corn purchased for the purchaser's personal consumption.
9. *"Market development"* means to engage in research and educational programs directed toward better and more efficient utilization of corn; to provide methods and means, including but not limited to, public relations and other promotion techniques for the maintenance of present markets; to provide for the development of new or larger domestic and foreign markets; and to provide for the prevention, modification, or elimination of trade barriers which obstruct the free flow of corn.
10. *"Marketed in this state"* refers to a sale of corn to a first purchaser who is a resident of or doing business in this state where actual delivery of the corn occurs in this state.
11. *"Marketing year"* means the twelve-month period beginning the first day of September and ending on the following thirty-first day of August.
12. *"Producer"* means any individual, firm, corporation, partnership, or association

engaged in this state in the business of producing and marketing in their name at least two hundred fifty bushels of corn in the previous marketing year.

13. *"Promotional order"* means an order pursuant to this chapter which provides for the administration of this chapter and provides for a state assessment necessary to provide for its administration.

14. *"Qualified financial institution"* means a bank or credit union as defined in section 12C.1.

15. *"Sale"* or *"purchase"* may, to the extent determined by the board, include the pledge or other encumbrance of corn as security for a loan extended under a federal price support loan program. Actual delivery of the corn occurs when the corn is pledged or otherwise encumbered to secure the loan. The purchase price of the corn is the principal amount of the loan extended and the purchase invoice for the corn is the documentation required for extension of the loan.

16. *"Secretary"* means the secretary of agriculture.

17. *"State assessment"* means a state excise tax on each bushel of corn marketed in this state which is imposed as part of a promotional order to administer this chapter.

[C77, 79, 81, §185C.1]

83 Acts, ch 22, §3, 4; 86 Acts, ch 1245, §634; 89 Acts, ch 198, §1 – 3; 94 Acts, ch 1146, §32, 33; 2004 Acts, ch 1024, §1, 2; 2012 Acts, ch 1017, §53; 2012 Acts, ch 1023, §157; 2013 Acts, ch 140, §103, 104, 112

Further definitions; see §159.1

185C.2 Petition for election.

Upon receipt of a petition signed by at least five hundred producers requesting an initial referendum election to determine whether a promotional order shall be placed in effect, the secretary shall call an initial referendum election to be conducted within sixty days following receipt of the petition. Producers shall vote by written ballot in the manner provided by this chapter for referendum elections.

[C77, 79, 81, §185C.2]

185C.3 Establishment of corn promotion board.

If a majority of the producers voting in the referendum election approve the passage of the promotional order, an Iowa corn promotion board shall be established.

[C77, 79, 81, §185C.3]

2013 Acts, ch 140, §105, 112

Referred to in §185C.6

185C.4 Repealed by 88 Acts, ch 1134, §116.

185C.5 Notice of election.

Notice of elections for directors of the board in a district shall be given by the board by publication in a newspaper of general circulation in the district and in any other reasonable manner as determined by the board and shall set forth the period of time for voting, voting places, and other information the board deems necessary.

[C77, 79, 81, §185C.5]

88 Acts, ch 1134, §39

Referred to in §185C.6, 185C.8

185C.6 Number and election of directors.

The Iowa corn promotion board established pursuant to section 185C.3 shall be composed of directors elected as provided in this chapter. The directors shall include all of the following:

1. Nine district elected directors. Each such director shall be elected from a district as provided in section 185C.5, this section, and sections 185C.7 and 185C.8. A candidate receiving the highest number of votes in each district shall be elected to represent that district.

2. Three board elected directors. Each such director shall be elected by the board. The

candidate receiving the highest number of votes by the board shall be elected to represent the state on an at-large basis.

[C77, 79, 81, §185C.6]

2013 Acts, ch 140, §106, 112; 2014 Acts, ch 1026, §38

Referred to in §185C.1, 185C.8

185C.7 Terms of directors.

1. A director's term of office shall be for three years. A district elected director shall not serve for more than three complete consecutive terms. A board elected director shall not serve for more than one complete term of office. A district elected director who is elected as board elected director shall not serve more than a total of four terms of office, regardless of whether any of the terms of office are complete or consecutive.

2. If the board is reconstituted pursuant to section 185C.8, the terms of the directors shall be controlled by this section. However, the initial terms of the reconstituted board shall be staggered. To the extent practicable, one-third of the elected directors shall serve an initial term of one year, one-third of the elected directors shall serve an initial term of two years, and one-third of the elected directors shall serve an initial term of three years. The initial terms of board elected directors shall be determined by board directors drawing lots.

[C77, 79, 81, §185C.7]

88 Acts, ch 1134, §40; 89 Acts, ch 198, §4; 2013 Acts, ch 140, §107, 112

Referred to in §185C.6, 185C.8

185C.8 Administration of elections for directors.

1. The Iowa corn promotion board shall administer elections for district elected directors of the board with the assistance of the secretary. Prior to the expiration of a director's term of office, the board shall appoint a nominating committee for the district represented by that director. The nominating committee shall consist of five producers who are residents of the district from which a director must be elected. The nominating committee shall nominate two resident producers as candidates for each director position for which an election is to be held. Additional candidates may be nominated by a written petition of twenty-five producers. Procedures governing the time and place of filing shall be adopted and publicized by the board.

2. Following recommencement of the promotional order, or termination of the promotional order's suspension as provided in section 185C.24, the secretary shall order the reconstitution of the board. An election of district elected directors shall be held within thirty days from the date of the order. The secretary shall call for, provide for notice of, conduct, and certify the results of the election in a manner consistent with sections 185C.5 through 185C.7. Directors shall serve terms as provided in section 185C.7. Rules or procedures adopted by the board and in effect at the date of suspension shall continue in effect upon reconstitution of the board. The Iowa corn growers association may nominate two resident producers as candidates for each director position. Additional candidates may be nominated by a written petition of at least twenty-five producers.

3. The Iowa corn promotion board shall administer elections for board elected directors. Prior to the expiration of a board elected director's term of office, the board may appoint a nominating committee. In order to be eligible for nomination and election, a candidate must have previously served on the board as an elected director. An officer of the board shall certify the results of the election.

[C77, 79, 81, §185C.8]

88 Acts, ch 1134, §41; 89 Acts, ch 198, §5; 2013 Acts, ch 140, §108, 112

Referred to in §185C.6, 185C.7, 185C.24

185C.9 Vacancies.

The board shall by appointment fill an unexpired term if a vacancy occurs in the board.

[C77, 79, 81, §185C.9]

185C.10 Ex officio nonvoting members.

The following persons shall serve on the board as ex officio, nonvoting members:

1. The secretary or the secretary's designee.
2. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or the dean's designee.
3. Two representatives of first purchaser organizations appointed by the board.

[C77, 79, 81, §185C.10]

86 Acts, ch 1100, §22; 94 Acts, ch 1146, §34; 2004 Acts, ch 1024, §3; 2008 Acts, ch 1032, §34; 2011 Acts, ch 118, §85, 89; 2013 Acts, ch 140, §109, 112

185C.11 Purposes and powers of the board.

1. The purposes of the board shall be to:

a. Provide for market development.

b. Provide for research and education programs directed toward better and more efficient production, marketing, and utilization of corn and corn products.

c. Provide methods and means, including, but not limited to, public relations and other promotion techniques for the maintenance of present markets.

d. Assist in development of new or larger markets, both domestic and foreign, for corn and corn products.

e. Work for prevention, modification, or elimination of trade barriers which obstruct the free flow of corn and corn products to market.

f. Promote the production and marketing of ethanol.

g. Administer the financial assistance program as provided in section 185C.11A.

h. Support education and training programs, or demonstration projects, which improve the production and marketing of corn or corn products or which improve environmental stewardship practices when producing corn.

i. Grant academic scholarships to full-time graduate and postgraduate students engaged in the study of areas or subjects relating to improving or increasing the production, marketing, or utilization of corn or corn products.

2. The board may carry out these purposes directly or contract with recognized and qualified persons.

[C77, 79, 81, §185C.11]

91 Acts, ch 254, §13; 2004 Acts, ch 1024, §4

Referred to in §185C.26, 185C.29

185C.11A Financial assistance program.

1. The board shall assist in efforts to improve the economic conditions of corn producers by providing financial assistance to eligible persons for purposes of supporting projects which expand markets for all corn produced in this state and products derived from that corn. A project must relate to any of the following:

a. The planning, development, construction, operation, or improvement of a new or existing value-added facility which utilizes corn or corn products.

b. The development, production, or utilization of a variety of corn which expresses new or specialized traits.

c. The development of products or the delivery of services likely to increase the profits or reduce the risks associated with corn production or marketing.

2. The board may provide financial assistance in the form of an interest loan, low-interest loan, no-interest loan, forgivable loan, loan guarantee, grant, letter of credit, equity financing, principal buy-down, interest buy-down, or a combination of these forms. The board shall not approve an application for financial assistance under this section to refinance an existing loan.

3. A person is eligible for financial assistance under this section if all of the following apply:

a. The financial assistance will be used to support a project that will provide a demonstrable benefit to corn producers.

b. The board approves a business plan submitted by the person. The business plan must demonstrate the person's managerial and technical expertise to carry out the project.

c. The person agrees to comply with terms and conditions of the financial assistance as determined by the board.

4. The board shall award financial assistance to an eligible person based on all of the following criteria:

a. The degree to which the project will benefit corn producers.

b. The feasibility of the project to become a viable enterprise.

c. The amount of the investment in the project contributed by corn producers.

d. The economic and technical viability of the processes to be employed.

e. The economic and technical viability of the products to be produced.

2004 Acts, ch 1024, §5

Referred to in §185C.11

185C.12 Officers.

The board shall:

1. Elect a chairperson and other officers as advisable.

2. Administer this chapter, and perform all acts reasonably necessary to effectuate the purposes of this chapter.

[C77, 79, 81, §185C.12]

185C.13 Powers and duties.

The board may:

1. Employ and discharge assistants and professional counsel as necessary, prescribe their duties and powers, and fix their compensation.

2. Acquire and establish offices, issue negotiable instruments, incur expenses, and enter into any contracts or agreements necessary to carry out the purposes of this chapter.

3. Adopt, rescind, and amend all proper and necessary rules for the exercise of its powers and duties.

4. Enter into arrangements for collection of the assessment on corn marketed in this state.

5. To the extent provided by federal law, be responsible for collection of receipts from the federal assessment, and for expenditure of proceeds from the federal assessment.

[C77, 79, 81, §185C.13]

89 Acts, ch 198, §6; 2009 Acts, ch 95, §2

185C.14 Membership of board — compensation — meetings.

1. Each director of the board shall receive a per diem of one hundred dollars and actual expenses in performing official board functions, notwithstanding section 7E.6.

2. A director of the board shall not be a salaried employee of the board or any organization or agency which is receiving funds from the board.

3. The board shall meet at least three times each year, and at such other times as deemed necessary by the board.

[C77, 79, 81, §185C.14]

91 Acts, ch 258, §35; 2009 Acts, ch 95, §3; 2013 Acts, ch 140, §110, 112

185C.15 Term of promotional order — automatic extension.

A promotional order shall be effective for four years from its effective date. Upon the date that an order is due to expire the order shall automatically be extended for an additional four years from the date that the order or last extension would otherwise expire, except as provided in section 185C.24.

[C77, 79, 81, §185C.15]

88 Acts, ch 1134, §42; 89 Acts, ch 198, §7

Referred to in §185C.25

185C.16 Notice of referendum.

Notice of a referendum election to initiate or terminate a promotional order shall be given by publication in a newspaper of general circulation in this state at least ten days prior to the

date of the referendum and in any other reasonable manner as determined by the secretary for the initial referendum and by the board for termination of the promotional order.

[C77, 79, 81, §185C.16]

89 Acts, ch 198, §8; 90 Acts, ch 1168, §31

Referred to in §185C.25

185C.17 Contents of notice.

The notice of referendum shall set forth the period of time for voting, voting places and such other information as the secretary may deem necessary in an initial referendum. The board shall make such determinations in any subsequent referendum.

[C77, 79, 81, §185C.17]

Referred to in §185C.25

185C.18 Counting.

At the close of a referendum voting period, the secretary shall count and tabulate the ballots cast during the referendum period.

[C77, 79, 81, §185C.18]

Referred to in §185C.25

185C.19 Effect.

The ballots shall constitute conclusive evidence as to the validity of the promotional order.

[C77, 79, 81, §185C.19]

Referred to in §185C.25

185C.20 Producers only to vote.

Only producers are eligible to vote in an election for directors or a referendum election and only in the district in which they reside. A producer shall sign an affidavit furnished by the secretary at the time of voting certifying the producer's eligibility to vote. Each qualified producer shall be entitled to one vote.

[C77, 79, 81, §185C.20]

Referred to in §185C.25

185C.21 State assessment.

1. The board shall determine and set the state assessment rate. State assessments collected pursuant to the promotional order shall be paid into the corn promotion fund established in section 185C.26. Except as provided in subsection 2, a state assessment shall not exceed one-quarter of one cent per bushel upon corn marketed in this state.

2. Upon request of the board, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the state assessment above one-quarter of one cent per bushel, notwithstanding subsection 1. The special referendum shall be conducted as provided in this chapter for referendum elections. However, the special referendum shall not affect the existence or length of the promotional order in effect. If a majority of the producers voting in the special referendum approve the increase, the board may increase the assessment to the amount approved in the special referendum. The board shall establish the effective date of a rate change. However, a state assessment shall not exceed a scheduled maximum rate determined as follows:

a. Before September 1, 2014, one cent.

b. For each marketing year of the period beginning September 1, 2014, and ending August 31, 2019, two cents.

c. For each marketing year beginning on and after September 1, 2019, three cents.

[C77, 79, 81, §185C.21]

89 Acts, ch 198, §9; 94 Acts, ch 1146, §35; 98 Acts, ch 1030, §1; 2014 Acts, ch 1049, §1

185C.22 State assessment on purchase invoice.

After a promotional order has been issued, the first purchaser at the time of payment for corn shall show the total amount of state assessment deducted from the sale on the purchase invoice.

[C77, 79, 81, §185C.22]
89 Acts, ch 198, §10

185C.23 Deduction of state assessment.

The state assessment shall be deducted from the purchase price of corn at the time of sale, and forwarded to the board by the first purchaser in the manner and at intervals determined by the board.

[C77, 79, 81, §185C.23]
89 Acts, ch 198, §11

185C.24 Cancellation and suspension.

1. The board shall be suspended and board operations and terms of members shall cease upon either of the following events:

a. The state assessment is terminated pursuant to section 185C.25.

b. The state assessment is suspended pursuant to section 185C.25A.

2. However, notwithstanding subsection 1, the board shall continue to operate until proceeds remaining in the corn promotion fund are disbursed. Disbursement shall be made as provided for payment of moneys under section 185C.26.

3. The secretary shall order that the board be reconstituted upon either of the following events:

a. Recommencement of the promotional order, pursuant to section 185C.25.

b. Termination of the promotional order's suspension, pursuant to section 185C.25A.

4. Until the board is reconstituted under section 185C.8, the secretary has the powers to perform the duties of the board as provided in this chapter, including the collection of the state assessment at the rate in effect on the date when collection of the state assessment was terminated pursuant to section 185C.25. However, the secretary shall not expend funds from state assessment.

[C77, 79, 81, §185C.24]
89 Acts, ch 198, §12
Referred to in §185C.8, 185C.15

185C.25 Effective period of promotional order — termination.

1. A state assessment adopted upon the initiation of a promotional order shall be collected during the effective period of the order, and shall have no effect upon termination of the promotional order. Upon adoption or extension of the promotional order, the order shall be effective for the period described in section 185C.15 unless the order is terminated as provided in this section or suspended as provided in section 185C.25A.

2. The secretary shall call a referendum to terminate the promotional order if all the following conditions are met:

a. The secretary receives a petition signed by at least five percent of the state's producers reported in the most recent United States census of agriculture.

b. The petition is signed by at least five percent of the state's producers residing in each of five districts according to the most recent United States census of agriculture.

c. The secretary receives the petition not less than one hundred fifty days from the date that the order is due to expire, but receives the petition not more than two hundred forty days before the date that the order is due to expire.

3. The secretary shall conduct the election as provided for a referendum under this chapter, including sections 185C.16 through 185C.20. If upon counting and tabulating the ballots, the secretary determines that a majority of voting producers favor termination of the state assessment, the secretary, in cooperation with the board, shall terminate the state assessment in an orderly manner as soon as practicable.

4. If the assessment is terminated, another referendum shall not be held for at least

one hundred eighty days from the date that the assessment is terminated. A succeeding referendum to restore the assessment shall be called by the secretary upon petition of at least five hundred producers requesting a referendum. The petitioners shall guarantee the costs of the succeeding referendum. The secretary shall conduct the election as provided for a referendum under this chapter not later than one hundred fifty days after the secretary receives the petition. If a referendum held pursuant to this subsection is approved by producers, the promotional order shall commence no later than two hundred ten days following the date that the petition is received by the secretary.

[C77, 79, 81, §185C.25]

89 Acts, ch 198, §13

Referred to in §185C.24

185C.25A Collection of federal assessment.

Prior to the collection of the federal assessment, the board may approve the continued collection of the state assessment during the collection of the federal assessment. If the collection of the state assessment would be in addition to, and not an offset against, the collection of the federal assessment, the board shall suspend the collection of the state assessment. On the date of the termination or suspension of the federal assessment, the promotional order shall recommence and the suspension of the state assessment shall terminate.

89 Acts, ch 198, §14

Referred to in §185C.24, 185C.25

185C.26 Deposit of moneys — corn promotion fund.

A state assessment collected by the board from a sale of corn shall be deposited in the office of the treasurer of state in a special fund known as the corn promotion fund. The fund may include any gifts, rents, royalties, interest, license fees, or a federal or state grant received by the board. Moneys collected, deposited in the fund, and transferred to the board as provided in this chapter shall be subject to audit by the auditor of state. The auditor of state may seek reimbursement for the cost of the audit from moneys deposited in the fund as provided in this chapter. The department of administrative services shall transfer moneys from the fund to the board for deposit into an account established by the board in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the board. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From moneys collected, the board shall first pay all the direct and indirect costs incurred by the secretary and the costs of referendums, elections, and other expenses incurred in the administration of this chapter, before moneys may be expended to carry out the purposes of this chapter as provided in section 185C.11.

[C77, 79, 81, §185C.26]

89 Acts, ch 198, §15; 94 Acts, ch 1146, §36; 98 Acts, ch 1030, §2; 2003 Acts, ch 145, §286; 2004 Acts, ch 1024, §6; 2010 Acts, ch 1189, §35; 2015 Acts, ch 29, §29

Referred to in §185C.21, 185C.24, 185C.27, 185C.28

185C.27 Refund of assessment.

A producer who has sold corn and had a state assessment deducted from the sale price, by application in writing to the board, may secure a refund in the amount deducted. The refund shall be payable only when the application shall have been made to the board within sixty days after the deduction. Application forms shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producer. Each application for refund by a producer shall have attached to the application proof of the assessment deducted. The proof of assessment may be in the form of a duplicate or certified copy of the purchase invoice by the first purchaser. The board shall have thirty days from the date the application for refund is received to remit the refund to the producer. The board may

provide for refunds of a federal assessment as provided by federal law. Unless inconsistent with federal law, refunds shall be made under section 185C.26.

[C77, 79, 81, §185C.27]

89 Acts, ch 198, §16

Right to refund not subject to execution or transfer, §179.5A

185C.28 Use of moneys — appropriation.

Moneys deposited in the corn promotion fund and transferred to the board as provided in section 185C.26, including federal moneys to the extent permitted by federal law, are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions provided in this chapter.

[C77, 79, 81, §185C.28]

89 Acts, ch 198, §17; 94 Acts, ch 1146, §37

185C.29 Remission of excess funds.

1. After the direct and indirect costs incurred by the secretary and the costs of elections, referendums, necessary board expenses, and administrative costs have been paid, at least seventy-five percent of the remaining moneys from a state assessment deposited in the corn promotion fund shall be used to carry out the purposes of the board as provided in section 185C.11.

2. The Iowa corn promotion board shall not expend any funds on political activity, and it shall be a condition of any allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

[C77, 79, 81, §185C.29]

89 Acts, ch 198, §18; 2004 Acts, ch 1024, §7; 2007 Acts, ch 126, §40; 2011 Acts, ch 34, §38

185C.30 Bond.

Every person occupying a position of trust under any provisions of this chapter shall give bond in such amount as may be required by the board, the premium for which shall be paid out of the corn promotion fund.

[C77, 79, 81, §185C.30]

185C.31 Penalty.

It is a simple misdemeanor for any person to willfully violate any provision of this chapter or for any person to willfully render or furnish a false or fraudulent report, statement, or record required by the secretary.

[C77, 79, 81, §185C.31]

185C.32 First purchaser information.

Every first purchaser shall upon request furnish the secretary with such information as is necessary to enable the secretary and the board to carry out the provisions of this chapter. Such information shall be provided as prescribed by the secretary. The secretary may examine any records relating to the purchase or the state assessment of corn by any first purchaser. The secretary may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas as may be necessary for the proper administration of this chapter. When requested by the board, the secretary shall employ these powers in the manner requested.

[C77, 79, 81, §185C.32]

89 Acts, ch 198, §19

185C.33 Report.

The board shall each year prepare and submit a report summarizing the activities of the board under this chapter to the auditor of state and the secretary of agriculture. The report

shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

[C77, 79, 81, §185C.33]

89 Acts, ch 198, §20; 94 Acts, ch 1146, §38

185C.34 Not a state agency.

The Iowa corn promotion board is not a state agency.

[C77, 79, 81, §185C.34]

CHAPTER 186

IOWA STATE HORTICULTURE SOCIETY

Referred to in §159.6, 173.3

186.1	Meetings and organization of society.	186.3	Affiliation with allied societies.
186.2	Horticultural exposition.	186.4	Annual report.
		186.5	Appropriations.

186.1 Meetings and organization of society.

The Iowa state horticulture society shall hold meetings each year, at times as it may fix, for the transaction of business. The officers and board of directors of the society shall be chosen as provided for in the constitution of the society, for the period and in the manner prescribed therein, but the secretary of agriculture or the secretary's designee shall be a member of the board of directors and of the executive committee. Any vacancy in the offices filled by the society may be filled by the executive committee for the unexpired portion of the term.

[C73, §1117; C97, §1669; C24, 27, 31, 35, 39, §**2963;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §186.1]

87 Acts, ch 115, §32; 2009 Acts, ch 41, §74

186.2 Horticultural exposition.

The society is authorized to hold, at such time and in such place in Iowa as it may select, a horticultural exposition, including honey products and manufactured plant products, with practical and scientific demonstrations of approved methods of crop production, grading, packing, marketing, and establishment of standard market grades pertaining to horticulture. It may delegate to its executive committee the duty and power to make and execute all plans for the holding of such an exposition.

[C24, 27, 31, 35, 39, §**2964;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §186.2]

186.3 Affiliation with allied societies.

The society shall encourage the affiliation with itself of societies organized for the purpose of furthering the horticultural, honey bee, or forestry interests of the state.

[C73, §1118; C97, §1670; C24, 27, 31, 35, 39, §**2965;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §186.3]

186.4 Annual report.

The secretary shall make an annual report to the department of agriculture and land stewardship at such time as the department may require. Such report shall contain the proceedings of the society, an account of the exposition, a summarized statement of the expenditures for the year, the general condition of horticultural, honey bee, and forestry interests throughout the state, together with such additional information as the department may require.

[C73, §1119; C97, §1671; C24, 27, 31, 35, 39, §**2966;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §186.4]

186.5 Appropriations.

All money appropriated by the state for the use of the Iowa state horticulture society shall be paid on the warrant of the director of the department of administrative services, upon the order of the president and secretary of said society, in such sums and at such times as may be for the interests of said society. All expenditures from state funds for the use of the Iowa state horticulture society are to be approved by the secretary of agriculture.

[C27, 31, 35, §2966-a1; C39, §**2966.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §186.5]

2003 Acts, ch 145, §286; 2009 Acts, ch 41, §75

CHAPTERS 186A to 188

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AGRICULTURE-RELATED PRODUCTS AND ACTIVITIES

Referred to in §159.6

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AGRICULTURE — GENERAL PROVISIONS

Referred to in §205.11, 205.13, 214.5, 215.6

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SUBCHAPTER I

DEFINITIONS AND DUTIES

189.1 Definitions.

For the purpose of this subtitle, unless the context otherwise requires:

1. *"Article"* means food, commercial feed, agricultural seed, commercial fertilizer, drug, pesticide, hemp or a hemp product, and paint, in the sense in which they are defined in the various provisions of this subtitle.

2. *"Department"* means the department of agriculture and land stewardship, and if the department is required or authorized to do an act, the act may be performed by a regular assistant or a duly authorized agent of the department.

3. *"Official laboratory"* means a biological, chemical, or physical laboratory which performs testing or analysis pursuant to scientific procedures, to the extent the laboratory is recognized by the department as a reliable indicator of scientific results.

4. *"Package"* or *"container"*, unless otherwise defined, includes wrapper, box, carton, case, basket, can, bottle, jar, tube, cask, vessel, tub, keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and the expression *"offered or exposed for sale or sold in package or wrapped form"* means the offering or exposing for sale, or selling of an article which is contained in a package or container as defined in this section.

5. *"Pasteurization"* or *"pasteurized"* means the procedure of processing milk or a milk product, in order to ensure its safety from contaminants, if the procedure of pasteurization is consistent with standards adopted by the department pursuant to section 192.102.

6. *"Person"* includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of this subtitle.

7. *"Rules"* includes regulations and orders by the department.

8. *"Secretary"* means the secretary of agriculture.

9. *"United States Pharmacopoeia"* or *"National Formulary"* means the latest revision of these publications official at the time of a transaction which is in question.

[S13, §2510-o, 3009-a; SS15, §4999-a31c; C24, 27, 31, 35, 39, §**3029;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.1]

86 Acts, ch 1245, §636; 92 Acts, ch 1163, §44; 94 Acts, ch 1023, §17; 2003 Acts, ch 69, §24, 25; 2012 Acts, ch 1095, §62, 63; 2019 Acts, ch 130, §29, 33

Referred to in §196.1

189.2 Duties.

The department shall do all of the following:

1. Execute and enforce this subtitle.

2. Adopt all necessary rules, not inconsistent with law, for enforcing the provisions of this subtitle.

3. Provide educational measures and exhibits, and conduct educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this subtitle, in accordance with the rules adopted pursuant to this subtitle.

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this subtitle. These bulletins shall be posted on the department's internet site.

1. [C97, §2515; S13, §2510-g, -t, -v4, 2528-f2, 3009-a, 4999-a31b, 5077-a22; SS15, §2515; C24, 27, 31, 35, 39, §**3030;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.2]

2. [S13, §4999-a18, 5077-a22; C24, 27, 31, 35, 39, §**3030;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.2]

3. [C97, §2515; SS15, §2515; C24, 27, 31, 35, 39, §**3030;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.2]

4. [S13, §2510-g, -t, -v4, 2528-f2, 3009-s, 4999-a26, -a37, 5077-a11; C24, 27, 31, 35, 39, §**3030;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.2]

83 Acts, ch 101, §33; 85 Acts, ch 67, §20; 89 Acts, ch 197, §25; 94 Acts, ch 1023, §18; 98 Acts, ch 1119, §25; 98 Acts, ch 1164, §40; 2003 Acts, ch 69, §26; 2003 Acts, ch 145, §204; 2012 Acts, ch 1095, §64

SUBCHAPTER II

INSPECTION — SAMPLES

189.3 Procuring samples.

The department shall, for the purpose of examination or analysis, procure from time to time, or whenever the department has occasion to believe any of the provisions of this subtitle

are being violated, samples of the articles dealt with in these provisions which have been shipped into this state, offered or exposed for sale, or sold in the state.

[C97, §2521, 2524; S13, §2528-f2, 4999-a18, 5077-a11, -a22; C24, 27, 31, 35, 39, §**3031;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.3]

94 Acts, ch 1023, §19; 2003 Acts, ch 69, §27; 2012 Acts, ch 1095, §65

189.4 Access to factories and buildings.

The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this subtitle.

[C97, §2505; S13, §2528-a, 5077-a22; SS15, §2505, 2510-4a, 3009-n; C24, 27, 31, 35, 39, §**3032;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.4]

94 Acts, ch 1023, §20; 2003 Acts, ch 69, §28; 2012 Acts, ch 1095, §66

189.5 Dealer to furnish samples.

Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this subtitle shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department.

[S13, §4999-a24, 5077-a11; C24, 27, 31, 35, 39, §**3033;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.5]

94 Acts, ch 1023, §21; 2003 Acts, ch 69, §29; 2012 Acts, ch 1095, §67

189.6 Taking of samples.

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of this subtitle, in order to secure a sample for analysis or examination, and the sample and damage to container shall be paid for at the current market price by the department.

[C97, §2521, 2526; S13, §2528-b, -f2, 5077-a11, -a22; C24, 27, 31, 35, 39, §**3034;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.6]

94 Acts, ch 1023, §22; 2003 Acts, ch 69, §30; 2012 Acts, ch 1095, §68; 2015 Acts, ch 103, §3

189.7 Preservation of sample.

After the sample is taken, it shall be carefully sealed and labeled with the name or brand of the article, the name of the party from whose stock it was taken, and the date and place of taking such sample. Upon request a duplicate sample, sealed and labeled in the same manner, shall be delivered to the person from whose stock the sample was taken. The label and duplicate shall be signed by the person taking the same. The method of taking samples of particular articles may be prescribed by the rules of the department.

[C97, §2521; S13, §4999-a24, 5077-a11, -a22; C24, 27, 31, 35, 39, §**3035;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.7]

2012 Acts, ch 1095, §69

189.8 Witnesses.

In the enforcement of the provisions of this subtitle, the department shall have power to issue subpoenas for witnesses, enforce their attendance, and examine them under oath. The witnesses shall be allowed the same fees as witnesses in district court. The fees shall be paid out of the contingent fund of the department.

[C97, §2515; SS15, §2515; C24, 27, 31, 35, 39, §**3036;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.8]

94 Acts, ch 1023, §23; 2003 Acts, ch 69, §31; 2012 Acts, ch 1095, §70

Witness fees, §622.69 – 622.75

SUBCHAPTER III

LABELING — ADULTERATIONS

189.9 Labeling.

1. All articles in package or wrapped form which are required by this subtitle to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters on the principal label with the following items:

a. The true name, brand, or trademark of the article.

b. The quantity of the contents in terms of weight, measure, or numerical count. Under this requirement reasonable variations shall be permitted, and small packages shall be excepted in accordance with the rules of the department.

c. The name and place of business of the manufacturer, packer, importer, dispenser, distributor, or dealer.

2. The above items shall be printed in such a way that there shall be a distinct contrast between the color of the letters and the background upon which printed.

[C73, §4042; C97, §2517, 4989 – 4991, 5070; S13, §2510-d, -q, -r, -v1, -v2, 2515-b – d, 2528-f, 4999-a35, 5070-a, 5077-a6; SS15, §4999-a31c; C24, 27, 31, 35, 39, §**3037;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.9]

94 Acts, ch 1023, §24; 2003 Acts, ch 69, §32; 2009 Acts, ch 41, §263; 2012 Acts, ch 1095, §71

Referred to in §189.11, 191.1, 191.2, 196.10, 199.3, 210.12, 210.18

189.10 Packages excepted. Repealed by 2020 Acts, ch 1063, §389.

189.11 Labeling of mixtures — federal requirements.

1. In addition to the requirements of section 189.9, unless otherwise provided, articles which are mixtures, compounds, combinations, blends, or imitations shall be marked as such and immediately followed, without any intervening matter and in the same size and style of type, by the names of all the ingredients contained therein, beginning with the one present in the largest proportion.

2. Notwithstanding any other requirements of this chapter or of chapter 190, food or food products, or pesticides, labeled in conformance with the labeling requirements of the government of the United States shall be deemed to be labeled in conformance with the laws of the state of Iowa.

[S13, §2510-d, -r, -v2, 5077-a7; SS15, §4999-a31c; C24, 27, 31, 35, 39, §**3039;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.11]

2012 Acts, ch 1095, §72

Referred to in §189.12, 191.1, 191.2, 196.10, 199.3, 210.18

189.12 Trade formulas.

Nothing in section 189.11 shall be construed as requiring the printing of a patented or proprietary trade formula on a label.

[S13, §5077-a7; SS15, §4999-a31c; C24, 27, 31, 35, 39, §**3040;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.12]

Referred to in §191.1, 191.2, 196.10, 210.18

189.13 False labels — defacement.

A person shall not use any label required by this subtitle which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by this subtitle.

[C73, §4042; C97, §2517, 4989 – 4991; S13, §2510-s, -v3, 2515-b – d, 4999-a35, 5077-a7; SS15, §4999-a31c; C24, 27, 31, 35, 39, §**3041;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.13]

94 Acts, ch 1023, §25; 2003 Acts, ch 69, §33; 2012 Acts, ch 1095, §73

Referred to in §210.18

189.14 Mislabeled articles.

1. A person shall not knowingly introduce into this state, solicit orders for, deliver, transport, or have in possession with intent to sell, any article which is labeled in any other manner than that prescribed by this subtitle for the label of the article when offered or exposed for sale, or sold in package or wrapped form in this state.

2. No person shall package any liquid or semisolid product or label any such product as honey, imitation honey or honey blend, or use the word "honey" in any prominent location on the label of such product or sell or offer for sale any such product which is labeled as honey, imitation honey or honey blend or which contains a label with the word "honey" prominently displayed thereon, unless the entire product is honey as defined in section 190.1, subsection 4.

3. A person shall not package a liquid or semisolid product, or label the product, as sorghum, imitation sorghum, or sorghum blend, or use the word "sorghum" in a prominent location on the label of the product or sell or offer for sale a product labeled as sorghum, imitation sorghum, or sorghum blend or which contains a label with the word "sorghum" prominently displayed, unless the product label states that the product is sorghum syrup as defined in section 190.1, imitation sorghum, or a sorghum blend. As used in this subsection, "*imitation sorghum*" means a product that has the flavor of sorghum but contains no sorghum syrup as defined in section 190.1. "*Sorghum blend*" means a product that is not entirely sorghum syrup as defined in section 190.1.

[C73, §4042; C97, §2516, 2517, 2519, 4989 – 4991, 5070; S13, §2510-b, -q, -r, -v1, -v2, 2515-b – d, 2528-f, 4999-a20, 5070-a; SS15, §4999-a32; C24, 27, 31, 35, 39, §**3042;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.14]

89 Acts, ch 151, §1; 94 Acts, ch 1023, §26; 2003 Acts, ch 69, §34; 2012 Acts, ch 1095, §74

Referred to in §210.18

189.15 Adulterated articles.

A person shall not knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of this subtitle.

[C73, §3901, 4042; C97, §2508, 2516, 4989 – 4991; S13, §2508, 2510-q, -r, -v1, -v2, 2515-b – d, 4999-a20; SS15, §4999-a32; C24, 27, 31, 35, 39, §**3043;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.15]

94 Acts, ch 1023, §27; 2003 Acts, ch 69, §35; 2012 Acts, ch 1095, §75

Referred to in §210.18

189.16 Possession and control of adulterated and improperly labeled articles.

1. Except as provided in subsection 2, a person in possession or having control of an article which is adulterated or which is improperly labeled according to the provisions of this subtitle shall be presumed to know that the article is adulterated or improperly labeled. A person's possession of an adulterated or improperly labeled article shall be prima facie evidence that the person intends to violate the provisions of this subtitle.

2. This section does not apply to the possession or control of any of the following:

a. Grain by a person regulated under chapter 203, 203C, or 203D.

b. Mining materials including coal by a person regulated under chapter 207 or 208.

c. A controlled substance as provided in chapter 124.

[C97, §2519, 2521; S13, §4999-a24, -a40; C24, 27, 31, 35, 39, §**3044;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §189.16]

94 Acts, ch 1023, §28; 99 Acts, ch 12, §7; 2003 Acts, ch 69, §36

Referred to in §210.18

189.17 Confiscation or condemnation.

Unless a procedure or method of seizure and confiscation or condemnation is otherwise provided, the secretary is authorized to prohibit the entrance into channels of commerce or possession of any article found to be adulterated or improperly labeled according to the provisions of this subchapter or rules adopted pursuant to this subchapter. Any articles found in channels of commerce or in possession by an inspector which are not in compliance

with the adulteration or labeling provisions of this subchapter shall be subject to immediate seizure by the department. Seized articles shall be condemned unless the articles can be made to conform with the provisions of this subchapter by methods approved by the secretary. Condemned articles shall be effectively destroyed for the purpose for which they were intended by the owner of the article, or the owner's agent, under the supervision of an inspector in such manner as the secretary may prescribe.

[C71, 73, 75, 77, 79, 81, §189.17]

2016 Acts, ch 1011, §121; 2021 Acts, ch 80, §91

Section amended

189.18 Wrongful condemnation — restitution.

A party whose article, item, commodity or product is wrongfully condemned or seized shall be entitled to maintain a cause of action against the state of Iowa, for the damage proximately caused by the wrongful condemnation or seizure. Such cause of action shall be a claim as defined in chapter 669 and shall be subject to the provisions of said chapter, notwithstanding the provisions of section 669.14.

[C71, 73, 75, 77, 79, 81, §189.18]

SUBCHAPTER IV

LICENSES

189.19 Licenses.

The following provisions apply to all licenses issued or authorized under this subtitle:

1. *Applications.* Applications for licenses shall be made upon blanks furnished by the department and shall conform to the prescribed rules of the department.

2. *Refusal and revocation.* For good and sufficient grounds the department may refuse to grant a license to any applicant; and the department may revoke a license for a violation of any provision of this subtitle or for the refusal or failure of any licensee to obey the lawful directions of the department.

3. *Expiration.* Unless otherwise provided all licenses shall expire one year from the date of issue.

[C97, §2525; S13, §2515-a; SS15, §2515-f, 3009-m; C24, 27, 31, 35, 39, §**3045;** C46, 50, 54, 58, 62, 66, §189.17; C71, 73, 75, 77, 79, 81, §189.19]

94 Acts, ch 1023, §29; 2003 Acts, ch 69, §37, 38; 2012 Acts, ch 1095, §76, 77

189.20 Injunction.

Any person engaging in any business for which a license is required by this subtitle, without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure.

[C24, 27, 31, 35, 39, §**3046;** C46, 50, 54, 58, 62, 66, §189.18; C71, 73, 75, 77, 79, 81, §189.20]

94 Acts, ch 1023, §30; 2003 Acts, ch 69, §39; 2012 Acts, ch 1095, §78

SUBCHAPTER V

OFFENSES — PENALTIES

189.21 Penalty.

Unless otherwise provided, any person violating any provision of this subtitle or any rule adopted by the department pursuant to such a provision, is guilty of a simple misdemeanor.

[C73, §2068, 3901; C97, §2508, 2527, 2592, 2594, 3029, 5070; S13, §2508, 2510-2a, -h, -j, -u, -v5, 2515-g, 2522, 2528-c, -f3, 2596-b, 4989-b, 4999-a25, -a39, 5070-a, 5077-a23; SS15, §2505, 2506, 3009-j, -r; C24, 27, 31, 35, 39, §**3047;** C46, 50, 54, 58, 62, 66, §189.19; C71, 73, 75, 77, 79, 81, §189.21]

94 Acts, ch 1023, §31; 2003 Acts, ch 69, §40; 2012 Acts, ch 1095, §79

189.22 May charge more than one offense.

In any criminal proceeding brought for violation of this subtitle, an information or indictment may charge as many offenses as it appears have been committed, and the defendant may be convicted of any or all of the offenses.

[C24, 27, 31, 35, 39, §**3048;** C46, 50, 54, 58, 62, 66, §189.20; C71, 73, 75, 77, 79, 81, §189.22]

94 Acts, ch 1023, §32

189.23 Common carrier.

The penalties provided in this subtitle shall not be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this subtitle, when the same was received by the carrier for transportation in the ordinary course of its business and without actual knowledge of its true character.

[C97, §2516; S13, §4999-a20; SS15, §4999-a32; C24, 27, 31, 35, 39, §**3049;** C46, 50, 54, 58, 62, 66, §189.21; C71, 73, 75, 77, 79, 81, §189.23]

94 Acts, ch 1023, §33; 2003 Acts, ch 69, §41; 2012 Acts, ch 1095, §80

SUBCHAPTER VI

ENFORCEMENT

189.24 Report of violations.

When it appears that any of the provisions of this subtitle have been violated, the department may certify the facts to the proper county attorney. The certification shall be accompanied with a copy of the results of any analysis, examination, or inspection the department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of the department.

[C97, §4998; S13, §4999-a19; C24, 27, 31, 35, 39, §**3050;** C46, 50, 54, 58, 62, 66, §189.22; C71, 73, 75, 77, 79, 81, §189.24]

94 Acts, ch 1023, §34; 2003 Acts, ch 69, §42; 2012 Acts, ch 1095, §81

189.25 County attorney.

The county attorney may at once institute the proper proceedings for the enforcement of the penalties provided in this subtitle for the violations.

[C97, §4998; S13, §2596-c, 4999-a19; C24, 27, 31, 35, 39, §**3051;** C46, 50, 54, 58, 62, 66, §189.23; C71, 73, 75, 77, 79, 81, §189.25]

94 Acts, ch 1023, §35

189.26 Refusal to act.

If the county attorney refuses to act, the governor may, in the governor's discretion, appoint an attorney to represent the state.

[S13, §4999-a19; C24, 27, 31, 35, 39, §**3052;** C46, 50, 54, 58, 62, 66, §189.24; C71, 73, 75, 77, 79, 81, §189.26]

189.27 Institution of proceedings.

In any case when it appears that any of the provisions of this subtitle have been violated, the inspector having the investigation in charge shall, when instructed by the department, file an information against the suspected party.

[C24, 27, 31, 35, 39, §**3053;** C46, 50, 54, 58, 62, 66, §189.25; C71, 73, 75, 77, 79, 81, §189.27]

94 Acts, ch 1023, §36

SUBCHAPTER VII

MISCELLANEOUS

189.28 Goods for sale in other states.

Any person may keep articles specifically set apart in the person's stock for sale in other states which do not comply with the provisions of this subtitle as to standards, purity, or labeling.

[S13, §4999-a20, -a40; C24, 27, 31, 35, 39, §**3054;** C46, 50, 54, 58, 62, 66, §189.26; C71, 73, 75, 77, 79, 81, §189.28]

94 Acts, ch 1023, §37; 2003 Acts, ch 69, §43; 2012 Acts, ch 1095, §82

Referred to in §196.11

189.29 Reports by dealers.

Every person who deals in or manufactures any of the articles dealt with in this subtitle shall make upon blanks furnished by the department such reports and furnish such statistics as may be required by the department and certify to the correctness of the same.

[C97, §2522; S13, §2522; C24, 27, 31, 35, 39, §**3055;** C46, 50, 54, 58, 62, 66, §189.27; C71, 73, 75, 77, 79, 81, §189.29]

94 Acts, ch 1023, §38; 2003 Acts, ch 69, §44; 2012 Acts, ch 1095, §83

189.30 Contracts invalid.

No action shall be maintained in any of the courts of the state upon any contract or sale made in violation of or with the intent to violate any provision of this subtitle by one who was knowingly a party thereto.

[C97, §2520; C24, 27, 31, 35, 39, §**3056;** C46, 50, 54, 58, 62, 66, §189.28; C71, 73, 75, 77, 79, 81, §189.30]

94 Acts, ch 1023, §39

189.31 Fees paid into state treasury.

All fees collected under the provisions of this subtitle shall be paid into the state treasury.

[C97, §2507; SS15, §2507, 2515-f, 3009-m; C24, 27, 31, 35, 39, §**3057;** C46, 50, 54, 58, 62, 66, §189.29; C71, 73, 75, 77, 79, 81, §189.31]

94 Acts, ch 1023, §40

CHAPTER 189A

MEAT AND POULTRY INSPECTION

Referred to in §163.6, 556H.1, 672.1, 716.7A

Poultry and domestic fowls, chapter 197

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189A.21 Appropriation authorized.
189A.22 Federal grants.

189A.1 Title.

This chapter shall be known as the *"Meat and Poultry Inspection Act"*.

[C66, 71, 73, 75, 77, 79, 81, §189A.1]

189A.2 Definitions.

As used in this chapter except as otherwise specified:

1. *"Adulterated"* shall apply to any livestock product or poultry product under any one or more of the following circumstances:

a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health.

b. (1) If it bears or contains, by reason of administration of any substance to the livestock or poultry or otherwise, any added poisonous or deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which may, in the judgment of the secretary, make such article unfit for human food.

(2) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the federal Food, Drug, and Cosmetic Act.

(3) If it bears or contains any food additive which is unsafe within the meaning of section 409 of the federal Food, Drug, and Cosmetic Act.

(4) If it bears or contains any color additive which is unsafe within the meaning of section 706 of the federal Food, Drug, and Cosmetic Act; however, an article which is not otherwise deemed adulterated under subparagraph (2), (3), or (4) of this paragraph shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the secretary in official establishments.

c. If it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food.

d. If it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

e. If it is, in whole or in part, the product of an animal, including poultry, which has died otherwise than by slaughter.

f. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

g. If it has been intentionally subjected to radiation, unless the use of the radiation was

in conformity with a regulation or exemption in effect pursuant to section 409 of the federal Food, Drug, and Cosmetic Act.

h. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

i. If it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

2. *"Animal food manufacturer"* means any person engaged in the business of preparing animal food, including poultry, derived wholly or in part from livestock or poultry carcasses or parts or products of such carcasses.

3. *"Broker"* means any person engaged in the business of buying or selling livestock products or poultry products on commission, or otherwise negotiating purchases or sales of such articles other than for the person's own account or as an employee of another person.

4. *"Capable of use as human food"* shall apply to any livestock or poultry carcass, or part or product of any such carcass, unless it is denatured or otherwise identified as required by regulations prescribed by the secretary to deter its use as human food, or it is naturally inedible by humans.

5. *"Container"* or *"package"* means any box, can, tin, cloth, plastic or other receptacle, wrapper, or cover.

6. *"Establishment"* means all premises where animals or poultry are slaughtered or otherwise prepared, either for custom, resale, or retail, for food purposes, meat or poultry canneries, sausage factories, smoking or curing operations, restaurants, grocery stores, brokerages, cold storage plants, and similar places.

6A. *"Farm deer"* means the same as defined in section 170.1.

7. *"Federal Food, Drug, and Cosmetic Act"* means the Act so entitled, approved June 25, 1938, 52 Stat. 1040, and Acts amendatory thereof or supplementary thereto.

8. *"Federal Meat Inspection Act"* means the Act so entitled, approved March 4, 1907, 34 Stat. 1260, as amended by the Wholesome Meat Act, 81 Stat. 584; *"Federal Poultry Products Inspection Act"* means the Act so entitled, approved August 28, 1957, 71 Stat. 441, as amended by the Wholesome Poultry Products Act, 82 Stat. 791; and *"federal Acts"* means these two federal laws.

9. *"Immediate container"* means any consumer package; or any other container in which livestock products or poultry products, not consumer packaged, are packed.

10. *"Inspector"* means an employee or official of the department authorized by the secretary or any employee or official of the government of any county or other governmental subdivision of this state, authorized by the secretary to perform any inspection functions under this chapter under an agreement between the secretary and such governmental subdivision.

11. *"Intrastate commerce"* means commerce within this state.

12. *"Label"* means a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article.

13. *"Labeling"* means all labels and other written, printed, or graphic matter either upon any article or any of its containers or wrappers, or accompanying such article.

14. *"Livestock"* means a live or dead animal which is limited to cattle, sheep, swine, goats, farm deer, or which is classified as an equine including a horse or mule.

15. *"Livestock product"* means any carcass, part thereof, meat, or meat food product of any livestock.

16. *"Meat food product"* means any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, excepting products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the secretary under such conditions as the secretary may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such

products are not represented as meat food products. This term as applied to food products of equines or farm deer shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats.

17. *"Misbranded"* shall apply to any livestock product or poultry product under any one or more of the following circumstances:

a. If its labeling is false or misleading in any particular.

b. If it is offered for sale under the name of another food.

c. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation", and immediately thereafter the name of the food imitated.

d. If its container is so made, formed, or filled as to be misleading.

e. Unless it bears a label showing both:

(1) The name and place of business of the manufacturer, packer, or distributor.

(2) An accurate statement of the quantity of the product in terms of weight, measure, or numerical count; however, under this paragraph, exemptions as to livestock products not in containers may be established by regulations prescribed by the secretary, and under this subparagraph reasonable variations may be permitted, and exemptions as to small packages may be established for livestock products or poultry products by regulations prescribed by the secretary.

f. If any word, statement, or other information required by or under authority of this chapter to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

g. If it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the regulations of the secretary under section 189A.7, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard and, insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

h. If it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the secretary under section 189A.7, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

i. If it is not subject to the provisions of paragraph *"g"* of this subsection, unless its label bears both:

(1) The common or usual name of the food, if any.

(2) In case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the secretary, be designated as spices, flavorings, and colorings without naming each; however, to the extent that compliance with the requirements of this subparagraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the secretary.

j. If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the secretary, after consultation with the secretary of agriculture of the United States, determines to be and by regulations prescribes as necessary in order to fully inform purchasers as to its value for such uses.

k. If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; however, to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the secretary.

l. If it fails to bear, directly thereon and on its containers, as the secretary may by regulations prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and, unrestricted by any of the foregoing, such other information as the secretary may require in such regulations to assure that it will

not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

18. *"Official certificate"* means any certificate prescribed by regulations of the secretary for issuance by an inspector or other person performing official functions under this chapter.

19. *"Official device"* means any device prescribed or authorized by the secretary for use in applying any official mark.

20. *"Official establishment"* means any establishment as determined by the secretary at which inspection of the slaughter of livestock or poultry or the preparation of livestock products or poultry products is maintained under the authority of this chapter.

21. *"Official inspection legend"* means any symbol prescribed by regulations of the secretary showing that an article was inspected and passed in accordance with this chapter.

22. *"Official mark"* means the official inspection legend or any other symbol prescribed by regulations of the secretary to identify the status of any article or livestock or poultry under this chapter.

23. *"Person"* includes any individual, partnership, corporation, association, or other business unit, and any officer, agent, or employee thereof.

24. *"Pesticide chemical"*, *"food additive"*, *"color additive"*, and *"raw agricultural commodity"* shall have the same meanings for purposes of this chapter as under the federal Food, Drug, and Cosmetic Act.

25. *"Poultry"* means any domesticated bird, whether live or dead.

26. *"Poultry product"* means any poultry carcass or part thereof, or any product which is made wholly or in part from any poultry carcass or part thereof, excepting products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempted by the secretary from definition as a poultry product under such conditions as the secretary may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products.

27. *"Prepared"* means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or otherwise manufactured or processed.

28. *"Reinspection"* includes inspection of the preparation of livestock products and poultry products, as well as re-examination of articles previously inspected.

29. *"Renderer"* means any person engaged in the business of rendering livestock or poultry carcasses, or parts or products of such carcasses, except rendering conducted under inspection or exemption under this chapter.

30. *"Shipping container"* means any container used or intended for use in packaging the product packed in an immediate container.

31. *"Veterinary inspector"* means a graduate veterinarian with appropriate training to perform the inspection functions under the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §189A.2]

86 Acts, ch 1245, §637; 95 Acts, ch 134, §1 – 3; 2003 Acts, ch 149, §12, 23; 2014 Acts, ch 1026, §39

Referred to in §163.6, 189A.5, 189A.17, 716.7A, 717A.1
Further definitions, see §189.1

189A.3 License — fee.

1. No person shall operate an establishment other than a food establishment as defined in section 137F.1 without first obtaining a license from the department. The license fee for each establishment per year or any part of a year shall be:

a. For all meat and poultry slaughtered or otherwise prepared not exceeding twenty thousand pounds per year for sale, resale, or custom, twenty-five dollars.

b. For all meat and poultry slaughtered or otherwise prepared in excess of twenty thousand pounds per year for sale, resale, or custom, fifty dollars.

2. The funds shall be deposited with the department. The license year shall be from July 1 to June 30. Applications for licenses shall be in writing on forms prescribed by the department.

3. It is the objective of this chapter to provide for meat and poultry products inspection

programs that will impose and enforce requirements with respect to intrastate operations and commerce that are at least equal to those imposed and enforced under the federal Meat Inspection Act and the federal Poultry Products Inspection Act with respect to operations and transactions in interstate commerce; and the secretary is directed to administer this chapter so as to accomplish this purpose. A director of the meat and poultry inspection service shall be designated as the secretary's delegate to be the appropriate state official to cooperate with the secretary of agriculture of the United States in administration of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §189A.3]

98 Acts, ch 1162, §26, 30; 2009 Acts, ch 41, §263

Referred to in §137F.1, 189A.5, 189A.7

189A.4 Exemptions.

In order to accomplish the objectives of this chapter, the secretary may exempt the following types of operations from inspection:

1. Slaughtering and preparation by any person of livestock and poultry of the person's own raising exclusively for use by the person and members of the person's household, and the person's nonpaying guests and employees.

2. Any other operations which the secretary may determine would best be exempted to further the purposes of this chapter, to the extent such exemptions conform to the federal Meat Inspection Act and the federal Poultry Products Inspection Act and the regulations thereunder.

[C66, 71, 73, 75, 77, 79, 81, §189A.4]

Referred to in §189A.5

189A.5 Veterinarians and inspectors.

1. The secretary shall administer this chapter and may appoint a person to act as the secretary's designee in the administration of this chapter.

a. The secretary shall employ veterinarians licensed in the state of Iowa as veterinary inspectors.

b. The secretary is also authorized to employ as meat inspectors other persons who have qualified and are skilled in the inspection of meat and poultry products and any other additional employees the secretary deems necessary to carry out the provisions of this chapter. The meat inspectors shall be under the supervision of the secretary's designee or a veterinary inspector if no designee is appointed.

c. The secretary may also enter into contracts with qualified individuals to perform inspection services as the secretary may designate for a fee per head or per unit volume to be determined by the secretary provided the persons are not employed in an establishment in which the inspection takes place.

d. The secretary may utilize any employee, agent, or equipment of the department in the enforcement of this chapter, and may assign to inspectors other duties related to the acceptance of meat and poultry products.

2. In order to accomplish the objectives stated in section 189A.3 the secretary shall:

a. By regulations require antemortem and postmortem inspections, quarantine, segregation, and reinspections with respect to the slaughter of livestock and poultry and the preparation of livestock products and poultry products at all establishments in this state, except those exempted by section 189A.4, at which livestock or poultry are slaughtered or livestock or poultry products are prepared for human food solely for distribution in intrastate commerce.

b. By regulations require the identification of livestock and poultry for inspection purposes and the marking and labeling of livestock products or poultry products or their containers, or both, as "Iowa Inspected and Passed" if the products are found upon inspection to be not adulterated, and as "Iowa Inspected and Condemned" if they are found upon inspection to be adulterated; and the destruction for food purposes of all such condemned products under the supervision of an inspector.

c. Prohibit the entry into official establishments of livestock products and poultry products not prepared under federal inspection or inspection pursuant to this chapter and further limit

the entry of such articles and other materials into such establishments under such conditions as the secretary deems necessary to effectuate the purposes of this chapter.

d. By regulations require that when livestock products and poultry products leave official establishments they shall bear directly thereon or on their containers, or both, all information required by section 189A.2, subsection 17; and require approval of all labeling and containers to be used for such products when sold or transported in intrastate commerce to assure that they comply with the requirements of this chapter.

e. Investigate the sanitary conditions of each establishment within paragraph *"a"* of this subsection and withdraw or otherwise refuse to provide inspection service at any such establishment where the sanitary conditions are such as to render adulterated any livestock products or poultry products prepared or handled thereat.

f. Prescribe regulations relating to sanitation for all establishments required to have inspection under paragraph *"a"* of this subsection.

g. By regulations require that both of the following classes of persons shall keep such records and for such periods as are specified in the regulations to fully and correctly disclose all transactions involved in their business, and to afford the secretary and the secretary's representatives, including representatives of other governmental agencies designated by the secretary, access to such places of business, and opportunity at all reasonable times to examine the facilities, inventory, and records thereof, to copy the records, and to take reasonable samples of the inventory upon payment of the fair market value therefor:

(1) Any person that engages in or for intrastate commerce in the business of slaughtering any livestock or poultry, or preparing, freezing, packaging or labeling, buying or selling, as a broker, wholesaler, or otherwise, transporting, or storing any livestock products or poultry products for human or animal food.

(2) Any person that engages in or for intrastate commerce in business as a renderer or in the business of buying, selling, or transporting any dead, dying, disabled, or diseased livestock or poultry or parts of the carcasses of any such animals, including poultry, that died otherwise than by slaughter.

[C66, §170.20, 189A.5, 189A.7, 189A.8, 189A.10; C71, 73, 75, 77, 79, 81, §189A.5]
87 Acts, ch 144, §1; 2009 Acts, ch 41, §206
Referred to in §189A.7, 189A.10

189A.6 Health examination of employees.

The operator of any establishment shall require all employees of such establishment to have a health examination by a physician and a certified health certificate for each employee shall be kept on file by the operator. The secretary may at any time require an employee of an establishment to submit to a health examination by a physician. No person suffering from any communicable disease, including any communicable skin disease, and no person with infected wounds, and no person who is a "carrier" of a communicable disease shall be employed in any capacity in an establishment. No person shall work or be employed in or about any establishment during the time in which a communicable disease exists in the home in which such person resides unless such person has obtained a certificate from a physician to the effect that no danger of public contagion or infection will result from the employment of such person in such establishment. Every person employed by an establishment and engaged in direct physical contact with meat or poultry products during its preparation, processing, or storage, shall be clean in person, wear clean washable outer garments and a suitable cap or other head covering used exclusively in such work. Only persons specifically designated by the operator of an establishment shall be permitted to touch meat or poultry products with their hands, and the persons so designated shall keep their hands scrupulously clean.

[C66, 71, 73, 75, 77, 79, 81, §189A.6]

189A.7 Powers of secretary of agriculture.

In order to accomplish the objective stated in section 189A.3 the secretary may:

1. Remove inspectors from any establishment that fails to destroy condemned products as required under section 189A.5, subsection 2, paragraph *"b"*.

2. Refuse to provide inspection service under this chapter with respect to any

establishment for causes specified in section 401 of the federal Meat Inspection Act or section 18 of the federal Poultry Products Inspection Act.

3. Order labeling and containers to be withheld from use if the secretary determines that the labeling is false or misleading or the containers are of a misleading size or form.

4. By regulations prescribe the sizes and style of type to be used for labeling information required under this chapter, and definitions and standards of identity or composition or standards of fill of container, consistent with federal standards, when the secretary deems such action appropriate for the protection of the public and after consultation with the secretary of agriculture of the United States.

5. By regulations prescribe conditions of storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing, or transporting such articles in or for intrastate commerce to assure that such articles will not be adulterated or misbranded when delivered to the consumer.

6. Require that equines be slaughtered and prepared in establishments separate from establishments where other livestock are slaughtered or their products are prepared.

7. By regulations require that every person engaged in business in or for intrastate commerce as a broker, renderer, animal food manufacturer, or wholesaler or public warehouser of livestock or poultry products, or engaged in the business of buying, selling, or transporting in intrastate commerce any dead, dying, disabled, or diseased livestock or poultry or parts of the carcasses of any such animals, including poultry, that died otherwise than by slaughter shall register with the secretary the person's name and the address of each place of business at which and all trade names under which the person conducts such business.

8. Adopt by reference or otherwise such provisions of the rules and regulations under the federal Acts, with such changes therein as the secretary deems appropriate to make them applicable to operations and transactions subject to this chapter, which shall have the same force and effect as if promulgated under this chapter, and promulgate such other rules and regulations as the secretary deems necessary for the efficient execution of the provisions of this chapter, including rules of practice providing opportunity for hearing in connection with issuance of orders under section 189A.5, subsection 2, paragraph "*e*", and subsection 1, 2, or 3 of this section and prescribing procedures for proceedings in such cases; however, this shall not preclude a requirement that a label or container be withheld from use, or a refusal of inspection pursuant to the sections cited herein pending issuance of a final order in any such proceeding.

9. Appoint and prescribe the duties of such inspectors and other personnel as the secretary deems necessary for the efficient execution of the provisions of this chapter.

10. Cooperate with the secretary of agriculture of the United States in administration of this chapter to effectuate the purposes stated in section 189A.3; accept federal assistance for that purpose and spend public funds of this state appropriated for administration of this chapter to pay the state's proportionate share of the estimated total cost of the cooperative program.

11. Recommend to the secretary of agriculture of the United States for appointment to the advisory committees provided for in the federal Acts, such officials or employees of the Iowa meat and poultry inspection service as the secretary shall designate.

12. Serve as a representative of the governor for consultation with said secretary under paragraph "c" of section 301 of the federal Meat Inspection Act and paragraph "c" of section 5 of the federal Poultry Products Inspection Act unless the governor selects another representative.

[C71, 73, 75, 77, 79, 81, §189A.7]
2009 Acts, ch 41, §207
Referred to in §189A.2, 189A.10

189A.8 Prohibited acts.

1. No person shall sell, transport, offer for sale or transportation, or receive for transportation in intrastate commerce, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly

and conspicuously marked or labeled or otherwise identified as required by regulations prescribed by the secretary to show the kinds of animals from which they were derived.

2. No person shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any livestock products or poultry products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the secretary or are naturally inedible by humans.

3. No person engaged in the business of buying, selling, or transporting in intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation in such commerce, any dead, dying, disabled, or diseased livestock or poultry or the products of any such animals that died otherwise than by slaughter, unless such transaction or transportation is made in accordance with such regulations as the secretary may prescribe to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

[C71, 73, 75, 77, 79, 81, §189A.8]

189A.9 Hours of operation.

1. The secretary may require operations at licensed establishments to be conducted during reasonable hours. The owner or operator of each licensed establishment shall keep the secretary informed in advance of intended hours of operation.

2. A charge shall be made for overtime inspection in excess of eight hours per day or outside assigned work schedules and also on state legal holidays.

[C66, 71, 73, 75, 77, 79, 81, §189A.9]

189A.10 Fraudulent practices.

1. A person commits a fraudulent practice as defined in section 714.8 if the person does any of the following:

a. Slaughters livestock or poultry or prepares an article produced from livestock or poultry which is capable of use as human food, at any establishment preparing the article solely for intrastate commerce, except in compliance with the requirements of this chapter.

b. Sells, transports, offers for sale or transportation, or receives for transportation in intrastate commerce, any article produced from livestock or poultry which is both of the following:

(1) Capable of use as human food.

(2) Adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation; or required to be inspected under this chapter unless the article has passed inspection.

c. Commits any act which is intended to cause or has the effect of causing an article produced from livestock or poultry to be adulterated or misbranded, if the article is capable of use as human food and is being transported or held for sale after being transported in intrastate commerce.

2. A person commits a fraudulent practice as defined in section 714.8, if the person sells, transports, offers for sale or transportation, or receives for transportation in intrastate commerce, or receives from an official establishment, any slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with regulations promulgated by the secretary.

3. No person shall violate any provision of the regulations or orders of the secretary under section 189A.5, subsection 2, paragraph "*g*", or section 189A.7.

[C71, 73, 75, 77, 79, 81, §189A.10]

88 Acts, ch 1036, §1; 2009 Acts, ch 41, §208

189A.11 Access by inspectors — acceptance by state agencies.

1. A person shall not deny access to any authorized inspectors upon the presentation of proper identification at any reasonable time to establishments and to all parts of such premises for the purposes of making inspections under this chapter.

2. When meat has been inspected and approved by the department, such inspection will

be equal to federal inspection and therefore may be accepted by state agencies and political subdivisions of the state and no other inspection can be required.

a. An inspection of products placed in any container at any official establishment shall not be deemed to be complete until the products are sealed or enclosed therein under the supervision of an inspector.

b. For purposes of any inspection of products required by this chapter, inspectors authorized by the secretary shall have access at all times by day or night to every part of every establishment required to have inspection under this chapter, whether the establishment is operated or not.

[C66, 71, 73, 75, 77, 79, 81, §189A.11]

2013 Acts, ch 30, §40

189A.12 Seizure, detention and determination.

Whenever any livestock or poultry product or any product exempted from the definition of a livestock or poultry product, or any dead, dying, disabled, or diseased livestock or poultry is found by any authorized representative of the secretary upon any premises where it is held for purposes of, or during or after distribution in, intrastate commerce or is otherwise subject to this chapter, and there is reason to believe that any such article is adulterated or misbranded and is capable of use as human food, or that it has not been inspected in violation of the provisions of this chapter, the federal Meat Inspection Act, the federal Poultry Products Inspection Act, or the federal Food, Drug, and Cosmetic Act, or that such article or animal has been or is intended to be distributed in violation of any such provisions, it may be detained by such representative for a period not to exceed twenty days, pending action under this section or notification of any federal authorities having jurisdiction over such article or animal, and shall not be moved by any person from the place at which it is located when so detained until released by such representative. All official marks may be required by such representative to be removed from such article or animal before it is released unless it appears to the satisfaction of the secretary that the article or animal is eligible to retain such marks.

1. Any livestock or poultry product, or any dead, dying, disabled, or diseased livestock or poultry which is being transported in intrastate commerce, or is otherwise subject to this chapter, or is held for sale in this state after such transportation, and which is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of this chapter; or is capable of use as human food and is adulterated or misbranded; or is in any other way in violation of this chapter shall be liable to be proceeded against and seized and condemned at any time on a complaint filed in the district court of the particular county within the jurisdiction of which such article or animal is found. If such article or animal is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and any proceeds, less the court costs and fees, storage fees, and other proper expenses, shall be paid into the treasury of this state, but the article or animal shall not be sold contrary to the provisions of this chapter, the federal Meat Inspection Act, the federal Poultry Products Inspection Act, or the federal Food, Drug, and Cosmetic Act; however, upon the execution and delivery of a good and sufficient bond conditioned that the article or animal shall not be sold or otherwise disposed of contrary to the provisions of this chapter or the laws of the United States, the court may direct that such article or animal be delivered to the owner thereof subject to such supervision by authorized representatives of the secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the article or animal and it is released under bond or destroyed, court costs and fees, storage fees, and other proper expenses shall be awarded against any person intervening as claimant of the article or animal. The proceedings in such cases shall be held without a jury, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of this state.

2. The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this chapter or other applicable laws.

[C66, 71, 73, 75, 77, 79, 81, §189A.12]

189A.13 Rules.

The secretary shall promulgate such rules as may be necessary for the effective administration of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §189A.13]

189A.14 Injunctive relief.

1. Judicial review of the action of the secretary may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

2. The district court in the county where the violation occurs may enjoin a person from violating this chapter or a regulation promulgated by the secretary pursuant to this chapter. The department may apply to the district court for the injunction. In order to obtain injunctive relief the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

[C66, 71, 73, 75, 77, 79, 81, §189A.14]

88 Acts, ch 1036, §2; 2003 Acts, ch 44, §114

189A.15 Cooperation with other agencies.

The secretary is hereby authorized to cooperate with all other agencies, federal and state, in order to carry out the effective administration of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §189A.15]

189A.16 Forgery or counterfeiting.

1. No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the secretary.

2. No person shall do any of the following:

a. Forge any official device, mark, or certificate.

b. Without authorization from the secretary, use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate.

c. Contrary to the regulations prescribed by the secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate.

d. Knowingly possess, without promptly notifying the secretary or the secretary's representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, including poultry, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark.

e. Knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the secretary.

f. Knowingly represent that any article has been inspected and passed, or exempted, under this chapter when it has not been so inspected and passed, or exempted.

[C71, 73, 75, 77, 79, 81, §189A.16]

189A.17 Penalties.

1. Any person who violates any provisions of this chapter for which no other criminal penalty is provided shall be guilty of a simple misdemeanor; but if such violation involves intent to defraud, or any distribution or attempted distribution of an article that is adulterated, except as defined in section 189A.2, subsection 1, paragraph *"h"* such person shall be guilty of a fraudulent practice.

2. Nothing in this chapter shall be construed as requiring the secretary to report, for the institution of legal proceedings, minor violations of this chapter whenever the secretary believes that the public interest will be adequately served by a suitable written notice of warning.

3. The secretary shall also have power:

a. To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person engaged in intrastate commerce, and the relation thereof to other persons.

b. To require persons engaged in intrastate commerce to file with the secretary in such form as the secretary may prescribe, annual or special reports or answers in writing to specific questions, furnishing to the secretary such information as the secretary may require as to the organization, business, conduct, practices, management, and relation to other persons of the person filing such reports or answers. Such reports and answers shall be made under oath, or otherwise as the secretary may prescribe, and shall be filed with the secretary within such reasonable period as the secretary may prescribe, unless additional time be granted in any case by the secretary.

4. *a.* For the purpose of this chapter the secretary may, at all reasonable times, examine and copy any documentary evidence of any person being investigated or proceeded against, and may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of any person relating to any matter under investigation. The secretary may sign subpoenas and administer oaths and affirmations, examine witnesses, and receive evidence.

b. Such attendance of witnesses, and the production of such documentary evidence may be required at any designated place of hearing. In case of disobedience to a subpoena the secretary may invoke the aid of the district court having jurisdiction over the matter in requiring the attendance and testimony of witnesses and the production of documentary evidence.

c. The district court may, in case of failure or refusal to obey a subpoena issued herein to any person, enter an order requiring such person to appear before the secretary or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey such order of the court may be punished by such court as contempt.

d. Upon the application of the attorney general of this state at the request of the secretary, the court shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this chapter or any order of the secretary pursuant thereto.

e. The secretary may order testimony to be taken by deposition in any proceeding or investigation pending under this chapter at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the person's direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the secretary as herein provided.

f. Witnesses summoned before the secretary shall be paid the same fees and mileage that are paid witnesses in the district court, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in such district court.

g. No person shall be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the secretary or in obedience to the subpoena of the secretary, whether such subpoena be signed or issued by the secretary or the secretary's delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of this chapter for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that any individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

5. *a.* Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if it is in the person's power to do so, in

obedience to the subpoena or lawful requirement of the secretary shall be guilty of a serious misdemeanor.

b. Any person who willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or who willfully neglects or fails to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the business of such person, or who willfully leaves the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or who willfully refuses to submit to the secretary or to any of the secretary's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in the person's possession or control, shall be deemed guilty of an aggravated misdemeanor.

c. If a person required by this chapter to file an annual or special report fails to do so within the time fixed by the secretary for filing it, and the failure continues for thirty days after notice of default, the person shall forfeit to this state the sum of one hundred dollars for each day of the continuance of the failure, which forfeiture is payable into the treasury of this state, and is recoverable in a civil suit in the name of the state brought in the district court of the county where the person has a principal office or in the district court of any county in which the person does business. The county attorneys shall prosecute for the recovery of such forfeitures.

d. Any officer or employee of this state who makes public any information obtained by the secretary, without the secretary's authority, unless directed by a court, or uses any such information to the officer's or employee's advantage, shall be deemed guilty of a serious misdemeanor.

6. The requirements of this chapter shall apply to persons, establishments, animals, and articles regulated under the federal Meat Inspection Act or the federal Poultry Products Inspection Act to the extent provided for in said federal Acts and also to the extent provided in this chapter and in regulations the secretary may prescribe to promulgate this chapter.

[C66, 71, 73, 75, 77, 79, 81, §189A.17]

83 Acts, ch 123, §79, 209; 2009 Acts, ch 41, §209

Referred to in §331.424, 331.756(31)

189A.18 Humane slaughter practices.

Every establishment subject to the provisions of this chapter engaged in the slaughter of bovine, porcine, caprine, or ovine animals or farm deer shall slaughter all such animals in an approved humane slaughtering method. For purposes of this section, an approved humane slaughtering method shall include and be limited to slaughter by shooting, electrical shock, captive bolt, or use of carbon dioxide gas prior to the animal being shackle hoisted, thrown, cast, or cut; however, the slaughtering, handling, or other preparation of livestock in accordance with the ritual requirements of the Jewish or any other faith that prescribes and requires a method whereby slaughter becomes effected by severance of the carotid arteries with a sharp instrument is hereby designated and approved as a humane method of slaughter under the law.

[C66, 71, 73, 75, 77, 79, 81, §189A.18]

95 Acts, ch 134, §4; 2017 Acts, ch 159, §30

189A.19 Bribery.

Any person who gives, pays, or offers, directly or indirectly, to any officer or employee of this state authorized to perform any of the duties prescribed by this chapter or by the regulations of the secretary, any money or other thing of value, with intent to influence said officer or employee in the discharge of any such duty, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine not less than five thousand dollars nor more than ten thousand dollars and by imprisonment in the penitentiary not less than one year nor more than three years; and any officer or employee of this state authorized to perform any of the duties prescribed by this chapter who accepts any money, gift, or other

thing of value from any person, given with intent to influence the officer's or employee's official action, or who receives or accepts from any person engaged in intrastate commerce any gift, money, or other thing of value given with any purpose or intent whatsoever, shall be deemed guilty of a felony and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than one thousand dollars nor more than ten thousand dollars and by imprisonment in the penitentiary not less than one year nor more than three years.

[C71, 73, 75, 77, 79, 81, §189A.19]

189A.20 No inspection for products inedible as human food.

Inspection shall not be provided under this chapter at any establishment for the slaughter of livestock or poultry or the preparation of any livestock products or poultry products which are not intended for use as human food, but such articles shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by regulations of the secretary to deter their use for human food.

[C71, 73, 75, 77, 79, 81, §189A.20]

189A.21 Appropriation authorized.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

[C71, 73, 75, 77, 79, 81, §189A.21]

189A.22 Federal grants.

All federal grants to and the federal receipts of this department are hereby appropriated for the purpose set forth in such federal grants or receipts.

[C71, 73, 75, 77, 79, 81, §189A.22]

CHAPTER 190

ADULTERATION OF FOODS

Referred to in §189.11, 191.2, 191.4, 192.107, 192.108, 192.146

190.1 Definitions and standards.
190.2 Additional standards — milk and dairy products.
190.3 Food adulterations.
190.4 Adulterations of dairy products.
190.5 Adulterated milk or milk products.
190.6 Adulteration with fats and oils.
190.7 Coloring imitation cheese.
190.8 Coloring vinegar.
190.9 Adulteration of candies.
190.10 Sale by false name.
190.11 Artificial sweetening — labeling.
190.12 Standards for frozen desserts.
190.13 Frozen desserts — edible containers.
190.14 Administration — milk and dairy products.
190.15 Violations — injunction.

190.1 Definitions and standards.

For the purpose of this subtitle, except chapters 192, 203, 203C, 203D, 207, and 208, the following definitions and standards of food are established:

1. *Butter.* Butter is the clean, nonrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, with or without the addition of salt, or harmless coloring matter, and containing at least eighty percent, by weight, of milk fat.

2. *Flavoring extract.* A flavoring extract is a solution in ethyl alcohol or other suitable medium of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

a. Almond extract. Almond extract is the flavoring extract prepared from oil of bitter

almonds, free from hydrocyanic acid, and contains not less than one percent by volume of oil of bitter almonds.

b. Anise extract. Anise extract is the flavoring extract prepared from oil of anise, and contains not less than three percent by volume of oil of anise.

c. Cassia extract. Cassia extract is the flavoring extract prepared from oil of cassia, and contains not less than two percent by volume of oil of cassia.

d. Celery seed extract. Celery seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than three-tenths percent by volume of oil of celery seed.

e. Cinnamon extract. Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than two percent by volume of oil of cinnamon.

f. Clove extract. Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than two percent by volume of oil of cloves.

g. Ginger extract. Ginger extract is the flavoring extract prepared from ginger, and contains in each one hundred cubic centimeters the alcohol-soluble matters from not less than twenty grams of ginger.

h. Lemon extract. Lemon extract is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five percent by volume of oil of lemon.

i. Terpeneless extract of lemon. Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or other suitable medium, or by dissolving terpeneless oil of lemon in such medium, and contains not less than two-tenths percent by weight of citral derived from oil of lemon.

j. Nutmeg extract. Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than two percent by volume of oil of nutmeg.

k. Orange extract. Orange extract is the flavoring extract prepared from oil of orange, or from orange peel, or both, and contains not less than five percent by volume of oil of orange.

l. Terpeneless extract of orange. Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with dilute alcohol, or other suitable medium, or by dissolving terpeneless oil of orange in such medium, and corresponds in flavoring strength to orange extract.

m. Peppermint extract. Peppermint extract is the flavoring extract prepared from oil of peppermint, or from peppermint, or both, and contains not less than three percent by volume of oil of peppermint.

n. Rose extract. Rose extract is the flavoring extract prepared from attar of roses, with or without red rose petals, and contains not less than four-tenths percent by volume of attar of roses.

o. Savory extract. Savory extract is the flavoring extract prepared from oil of savory, or from savory, or both, and contains not less than thirty-five hundredths percent by volume of oil of savory.

p. Spearmint extract. Spearmint extract is the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and contains not less than three percent by volume of oil of spearmint.

q. Star anise extract. Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than three percent by volume of oil of star anise.

r. Sweet basil extract. Sweet basil extract is the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and contains not less than one-tenth percent by volume of oil of sweet basil.

s. Sweet marjoram extract. Sweet marjoram extract is the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and contains not less than one percent by volume of oil of marjoram.

t. Thyme extract. Thyme extract is the flavoring extract prepared from oil of thyme, or from thyme, or both, and contains not less than two-tenths percent by volume of oil of thyme.

u. Tonka extract. Tonka extract is the flavoring extract prepared from tonka bean, with or without sugar or glycerin, and contains not less than one-tenth percent by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof.

v. Vanilla extract. Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred cubic centimeters the soluble matters from not less than ten grams of the vanilla bean, and contains not less than thirty percent by volume of absolute ethyl alcohol, or other suitable medium.

w. Wintergreen extract. Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than three percent by volume of oil of wintergreen.

3. *Food.* Food shall include any article used by humans or domestic animals for food, drink, confectionery, or condiment, or which enters into the composition of the same, whether simple, blended, mixed, or compound. The term *"blended"* shall be construed to mean a mixture of like substances.

4. *Honey.* Honey is the secretion of floral nectar collected by the honeybee and stored in wax combs constructed by the honeybee, or the liquid derived therefrom.

5. *Lard.* Lard is the fat rendered from fresh, clean, sound, fatty tissues from hogs in good health at the time of slaughter, with or without lard stearin or a hardened lard. The tissues do not include bones, detached skin, head fat, ears, tails, organs, windpipes, large blood vessels, scrap fat, skimmings, settlings, pressings and the like and are reasonably free from muscle tissue and blood.

6. *Oleomargarine.* Oleo, oleomargarine or margarine includes all substances, mixtures and compounds known as oleo, oleomargarine or margarine, or all substances, mixtures and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

7. *Oysters.* Oysters shall not contain ice, nor more than sixteen and two-thirds percent by weight of free liquid.

8. *Rendered pork fat.* Rendered pork fat is the fat other than lard, rendered from clean, sound carcasses, parts of carcasses, or edible organs from hogs in good health at the time of slaughter, except that stomachs, tails, bones from the head and bones from cured or cooked pork are not included. The tissues rendered are usually fresh, but may be cured, cooked, or otherwise prepared and may contain some meat food products. Rendered pork fat may be hardened by the use of lard stearin or hardened lard or rendered pork fat stearin or hardened rendered pork fat or any combination.

9. *Renovated butter.* Renovated butter is butter produced by taking original packing stock butter, or other butter, or both, and melting the same so that the milk fat can be extracted, then by mixing the said milk fat with skimmed milk, milk, cream, or some milk product, and rechurning or reworking the said mixture; or butter made by any method which produces a product commonly known as boiled, processed, or renovated butter.

10. *Sorghum syrup.* Sorghum syrup is liquid food derived by the concentration and heat treatment of the juice of sorghum cane including sorgo and sorghum vulgare. Sorghum syrup must contain not less than seventy-four percent by weight of soluble solids derived solely from juices of sorghum cane.

11. *Substitute for sugar.* Where sugar is given as one of the ingredients in a food product when the definition is established by law or by regulation, the following products may be used as optional ingredients: Dextrose (corn sugar) or corn syrup.

12. *Vinegar.* Vinegar is the product made by the alcoholic and subsequent fermentation of fruits, grain, vegetables, sugar, or syrups without the addition of any other substance and containing an acidity of not less than four percent by weight of absolute acetic acid. The product may be distilled, but when not distilled it shall not carry in solution any other substance except the extractive matter derived from the substances from which it was made.

a. Cider or apple vinegar. Cider or apple vinegar is a similar product made by the same process solely from the juice of apples. Such vinegar which during the course of manufacture has developed in excess of four percent acetic acid may be reduced to said strength.

b. Corn sugar vinegar. Corn sugar vinegar is a similar product made by the same process solely from solutions of starch sugar.

c. Malt vinegar. Malt vinegar is a similar product made by the same process solely from barley malt or cereals whose starch has been converted by malt.

d. Sugar vinegar. Sugar vinegar is a similar product made by the same process solely from sucrose.

[C73, §4042; C97, §2516, 2518, 4989 – 4991; S13, §2515-b, -d; SS15, §4999-a31, -a31c; C24, 27, 31, 35, 39, §**3058;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.1; 81 Acts, ch 72, §1]

88 Acts, ch 1195, §1; 89 Acts, ch 151, §2; 91 Acts, ch 74, §2, 3; 94 Acts, ch 1023, §41; 2003 Acts, ch 69, §45

Referred to in §189.14, 191.6
Further definitions, see §189.1
"Person" also defined, §191.4

190.2 Additional standards — milk and dairy products.

1. The department may establish and publish standards for foods when such standards are not fixed by law. The standards shall conform with standards for foods adopted by federal agencies including, but not limited to, the United States department of agriculture.

2. The department shall adopt rules specifying standards for milk and dairy products which are consistent with the "Pasteurized Milk Ordinance", as provided in chapter 192, and applicable federal standards of identity.

[S13, §4999-a18; C24, 27, 31, 35, 39, §**3059;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.2]

91 Acts, ch 74, §4; 98 Acts, ch 1032, §6; 2016 Acts, ch 1011, §121

190.3 Food adulterations.

1. For the purposes of this chapter, any food shall be deemed to be adulterated:

a. If any substance has been mixed or packed with it so as to reduce or injuriously affect its quality.

b. If any substance has been substituted to any extent.

c. If any valuable constituent has been removed to any extent.

d. If it has been mixed, colored, powdered, coated, or stained whereby damage or inferiority is concealed.

e. If it contains formaldehyde, sulphites or boron compound, or any poisonous or other ingredients injurious to health.

f. If it consists to any extent of a diseased, filthy, or decomposed animal or vegetable substance, whether manufactured or otherwise.

g. If it consists to any extent of an animal that has died otherwise than by slaughter.

h. If it is the product of or obtained from a diseased or infected animal.

i. If it has been damaged by freezing.

j. If it does not conform to the standards established by law or by the department.

2. The provisions of subsection 1, paragraphs "*a*" and "*b*", shall not apply to the addition of vitamins approved by the United States Pharmacopoeia or the removal of milk fat from milk.

[C73, §4042; C97, §4989, 4990; S13, §2515-b, -d; SS15, §4999-a31e; C24, 27, 31, 35, 39, §**3060;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.3]

91 Acts, ch 74, §5; 2009 Acts, ch 41, §263

Referred to in §190.4, 190.9

190.4 Adulterations of dairy products.

In addition to the adulterations enumerated in section 190.3, milk, cream, or skimmed milk shall be deemed to be adulterated:

1. If it contains visible dirt or is kept or placed at any time in an unclean container.

2. If obtained from a cow within fifteen days before or five days after calving.

3. If obtained from a cow stabled in an unhealthful place, or fed upon any substance in a state of putrefaction or of unhealthful nature.

4. If obtained from a cow which has consumed chemical, medicinal, or radioactive agents capable of being secreted in milk.

5. If obtained from a cow in a mastitic condition.

[C97, §4989, 4990; S13, §2515-b, -d; C24, 27, 31, 35, 39, §**3061;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.4]

190.5 Adulterated milk or milk products.

Any milk or milk product shall further be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.
2. If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by state or federal regulation, or in excess of such tolerance if one has been established.
3. If it consists, in whole or in part, of any substance unfit for human consumption.
4. If it has been produced, processed, prepared, packed, or held under insanitary conditions.
5. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.
6. If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

[C71, 73, 75, 77, 79, 81, §190.5]

190.6 Adulteration with fats and oils.

No milk, cream, skimmed milk, buttermilk, condensed or evaporated milk, powdered or desiccated milk, condensed skimmed milk, ice cream, or any fluid derivatives of any of them shall be made from or have added thereto any fat or oil other than milk fat, and no product so made or prepared shall be sold, offered or exposed for sale, or possessed with the intent to sell, under any trade name or other designation of any kind. Provided however, that it shall be lawful to produce and sell a condensed or evaporated milk product in which the milk fat has been replaced by an edible vegetable fat made from soybean oil. Such a product shall be given a distinctive name to distinguish it from natural, condensed, or evaporated milk, which name shall not include the words "milk" or "milk products" or any derivative thereof, and the label under which such a product is sold at retail shall clearly state the vegetable fat content of the product.

[C24, 27, 31, 35, 39, §**3062;** C46, 50, 54, 58, 62, 66, §190.5; C71, 73, 75, 77, 79, 81, §190.6]

190.7 Coloring imitation cheese.

No imitation cheese shall be colored with any substance and no such imitation cheese shall be made by mixing animal fats, vegetable oils, or other substances for the purpose or with the effect of imparting to the mixture the color of yellow cheese.

[C97, §2518; C24, 27, 31, 35, 39, §**3063;** C46, 50, 54, 58, 62, 66, §190.6; C71, 73, 75, 77, 79, 81, §190.7]

190.8 Coloring vinegar.

Vinegar shall not be colored with coloring matter and distilled vinegar shall not have a brown color in imitation of cider vinegar.

[SS15, §4999-a31; C24, 27, 31, 35, 39, §**3064;** C46, 50, 54, 58, 62, 66, §190.7; C71, 73, 75, 77, 79, 81, §190.8]

190.9 Adulteration of candies.

In addition to the adulterations enumerated in section 190.3, candy shall be deemed to be adulterated if it contains terra alba, barytes, talc, paraffin, chrome yellow, or other mineral substance.

[SS15, §4999-a31e; C24, 27, 31, 35, 39, §**3065;** C46, 50, 54, 58, 62, 66, §190.8; C71, 73, 75, 77, 79, 81, §190.9]

190.10 Sale by false name.

No person shall offer or expose for sale, sell, or deliver any article of food which is defined in this chapter under any other name than the one herein specified or offer or expose for sale,

sell, or deliver any article of food which is not defined in this chapter under any other name than its true name, trade name, or trademark name.

[C24, 27, 31, 35, 39, §**3066;** C46, 50, 54, 58, 62, 66, §190.9; C71, 73, 75, 77, 79, 81, §190.10]

190.11 Artificial sweetening — labeling.

Where any approved artificial sweetening product such as saccharin or sulfamate is used by any person in the manufacture or sale of any article of food intended for human consumption, the container in which any such food or beverage is sold or offered for sale to the public shall be clearly, legibly and noticeably labeled with the name of the sweetening product used. The portion of the store, display counter, shelving, or other place where such food or beverage is displayed or offered for sale, shall be clearly and plainly identified by an appropriate sign reading:

FOR DIETARY PURPOSES.

[C54, 58, 62, 66, §190.10; C71, 73, 75, 77, 79, 81, §190.11]
2015 Acts, ch 29, §30

190.12 Standards for frozen desserts.

1. Frozen desserts and the pasteurized dairy ingredients used in the manufacture thereof, shall comply with the following standards:

Milk, cream, and fluid dairy ingredient	Temperature	Storage at 45 degrees Fahrenheit.
	Bacterial limit	50,000 per milliliter
	Coliform limit	10 per milliliter
Frozen dessert mixes, frozen desserts (plain)	Temperature	Storage at 45 degrees Fahrenheit.
	Bacterial limit	50,000 per gram
	Coliform limit	10 per gram
Dry dairy ingredient	Extra grade or better as defined by U. S. Standards for grades for the particular product.	
Dry powder mix	Bacterial limit	50,000 per gram
	Coliform limit	10 per gram

2. The bacteria count and coliform determination shall not exceed these standards in three out of the last five consecutive samples taken by the regulatory agency.

3. This section shall not preclude holding mix at a higher temperature for a short period of time immediately prior to freezing where applicable to the particular manufacturing or processing practices.

4. This section shall not apply to sterilized mix in hermetically sealed containers.

5. The coliform determination for bulky flavored frozen desserts shall not be more than twenty per gram.

[C71, 73, 75, 77, 79, 81, §190.12]
2009 Acts, ch 133, §74; 2013 Acts, ch 30, §41

190.13 Frozen desserts — edible containers.

Notwithstanding any other labeling provision of the Code, frozen dessert of any kind or flavor may be dispensed and sold at retail in edible containers or as a part of any food

preparation intended for consumption without further preparation, including but not limited to the preparations commonly termed milk shakes, malted milks, sundaes, and floats.

[C71, 73, 75, 77, 79, 81, §190.13]

190.14 Administration — milk and dairy products.

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance", as provided in section 192.102.

2. The department, as provided in section 192.108, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

91 Acts, ch 74, §6; 94 Acts, ch 1198, §37; 97 Acts, ch 33, §4

190.15 Violations — injunction.

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

91 Acts, ch 74, §7

CHAPTER 190A

FARM-TO-SCHOOL ACT

190A.1	Short title.	190A.4	Agency cooperation.
190A.2	Definitions.	190A.5	Farm-to-school fund.
190A.3	Goals and strategies.	190A.6	Farm-to-school program.

190A.1 Short title.

This chapter shall be known and may be cited as the *"Farm-to-School Act"*.

2007 Acts, ch 215, §93; 2021 Acts, ch 149, §4

Section stricken and rewritten

190A.2 Definitions.

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

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

2. *"Food animal"* means an animal belonging to the bovine, caprine, ovine, or porcine species; a turkey, chicken, or other type of poultry; a farm deer as defined in section 170.1; a fish or other aquatic organism confined in private waters for human consumption; or a bee as defined in section 160.1A.

3. *"Food commodity"* means any of the following:

a. A food animal that is to be slaughtered or harvested and that is to be processed into a food product.

b. An item regularly generated by a food animal, including milk, eggs, or honey, that has been collected, and that is to be processed into a food product.

c. Sap, whole nuts, or whole produce, including vegetables or fruit, that has been harvested and that is to be processed into a food product.

4. *"Food product"* means a perishable or nonperishable product derived from processing a food commodity to be fit for human consumption, including but not limited to cuts of meat, poultry, or fish; shelled aquatic items; pasteurized milk or dairy products; washed shelled eggs; honey; maple syrup; cleaned unshelled or shelled nuts; washed whole produce; and washed and cut produce.

5. *"Fund"* means the farm-to-school fund created in section 190A.5.

6. *"Process"* means to prepare a food commodity in a manner that allows it to be sold to consumers as a food product, including by altering the form or identity of the food commodity; trimming, cutting, cleaning, drying, freezing, filtering, sorting, or shelling the food commodity; or packaging the food commodity.

7. *"Program"* means the farm-to-school program created in section 190A.6.

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

9. *"School district"* means a school district as described in chapter 274.

2021 Acts, ch 149, §5
NEW section

190A.3 Goals and strategies.

1. The farm-to-school program shall seek to link elementary and secondary public and nonpublic schools in this state with Iowa farms to provide schools with fresh and minimally processed food for inclusion in school meals and snacks, encourage children to develop healthy eating habits, and provide Iowa farmers access to consumer markets.

2. The farm-to-school program may include activities that provide students with hands-on learning opportunities, such as farm visits, cooking demonstrations, and school gardening and composting programs.

3. The department of agriculture and land stewardship and the department of education shall seek to establish partnerships with public agencies and nonprofit organizations to implement a structure to facilitate communication between farmers and schools.

4. The department of agriculture and land stewardship and the department of education shall actively seek financial or in-kind contributions from organizations or persons to support the program.

2007 Acts, ch 215, §95; 2009 Acts, ch 41, §76; 2013 Acts, ch 129, §62, 63

190A.4 Agency cooperation.

The department of agriculture and land stewardship and the department of education shall provide information regarding the Iowa farm-to-school program in an electronic format on the department's internet site.

2007 Acts, ch 215, §96; 2013 Acts, ch 90, §257

190A.5 Farm-to-school fund.

1. A farm-to-school fund is created in the state treasury under the management and control of the department.

2. The fund shall include moneys appropriated to the fund by the general assembly. The fund shall include any other moneys available to and obtained or accepted by the department, including moneys from public or private sources, to support the program.

3. Moneys in the fund are appropriated to support the program in a manner determined by the department, including for reasonable administrative costs incurred by the department. However, the department shall not expend more than four percent of moneys existing at any one time in the fund during each fiscal year for purpose of paying costs associated with the administration of the program and fund incurred by the department during that fiscal year. Moneys expended from the fund shall not require further special authorization by the general assembly.

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

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

2021 Acts, ch 149, §6
Referred to in §190A.2
NEW section

190A.6 Farm-to-school program.

1. A farm-to-school program is created. The program shall be controlled and administered by the department.

2. The purpose of the program is to assist schools and school districts in purchasing food products derived from food commodities produced on a farm.

3. The department shall reimburse a school or school district for expenditures incurred by the school or school district during the school year in which the school or school district is participating in the program to purchase food products derived from food commodities produced on a farm.

4. A school or school district must apply each year to the department to participate in the program according to rules adopted by the department pursuant to chapter 17A.

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

a. The farm source must be any of the following:

(1) A farm where a food commodity is produced, if the food commodity is processed into a food product on the farm for sale to a consumer.

(2) A business premises that is directly shipped a food commodity from a farm, if the food commodity is processed into a food product on the business premises for sale to a consumer.

(3) A business premises that is directly shipped a food product from a farm, if the food product is purchased for resale to a consumer or is distributed to a consumer on behalf of a farmer.

b. The farm source must comply with all applicable laws regulating the sale of food.

c. (1) Except as provided in subparagraph (2), the farm source must be located in this state.

(2) If the school district shares a border with another state, or the school is part of a school district that shares a border with another state, the farm source may be located in the other state. However, the farm source must be located within thirty miles of the school district's border with the other state and the department must approve the purchase.

6. The department shall require proof of purchase prior to reimbursing the school or school district for the purchase of food products.

7. The department of agriculture and land stewardship may administer the program in cooperation with the department of education and the participating school or school district in which a participating school is located.

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

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

2021 Acts, ch 149, §7
Referred to in §190A.2
NEW section

CHAPTER 190B

FARM TO FOOD DONATION TAX CREDIT AND EMERGENCY FOOD PURCHASES

Referred to in §422.11R, 422.33

SUBCHAPTER I

FARM TO FOOD DONATION TAX CREDIT

190B.101 Definitions.
190B.102 Department of revenue — cooperation with other departments.
190B.103 From farm to food donation tax credit.
190B.104 From farm to food donation tax credit — eligibility.
190B.105 From farm to food donation tax credit — claims filed by individuals who belong to business entities.
190B.106 From farm to food donation tax credit — limits on claims.
190B.107 through 190B.200 Reserved.

SUBCHAPTER II

IOWA EMERGENCY FOOD PURCHASE PROGRAM

190B.201 Iowa emergency food purchase program — fund.

SUBCHAPTER I

FARM TO FOOD DONATION TAX CREDIT

190B.101 Definitions.

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

1. *"Department"* means the department of revenue.

2. *"Tax credit"* means the from farm to food donation tax credit as established in this subchapter.

2013 Acts, ch 140, §139, 147; 2021 Acts, ch 80, §92
Section amended

190B.102 Department of revenue — cooperation with other departments.

1. This subchapter shall be administered by the department of revenue.

2. The department shall adopt all rules necessary to administer this subchapter.

3. The department of agriculture and land stewardship, the department of public health, the department of human services, and the department of inspections and appeals shall cooperate with the department of revenue to administer this subchapter.

2013 Acts, ch 140, §140, 147; 2021 Acts, ch 80, §93
Section amended

190B.103 From farm to food donation tax credit.

A from farm to food donation tax credit is allowed against the taxes imposed in chapter 422, subchapters II and III, as provided in this subchapter.

2013 Acts, ch 140, §141, 147; 2020 Acts, ch 1062, §94; 2021 Acts, ch 80, §94
Section amended

190B.104 From farm to food donation tax credit — eligibility.

In order to qualify for a from farm to food donation tax credit, all of the following must apply:

1. The taxpayer must produce the donated food commodity.

2. The taxpayer must transfer title to the donated food commodity to an Iowa food bank, or an Iowa emergency feeding organization, recognized by the department. The taxpayer shall not receive remuneration for the transfer.

3. The donated food commodity cannot be damaged or out-of-condition and declared to be unfit for human consumption by a federal, state, or local health official. A food commodity that meets the requirements for donated foods pursuant to the federal emergency food assistance program satisfies this requirement.

4. A taxpayer claiming the tax credit shall provide documentation supporting the tax credit claim in a form and manner prescribed by the department by rule.

2013 Acts, ch 140, §142, 147

190B.105 From farm to food donation tax credit — claims filed by individuals who belong to business entities.

An individual may claim a from farm to food donation tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

2013 Acts, ch 140, §143, 147

190B.106 From farm to food donation tax credit — limits on claims.

A from farm to food donation tax credit is subject to all of the following limitations:

1. The tax credit shall not exceed a qualifying amount for the tax year that the tax credit is claimed. The qualifying amount is the lesser of the following:

a. Fifteen percent of the value of the commodities donated during the tax year for which the credit is claimed. The value of the commodities shall be determined in the same manner as a charitable contribution of food for federal tax purposes under section 170(e)(3)(C) of the Internal Revenue Code.

b. Five thousand dollars.

2. A tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

3. If a tax credit is allowed, the amount of the contribution for which the tax credit is claimed shall not be deductible in determining taxable income for state tax purposes.

4. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

2013 Acts, ch 140, §144, 147

190B.107 through 190B.200 Reserved.

SUBCHAPTER II

IOWA EMERGENCY FOOD PURCHASE PROGRAM

190B.201 Iowa emergency food purchase program — fund.

1. An Iowa emergency food purchase program fund is established in the state treasury and shall be administered by the department of agriculture and land stewardship. The fund shall consist of moneys appropriated to the fund pursuant to section 602.8108, subsection 11, and any other moneys appropriated to the fund.

2. The purpose of the fund is to relieve situations of emergency experienced by families or individuals who reside in this state, including low-income families and individuals and unemployed families and individuals, by distributing food to those persons, and the department of agriculture and land stewardship may contract with an Iowa food bank association to manage the program.

3. The Iowa food bank association managing the program shall distribute food under the program to emergency feeding organizations in this state. The Iowa food bank association shall report to the department of agriculture and land stewardship as required by the department.

4. *"Iowa food bank association"* means a private nonprofit entity that meets all of the following requirements:

a. The association is organized under chapter 504.

b. The association qualifies under section 501(c)(3) of the Internal Revenue Code as an

organization exempt from federal income tax under section 501(a) of the Internal Revenue Code.

c. The association's members include food banks, or affiliations of food banks, that together serve all counties in this state.

d. The association's principal office is located in this state.

5. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until two years following the last day of the fiscal year in which the funds were originally appropriated.

2020 Acts, ch 1074, §58, 93; 2021 Acts, ch 76, §41
Referred to in §602.8108
Subsections 2 and 3 amended

CHAPTER 190C

ORGANIC AGRICULTURAL PRODUCTS

Referred to in §184.1, 200.20

SUBCHAPTER I

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SUBCHAPTER I

DEFINITIONS

190C.1 Definitions.

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

1. *"Agricultural product"* means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in this state for human or livestock consumption.

2. *"Council"* means the organic advisory council established pursuant to section 190C.2.

3. *"Crop"* means a plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.

4. *"Department"* means the department of agriculture and land stewardship.

5. *"Handler"* means a person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products.

6. *"Label"* means a display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

7. *"Livestock"* means any cattle, sheep, goats, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other nonplant life, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

8. *"National organic program"* means the program administered by the United States department of agriculture pursuant to 7 C.F.R. pt. 205, which implements the federal Organic Food Production Act of 1990, 7 U.S.C. §6501 et seq.

9. *"Organic"* means a labeling term that refers to an agricultural product produced in accordance with this chapter.

10. *"Organic agricultural product"* means an agricultural product that is certified or otherwise qualifies as organic in accordance with the provisions of this chapter as they existed on and after May 20, 1998.

11. *"Processing"* means cooling, baking, curing, heating, drying, mixing, grinding, churning, separating, extracting, slaughtering, cutting, fermenting, distilling, eviscerating, preserving, dehydrating, freezing, chilling, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing in a food container.

12. *"Processor"* means a person engaged in the business of processing.

13. *"Producer"* means a person who engages in the business of growing or producing food, fiber, feed, or other agricultural-based consumer products.

14. *"Regional organic association"* means a corporation authorized pursuant to section 190C.6.

15. *"Retailer"* means a person who sells agricultural products on a retail basis. *"Retailer"* includes a food establishment as defined in section 137F.1. *"Retailer"* also includes a restaurant, delicatessen, bakery, grocery store, or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar, or other eat-in or carry-out service of processed or prepared raw and ready-to-eat food.

16. *"Secretary"* means the secretary of agriculture who is the director of the department of agriculture and land stewardship.

98 Acts, ch 1205, §1, 20; 99 Acts, ch 96, §19; 2003 Acts, ch 104, §1, 21; 2003 Acts, ch 108, §43; 2003 Acts, ch 149, §13, 23

Referred to in §190C.1A, 200.3

190C.1A Other definitions.

For purposes of this chapter, words and phrases that are not defined in section 190C.1 shall have the same meanings as provided in 7 C.F.R. pt. 205.

2003 Acts, ch 104, §2, 21

190C.1B General authority.

Any provision in this chapter referring generally to compliance with the requirements of this chapter also includes compliance with requirements in rules adopted by the department pursuant to this chapter, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to any certification made pursuant to this chapter.

2003 Acts, ch 104, §3, 21

SUBCHAPTER II

ADMINISTRATION

190C.2 Organic products — advisory council.

1. An organic advisory council is established within the department. The council is

composed of eleven members appointed by the governor and secretary, as provided in this section. The governor and secretary shall accept nominations from persons or organizations representing persons who serve on the council, as determined by the governor and secretary making appointments under this section.

2. The members shall serve staggered terms of four years beginning and ending as provided in section 69.19. Members appointed under this section shall be persons knowledgeable regarding the production, handling, processing, and retailing of organic agricultural products. The members of the council shall be appointed as follows:

a. Five persons who operate farms producing organic agricultural products. The governor shall appoint two of the persons, at least one of which shall be a producer of livestock, who may be a dairy or egg producer. The secretary shall appoint three of the persons, at least one of which shall be a producer of an agricultural commodity other than livestock. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from the production of organic agricultural products for three years prior to appointment.

b. Two persons who operate businesses processing organic agricultural products. One person shall be appointed by the governor and one person shall be appointed by the secretary. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from processing organic agricultural products for three years prior to appointment.

c. One person appointed by the secretary, who shall be either of the following:

(1) A person who operates a business handling organic agricultural products. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from handling organic agricultural products for three years prior to appointment.

(2) A person who operates a business selling organic agricultural products. To qualify for appointment, a person must have derived a substantial portion of the person's income, wages, or salary from selling organic agricultural products on a retail basis for three years prior to appointment.

d. Two persons who have an educational degree and experience in agricultural or food science. One person shall be appointed by the governor and one person shall be appointed by the secretary. To qualify for appointment, a person must not have a financial interest in the production, handling, processing, or selling of organic agricultural products.

e. One person appointed by the governor, who represents the public interest, the natural environment, or consumers. To qualify for appointment, the person must be a member of an organization representing the public interest, consumers, or the natural environment. The person must not have a financial interest in the production, handling, processing, or selling of organic agricultural products.

3. A vacancy on the council shall be filled in the same manner as an original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. A member is eligible for reappointment. The governor may remove a member appointed by the governor and the secretary may remove a member appointed by the secretary, if the removal is based on the member's misfeasance, malfeasance, or willful neglect of duty or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.

4. Six members of the council constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the council. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the council.

5. The members are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as members, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

6. If a member has an interest, either direct or indirect, in a contract to which the council is or is to be a party, the member shall disclose the interest to the council in writing. The writing

stating the conflict shall be set forth in the minutes of the council. The member having the interest shall not participate in any action by the council relating to the contract.

7. The council shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members. The department shall provide administrative support to the council.

98 Acts, ch 1205, §2, 20; 2003 Acts, ch 104, §4 – 6, 21
Referred to in §190C.1

190C.2A Duties of the council.

The organic advisory council shall assist the department in implementing and administering the provisions of this chapter as requested by the department. Upon request by the department, the council shall do all of the following:

1. Develop rules, policies, and procedures required to implement and administer this chapter.
2. Collect information required by the department in implementing and administering this chapter.
3. Interpret the requirements of this chapter, including rules adopted and orders issued pursuant to this chapter, and requirements of the national organic program.
4. Establish and change fees as provided in section 190C.5.
5. Provide advice regarding the most effective manner to use services provided by regional organic associations as provided in section 190C.6.
6. Provide information and expert opinions relating to organic agricultural products to the department.
7. Provide information relating to organic agricultural products to interested persons.
8. Promote organic agricultural products to consumers.

2003 Acts, ch 104, §7, 21
Referred to in §190C.3

190C.2B Establishment and implementation of this chapter.

1. The department shall implement and administer the provisions of this chapter for agricultural products that have been produced and handled within this state using organic methods as provided in this chapter. The department may consult with the council in implementing and administering this chapter. The department may certify agricultural products that have been produced and handled outside this state using an organic method as provided in this chapter.
2. The department may establish a state organic program as provided in 7 U.S.C. §6501 et seq. and 7 C.F.R. pt. 205. The secretary may apply for any approval or accreditation or execute any agreement required under the national organic program in order to implement, administer, and enforce this chapter.
3. Unless prohibited by the national organic program, the attorney general may be joined as a party authorized to enforce the provisions of this chapter.
4. All provisions of this chapter shall be deemed in compliance with the national organic program, unless expressly provided otherwise by the United States department of agriculture.

2003 Acts, ch 104, §8, 21

190C.3 Duties and powers of the department.

In implementing the provisions of this chapter consistent with the national organic program, the department shall provide for the administration and enforcement of this chapter, including by adopting rules and issuing orders pursuant to chapter 17A. The department may adopt any part of the national organic program by reference.

1. The department shall be a state certifying agent and the department shall be the certifying agent's operation as provided in the national organic program.
2. The department may request assistance from the council as provided in section 190C.2A or from one or more regional organic associations as provided in section 190C.6.
3. *a.* The secretary may serve as the state organic program's governing state official. However, no other person shall serve in that position without approval by the secretary.

b. The secretary may designate a person within the department to act on the secretary's behalf in carrying out the duties of the state organic program's governing state official.

4. The department may assume enforcement obligations under the national organic program in this state for the requirements of this chapter. The department shall provide for on-site inspections. The department and the attorney general may coordinate the enforcement activities as provided in section 190C.21.

98 Acts, ch 1205, §3, 20; 2003 Acts, ch 104, §9, 21
Referred to in §190C.6

190C.4 Administrative authority. Repealed by 2003 Acts, ch 104, §20, 21. See §190C.3.

190C.5 State fees — deposit into general fund of the state.

1. The department acting as a state certifying agent shall establish a schedule of fees by rule.

a. The department shall establish the rate of fees based on an estimate of the amount of revenues from the fees required by the department to administer and enforce this chapter.

b. The department shall annually review the estimate and may change the rate of fees. The fees must be adjusted in order to comply with this subsection.

c. The fees shall be charged to persons who are certified under this chapter, including production operations and handling operations, in a manner that is consistent with the national organic program.

2. *a.* The department acting as a state certifying agent may charge additional fees for carrying out the duties of that position to the extent that the fees are consistent with the national organic program.

b. The secretary acting as the state organic program's governing state official may charge fees for carrying out the duties of that position to the extent consistent with the national organic program.

3. The department shall collect state fees under this chapter which shall be deposited into the general fund of the state.

98 Acts, ch 1205, §5, 20; 2003 Acts, ch 104, §10, 21; 2009 Acts, ch 41, §77
Referred to in §190C.2A

190C.6 Regional organic associations.

1. Regional organic associations may be established as provided in this section. A regional organic association must be organized as a corporation under chapter 504 which has certified members, elects its own officers and directors, and is independent from the department.

2. The department may authorize a regional organic association to assist the department in acting as a state certifying agent pursuant to section 190C.3. The regional organic association must be registered with the department. Upon request by the department, a registered regional organic association may do all of the following:

a. Review applications and provide applicants with technical assistance in completing applications. The department may authorize a regional organic association to process applications, including collecting and forwarding applications to the department.

b. Prepare a summary of an application, including materials accompanying the application, for review by the department. A regional organic association may include a recommendation for approval, modification, or disapproval of an application.

98 Acts, ch 1205, §6, 20; 2003 Acts, ch 104, §11, 21; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §394
Referred to in §190C.1, 190C.2A, 190C.3

190C.7 through 190C.11 Reserved.

190C.12 through 190C.15 Repealed by 2003 Acts, ch 104, §20, 21.

190C.16 through 190C.20 Reserved.

SUBCHAPTER III

ENFORCEMENT

190C.21 General enforcement.

1. The department acting as a state certifying agent and on behalf of the secretary who elects to act as the state organic program's governing state official shall enforce this chapter.

2. To the extent authorized by the national organic program, the attorney general shall assist the department in enforcing this chapter. The department or the attorney general may commence legal proceedings in district court to enforce a provision of this chapter. If the attorney general assists the department under this section, the attorney general may commence the legal proceedings at the request of the department or upon the attorney general's own initiative.

3. This chapter does not require the department or attorney general to institute a proceeding for a minor violation if the department or attorney general concludes that the public interest will be best served by a suitable notice of warning in writing.

98 Acts, ch 1205, §11, 20; 2003 Acts, ch 104, §12, 21

Referred to in §190C.3, 190C.26

190C.22 Investigations, complaints, inspections, and examinations.

In enforcing the provisions of this chapter consistent with the national organic program, the department may conduct an investigation to determine if a person is complying with the requirements of this chapter. To the extent consistent with the national organic program, all of the following shall apply:

1. The department may receive a complaint from any person regarding a violation of this chapter. The department shall adopt procedures for persons filing complaints. The department shall establish procedures for processing complaints including requiring minimum information to determine the verifiability of a complaint.

2. The department may conduct inspections at times and places and to an extent that the department determines necessary in order to conclude whether there is a violation of this chapter. The department may enter upon any public or private premises during regular business hours in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States for purposes of carrying out an inspection.

3. The department may conduct examinations of agricultural products in order to determine if the agricultural products are in compliance with this chapter. Unless the national organic program otherwise requires, all of the following shall apply:

a. The methods for examination shall be the official methods adopted by the association of official agricultural chemists in all cases where methods have been adopted by the association.

b. A sworn statement by the state chemist or the state chemist's deputy stating the results of an analysis of a sample taken from a lot of agricultural products shall constitute prima facie evidence of the correctness of the analysis of that lot in a contested case proceeding or court proceeding.

98 Acts, ch 1205, §12, 20; 2003 Acts, ch 104, §13, 21

190C.23 Disciplinary action.

1. The department may take disciplinary action against a person who is certified pursuant to this chapter for noncompliance with a provision of this chapter or a willful violation of this chapter. The procedures of the disciplinary action shall be consistent with the national organic program. The disciplinary action shall proceed as provided in chapter 17A unless contrary to the national organic program. The department may do any of the following:

a. Issue a letter of warning or reprimand.

b. Suspend or revoke the person's certification.

2. Any other disciplinary action provided in the national organic program shall be implemented by the secretary acting as the state organic program's governing state official.

98 Acts, ch 1205, §13, 20; 2003 Acts, ch 104, §14, 21

190C.24 Stop sale order.

Unless prohibited by the national organic program, the department may issue a stop order to a person who sells, labels, or represents an agricultural product as organic in violation of this chapter.

1. The department may issue a written order to stop the sale of the agricultural product by a person in control of the agricultural product. The person named in the order shall not sell, label, or represent the agricultural product as organic until the department determines that the agricultural product is in compliance with this chapter.

2. The department may require that the product be held at a designated place until released by the department.

3. The department or the attorney general may enforce the order by petitioning the district court in the county where the agricultural product is being sold.

4. The department shall release the agricultural product when the department issues a release order upon satisfaction that legal requirements compelling the issuance of the stop sale order are satisfied. If the person is found to have violated this chapter, the person shall pay all expenses incurred by the department in connection with the agricultural product's removal.

98 Acts, ch 1205, §14, 20; 2003 Acts, ch 104, §15, 16, 21

190C.25 Injunctions.

Unless prohibited by the national organic program, the department, the attorney general, an individual, a private organization or association, a county, or a city may bring an action in district court to restrain a producer, handler, or retailer from selling an agricultural product by false or misleading advertising claiming that the agricultural product is organic. A petitioner shall not be required to allege facts necessary to show, or tending to show, a lack of adequate remedy at law, or that irreparable damage or loss will result if the action is brought at law or that unique or special circumstances exist.

98 Acts, ch 1205, §15, 20; 2003 Acts, ch 104, §17, 21

190C.26 Selling, labeling, or representing agricultural products as organic — penalties.

A person shall not knowingly sell, label, or represent an agricultural product as organic, except in accordance with this chapter. A person who violates this section shall be subject to a civil penalty of not more than ten thousand dollars. Civil penalties shall be assessed by the district court in an action initiated by the department or attorney general as provided in section 190C.21. Unless prohibited by the national organic program, each day that the violation continues constitutes a separate violation. Civil penalties collected under this section shall be deposited in the general fund of the state.

98 Acts, ch 1205, §16, 20; 2003 Acts, ch 104, §18, 21

CHAPTER 191
LABELING FOODS

Referred to in §192.107, 192.108, 192.146, 210.12

See also reference in §210.12

191.1 Label requirements.
191.2 Dairy products and imitations.
191.3 Sale of imitation products — notice to public — penalties.
191.4 Definitions.
191.5 Advertising oleomargarine — restrictions.
191.6 Standards for oleomargarine.
191.7 Enforcement of oleomargarine law.
191.8 Baking powder and vinegar.
191.9 Administration — milk and dairy products.
191.10 Violations — injunction.

191.1 Label requirements.

All food offered or exposed for sale, or sold in package or wrapped form, shall be labeled on the package or container as prescribed in sections 189.9 through 189.12, unless otherwise provided in this chapter.

[C97, §2517, 2519, 4989; S13, §2515-b, -c; SS15, §4999-a31c; C24, 27, 31, 35, 39, §**3067;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.1]

2021 Acts, ch 76, §42
Section amended

191.2 Dairy products and imitations.

The products enumerated below shall be labeled on the side or top of the container or package in which placed, kept, offered or exposed for sale, or sold as prescribed in sections 189.9 through 189.12, except that the label shall be printed in letters not less than three-quarters inch in height and one-half inch in width and subject to the following regulations:

1. *Renovated butter.* Renovated butter shall be labeled with the words "Renovated Butter", and if offered or exposed for sale or sold in prints or rolls the wrapper of each and the container as required above shall be so labeled. If such butter is offered or exposed for sale uncovered and not in a container or package, a placard containing the required label shall be attached to the mass so as to be easily seen by the purchaser.

2. *Oleomargarine.*

a. No person shall sell or offer for sale, colored oleo, oleomargarine, or margarine unless — such oleo, oleomargarine, or margarine is packaged; the net weight of the contents of any package sold in a retail establishment is one pound or less; there appears on the label of the package the word "oleo", "oleomargarine", or "margarine" in type or lettering at least as large as any other type or lettering on such label, and a full and accurate statement of all the ingredients contained in such oleo, oleomargarine, or margarine; and each part of the contents of the package is contained in a wrapper which bears the word "oleo", "oleomargarine", or "margarine" in type or lettering not smaller than twenty point type.

b. Whenever coloring of any kind has been added it shall be clearly stated on both the inside wrapper and the outside package. The ingredients of oleo, oleomargarine, or margarine shall be listed on both the inside wrapper and outside package in the order of the amounts of ingredients in the package.

c. Such oleo, oleomargarine, or margarine shall contain vitamin "A" in such quantity that the finished oleo, oleomargarine, or margarine contains not less than fifteen thousand United States Pharmacopoeia units of vitamin "A" per pound, as determined by the method prescribed in the Pharmacopoeia of the United States for the total biological vitamin "A" activity.

3. *Imitation cheese.* Imitation cheese shall be labeled with the words "Imitation Cheese" on the cheese and on the package.

4. *Nonfat dry milk.* For the purposes of this chapter the product resulting from the removal of fat and water from milk and containing the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which it was made may

be labeled and sold as "nonfat dry milk". It shall contain not over five percent by weight of moisture and the fat content shall not be over one and one-half percent by weight unless otherwise indicated.

5. All bottles, containers, and packages enclosing milk or milk products shall be conspicuously labeled or marked with:

a. The name of the contents as given in the definitions of this chapter and chapters 190 and 192.

b. The word "reconstituted" or "recombined" if the product is made by reconstitution or recombination.

c. The grade of the contents.

d. The word "pasteurized" if the contents are pasteurized and the identity of the plant where pasteurized.

e. The word "raw" if the contents are raw and the name or other identity of the producer.

f. The designation vitamin "D" and the number of U.S.P. units per quart in the case of vitamin "D" milk or milk products.

g. The volume or proportion of water to be added for recombining in the case of concentrated milk or milk products.

h. The words "nonfat milk solids added" and the percentage added if such solids have been added, except that this requirement shall not apply to reconstituted or recombined milk and milk products.

i. The words "artificially sweetened" in the name if nonnutritive or artificial sweeteners or both are used.

j. The common name of stabilizers, distillates, and ingredients, provided that:

(1) Only the identity of the milk producer shall be required on cans delivered to a milk plant as provided in chapter 192 which receives only grade "A" raw milk for pasteurization, and which immediately dumps, washes, and returns the cans to the milk producer.

(2) The identity of both milk producer and the grade shall be required on cans delivered to a milk plant as provided in chapter 192 which receives both grade "A" raw milk for pasteurization and ungraded raw milk and which immediately dumps, washes, and returns the cans to the milk producer.

(3) In the case of concentrated milk products, the specific name of the product shall be substituted for the generic term "concentrated milk products", e.g., "homogenized concentrated milk", "concentrated skim milk", "concentrated chocolate milk", "concentrated chocolate flavored low fat milk".

(4) In the case of flavored milk or flavored reconstituted milk, the name of the principal flavor shall be substituted for the word "flavored".

(5) In the case of cultured milk and milk products, the special type culture used may be substituted for the word "cultured", e.g., "acidophilus buttermilk", "Bulgarian buttermilk", and "yogurt".

6. All vehicles and transport tanks containing milk or milk products shall be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

7. *a.* Tanks transporting raw milk and milk products to a milk plant from sources of supply not under the supervision of the secretary or authorized municipal corporation are required to be marked with the name and address of the milk plant or hauler and shall be sealed; in addition, for each such shipment, a shipping statement shall be prepared containing at least the following information:

(1) Shipper's name, address, and permit number.
(2) Permit number of hauler, if not employee of shipper.
(3) Point of origin of shipment.
(4) Tanker identity number.
(5) Name of product.
(6) Weight of product.
(7) Grade of product.
(8) Temperature of product.
(9) Date of shipment.
(10) Name of supervising health authority at the point of origin.

(11) Whether the contents are raw, pasteurized, or otherwise heat treated.

b. Such statement shall be prepared in triplicate and shall be kept on file by the shipper, the consignee, and the carrier for a period of six months for the information of the secretary.

8. The labeling information which is required on all bottles, containers, or packages of milk or milk products shall be in letters of an acceptable size, kind, and color satisfactory to the secretary and shall contain no marks or words which are misleading.

9. Milk and milk products are misbranded:

a. When their container bears or accompanies any false or misleading written, printed, or graphic matter.

b. When such milk and milk products do not conform to their definitions as contained in this chapter and chapters 190 and 192.

c. When such products are not labeled in accordance with this section.

[C97, §2517, 4989; S13, §2515-b, -c; C24, 27, 31, 35, 39, §**3068;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.2]

91 Acts, ch 74, §8; 92 Acts, ch 1163, §45; 2006 Acts, ch 1010, §60; 2009 Acts, ch 133, §208; 2021 Acts, ch 76, §43

Unnumbered paragraph 1 amended

191.3 Sale of imitation products — notice to public — penalties.

1. Every person owning or in charge of any place where food or drink is sold who uses or serves therein imitation cheese shall display at all times opposite each table or place of service a placard for such imitation, with the words "Imitation ..... served here", without other matter, printed in black roman letters not less than three inches in height and two inches in width, on a white card twelve by twenty-two inches in dimensions.

2. No person shall serve colored oleo, oleomargarine, or margarine at a public eating place unless a notice that oleo, oleomargarine, or margarine is served is displayed prominently and conspicuously in such place and in a manner as to render it likely to be read and understood by the ordinary individual being served in the eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items or unless each separate serving bears or is accompanied by labeling identifying it as oleo, oleomargarine, or margarine, or each separate serving thereof is triangular in shape.

3. Any person violating any provision of this section shall be guilty of a simple misdemeanor, and the person shall have all licenses issued by the state for the public eating place in which a violation occurred suspended for one year.

[C97, §2517; C24, 27, 31, 35, 39, §**3069;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.3]

97 Acts, ch 23, §16; 2017 Acts, ch 54, §76

191.4 Definitions.

1. *"Oleo"*, *"oleomargarine"*, or *"margarine"*, for purposes of this chapter, includes all substances, mixtures, and compounds known as oleo, oleomargarine, or margarine, and all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter. For the purposes of this chapter, colored oleo, oleomargarine, or margarine is oleo, oleomargarine, or margarine to which any color has been added.

2. *"Person"* as used in this chapter and chapters 190 and 192 means any individual, plant operator, partnership, corporation, company, firm, trustee, or association.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.4]

2009 Acts, ch 133, §209

See also §189.1

191.5 Advertising oleomargarine — restrictions.

No person, in person or by an agent, shall, by any means whatever, directly or indirectly, advertise or represent by statement, printing, writing, circular, poster, design, device, grade designation, advertisement, symbol, sound, or any combination thereof, that oleo, oleomargarine or margarine, or any brand of oleo, oleomargarine or margarine, is a dairy product for the purpose of inducing or which is likely to induce, directly or indirectly,

the purchase for consumption of oleo, oleomargarine or margarine, or any brand thereof. Whoever shall violate this provision shall be deemed guilty of a simple misdemeanor.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.5]

191.6 Standards for oleomargarine.

The department may prescribe and establish standards for oleo, oleomargarine, or margarine manufactured or sold in this state and may adopt the standards set up by regulations of the food and drug administration of the United States department of health and human services, 21 C.F.R. §166.110, or any amendments thereto. Any standards so established shall not be contrary to or inconsistent with the provisions of section 190.1, subsection 6, entitled "Oleomargarine".

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.6]

2007 Acts, ch 22, §46; 2009 Acts, ch 133, §75

191.7 Enforcement of oleomargarine law.

It shall be the duty of the secretary of agriculture and the secretary's agents to enforce this chapter and of the county attorneys and of the attorney general of the state to cooperate with the secretary in the enforcement of this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.7]

Referred to in §331.756(32)

191.8 Baking powder and vinegar.

Baking powder and distilled vinegar shall show on the label the name of each ingredient from which made. Distilled vinegar shall be marked as such; and cider vinegar which, having been in excess of the standard of acidity, has been reduced to the standard, shall have that fact indicated on the label.

[SS15, §4999-a31, -a31c; C24, 27, 31, 35, 39, §**3070;** C46, 50, §191.4; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §191.8]

191.9 Administration — milk and dairy products.

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance", as provided in section 192.102.

2. The department, as provided in section 192.108, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

91 Acts, ch 74, §9; 94 Acts, ch 1198, §38; 97 Acts, ch 33, §5

191.10 Violations — injunction.

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

91 Acts, ch 74, §10

CHAPTER 191A

RESERVED

CHAPTER 192

GRADE "A" MILK INSPECTION

Referred to in §190.1, 190.2, 191.2, 191.4

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SUBCHAPTER I

GENERAL PROVISIONS

192.101 Short title.

This chapter shall be known and may be cited as the *"Iowa Grade 'A' Milk Inspection Law"*. 91 Acts, ch 74, §11

192.101A Definitions.

As used in this chapter, all terms shall have the same meaning as defined in the "Grade 'A' Pasteurized Milk Ordinance" as provided in section 192.102. However, notwithstanding the ordinance, the following definitions shall apply:

1. *"Bulk milk tanker"* means a mobile bulk container used to transport milk or fluid milk products from a dairy farm to a milk plant or from a milk plant to another milk plant, including an over-the-road semitanker or a tanker that is permanently mounted on a motor vehicle.

2. *"Federal publication"* means a publication produced by the United States department of health and human services including the United States public health service and United States food and drug administration.

3. *"Milk grader"* means a person, including dairy industry milk intake personnel, other than a milk hauler, who collects a milk sample from a bulk tank or a bulk milk tanker.

4. *"Milk hauler"* means a person who takes farm samples or transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station, including a dairy industry milk field person. However, a milk hauler does not include a person who drives a bulk milk tanker, if the person does not take a milk sample or handle raw milk or raw milk products.

97 Acts, ch 94, §1; 2001 Acts, ch 129, §3; 2003 Acts, ch 44, §44; 2004 Acts, ch 1082, §12; 2015 Acts, ch 103, §4

Referred to in §194.3

Further definitions, see §189.1, 191.4(2)

192.102 Grade "A" pasteurized milk ordinance.

The department shall adopt rules incorporating or incorporating by reference the federal publication entitled "Grade 'A' Pasteurized Milk Ordinance". If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

91 Acts, ch 74, §12; 94 Acts, ch 1198, §39; 97 Acts, ch 33, §6; 2001 Acts, ch 129, §4; 2003 Acts, ch 44, §45; 2004 Acts, ch 1082, §13; 2006 Acts, ch 1030, §19; 2015 Acts, ch 103, §5

Referred to in §189.1, 190.14, 191.9, 192.101A, 192.110, 194.3

192.103 Sale of grade "A" milk to final consumer — impoundment of adulterated or misbranded milk.

1. Only grade "A" pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments. However, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case, such products shall be labeled "ungraded".

2. No person shall within the state produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated or misbranded. However, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case such products shall be labeled "ungraded".

3. Any adulterated or misbranded milk or milk product may be impounded by the secretary or authorized municipal corporation and disposed of in accordance with applicable laws or regulations.

[C24, 27, 31, 35, 39, §**3077;** C46, 50, 54, 58, 62, 66, §192.10; C71, 73, 75, 77, 79, 81, §192.11]

88 Acts, ch 1152, §2; 91 Acts, ch 74, §14

CS91, §192.103

2017 Acts, ch 54, §76; 2018 Acts, ch 1041, §52

192.104 Coloring rejected milk.

A milk hauler or a milk grader may mix a harmless coloring matter in rejected milk to prevent the rejected milk from being offered for sale.

[C54, 58, 62, 66, §192.41; C71, 73, 75, 77, 79, 81, §192.64]

CS91, §192.104

97 Acts, ch 94, §2

192.105 and 192.106 Reserved.

SUBCHAPTER II

PERMITS — INSPECTIONS

192.107 Milk or milk products permit.

1. A person who does not possess a permit issued by the department shall not bring, send, or receive into the state for sale, or sell, offer for sale, or store any milk or milk product as provided in this chapter and in chapters 190 and 191. However, the department may exempt from this requirement grocery stores, restaurants, soda fountains, or similar establishments where milk or a milk product is served or sold at retail, but not processed.

2. Only a person who complies with the requirements of this chapter and chapters 190 and 191 shall be entitled to receive and retain a permit from the department. Permits shall not be transferable with respect to persons or locations.

3. The department shall suspend a permit whenever there is reason to believe that a public health hazard exists, whenever the permit holder has violated any of the requirements of this chapter, chapter 190, or chapter 191, or whenever the permit holder has interfered with the department in the performance of its duties. However, where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health, or in any case of a willful refusal to permit authorized inspection, the department shall serve upon the holder a written notice of intent to suspend the permit. The notice shall specify with particularity the violations in question and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties, or in the absence of agreement, established by the secretary before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the department. As used in this section, the terms *"public health hazard"* and *"imminent hazard"* shall be defined by rules adopted by the department. The rules shall include examples of public health hazards and imminent hazards.

4. Upon written application of any person whose permit has been suspended, or upon application within forty-eight hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the department shall within seventy-two hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

5. Upon repeated violation, the department may revoke a permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of a court action provided in this chapter, chapter 190, or chapter 191.

6. The provisions of this section are intended for the regulation of the production, processing, labeling, and distribution of grade "A" milk and grade "A" milk products under sanitary requirements which are uniform throughout the state.

[C71, 73, 75, 77, 79, 81, §192.5]
91 Acts, ch 74, §13
CS91, §192.107
2016 Acts, ch 1011, §121
Referred to in §192.108, 192.109, 192.110

192.108 Administration of the chapter — inspections required.

The department shall administer this chapter and rules adopted pursuant to this chapter. The department is responsible for the inspection of a dairy farm, milk plant, transfer station, or receiving station to ensure compliance with this chapter and chapters 190 and 191. The department may enter into an inspection contract with a person qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection ensures compliance with state and federal law. A person entering into an inspection contract with the department for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the department, and shall have the same authority under this chapter provided to the department, unless the contract specifies otherwise. The department shall review inspection services performed by a person

under an inspection contract to ensure quality cost-effective inspections. If a person is acting in a manner which is inconsistent with the provisions of the applicable chapter or contract, the department may revoke the inspection contract after notice and hearing, in the manner described for permit revocation in section 192.107 and perform such acts as are necessary to enforce this chapter. Except as provided in this chapter or chapter 194, a person shall not charge a milk plant, receiving station, or transfer station a fee for inspection relating to milk or milk products.

88 Acts, ch 1152, §6
C89, §192.48
91 Acts, ch 74, §19
CS91, §192.108
97 Acts, ch 94, §3
Referred to in §190.14, 191.9, 192.110

192.109 Certification of grade "A" label.

The department of agriculture and land stewardship shall annually survey and certify all milk labeled grade "A" pasteurized and grade "A" raw milk for pasteurization, and, in the event a survey shows the requirements for production, processing, and distribution for such grade are not being complied with, the fact thereof shall be certified by the department to the secretary of agriculture who shall proceed with the provisions of section 192.107 for suspending the permit of the violator or who, if the secretary did not issue such permit, shall withdraw the grade "A" declared on the label.

[C71, 73, 75, 77, 79, 81, §192.31]
CS91, §192.109
2011 Acts, ch 89, §1

192.110 Rating required to receive or retain a permit.

A person shall not receive or retain a permit under section 192.107, unless both of the following conditions are satisfied:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in rules adopted by the department incorporating or incorporating by reference the federal publications entitled "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments" and "Methods of Making Sanitation Ratings of Milk Shippers". A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

2. The facilities and equipment used to produce, store, or transport milk or milk products comply with requirements of the "Grade 'A' Pasteurized Milk Ordinance" as provided in section 192.102.

[C71, 73, 75, 77, 79, 81, §192.33; 81 Acts, ch 72, §6]
90 Acts, ch 1168, §33; 91 Acts, ch 74, §18
CS91, §192.110
93 Acts, ch 132, §1; 94 Acts, ch 1198, §40; 97 Acts, ch 33, §7; 97 Acts, ch 94, §4; 2001 Acts, ch 129, §5; 2003 Acts, ch 44, §46; 2004 Acts, ch 1082, §14; 2015 Acts, ch 103, §6; 2016 Acts, ch 1073, §62

192.111 Permit and inspection fees — deposit in general fund — appropriation.

1. The department shall issue and renew permits under this subsection as provided by rules adopted by the department. A permit, unless earlier revoked, is valid until the second July 1 following the issuance or renewal. The department shall establish and assess the fees for the issuance and renewal of permits annually as provided in this subsection. A permit fee for the renewal period shall be due on the date that the permit expires. Except as otherwise provided in this section, all of the following shall apply:

a. The following persons must receive a permit from and pay an accompanying permit fee to the department:

(1) A milk plant other than a receiving station which must obtain a milk plant permit and pay a permit fee not greater than two thousand dollars.

(2) A transfer station which must obtain a transfer station permit and pay a permit fee not greater than four hundred dollars.

(3) A receiving station other than a milk plant which must obtain a receiving station permit and pay a permit fee of not greater than four hundred dollars.

(4) A milk hauler which must obtain a milk hauler permit and pay a permit fee not greater than twenty dollars.

(5) A milk grader which must obtain a milk grader permit and pay a license fee not greater than twenty dollars.

b. A bulk milk tanker must operate pursuant to a bulk milk tanker permit obtained from the department. The person obtaining the permit must pay a permit fee not greater than fifty dollars.

c. The following fees, which shall be in addition to any fee required to accompany a permit as required in this section, shall be assessed:

(1) A reinspection fee that shall be paid by a person holding a permit under this subsection for which reinspection is required as a condition of retaining the permit. The amount of the reinspection fee shall not be more than forty dollars for each such reinspection.

(2) A resealing fee that shall be paid by a person holding a milk plant permit, for resealing a milk plant's pasteurizer. The amount of the resealing fee shall not be more than one hundred dollars for each such resealing.

d. A person who renews a permit and submits any accompanying renewal fee under this subsection more than thirty days after the date that the renewal period expires shall pay a late fee. The amount of the late fee shall be equal to ten percent of the permit renewal fee. However, in no instance shall the late fee be less than twenty-five dollars.

2. A purchaser of milk from a grade "A" milk producer shall pay an inspection fee not greater than one point five cents per hundredweight. The fee shall be payable monthly to the department in a manner prescribed by the secretary.

3. Fees collected under this section and section 194.20 shall be deposited in the general fund of the state. All moneys deposited under this section are appropriated to the department for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapter 194, and shall be subject to the requirements of section 8.60.

88 Acts, ch 1152, §5
C89, §192.47
91 Acts, ch 260, §1214
CS91, §192.111
92 Acts, ch 1163, §46; 93 Acts, ch 131, §5; 94 Acts, ch 1107, §38; 97 Acts, ch 94, §5; 2002 Acts, ch 1148, §1, 2, 11; 2015 Acts, ch 103, §7
Referred to in §192.113, 194.3A, 194.18, 194.20

192.112 Regulation — milk haulers, milk graders, and bulk milk tankers.

The department shall adopt rules pursuant to chapter 17A which provide standards for milk haulers, milk graders, and bulk milk tankers. The standards shall include, but need not be limited to, all of the following:

1. The construction of bulk milk tankers.
2. The cleaning, maintenance, and sanitization of bulk milk tankers.
3. Recordkeeping relating to the use and cleaning of bulk milk tankers.
4. Supplies needed to perform the duties of milk hauling and milk grading.
5. Proper milk hauling and milk grading procedures, including but not limited to sanitation, the examination and measurement of milk, the handling of milk, and the taking and handling of milk samples.
6. Recordkeeping required for milk haulers and milk graders.
7. Ongoing training requirements, if any, for milk haulers and milk graders.

97 Acts, ch 94, §6; 2002 Acts, ch 1148, §3, 11

192.113 Penalties.

1. *a.* A person shall not act as a milk hauler unless the person holds a milk hauler permit required pursuant to section 192.111. A person shall not solicit another person to act as a milk hauler or procure the services of a person to act as a milk hauler unless the person solicited or from whom the services are procured holds a milk hauler permit.

b. A person shall not act as a milk grader unless the person holds a milk grader permit required pursuant to section 192.111. A person shall not solicit another person to act as a milk grader or procure the services of a person to act as a milk grader unless the person solicited or from whom the services are procured holds a milk grader permit.

c. A person shall not operate a bulk milk tanker unless the bulk milk tanker operates pursuant to a bulk milk tanker permit required pursuant to section 192.111. A person shall not solicit another person to operate a bulk milk tanker or procure the services of a person to operate a bulk milk tanker unless the bulk milk tanker operates pursuant to a bulk milk tanker permit.

2. A person who violates this section is subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a violation continues shall constitute a new violation. However, a person shall not be subject to a civil penalty of more than ten thousand dollars for a continuing violation. Civil penalties shall be deposited in the general fund of the state.

97 Acts, ch 94, §7; 2002 Acts, ch 1148, §4, 11

Referred to in §194.25

192.114 Reserved.

SUBCHAPTER III

SANITATION — LABORATORIES

192.115 Sanitary regulations.

Every person who deals in or manufactures dairy products or imitations thereof shall maintain the person's premises, utensils, wagons, and equipment in a clean and hygienic condition.

[C97, §2522; S13, §2522; C24, 27, 31, 35, 39, §**3078;** C46, 50, 54, 58, 62, 66, §192.11; C71, 73, 75, 77, 79, 81, §192.34]

CS91, §192.115

192.116 Bacteriologists.

The department of agriculture and land stewardship may employ dairy specialists or bacteriologists who shall devote their full time to the improvement of sanitation in the production, processing and marketing of dairy products. Said dairy specialists and bacteriologists shall have qualifications as to education and experience and such other requirements as the secretary may require.

[C46, 50, 54, 58, 62, 66, §192.12; C71, 73, 75, 77, 79, 81, §192.35]

CS91, §192.116

192.117 Duties.

Said dairy specialists and bacteriologists employed by the department shall cooperate with the dairy and food inspectors of the department and with the health departments of cities for sanitary control of the production, processing, and marketing of dairy products. The department shall provide adequate laboratory facilities for the efficient performance of their duties.

[C46, 50, 54, 58, 62, 66, §192.13; C71, 73, 75, 77, 79, 81, §192.36]

CS91, §192.117

192.118 Certified laboratories.

1. To ensure uniformity in the tests and reporting, an employee certified by the United

States public health service of the bacteriological laboratory of the department shall annually certify, in accordance with rules adopted by the department incorporating or incorporating by reference the federal publication entitled "Evaluation of Milk Laboratories", all laboratories doing work in the sanitary quality of milk and dairy products for public report. The approval by the department shall be based on the evaluation of these laboratories as to personnel training, laboratory methods used, and reporting. The results on tests made by approved laboratories shall be reported to the department on request, on forms prescribed by the secretary of agriculture, and such reports may be used by the department.

2. The department shall annually certify, in accordance with rules adopted by the department incorporating or incorporating by reference the federal publication entitled "Evaluation of Milk Laboratories", every laboratory in the state doing work in the sanitary quality of milk and dairy products for public report. The certifying officer may enter any such place at any reasonable hour to make the survey. The management of the laboratory shall afford free access to every part of the premises and render all aid and assistance necessary to enable the certifying officer to make a thorough and complete examination.

[C54, 58, 62, 66, §192.40; C71, 73, 75, 77, 79, 81, §192.63]
CS91, §192.118
91 Acts, ch 74, §21; 97 Acts, ch 94, §8; 2015 Acts, ch 103, §8; 2016 Acts, ch 1073, §63

192.119 and 192.120 Reserved.

SUBCHAPTER IV

CONTAINERS

192.121 Container defined.

As used in this chapter, "*container*" means a rigid or nonrigid receptacle, including but not limited to a can, bottle, case, paper carton, cask, keg, or barrel.

[C24, 27, 31, 35, 39, §**3094;** C46, 50, 54, 58, 62, 66, §192.33; C71, 73, 75, 77, 79, 81, §192.56]
CS91, §192.121
91 Acts, ch 74, §20

192.122 Milk bottles to be marked.

Bottles or jars used for the sale of milk shall have clearly blown or permanently marked in the side of the bottle, the capacity of the bottle, and on the bottom of the bottle the name, initials, or certification mark of the manufacturer. The designating number shall be furnished by the department on request.

[S13, §3009-k; C24, 27, 31, 35, 39, §**3095;** C46, 50, 54, 58, 62, 66, §192.34; C71, 73, 75, 77, 79, 81, §192.57]
CS91, §192.122

192.123 Adoption of brand.

With the approval of the department any person who deals in or transports milk, cream, skimmed milk, buttermilk, or ice cream may adopt a distinctive mark or brand to be placed upon any container owned or used by the person, and the same may be registered with the department.

[C24, 27, 31, 35, 39, §**3096;** C46, 50, 54, 58, 62, 66, §192.35; C71, 73, 75, 77, 79, 81, §192.58]
CS91, §192.123

192.124 Retention of marked container.

A person shall not, without the consent of the owner, retain for a longer period than three days a container bearing a registered mark, and any person receiving such a container shall

immediately return it to the owner by a common carrier. A receipt from a common carrier is prima facie evidence that the container was returned.

[C24, 27, 31, 35, 39, §**3097;** C46, 50, 54, 58, 62, 66, §192.36; C71, 73, 75, 77, 79, 81, §192.59]
CS91, §192.124
92 Acts, ch 1076, §1; 95 Acts, ch 67, §14

192.125 Return of bottles.

Milk and cream bottles bearing registered marks shall be returned by delivering them to the owner or the owner's agent in person or by leaving them where they may be picked up by the owner.

[C24, 27, 31, 35, 39, §**3098;** C46, 50, 54, 58, 62, 66, §192.37; C71, 73, 75, 77, 79, 81, §192.60]
CS91, §192.125

192.126 Stray containers.

When any person comes into possession of a container bearing a registered mark which belongs to another whose name and address the person does not know, the person shall immediately notify the department in writing, giving the size, shape, and mark of the container. Upon receipt of shipping directions from the department the person shall at once forward the container by a common carrier, collect, to the address furnished. Milk or cream bottles need not be returned when the cost of return is greater than the market value of the bottles.

[C24, 27, 31, 35, 39, §**3099;** C46, 50, 54, 58, 62, 66, §192.38; C71, 73, 75, 77, 79, 81, §192.61]
CS91, §192.126

192.127 Registered mark.

No person shall for any purpose use any registered mark or any container bearing such mark, or remove or alter any such mark placed upon a container without the consent of the owner.

[C24, 27, 31, 35, 39, §**3100;** C46, 50, 54, 58, 62, 66, §192.39; C71, 73, 75, 77, 79, 81, §192.62]
CS91, §192.127

192.128 through 192.130 Reserved.

SUBCHAPTER V

TESTING FOR MILK FAT

192.131 Testing milk or cream — license. Repealed by 2002 Acts, ch 1148, §9, 11.

192.132 Examination. Repealed by 2002 Acts, ch 1119, §110; 2002 Acts, ch 1148, §9, 11.

192.133 through 192.137 Repealed by 2002 Acts, ch 1148, §9, 11.

192.138 through 192.140 Reserved.

SUBCHAPTER VI

COTTAGE CHEESE — BUTTER

192.141 Grade standards for cottage cheese.

The department may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this chapter. However, a governmental body, including the department, a county as provided in chapter

331, or a city as provided in chapter 364 shall not require a grade "A" rating for these products as a condition precedent to their sale.

[C71, 73, 75, 77, 79, 81, §192.30; 81 Acts, ch 72, §5]
88 Acts, ch 1152, §3; 90 Acts, ch 1168, §32; 91 Acts, ch 74, §15, 16, 25
CS91, §192.141

192.142 Butter score required. Repealed by 2002 Acts, ch 1148, §9, 11.

192.143 Imitation butter.

Imitation butter shall be sold only under the name of oleomargarine, and no person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any such product, the word "butter", "creamery", or "dairy", or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter.

[C97, §2517; C24, 27, 31, 35, 39, §**3093;** C46, 50, 54, 58, 62, 66, §192.31; C71, 73, 75, 77, 79, 81, §192.54]
CS91, §192.143

192.144 and 192.145 Reserved.

SUBCHAPTER VII

INJUNCTIONS

192.146 Injunction for violations.

A person who violates any provision of this chapter, chapter 190, or chapter 191, or a rule adopted under any of those chapters may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

[C71, 73, 75, 77, 79, 81, §192.32]
91 Acts, ch 74, §17
CS91, §192.146

CHAPTER 192A

MARKETING OF DAIRY PRODUCTS

Repealed by 2000 Acts, ch 1091, §1

CHAPTER 193

RESERVED

CHAPTER 194
GRADES OF MILK

Referred to in §192.108, 192.111

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194.20 Inspection fees — grade "B" milk.
194.21 Bulk tanks on farms for milk.
194.22 through 194.24 Reserved.
194.25 Violations and penalties.

194.1 Citation of chapter.

This chapter may be cited as the *"Iowa Grading Law for Milk Used for Manufacturing Purposes"*.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.1]

194.2 Enforcement — rules.

1. The secretary of agriculture shall enforce the provisions of this chapter, and to this end may adopt such rules and regulations pursuant to chapter 17A as may appear necessary, but not inconsistent with this chapter.

2. The secretary may adopt by rule requirements recommended by the United States Department of Agriculture for the production and processing of milk for manufacturing purposes, including but not limited to requirements for the inspection and certification of grade "B" dairy farms and grade "B" dairy plants.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.2]

88 Acts, ch 1152, §7; 2018 Acts, ch 1026, §63

194.3 Definitions.

For the purpose of this chapter:

1. *"Bulk milk tanker"* means all of the following:

a. A bulk milk tanker as defined in section 192.101A.

b. A vehicle that transports milk stored in milk cans.

2. *"Milk grader"* means the same as defined in section 192.101A.

3. *"Milk hauler"* means the same as defined in section 192.101A.

4. *"Milk processing plant"* means an establishment receiving milk from diverse producers, if the milk is manufactured into butter, cheese, dry milk, or other dairy products for commercial purposes.

5. *"Milk used for manufacturing purposes"* means milk or milk products manufactured into butter, cheese, ungraded dry milk, or other dairy products except milk and milk products as defined in the "Grade 'A' Pasteurized Milk Ordinance" provided in section 192.102.

6. *"Organoleptic examination or grading of milk"* means examination by the senses of sight, smell, and taste.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.3]

86 Acts, ch 1245, §639; 92 Acts, ch 1081, §1; 2002 Acts, ch 1148, §5, 11

Further definitions, see §189.1

194.3A Permit requirements.

1. The department shall issue and renew permits under this chapter as provided by rules adopted by the department. The following persons must receive a permit from and pay a permit fee to the department:

a. A milk hauler which must obtain a milk hauler permit.

b. A milk grader which must obtain a milk grader permit.

c. A bulk milk tanker which must operate pursuant to a bulk milk tanker permit.

2. The department shall provide for the issuance and renewal of permits under this section as provided by rules adopted by the department, in the same manner as provided in section 192.111. The amount of the permit fee shall be the same as provided in section 192.111. A person shall not be required to obtain a milk hauler permit, milk grader permit, or bulk milk tanker permit under this section if the person has obtained the same permit under section 192.111.

3. The department may suspend or revoke a permit issued or renewed under this section in the same manner that the department may suspend or revoke a permit issued or renewed under section 192.111.

4. A person who does any of the following is in violation of this section:

a. (1) Acts as a milk hauler or milk grader, unless the person holds a milk hauler permit or milk grader permit as required in this section.

(2) Solicits another person to act as a milk hauler or milk grader or procures the services of a person to act as a milk hauler or milk grader, unless the person solicited or from whom the services are procured holds a milk hauler permit or milk grader permit as required in this section.

b. (1) Operates a bulk milk tanker, unless the bulk milk tanker operates pursuant to a bulk milk tanker permit as required in this section.

(2) Solicits another person to operate a bulk milk tanker or procures the services of a person to operate a bulk milk tanker, unless the bulk milk tanker operates pursuant to a bulk milk tanker permit as required in this section.

2002 Acts, ch 1148, §6, 11
Referred to in §194.25

194.4 Physical characteristics.

1. All milk received at a creamery, cheese factory, or milk-processing plant shall be examined for physical characteristics, off-flavors and off-odors, including those associated with developed acidity. The condition of the raw milk shall be wholesome and characteristic of normal milk. The flavor and odor of the raw milk shall be fresh and sweet; however, slight feed flavors may be present.

2. Any raw milk which shows an abnormal condition including but not limited to curdled, ropy, clotted, and bloody; which contains extraneous matter; which shows significant bacterial deterioration; which contains matter evidencing production from a mastitic cow; or which contains chemicals, medicines, or radioactive agents deleterious to health is unlawful milk and shall be rejected to the producer, seller, or shipper and shall not be used in the processing or manufacturing of dairy products for human consumption.

3. At least once within each thirty days a test shall be made of a producer's milk to determine the existence of evidence of production from mastitic cows. The secretary shall determine and adopt the standards and methods of testing the milk for this purpose. The secretary shall be guided by recommendations or regulations established by federal agencies regulating this field.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.4]

92 Acts, ch 1081, §2; 2017 Acts, ch 54, §76; 2018 Acts, ch 1026, §64

194.5 Frequency of tests.

A test shall be made on the first purchase of milk from a new producer and at least once within each thirty-day interval thereafter. One lot of milk from each producer shall be selected at random and tested for extraneous matter by an appropriate method. The secretary shall determine and promulgate the standards and methods of testing the milk for extraneous matter. The method and standards shall be no less strict than those recommended by the agricultural marketing service, U.S. department of agriculture.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.5]

194.6 Bacterial test.

1. At least once every thirty days an estimate of the bacterial quality shall be made of each producer's milk by use of a standard plate count or an equivalent plate counting procedure in an officially designated laboratory.

2. For the purpose of quality improvement and payment, the following classifications of milk for bacterial estimate are applicable:

Bacterial Estimate Classification	Standard Plate Count or Equivalent
Class 1	Not over 100,000 per Milliliter
Class 2	Not over 300,000 per Milliliter
Undergrade	Over 300,000 per Milliliter

[C62, 66, 71, 73, 75, 77, 79, 81, §194.6]
84 Acts, ch 1120, §1; 92 Acts, ch 1081, §3

194.7 Acceptable milk.

Milk acceptable from the standpoint of organoleptic examination, containing no excessive extraneous matter and complying with class 1 or 2 for bacterial estimate shall be acceptable for use in the processing and manufacturing of dairy products for human consumption.
[C62, 66, 71, 73, 75, 77, 79, 81, §194.7]

194.8 Unacceptable milk.

1. Milk acceptable from the standpoint of organoleptic examination, containing no excessive extraneous matter and classified in excess of three hundred thousand for bacterial estimate, may be used in the processing and manufacturing of dairy products for human consumption for a period of seven consecutive days.

2. After a week another quality test must be performed on the producer's milk. If two of the last four consecutive bacterial counts exceed the class 2 standard, the department shall deliver, or require the purchaser to deliver, a written notice to the producer. An additional sample shall be taken at least three days after taking the previous sample, but within twenty-one days following delivery of the notice. The department shall immediately suspend the permit of the producer or immediately institute legal proceedings to restrain production if the class 2 standard is violated according to three of the last five bacterial counts.
[C62, 66, 71, 73, 75, 77, 79, 81, §194.8]
84 Acts, ch 1120, §2; 92 Acts, ch 1081, §4

194.9 Unlawful milk.

Milk, which from the standpoint of organoleptic examination is not acceptable, or which contains excessive extraneous matter or which by three out of five bacterial estimate tests is classified in excess of three hundred thousand, or which contains material evidencing production from a mastitic cow, or which contains chemicals, medicines, or radioactive agents deleterious to health, is unlawful for the manufacture of dairy products for human consumption.
[C62, 66, 71, 73, 75, 77, 79, 81, §194.9]
84 Acts, ch 1120, §3; 92 Acts, ch 1081, §5
Referred to in §194.18

194.10 Milk purchased on basis of grade.

All purchases and deliveries of milk and cream for the manufacture of dairy products shall be made on the basis of grades and definitions set forth in this chapter.
[C62, 66, 71, 73, 75, 77, 79, 81, §194.10]

194.11 Price differential.

All purchasers and receivers of milk for the manufacture of dairy products for human consumption shall maintain a reasonable price differential between the grades of milk as

defined by the bacterial estimate tests. This price differential shall not be less than five percent of the price for grade one milk.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.11]

194.12 through 194.16 Repealed by 2002 Acts, ch 1148, §9, 11.

194.17 Records.

Each creamery, cheese factory or milk processing plant shall maintain records of all purchases and receipts of milk from individual producers. These records must show:

1. Name of producer.
2. Date of delivery.
3. Quantity delivered.
4. Grade assigned.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.17]

194.18 Coloring unlawful milk.

A person who holds a milk hauler permit or a milk grader permit pursuant to section 192.111 may mix a harmless coloring matter in unlawful milk as provided in section 194.9 to prevent the unlawful milk from being processed and used in any form for human consumption.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.18]

97 Acts, ch 94, §9; 2002 Acts, ch 1148, §7, 11

194.19 Licenses for collection vehicles — fees. Repealed by 2002 Acts, ch 1148, §9, 11.

194.20 Inspection fees — grade "B" milk.

A purchaser of milk from a grade "B" milk producer shall pay an inspection fee not greater than one-half cent per hundredweight. The fee is payable monthly to the department at a time prescribed by the department. Fees collected under this section shall be deposited and used as required in section 192.111.

88 Acts, ch 1152, §10; 91 Acts, ch 74, §22; 92 Acts, ch 1081, §8; 92 Acts, ch 1163, §47; 94 Acts, ch 1107, §43

Referred to in §192.111

194.21 Bulk tanks on farms for milk.

Any producer using a bulk tank for cooling and storage of milk to be used for manufacturing purposes shall have an enclosed milk room which shall conform to the standards provided by this section. The floor shall be constructed of concrete or other impervious material, maintained in good repair, and graded to provide proper drainage. The walls and ceilings of the room shall be sealed and constructed of smooth easily cleaned material. All windows shall be screened and doors shall be self-closing. It shall be well ventilated and must meet the following requirements:

1. The bulk tank shall not be located over a drain or under a ventilator.
2. The hose port shall be located in an exterior wall and fitted with a tight self-closing door.
3. A two hundred twenty volt lock type electrical connection with ground and weatherproof type receptacle and switchbox shall be provided near the hose port.
4. Each milk room shall have an adequate supply of water readily accessible with facilities for heating the water, to insure the cleaning and sanitizing of the bulk tank, utensils and equipment and the keeping of the milk room clean.
5. No lights shall be placed directly over the bulk tank.
6. The bulk tank shall be properly located in the milk room for easy access to all areas for cleaning and servicing.
7. The enforcement of this section shall be administered by the department of agriculture and land stewardship.

8. Any person violating any provisions of this section shall be guilty of a simple misdemeanor.

[C66, §192.43; C71, 73, 75, 77, 79, 81, §192.66]
CS91, §194.21

194.22 through 194.24 Reserved.

194.25 Violations and penalties.

1. Except as provided in subsection 2, a person who, in person or by an agent or employee, willfully violates any requirement of this chapter shall be guilty of a simple misdemeanor.

2. A person in violation of section 194.3A is subject to the same civil penalty as applied to that person as provided in section 192.113.

[C62, 66, 71, 73, 75, 77, 79, 81, §194.20]
C89, §194.25
2002 Acts, ch 1148, §8, 11

CHAPTER 195

RESERVED

CHAPTER 196

EGG HANDLERS

196.1	Definitions.	196.7	Candling and grading prior to sale.
196.2	Enforcement.	196.8	Quality — storage.
196.3	Egg handler's license — fee and expiration.	196.9	Eggs unfit for human food.
196.4	Producers and hatcheries exempt.	196.10	Labeling.
196.5	Candling and grading capability.	196.11	Storage.
196.6	Candling and grading room.	196.12	Transportation.
		196.13	Records.
		196.14	Penalty.

196.1 Definitions.

Unless the context otherwise requires:

1. *"Candling"* means the careful examination of each shell egg and the elimination of those eggs determined unfit for human consumption.

2. *"Consumer"* means a person who buys eggs for personal consumption.

3. *"Department"* means the department of agriculture and land stewardship.

4. *"Egg handler"* or *"handler"* means a person who buys or sells eggs, or uses eggs in the preparation of human food. *"Egg handler"* or *"handler"* does not include a retailer, a consumer, an establishment, or a producer who sells eggs as provided in section 196.4.

5. *"Establishment"* means any place in which eggs are offered or sold as human food for consumption by its employees, students, patrons, customers, residents, inmates or patients or as an ingredient in food offered or sold in a form ready for immediate consumption.

6. *"Grading"* means classifying each shell egg by weight and grading in accordance with egg grading standards approved by the United States government as of July 1, 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. §1621 et seq.

7. *"Nest run eggs"* means eggs which have not been denatured, candled, graded, processed or labeled.

8. *"Package"* means the same as defined in section 189.1.

9. *"Producer"* means a person who owns layer type chickens.

10. *"Retailer"* means a person who sells eggs directly to consumers except a producer who sells eggs under the provisions of section 196.4.

[C24, 27, 31, 35, 39, §**3107;** C46, 50, 54, §196.7; C58, 62, 66, 71, 73, 75, §196.3, 196.11; C77, 79, 81, §196.1]

85 Acts, ch 195, §20; 95 Acts, ch 7, §1, 2; 2011 Acts, ch 16, §2, 5

Further definitions, see §189.1

196.2 Enforcement.

The department shall enforce this chapter, and may adopt rules pursuant to chapter 17A and consistent with regulations of the United States government as they exist on July 1, 1985, pursuant to the Agricultural Marketing Act of 1946, 7 U.S.C. §1621 et seq., and the Egg Products Inspection Act of 1970, 21 U.S.C. §1044 et seq.

[C24, 27, 31, 35, 39, §**3111;** C46, 50, 54, §196.11; C58, 62, 66, 71, 73, 75, 77, 79, 81, §196.2]

85 Acts, ch 195, §21; 95 Acts, ch 7, §3

196.3 Egg handler's license — fee and expiration.

1. Every egg handler shall obtain a license issued by the department. The license fee shall be determined on the basis of the total number of eggs purchased or handled during the preceding month of April as follows:

a. Less than one hundred twenty-five cases $40.40

b. One hundred twenty-five cases or more but less than two hundred fifty cases $94.50

c. Two hundred fifty cases or more but less than one thousand cases $135.00

d. One thousand cases or more but less than five thousand cases $270.00

e. Five thousand cases or more but less than ten thousand cases $472.50

f. Ten thousand cases or more $675.00

2. The license shall expire two years after the license's date of issue.

3. For the purpose of determining the license fee, a case shall be thirty dozen eggs.

4. All license fees collected under this section shall be remitted to the treasurer of state for deposit in the general fund of the state.

5. If an egg handler is not operating during the month of April preceding the date that the license is to be issued, the department shall estimate the volume of eggs purchased or handled, or both, and may revise the license fee based on three months of operation.

[C24, 27, 31, 35, 39, §**3101, 3103;** C46, 50, 54, §196.1, 196.3; C58, 62, 66, 71, 73, 75, §196.4, 196.6; C77, 79, 81, §196.3]

2007 Acts, ch 215, §218; 2017 Acts, ch 159, §31

Referred to in §196.4

196.4 Producers and hatcheries exempt.

1. Producers who sell eggs produced exclusively by their own flocks directly to handlers, or to consumers, shall not be required to demonstrate to the department or the United States department of agriculture inspector their capability to perform candling and grading.

2. A hatchery shall obtain an egg handler's license pursuant to section 196.3 if it purchases eggs which are not used for hatching purposes.

[C24, 27, 31, 35, 39, §**3102;** C46, 50, 54, §196.2; C58, 62, 66, 71, 73, 75, §196.5; C77, 79, 81, §196.4]

Referred to in §196.1

196.5 Candling and grading capability.

Each person who candles and grades eggs shall demonstrate to the satisfaction of the department or the United States department of agriculture inspector, the capability to perform candling and grading.

[C24, 27, 31, 35, 39, §**3109;** C46, 50, 54, §196.9; C58, 62, 66, 71, 73, 75, §196.7, 196.8; C77, 79, 81, §196.5]

196.6 Candling and grading room.

An egg handler's license shall be obtained from the department for each location at which eggs will be candled and graded. Before a license is issued for each location candling eggs, the department shall make a careful survey of the premises and determine that the premises contain proper facilities for candling and grading.

[C24, 27, 31, 35, 39, §**3109;** C46, 50, 54, §196.6, 196.9; C58, 62, 66, 71, 73, 75, §196.13; C77, 79, 81, §196.6]

196.7 Candling and grading prior to sale.

All eggs offered for sale by an egg handler to a retailer, an establishment or a consumer, shall be candled and graded.

[C24, §3108; C27, 31, 35, §3108, 3112-b1; C39, §**3112.1;** C46, 50, 54, §196.8, 196.13; C58, 62, 66, 71, 73, 75, §196.12, 196.14; C77, 79, 81, §196.7]

196.8 Quality — storage.

1. All eggs offered for sale to an establishment must be no lower than United States department of agriculture consumer grade "B". From the time of candling and grading until they reach the consumer, all eggs designated for human consumption shall be held at a temperature not to exceed 45 degrees Fahrenheit or 7 degrees Celsius ambient temperature. The 45 degrees Fahrenheit or 7 degrees Celsius ambient temperature requirement applies to any place or room in which eggs are stored, except inside a vehicle during transportation where the ambient temperature may exceed 45 degrees Fahrenheit or 7 degrees Celsius, provided the transport vehicle is equipped with refrigeration units capable of delivering air at a temperature not greater than 45 degrees Fahrenheit or 7 degrees Celsius and capable of cooling the vehicle to a temperature not greater than 45 degrees Fahrenheit or 7 degrees Celsius. All shell eggs shall be kept from freezing.

2. Notwithstanding subsection 1, eggs gathered for sale at a poultry show from fowl exhibited at the show, which show has received financial assistance from the state in prior fiscal years, shall be exempt from the storage temperature and consumer grade quality requirements contained in subsection 1.

[C27, 31, 35, §3112-b1; C39, §**3112.1;** C46, 50, 54, §196.13; C58, 62, 66, 71, 73, 75, §196.14; C77, 79, 81, §196.8]

97 Acts, ch 192, §1; 2001 Acts, ch 176, §15; 2014 Acts, ch 1026, §40

196.9 Eggs unfit for human food.

Eggs determined to be unfit for human food under 21 U.S.C. §1034 as amended to July 1, 1985, shall not be bought or sold or offered for purchase or sale by any person unless the eggs are denatured so that they cannot be used for human food.

[C24, 27, 31, 35, 39, §**3104, 3105, 3108;** C46, 50, 54, §196.4, 196.5, 196.8; C58, 62, 66, 71, 73, 75, §196.10; C77, 79, 81, §196.9]

85 Acts, ch 195, §22; 2010 Acts, ch 1061, §40

196.10 Labeling.

Sections 189.9 through 189.12 shall apply to the labeling of packaged eggs which have been candled and graded if not inconsistent with the provisions of this chapter. All cases of loose packed eggs sold in this state shall identify the egg handler's name or license number or United States department of agriculture plant number, and the grade of the eggs contained in the case. Each carton containing eggs for retail sale in Iowa which have been candled and

graded shall be marked with the grade and size of the eggs contained, the date they were packed, and the name and address of the distributor or packer.

[C24, 27, 31, 35, 39, §**3110;** C46, 50, 54, §196.10; C58, 62, 66, 71, 73, 75, §196.16; C77, 79, 81, §196.10]

2021 Acts, ch 80, §95
Section amended

196.11 Storage.

The provisions of section 189.28 shall not apply to eggs.

[C58, 62, 66, 71, 73, 75, §196.19; C77, 79, 81, §196.11]

196.12 Transportation.

Vehicles used to transport eggs from the point of production to an egg handler or between handlers shall be kept in sanitary condition and shall be enclosed. However, this section shall not apply to producers transporting their own eggs to a handler.

[C58, 62, 66, 71, 73, 75, §196.20; C77, 79, 81, §196.12]

196.13 Records.

Handlers shall keep a record for three years of each of their purchases and sales of eggs, including the date of the transaction, the names of the parties, the grade, or nest run, and the quantity of eggs being purchased or sold.

[C77, 79, 81, §196.13]

196.14 Penalty.

Any person who violates a provision of this chapter shall be guilty of a simple misdemeanor. In addition, if the offender is a handler or a retailer, the court for the third offense shall suspend the offender's license for thirty days; for the fourth and any subsequent offense, such license shall be revoked for a period of one year.

[C58, 62, 66, 71, 73, 75, §196.18; C77, 79, 81, §196.14]

CHAPTER 196A

RESERVED

CHAPTER 197

POULTRY AND DOMESTIC FOWLS

Meat and poultry inspection, chapter 189A

197.1	Definitions.	197.4	Inspection of.
197.1A	License.	197.5	Enforcement.
197.2	License — fee and expiration.		
197.3	Record.	197.6	Violations.

197.1 Definitions.

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

2. *"Producer"* means a person, not a licensed dealer under section 197.1A, who acquires poultry or domestic fowl other than through a licensed dealer.

2017 Acts, ch 159, §33
Further definitions, see §189.1
Former §197.1 transferred to §197.1A

197.1A License.

Every person engaged in the business of buying poultry or domestic fowl for the market from a producer shall obtain a poultry dealer's license from the department for each establishment at which business is conducted.

[C27, 31, 35, §3112-b2; C39, §**3112.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §197.1]
2015 Acts, ch 30, §65; 2017 Acts, ch 159, §32
C2018, §197.1A
Referred to in §197.1

197.2 License — fee and expiration.

The license fee shall be six dollars. A license shall expire on the first day of the second March following the date of issue.

[C27, 31, 35, §3112-b3; C39, §**3112.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §197.2]
2017 Acts, ch 159, §34

197.3 Record.

Each licensee shall keep such records as the department shall require, as to date of purchase, name and residence of seller and number and description of such poultry or domestic fowls purchased from the producer.

[C27, 31, 35, §3112-b4; C39, §**3112.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §197.3]

197.4 Inspection of.

Such records as are required by the department to be kept by such licensee shall be open to inspection by any peace officer at any reasonable time.

[C27, 31, 35, §3112-b5; C39, §**3112.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §197.4]

197.5 Enforcement.

The department shall be charged with the duty of the enforcement of this chapter.

[C27, 31, 35, §3112-b6; C39, §**3112.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §197.5]

197.6 Violations.

Any person who shall violate the provisions of this chapter shall, for each offense, be deemed guilty of a simple misdemeanor.

[C27, 31, 35, §3112-b7; C39, §**3112.7;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §197.6]

CHAPTER 198

COMMERCIAL FEED

Referred to in §126.20, 203.1, 203C.1

198.1 Short title.
198.2 Enforcing official.
198.3 Definitions.
198.4 Licenses.
198.5 Labeling.
198.6 Misbranding.
198.7 Adulteration.
198.8 Prohibited acts.
198.9 Inspection fees and reports.
198.10 Rules.
198.11 Inspection, sampling, and analysis.
198.12 Detained commercial feeds.
198.13 Penalties.
198.14 Cooperation with other entities.
198.15 Publication.

198.1 Short title.

This chapter shall be known as the "*Iowa Commercial Feed Law*".

[C66, 71, 73, 75, 77, 79, 81, §198.1]
90 Acts, ch 1165, §1

198.2 Enforcing official.
This chapter shall be administered by the secretary.
[C66, 71, 73, 75, 77, 79, 81, §198.2]
2017 Acts, ch 159, §35

198.3 Definitions.
For the purposes of this chapter:
1. *"Advertise"* means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.
2. *"Brand name"* means any word, name, symbol, or device or any combination thereof, identifying the commercial feed of a distributor and distinguishing it from that of others.
3. *"Broker"* means a person, other than a licensed manufacturer, who distributes commercial feed or commercial feed ingredients to a manufacturer.
4. *"Commercial feed"* means all materials or a combination of materials which are distributed or intended for distribution for use as feed or for mixing in feed, unless such materials are specifically exempted. Except as otherwise provided in this chapter, unmixed whole seeds and physically altered entire unmixed seeds, when such whole or physically altered seeds are not chemically changed or are not adulterated within the meaning of section 198.7, subsection 1, are exempt. The secretary by rule may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed or mixed with other materials, and are not adulterated within the meaning of section 198.7, subsection 1.
5. *"Contract feeder"* means a person who as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of product.
6. *"Customer-formula feed"* means commercial feed which consists of a mixture of commercial feeds or feed ingredients, or both, each batch of which is manufactured according to the specific instructions of the final purchaser.
7. *"Department"* means the department of agriculture and land stewardship.
8. *"Distribute"* means either of the following:
a. To offer for sale, sell, exchange, or barter commercial feed.
b. To supply, furnish, or otherwise provide commercial feed to a contract feeder.
9. *"Distributor"* means any person who distributes.
10. *"Drug"* means any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.
11. *"Feed ingredient"* means each of the constituent materials making up a commercial feed.
12. *"Label"* means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
13. *"Labeling"* means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrappers or, accompanying such commercial feed.
14. *"Manufacture"* means to grind, mix or blend or further process a commercial feed for distribution.
15. *"Mineral feed"* means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
16. *"Official sample"* means a sample of feed taken by the secretary or the secretary's agent in accordance with the provisions of section 198.11, subsection 3, 5, or 6.
17. *"Percent"* or *"percentages"* means percentages by weight.
18. *"Pet"* means any domesticated animal normally maintained in or near the household of the owner thereof.

19. *"Pet food"* means any commercial feed prepared and distributed for consumption by dogs or cats.

20. *"Product name"* means the name of the commercial feed which identifies it as to kind, class, or specific use.

21. *"Secretary"* means the secretary of agriculture.

22. *"Specialty pet"* means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles.

23. *"Specialty pet food"* means any commercial feed prepared and distributed for consumption by specialty pets.

24. *"Ton"* means a net weight of two thousand pounds avoirdupois.

[S13, §5077-a8; C24, 27, 31, 35, 39, §**3113;** C46, 50, 54, 58, 62, §198.1; C66, 71, 73, 75, 77, 79, 81, §198.3]

86 Acts, ch 1245, §642; 90 Acts, ch 1165, §2 – 4; 91 Acts, ch 97, §24; 98 Acts, ch 1046, §1; 2004 Acts, ch 1082, §8, 9; 2017 Acts, ch 159, §36

Referred to in §169.3, 169.4, 198.6, 198.10, 198.11, 205.8, 570A.1
Further definitions, see §189.1

198.4 Licenses.

1. This section shall apply to any person:

a. Who manufactures a commercial feed within the state.

b. Who distributes a commercial feed in or into the state.

c. Whose name appears on the label of a commercial feed as guarantor.

2. A person shall obtain a license issued by the secretary, for each facility which distributes in or into the state, authorizing the person to manufacture or distribute commercial feed before the person engages in such activity. Any person who makes only retail sales of commercial feed which bears labeling or other approved indication that the commercial feed is from a licensed manufacturer, guarantor, or distributor who has assumed full responsibility for the tonnage inspection fee due under section 198.9 is not required to obtain a license.

3. A broker shall not distribute a commercial feed in this state without first obtaining a license from the secretary issued on forms provided by the secretary. The forms must identify the broker's name and place of business.

4. A person obtaining a license under this section shall pay to the secretary a license fee of twenty dollars. The license shall expire on July 1 of the odd-numbered year following the date the license is issued. A license may be renewed for a two-year period as provided by the department.

[S13, §5077-a9; C24, 27, 31, 35, 39, §**3117;** C46, 50, 54, 58, 62, §198.7; C66, 71, 73, §198.4, 198.5; C75, 77, 79, 81, §198.4]

90 Acts, ch 1165, §5; 98 Acts, ch 1046, §2; 2009 Acts, ch 41, §78; 2017 Acts, ch 159, §37, 56; 2019 Acts, ch 128, §2

Referred to in §198.8

198.5 Labeling.

A commercial feed shall be labeled as follows:

1. In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:

a. The net weight.

b. The product name and the brand name, if any, under which the commercial feed is distributed.

c. The guaranteed analysis stated in such terms as the secretary by rule determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the association of official analytical chemists.

d. An ingredient statement containing the common or usual name of each ingredient used in the manufacture of the commercial feed. However, the secretary by rule may permit the use of a collective term for a group of ingredients which perform a similar function, or the

secretary may exempt such commercial feeds, or any group of them, from this requirement if the secretary finds that a statement is not required in the interest of consumers.

e. The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

f. Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the secretary may require by rule as necessary for their safe and effective use.

g. Such precautionary statements as the secretary by rule determines are necessary for the safe and effective use of the commercial feed.

2. In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip or other shipping document, bearing the following information:

a. Name and address of the manufacturer.

b. Name and address of the purchaser.

c. Date of delivery.

d. The product name and brand name, if any, and the net weight of each commercial feed used in the mixture, and the net weight of each other ingredient used.

e. Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the secretary may require by rule as necessary for their safe and effective use.

f. Such precautionary statements as the secretary by rule determines are necessary for the safe and effective use of the customer-formula feed.

g. If a drug-containing product is used, information relating to the purpose of the medication in the form of a claim statement, plus the established name of each active drug ingredient and the level of each drug used in the final mixture.

[S13, §5077-a6, -a7; SS15, §5077-a6, -a7; C24, 27, 31, 35, 39, §**3114 – 3116;** C46, 50, 54, 58, 62, §198.2, 198.5, 198.6; C66, 71, 73, §198.6; C75, 77, 79, 81, §198.5]

90 Acts, ch 1165, §6, 7; 91 Acts, ch 97, §25

Referred to in §198.6

198.6 Misbranding.

A commercial feed shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.
2. If it is distributed under the name of another commercial feed.
3. If it is not labeled as required in section 198.5.
4. If it is not a commercial feed as defined in section 198.3.
5. If any word, statement, or other information required by this chapter to appear on the label is not prominently and conspicuously placed thereon and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

[C66, 71, 73, §198.9; C75, 77, 79, 81, §198.6]

90 Acts, ch 1165, §8

198.7 Adulteration.

A commercial feed shall be deemed to be adulterated:

1. *a.* If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health.

b. If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, codified at 21 U.S.C. §346, other than one which is a pesticide chemical in or on a raw agricultural commodity or a food additive.

c. If it is, or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act, codified at 21 U.S.C. §348.

d. If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408, subparagraph "a" of the Federal Food, Drug, and Cosmetic Act, codified at 21 U.S.C. §346a, provided, that where a pesticide chemical has been

used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act, codified at 21 U.S.C. §346a, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agriculture commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408, subparagraph "a" of the Federal Food, Drug, and Cosmetic Act, codified at 21 U.S.C. §346a.

e. If it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act, codified at 21 U.S.C. §379e.

f. If it is, or it bears or contains a new animal drug which is unsafe within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §360b.

2. If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.

3. If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

4. If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules promulgated by the secretary to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In promulgating such rules, the secretary shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the federal Food, Drug, and Cosmetic Act, unless the secretary determines that they are not appropriate to the conditions which exist in this state.

5. If it contains viable weed seeds in amounts exceeding the limits which the secretary shall establish by rule.

[S13, §5077-a13; C24, 27, 31, 35, §3114-d2, 3126; C39, §**3114.2;** C46, 50, 54, 58, 62, §198.4, 198.13; C66, 71, 73, §198.8; C75, 77, 79, 81, §198.7]

90 Acts, ch 1165, §9; 2014 Acts, ch 1092, §169; 2015 Acts, ch 30, §66; 2017 Acts, ch 29, §51

Referred to in §198.3, 198.8, 198.11

198.8 Prohibited acts.

It shall be unlawful for any person to:

1. Manufacture or distribute any commercial feed that is adulterated or misbranded.

2. Adulterate or misbrand any commercial feed.

3. Distribute agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks and hulls, which are adulterated within the meaning of section 198.7, subsection 1.

4. Remove or dispose of a commercial feed in violation of an order under section 198.12.

5. Fail or refuse to obtain a license in accordance with section 198.4.

6. Violate section 198.13, subsection 6.

7. Fail to pay inspection fees and file reports as required by section 198.9.

[C75, 77, 79, 81, §198.8]

90 Acts, ch 1165, §10

198.9 Inspection fees and reports.

1. *a.* An inspection fee to be fixed annually by the secretary at a rate of not more than sixteen cents per ton, shall be paid on commercial feed distributed in this state by the person who first distributes the commercial feed, subject to the following:

(1) The inspection fee is not required on the first distribution, if made to a qualified buyer who, with approval from the secretary, shall become responsible for the fee.

(2) A fee shall not be paid on a commercial feed if the payment has been made by a previous distributor.

(3) A fee shall not be paid on customer-formula feeds if the inspection fee is paid on the commercial feeds which are used as components of the customer-formula feeds.

(4) A minimum semiannual fee shall be twenty dollars.

(5) A licensed manufacturer shall pay the inspection fee on commercial feed that is fed to livestock owned by the licensee.

b. In the case of a pet food or specialty pet food, which is distributed in this state in packages of ten pounds or less, each product shall be registered and an annual registration fee of fifty dollars for each product shall be paid by January 1 of each year in lieu of the per ton rate as provided in this subsection. The inspection fee shall apply to those same products distributed in packages of more than ten pounds.

2. *a.* Each person who is liable for the payment of such fee shall:

(1) File, not later than the last day of January and July of each year, a semiannual statement, setting forth the number of net tons of commercial feeds distributed in this state during the preceding six months and upon filing the statement shall pay the inspection fee at the rate stated in subsection 1. Inspection fees which are due and owing and have not been remitted to the secretary within fifteen days following the due date shall have a delinquency fee of ten percent of the amount due or fifty dollars, whichever is greater, added to the amount due when payment is finally made. The assessment of this delinquency fee does not prevent the department from taking other actions as provided in this chapter.

(2) Keep such records as may be necessary or required by the secretary to indicate accurately the tonnage of commercial feed distributed in this state, and the secretary shall have the right to examine such records to verify statements of tonnage.

b. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided in this section is sufficient cause for cancellation of the license of the distributor.

3. Fees collected shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section shall be used for the payment of the costs of inspection, sampling, analysis, supportive research, and other expenses necessary for the administration of this chapter.

4. If there is an unencumbered balance of funds from the fees deposited under this section on June 30 of any fiscal year equal to or exceeding one hundred thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 for the next fiscal year in such amount as will result in an ending estimated balance of the fees deposited less costs paid for from those fees for June 30 of the next fiscal year of one hundred thousand dollars.

[S13, §5077-a10; C24, 27, 31, 35, 39, §**3118 – 3121;** C46, 50, 54, 58, 62, §198.8 – 198.12; C66, 71, 73, §198.7; C75, 77, 79, 81, §198.9]

83 Acts, ch 122, §1; 90 Acts, ch 1165, §11 – 14; 91 Acts, ch 97, §26; 91 Acts, ch 260, §1216; 93 Acts, ch 131, §7; 94 Acts, ch 1107, §45; 95 Acts, ch 42, §1; 98 Acts, ch 1032, §7; 2009 Acts, ch 41, §210

Referred to in §198.4, 198.8

198.10 Rules.

1. The secretary may adopt rules for commercial feeds and pet foods as specifically authorized in this chapter and other reasonable rules necessary in order to carry out the purpose and intent of this chapter or to secure the efficient enforcement of this chapter.

2. The secretary may adopt rules to do all of the following:

a. Regulate the movement of cottonseed into this state or within this state, even if the cottonseed would otherwise be exempt as whole seed under section 198.3. The secretary may adopt rules prescribing standards for cottonseed consistent with regulations prescribing the quality and uses of cottonseed as promulgated by the United States food and drug administration.

b. Regulating the advertisement of commercial feed, including but not limited to labeling commercial feed as specifically provided in this chapter.

3. In the interest of uniformity the secretary shall adopt any rule based on regulations promulgated under the authority of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. §301 et seq., provided the secretary has the authority under this chapter to adopt the rule. However,

the secretary is not required to adopt such a rule if the secretary determines that the rule would be inconsistent with this chapter or not appropriate to conditions which exist in this state.

4. Before the issuance, amendment, or repeal of a rule authorized by this chapter, the secretary shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current licensees, adequate notice, and shall afford all interested persons an opportunity to be heard, orally or in writing, within a reasonable period of time. After consideration of all views presented by interested persons, the secretary shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule. However, if the secretary adopts rules based on regulations promulgated under the authority of the federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by the United States secretary of health and human services shall be adopted automatically under this chapter without regard to publication of the notice required by this subsection, unless the secretary by order specifically determines that an amendment or modification shall not be adopted.

[C66, 71, 73, §198.11; C75, 77, 79, 81, §198.10]

90 Acts, ch 1165, §15; 91 Acts, ch 97, §27; 95 Acts, ch 42, §2; 2004 Acts, ch 1082, §10

198.11 Inspection, sampling, and analysis.

1. For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the secretary, upon presenting appropriate credentials, and a written notice to the owner, operator or agent in charge, are authorized:

a. To enter, during normal business hours, any factory, warehouse or establishment within the state in which commercial feeds are manufactured, processed, packed or held for distribution, or to enter any vehicle being used to transport or hold such feed.

b. To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under section 198.7, subsection 4.

2. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.

3. If the officer or employee making such inspection of a factory, warehouse or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the officer or employee shall give to the owner, operator or agent in charge a receipt describing the samples obtained.

4. If the owner of any factory, warehouse, or establishment described in subsection 1, or the owner's agent, refuses to admit the secretary or the secretary's agent to inspect in accordance with subsections 1 and 2, the secretary may obtain from any state court a warrant directing such owner or the owner's agent to submit the premises described in such warrant to inspection.

5. For the purpose of the enforcement of this chapter, the secretary or the secretary's duly designated agent is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.

6. Sampling and analysis shall be conducted in accordance with methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.

7. The results of all analyses of official samples shall be forwarded by the secretary to the person named on the label. When the inspection and analysis of an official sample indicates

a commercial feed has been adulterated or misbranded and upon request within thirty days following receipt of the analysis the secretary shall furnish to the licensee a portion of the sample concerned.

8. The secretary, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in section 198.3, and obtained and analyzed as provided for in subsections 3, 5, and 6.

[C66, 71, 73, §198.10; C75, 77, 79, 81, §198.11]

90 Acts, ch 1165, §16

Referred to in §198.3

198.12 Detained commercial feeds.

1. When the secretary or the secretary's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the rules adopted under this chapter, the secretary or agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the secretary or the court. The secretary shall release the lot of commercial feed so withdrawn when the provisions and rules have been complied with. If compliance is not obtained within thirty days, the secretary may begin, or upon request of the distributor shall begin, proceedings for condemnation.

2. Any lot of commercial feed not in compliance with said provisions and rules shall be subject to seizure on complaint of the secretary to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this chapter and order the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state, provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this chapter.

[C66, 71, 73, 75, 77, 79, 81, §198.12]

91 Acts, ch 97, §28

Referred to in §198.8

198.13 Penalties.

1. Any person convicted of violating any of the provisions of this chapter or who shall impede, hinder or otherwise prevent, or attempt to prevent, said secretary or the secretary's authorized agent in performance of that person's duty in connection with the provisions of this chapter, shall be guilty of a simple misdemeanor.

2. Nothing in this chapter shall be construed as requiring the secretary or the secretary's representative to:

a. Report for prosecution.

b. Institute seizure proceedings.

c. Issue a withdrawal from distribution order, as a result of minor violations of the chapter, or when the secretary or representative believes the public interest will best be served by suitable notice of warning in writing.

3. It shall be the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the secretary reports a violation for such prosecution, an opportunity shall be given the distributor to present the distributor's view to the secretary.

4. The secretary may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies at law. If granted, the injunction shall be issued without bond.

5. Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this chapter may within forty-five days thereafter bring action in the district court for judicial review of such actions. The form of the proceeding shall be any which may

be provided by statutes of this state to review decisions of administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs or prohibitory or mandatory injunctions.

6. Any person who uses to the person's own advantage, or reveals to other than the secretary, or officers of the department or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this chapter, concerning any method, records, formulations or processes which as a trade secret is entitled to protection, is guilty of a serious misdemeanor. This prohibition shall not be deemed as prohibiting the secretary, or the secretary's duly authorized agent, from exchanging information of a regulatory nature with appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

[C66, 71, 73, 75, 77, 79, 81, §198.13]

Referred to in §198.8, 331.756(33)

198.14 Cooperation with other entities.

The secretary may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations in order to carry out the purpose and provisions of this chapter.

[C75, 77, 79, 81, §198.14]

198.15 Publication.

The secretary shall publish at least annually, in forms the secretary deems proper, information concerning the sales of commercial feeds, together with data on their production and use as the secretary considers advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed on the label. However, the information concerning production and use of commercial feed shall not disclose the operations of any person.

[C66, 71, 73, §198.14; C75, 77, 79, 81, §198.15]

91 Acts, ch 97, §29

CHAPTER 199

AGRICULTURAL SEEDS

Referred to in §203.1

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199.1 Definitions.

For the purpose of this chapter or as used in labeling of seed:

1. *"Advertisement"* means all representations, other than those on the label, relating to seed within the scope of this chapter.

2. *"Agricultural seed"* means grass, forage, cereal, oil, fiber, and any other kind of crop seed commonly recognized within this state as agricultural seed, lawn seed, vegetable seed, or seed mixtures. Agricultural seed may include any additional seed the secretary designates by rules.

3. *"Certifying agency"* means an agency authorized under the laws of a state, territory, or possession to officially certify seed and which has standards and procedures approved by

the United States secretary of agriculture to assure genetic purity and identity of the seed certified, or an agency of a foreign country determined by the United States secretary of agriculture to adhere to the procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies in the United States.

4. *"Coated seed"* means seed that has been encapsulated or covered with a substance other than those defined as *"inoculated seed"* or *"treated seed"*. Pelleted seed is a subclass of *"coated seed"*.

5. *"Conditioning"* means cleaning to remove chaff, sterile florets, immature seed, weed seed, inert matter, and other crop seed; scarifying; blending to obtain uniform quality; or any other operation which may change the purity or germination of the seed and require retesting to determine the quality of the seed.

6. *"Cultivar"* or *"variety"* means a cultivated subdivision of a kind of plant that may be characterized by growth habits, fruit, seed, or other characteristics, by which it can be differentiated from other plants of the same kind.

7. *"Hybrid"* means the first generation seed produced by controlled pollination of two inbred lines to produce a single cross; an inbred line and a single cross of two unrelated inbred lines to produce a three-way cross; an inbred line and a single cross of two related lines to produce a modified single cross; two single crosses to produce a double cross; an inbred line or a single cross with an open-pollinated or synthetic cultivar to produce a modified cultivar cross; or a cross of two open-pollinated or synthetic cultivars to produce a cultivar cross. The second or subsequent generation from such crosses are not hybrids. Hybrid designations shall be treated as cultivar names.

8. *"Inoculant for leguminous plants"* means a bacterial culture, or material containing bacteria, that is represented as causing the formation of nodules and aiding the growth of leguminous plants by the fixation of nitrogen.

9. *"Inoculated seed"* means seed to which has been added a substance containing the cells, spores or mycelia of microorganisms for which a claim is made.

10. *"Kind"* means one or more related species or subspecies which singly or collectively are known by one common name.

11. *"Labeling"* means all labels and other written, printed, or graphic representations, in any form, accompanying and pertaining to seed, whether in bulk or in containers, and includes invoices.

12. *a. "Local governmental entity"* means any political subdivision, or any state authority which is not any of the following:

(1) The general assembly.

(2) A principal central department as enumerated in section 7E.5, or a unit of a principal central department.

b. "Local governmental entity" includes but is not limited to a county, special district, township, or city as provided in Title IX of this Code.

13. *"Local legislation"* means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

14. *"Mixture"* or *"blend"* means a combination of seed of more than one kind or variety if present in excess of five percent of the whole.

15. *"Multiline cultivar"* means a planned combination of two or more near-isogenic lines of a normally self-fertilizing kind of crop.

16. *"Noxious weed seed"* shall be divided into two classes, *"primary noxious weed seed"* and *"secondary noxious weed seed"* which are defined in paragraphs *"a"* and *"b"* of this subsection. The secretary, upon the recommendation of the dean of agriculture, Iowa state university of science and technology, shall adopt as a rule, after public hearing, pursuant to chapter 17A, the list of seed classified as *"primary noxious weed seed"* and *"secondary noxious weed seed"*.

a. "Primary noxious weed seed" are the seed of perennial weeds that reproduce by seed and by underground roots or stems and which, when established, are highly destructive and difficult to control in this state by good cultural practices. For the purpose of this chapter and the sale of seed, primary noxious weeds in this state are the seeds of:

(1) Quack grass — Agropyron repens (L.) Beauv.

(2) Canada thistle — Cirsium arvense (L.) Scop.
(3) Perennial sow thistle — Sonchus arvensis L.
(4) Perennial pepper grass (hoary cress) — Cardaria draba (L.) Desv.
(5) European morning-glory (field bindweed) — Convolvulus arvensis L.
(6) Horse nettle — Solanum carolinense L.
(7) Leafy spurge — Euphorbia esula L.
(8) Russian knapweed — Centaurea repens L.
(9) Palmer amaranth — Amaranthus palmeri.

b. *"Secondary noxious weed seed"* are the seed of weeds that are very objectionable in fields, lawns, or gardens in this state, but can be controlled by good cultural practices. For the purpose of this chapter and the sale of seed, the secondary noxious weed seeds in this state are the seeds of:

(1) Wild carrot — Daucus carota L.
(2) Sour dock (curly dock) — Rumex crispus L.
(3) Smooth dock — Rumex altissimus Wood.
(4) Sheep sorrel (red sorrel) — Rumex acetosella L.
(5) Butterprint (velvet leaf) — Abutilon theophrasti Medic.
(6) Mustards — Brassica juncea (L.) Coss., Sinapis arvensis L. and B. nigra (L.) Koch.
(7) Cocklebur — Xanthium strumarium L.
(8) Buckhorn — Plantago lanceolata L.
(9) Dodders — Cuscuta species.
(10) Giant foxtail — Setaria faberii Herrm.
(11) Poison hemlock — Conium maculatum.
(12) Wild sunflower — Wild strain of Helianthus annus (L.).
(13) Puncture vine — Tribulus terrestris.

17. *"Permit holder"* is a person who has obtained a permit from the department as required under sections 199.15 and 199.16.

18. *"Person"* means an individual, partnership, corporation, company, society, or association.

19. *"Purity"* means the pure seed percentage by weight, exclusive of inert matter and of other agricultural or weed seed which are distinguishable by their appearance from the crop seed in question.

20. *"Record"* means all information relating to a shipment of agricultural seed and includes a file sample of each lot of seed.

21. *"Registered seed technologist"* is a person who has attained registered membership in the society of commercial seed technologists through qualifying tests and experience as required by this society.

22. *"Tolerance"* means the allowable deviation from any figure used on a label to designate the percentage of any component or the number of seeds given for the lot in question and is based on the law of normal variation from a mean. The secretary shall prepare tables of tolerances allowable in the enforcement of this chapter and may be guided in the preparation by the regulations under the Federal Seed Act, 7 C.F.R. §201.59 et seq.

23. *"Treated seed"* means agricultural seed that has been given an application of a substance, or subjected to a procedure, for which a claim is made or which is designed to reduce, control or repel disease organisms, insects, or other pests which attack seed or seedlings.

24. *"Vegetable seed"* means the crops which are grown in gardens or truck farms and are generally sold under the name of vegetable or herb seed in this state.

25. *"Weed seed"* means the seed of all plants listed as weeds in this chapter or listed as weeds in the rules of the department or commonly recognized as weeds in this state.

26. The Iowa secretary of agriculture shall, by rule, define the terms *"breeder"*, *"foundation"*, *"registered"*, *"certified"*, and *"inbred"*, as used in this chapter.

[S13, §5077-a14 – a17; C24, 27, 31, §3127, 3128; C35, §3137-e1; C39, §**3127, 3128, 3137.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.1, 199.5; 82 Acts, ch 1191, §1]

2005 Acts, ch 21, §2; 2009 Acts, ch 41, §211; 2017 Acts, ch 101, §1; 2017 Acts, ch 159, §38

Referred to in §199.5, 570A.1, 717A.1

For plants declared noxious weeds, see §317.1A

Further definitions, see §189.1

199.2 Dean of agriculture as advisor.

The dean of agriculture of Iowa state university of science and technology or the dean's designee shall be the technical advisor to the secretary in the administration of this chapter.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.2; 82 Acts, ch 1191, §2]

199.3 Labeling of seed.

Each container of agricultural or vegetable seed which is sold, offered for sale, exposed for sale, or transported within this state shall be labeled according to the following schedule:

1. Seed for sowing purposes shall be labeled as follows:

a. Agricultural or vegetable seed that is treated, inoculated, or coated shall contain a word or statement indicating that the treatment, inoculation, or coating has been done. A separate label may be used.

b. If treated, the label shall indicate the commonly accepted chemical or abbreviated chemical name of the applied substance or substances or a description of the type and purpose of procedure used. If the substance in the amount present with the seed is harmful to human or vertebrate animals, the label shall bear a caution statement such as "Do not use for food, feed, or oil purposes". In addition, for highly toxic substances, a poison statement or symbol shall be shown on the label.

c. If the seed is inoculated, the label shall indicate the month and year beyond which the inoculant is not claimed to be effective.

d. If the seed is coated, the label shall show the percentage by weight in the container of pure seed, inert matter, coating material, other crop seed, and weed seed. The percentage of germination shall be labeled on the basis of a determination made on at least four hundred pellets or capsules, whether or not they contain seed.

e. All seed in package or wrapped form which are required to be labeled, unless otherwise provided, shall conform to the requirements of sections 189.9 and 189.11.

2. Except for seed mixtures for lawn or turf purposes, agricultural seed shall bear a label indicating:

a. The name of the kind or kind and variety for each agricultural seed present in excess of five percent of the whole and the percentage by weight of each. If the variety of those kinds generally labeled as to variety is not stated, the label shall show the name of the kind and the words, "variety not stated". Hybrids shall be labeled as hybrids. Seed shall not be labeled or advertised under a trademark or brand name in a manner that may create the impression that the trademark or brand name is a variety name.

b. Lot number or other lot identification.

c. State or foreign country of origin, if known, of alfalfa and red clover. If the origin is unknown, the fact shall be stated.

d. Percentage by weight of all weed seed.

e. The name and rate of occurrence per unit of weight of each kind of secondary noxious weed seed present.

f. Percentage by weight of agricultural seed which may be designated as "other crop seed" other than those required to be named on the label.

g. Percentage by weight of inert matter.

h. (1) For each named agricultural seed:

(a) Percentage of germination, exclusive of hard seed.

(b) Percentage of hard seed, if present.

(c) The calendar month and year the test was completed to determine the percentages.

(2) Following (a) and (b), the "total germination and hard seed" may be stated as such, if desired.

i. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

3. For seed mixtures for lawn or turf purposes, the label shall indicate:

a. The word "mixed" or "mixture" along with the name of the mixture.

b. The heading "pure seed" and "germination" or "germ" where appropriate.

c. Commonly accepted name of kind or kind and variety of each turf seed component in excess of five percent of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form.

d. Name and percentage by weight of other agricultural seed than those required to be named on the label which shall be designated as "other crop seed". If the mixture contains no "other crop seed" that fact may be indicated by the words "contains no other crop seed".

e. Percentage by weight of inert matter.

f. Percentage by weight of all weed seed. Maximum weed seed content not to exceed one percent by weight.

g. The name and rate of occurrence per unit of weight of each kind of secondary noxious weed seed present.

h. For each turf seed named under paragraph "*c*":

(1) Percentage of germination, exclusive of hard seed.

(2) Percentage of hard seed, if present.

(3) Calendar month and year the test was completed to determine such percentages. The oldest current test date applicable to any single kind in the mixture shall appear on the label.

i. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within the state.

4. The labeling requirements for vegetable seed sold from containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser. Packets of vegetable seed prepared for use in home gardens or household plantings or vegetable seed in preplanted containers, mats, tapes, or other planting devices, shall bear labels with the following information:

a. Name of kind and variety of seed.

b. Lot identification.

c. The year for which the seed was packed for sale or the percentage of germination and the calendar month and year the test to determine such percentage was completed.

d. Name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within the state.

e. For seed which germinate less than the standard last established by the secretary in rules adopted under chapter 17A:

(1) Percentage of germination, exclusive of hard seed.

(2) Percentage of hard seed, if present.

(3) The words "below standard" in not less than eight point type.

f. For seed placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or device, a statement to indicate the minimum number of seed in the container.

g. The last date on which the variety of seed will normally germinate according to standards established by rules adopted by the department.

5. All other vegetable seed containers shall be labeled, indicating:

a. The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance.

b. Lot number or other lot identification.

c. (1) For each named vegetable seed:

(a) Percentage germination exclusive of hard seed.

(b) Percentage of hard seed, if present.

(c) The calendar month and year the test was completed to determine such percentages.

(2) Following (a) and (b), the "total germination and hard seed" may be stated as such, if desired.

d. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within the state.

6. Seed sold on or from the farm, which is exempt from the permit requirements by section 199.15, shall be labeled on the basis of tests performed by the Iowa state university seed testing laboratory or a commercial seed laboratory personally supervised by a registered seed technologist. Tests for labeling shall be as provided in section 199.10.

[S13, §5077-a6, -a18, -a19, -a21; C24, 27, 31, 35, 39, §**3129, 3130, 3131, 3132;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.3; 82 Acts, ch 1191, §3]

92 Acts, ch 1239, §34; 2009 Acts, ch 41, §212, 213; 2015 Acts, ch 103, §9

Referred to in §199.4, 199.9

199.4 Sales from bulk.

In case agricultural or vegetable seed is offered or exposed for sale in bulk or sold from bulk, the information required under section 199.3 may be supplied by a placard conspicuously displayed with the several required items thereon or a printed or written statement to be furnished to any purchaser of the seed.

[S13, §5077-a6; C24, 27, 31, 35, 39, §**3133;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.4; 82 Acts, ch 1191, §4]

199.5 Hybrid corn.

It is unlawful for any person to sell, offer or expose for sale, or falsely mark or tag, within the state any seed corn as hybrid unless it falls within the definition of hybrid in section 199.1.

[C35, §3137-e1; C39, §**3137.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.5; 82 Acts, ch 1191, §5]

199.6 Inoculant for legumes.

The container of any inoculant for leguminous plants which is sold, offered for sale, or exposed for sale within the state shall bear a label giving in the English language in legible letters the following information:

1. The kind or kinds of leguminous plants for which the contents are to be used.
2. The quantity of seed to which the contents are to be applied.
3. An expiry date after which the inoculant might be ineffective.
4. The name and place of business of the manufacturer or laboratory of origin, or alternately of the vendor only, if the vendor accepts responsibility for the accuracy of the declarations made in subsections 1, 2, and 3 of this section.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.6]

199.7 Certified seed.

1. The classes of certified seed are breeder, foundation, registered, and certified and shall be recognized by the certifying agency.
2. It shall be unlawful for any person to sell, offer for sale, or expose for sale in the state:

a. Any agricultural seed, including seed potatoes, as a recognized class of certified seed unless:

(1) Such seed has been certified by a duly constituted state authority or state association recognized by the Iowa secretary of agriculture.

(2) Each container bears an official label approved by the certifying agency stating that the seed has met the certification requirements established by the certifying agency.

(3) Each container of the certified class of certified seed bears a label blue in color with the word "certified" thereon.

(4) Each container of the foundation and registered classes of certified seed bears a label with a color or colors approved by the certifying agency.

b. Any agricultural seed, including seed potatoes, with a blue label unless such seed is a class of certified seed.

[C35, §3137-g1, -g2; C39, §**3137.3, 3137.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.7; 82 Acts, ch 1191, §6]

2009 Acts, ch 41, §263

199.8 Prohibited acts.

1. It is unlawful for a person to sell, transport, offer for sale, expose for sale, or advertise an agricultural or vegetable seed:

a. Unless the test to determine the percentage of germination as required by this chapter has been completed within nine months, excluding the month of the test, immediately prior to selling, transporting, offering, exposing, or advertising for sale. A retest is not required for seed in hermetically sealed containers or packages provided they have not reached the thirty-six month expiration date.

b. Not labeled in accordance with the provisions of this chapter, or having a false or misleading label.

c. For which there has been false or misleading advertising.

d. Consisting of or containing primary noxious weed seed, subject to recognized tolerances.

e. Consisting of or containing secondary noxious weed seed per weight unit in excess of the number prescribed by rules adopted under this chapter, or in excess of the number declared on the label attached to the container of the seed or associated with the seed.

f. Containing more than one and one-half percent by weight of all weed seed.

g. If any labeling, advertising, or other representation subject to this chapter represents the seed to be certified seed or any class thereof, unless:

(1) It has been determined by a seed certifying agency that the seed conforms to standards of varietal purity and identity as to kind in compliance with the rules and regulations of the agency.

(2) The seed bears an official label issued for the seed by a seed certifying agency stating that the seed is of a specified class and a specified kind or variety.

h. Labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection under the Plant Variety Protection Act, 7 U.S.C. §2321 et seq., specifies sale only as a class of certified seed. Seed from a certified lot may be labeled as to variety name and used in a blend, by or with the approval of the owner of the variety.

2. It is unlawful for a person to:

a. Detach, alter, deface, or destroy a label provided for in this chapter or the rules adopted under this chapter, or to alter or substitute seed in a manner that may defeat the purpose of this chapter.

b. Disseminate false or misleading advertisements concerning seed subject to this chapter.

c. Hinder or obstruct in any way an authorized person in the performance of duties under this chapter.

d. Fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale" order or tags attached thereto, except with express permission of the enforcing officer, and for the purpose specified thereby.

e. Use the word "trace" as a substitute for any statement which is required.

f. Use the word "type" in labeling in connection with the name of an agricultural seed variety.

3. It is unlawful for a person to sell, transport, offer for sale, expose for sale, or advertise screenings of any agricultural seed subject to this chapter, unless it is stated on the label if in containers or on the invoice if in bulk, that they are not intended for seeding purposes. For the purpose of this subsection, *"screenings"* includes chaff, empty florets, immature seed,

weed seed, inert matter, and other materials removed by cleaning from any agricultural seed subject to this chapter.

[S13, §5077-a15; C24, 27, 31, 35, 39, §**3137;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.8; 82 Acts, ch 1191, §7]

Referred to in §199.9, 199.12

199.9 Exemptions.

1. Sections 199.3 and 199.8 do not apply to:

a. Seed or grain not intended for sowing purposes.

b. Seed in storage in, or consigned to, or for sale to, a seed cleaning or conditioning establishment for cleaning or conditioning; provided that any labeling or other representation which is made with respect to the unclean or unconditioned seed is subject to this chapter.

c. A carrier in respect to seed transported or delivered for transportation in the ordinary course of its business as a carrier provided that the carrier is not engaged in producing, conditioning, or marketing seed, and subject to this chapter.

2. A person is not subject to the penalties of this chapter for having sold, offered or exposed for sale in this state any agricultural seeds which were incorrectly labeled or represented as to kind, species, variety, or origin when those seeds cannot be identified by examination, unless the person has failed to obtain an invoice or genuine grower's declaration or other labeling information and to take other precautions as reasonable to ensure the identity. A genuine grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed such as invoices and labels.

[S13, §5077-a20; C24, 27, 31, 35, 39, §**3136;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.9; 82 Acts, ch 1191, §8]

199.10 Testing methods — cooperation of facilities.

1. *Testing methods when seed is for sale.* Seed lots of all kinds of agricultural seed intended for sale in this state shall be tested in accordance with the association of official seed analysts' rules for testing seed or the regulations under the Federal Seed Act. The tests required shall be:

a. Purity analysis.

b. Noxious weed examination.

c. Germination.

2. *Charges for testing.* Charges for seed testing by the Iowa state university seed testing laboratory shall be determined by the laboratory. Separate fee schedules shall be published for:

a. Tests for seed dealers, permit holders, and farmers who plan to sell seed.

b. Tests for out-of-state persons.

3. *Cooperation between the Iowa state university and the department of agriculture and land stewardship.* To furnish farmers and seed dealers with information as to seed quality and guide them in the proper labeling of seed for sale, these organizations shall:

a. Integrate seed testing so as to avoid unnecessary duplication of personnel and equipment. The Iowa state university seed testing laboratory shall promote seed education and research and shall conduct service testing for farmers and seed dealers.

b. Exchange information which will be mutually beneficial to both agencies in matters pertaining to agricultural seed.

c. Guide seed testing by all individuals or organizations so as to promote uniformity of seed testing in Iowa.

[S13, §5077-a12; C24, 27, 31, 35, 39, §**3135;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.10; 82 Acts, ch 1191, §9 – 11]

85 Acts, ch 67, §21, 22; 2015 Acts, ch 103, §10, 11

Referred to in §199.3

199.11 Authority of the department.

1. For the purpose of carrying out the provisions of this chapter, the department shall do all of the following:

a. Sample, inspect, analyze, and test agricultural seed, if the agricultural seed is

transported, sold, offered, or exposed for sale within this state for sowing. The department shall perform these duties at a time and place and to an extent necessary to determine whether the agricultural seed is in compliance with this chapter. The department shall promptly notify the person who transported, sold, offered, or exposed the seed for sale, of a violation.

b. Adopt rules governing methods of sampling, inspecting, analyzing, testing, and examining agricultural seed. The rules shall include tolerances to be followed in the administration of this chapter, which shall be in general accord with officially prescribed practice in interstate commerce under the Federal Seed Act and other rules or regulations necessary for the efficient enforcement of this chapter.

2. For the purpose of carrying out the provisions of this chapter, the department may:

a. Enter upon public or private premises during regular business hours in order to have access to commercial seed, subject to this chapter and departmental rules.

b. Issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of agricultural seed which the department believes is in violation of this chapter or departmental rules. The order shall prohibit further sale of the seed until the department has evidence of compliance. However, the owner or custodian of the seed shall be permitted to remove the seed from a salesroom open to the public. Judicial review of the order may be sought in accordance with chapter 17A. However, notwithstanding chapter 17A, petitions for judicial review may be filed in the district court. This subsection does not limit the right of the department to proceed as authorized by other sections of this chapter.

c. Establish and maintain or make provision for seed testing facilities essential to the enforcement of this chapter. The department may employ qualified persons, and incur expenses necessary to comply with these provisions.

d. Cooperate with the United States department of agriculture in seed law enforcement.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.11]

92 Acts, ch 1239, §35; 93 Acts, ch 40, §1, 2

199.12 Seizure of unlawful seed.

Upon the recommendation of the secretary or the secretary's duly authorized agents, the court of competent jurisdiction in the area in which the seed is located shall cause the seizure and subsequent denaturing, conditioning, or destruction to prevent the use for sowing purposes of any lot of agricultural seed found to be prohibited from sale as set forth in section 199.8, provided that in no instance shall the denaturing, conditioning, or destruction be ordered without first having given the claimant of the seed an opportunity to apply to the court for the release of the seed.

[C35, §3137-g3; C39, §**3137.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.12; 82 Acts, ch 1191, §12]

199.13 Penalty.

A violation of this chapter is a simple misdemeanor. The department may institute criminal or civil proceedings in a court of competent jurisdiction to enforce this chapter. When in the performance of the secretary's duties in enforcing this chapter the secretary applies to a court for a temporary or permanent injunction restraining a person from violating or continuing to violate any of the provisions of this chapter or rules adopted under this chapter, the injunction is to be issued without bond and the person restrained by the injunction shall pay the costs made necessary by the procedure.

[C35, §3137-e2; C39, §**3137.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.13; 82 Acts, ch 1191, §13]

199.13A Local legislation — prohibition.

1. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the production, use, advertising, sale, distribution, storage, transportation, formulation, packaging, labeling, certification, or registration of an agricultural seed. A local governmental entity shall not adopt or continue in effect such local legislation regardless

of whether a statute or a rule adopted by the department specifically preempts the local legislation. Local legislation in violation of this section is void and unenforceable.

2. This section does not apply to any of the following:

a. Local legislation of general applicability to commercial activity.

b. A motion or resolution that provides for any activity relating to agricultural seed which is owned by the local governmental entity and which is kept or used on land held by the local governmental entity.

2005 Acts, ch 21, §3

199.14 Enforcement.

It shall be the duty of the secretary of agriculture, and the secretary's agents, to enforce this chapter and of the county attorneys and of the attorney general of the state to cooperate with the secretary in the enforcement of this chapter.

[C35, §3137-g4; C39, §**3137.6;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.14]

2012 Acts, ch 1023, §157

Referred to in §331.756(34)

199.15 Permit — fee — fraud.

1. A person shall not sell, distribute, advertise, solicit orders for, offer or expose for sale, agricultural or vegetable seed without first obtaining from the department a permit to engage in the business. A permit is not required of persons selling seeds which have been packed and distributed by a person holding and having in force a permit. A permit is not required of persons selling or advertising seed of their own production, provided that the seed is stored or delivered to a purchaser only on or from the farm or premises where grown.

2. *a.* The fee for a new permit is ten dollars and the fee for a renewed permit is based on the gross annual sales of seeds in Iowa during the previous twelve-month period under the permit holder's label and all permits expire on the first day of July following date of issue.

b. Permits shall be issued subject to the following fee schedule:

Gross sales of seeds		Fee
Not more than	$ 25,000	$30
Over $25,000 but not exceeding	50,000	60
Over $50,000 but not exceeding	100,000	90
Over $100,000 but not exceeding	200,000	120

c. For each additional increment of one hundred thousand dollars of sales in Iowa the fee shall increase by thirty dollars. The fee shall not exceed one thousand five hundred dollars for a permit holder.

3. After due notice given at least ten days prior to a date of hearing fixed by the secretary, the department may revoke or refuse to renew a permit issued under this section if a violation of this chapter or if intent to defraud is established. The failure to fulfill a contract to repurchase the seed crop produced from any agricultural seed, if the crop meets the requirements set forth in the contract and the standards specified in this chapter, is prima facie evidence of intent to defraud the purchaser at the time of entering into the contract. However, this does not apply when seed stock is furnished by the contractor to the grower at no cost.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §199.15; 82 Acts, ch 1191, §14]

88 Acts, ch 1272, §20; 2009 Acts, ch 41, §214

Referred to in §199.1, 199.3

199.16 Permit holder's bond.

It is unlawful for the permit holder to enter into a contract with a grower who purchases agricultural seed in which the permit holder agrees to repurchase the seed crop produced from the purchased seed at a price in excess of the current market price, unless the permit holder has on file with the department a bond, in a penal sum of twenty-five thousand dollars running to the state of Iowa, with sureties approved by the secretary, for the use and benefit of a person holding a repurchase contract who might have a cause of action of any nature

arising from the purchase or contract. However, the aggregate liability of the surety to all purchasers of seed holding repurchase contracts shall not exceed the sum of the bond.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §199.16; 82 Acts, ch 1191, §15]

85 Acts, ch 84, §1

Referred to in §199.1

199.17 Records and seed samples.

A person whose name appears on the label as handling agricultural or vegetable seed subject to this chapter shall keep for a period of two years complete records of each lot of agricultural or vegetable seed handled and shall keep for one year a file sample of each lot of seed after final disposition of the lot. The records and samples pertaining to the shipments involved shall be accessible for inspection by the department during the customary business hours.

[82 Acts, ch 1191, §16]

CHAPTER 200

FERTILIZERS AND SOIL CONDITIONERS

Referred to in §200A.2, 455B.390

200.1	Title.	200.14	Rules.
200.2	Enforcing official.	200.15	Refusal to register or cancellation of registration and licenses.
200.3	Definitions of words and terms.		
200.4	License — fee and expiration.	200.16	"Stop sale" orders.
200.5	Registration.	200.17	Seizure, condemnation, and sale.
200.6	Labeling.	200.17A	Ammonium nitrate security.
200.7	Fertilizer-pesticide mixture.	200.18	Violations.
200.8	Inspection fees.	200.19	Exchanges between manufacturers.
200.9	Fertilizer fees.		
200.10	Inspection, sampling, and analysis.	200.20	Phosphoric acid, nitrogen, and potash requirements.
200.11	Filler material.	200.21	Compliance — a defense to certain nuisance actions.
200.12	False or misleading statements.		
200.13	Reports and publications.	200.22	Local legislation — prohibition.

200.1 Title.

This chapter shall be known and may be cited by the short title of *"Iowa Fertilizer Law"*.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §200.1]

200.2 Enforcing official.

This chapter shall be administered by the secretary of agriculture.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §200.2]

2021 Acts, ch 76, §44

Section amended

200.3 Definitions of words and terms.

When used in this chapter:

1. *"Ammonium nitrate"* means a compound that is chiefly composed of ammonium salt of nitric acid which contains not less than thirty-three percent nitrogen, one-half of which is in the ammonium form and one-half in the nitrate form.

2. The term *"anhydrous ammonia"* means the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part nitrogen to three parts hydrogen by volume.

3. *"Anhydrous ammonia plant"* means a facility used for the manufacture or distribution of the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part nitrogen to three parts hydrogen by volume.

4. The term *"brand"* means a term, design, or trademark used in connection with one or several grades of commercial fertilizer.

5. The term *"bulk fertilizer"* shall mean commercial fertilizer delivered to the purchaser in the solid, liquid, or gaseous state, in a nonpackaged form to which a label cannot be attached.

6. The term *"commercial fertilizer"* includes fertilizer and fertilizer materials and fertilizer-pesticide mixtures.

7. *"Department"* means the department of agriculture and land stewardship.

8. The term *"distributor"* means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer, or who offers for sale, sells, barters, or otherwise distributes commercial fertilizer in this state.

9. *"Established date of operation"* means the date on which an anhydrous ammonia plant commenced operating. If the physical facilities of the plant are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent "established date of operation" established as of the date of commencement of the expanded operations. The commencement of expanded operations does not divest the plant of a previously established date of operation.

10. *"Established date of ownership"* means the date of the recording of an appropriate instrument of title establishing the ownership of real estate.

11. The term *"fertilizer"* means any substance containing one or more recognized plant nutrient which is used for its plant nutrient content and which is designed for use and claimed to have value in promoting plant growth except unmanipulated animal and vegetable manures or calcium and magnesium carbonate materials used primarily for correcting soil acidity.

12. The term *"fertilizer material"* means any substance used as a fertilizer or for compounding a fertilizer containing one or more of the recognized plant nutrients which are used for promoting plant growth or altering plant composition.

13. The term *"grade"* means the percentages of total nitrogen, available phosphorus or P_2O_5 or both, and soluble potassium or K_2O or both stated in whole numbers in same terms, order and percentages as in the *"guaranteed analysis"*.

14. *Guaranteed analysis:*

a. (1) The term *"guaranteed analysis"* shall mean the minimum percentage of plant nutrients claimed and reported as Total Nitrogen (N), Available Phosphorus (P) or P_2O_5 or both, Soluble Potassium (K) or K_2O or both and in the following form:

Total Nitrogen (N)	..... percent
Available Phosphorus (P) or P_2O_5 or both	..... percent
Soluble Potassium (K) or K_2O or both	..... percent

(2) Registration and guarantee of water soluble phosphorus (P) or (P_2O_5) shall be permitted.

b. The term *"guaranteed analysis"*, in the form specified in paragraph *"a"*, includes:

(1) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphorus or P_2O_5 or both and the degree of fineness. For bone tankage and other organic phosphatic materials, total phosphorus or P_2O_5 or both.

(2) When any additional plant nutrient elements contained in a substance as identified in subsection 10 of this section, are claimed in writing, they shall be identified in the guarantee, expressed as the element, and shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the association of official agricultural chemists.

15. *"Licensee"* means a person licensed under section 200.4.

16. *"Nuisance"* means public or private nuisance as defined by statute or by the common law.

17. *"Nuisance action or proceeding"* means an action, claim or proceeding brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

18. The term *"official sample"* means any sample of commercial fertilizer taken by the secretary or the secretary's agent.

19. *"Organic agricultural product"* means the same as defined in section 190C.1.

20. *"Owner"* means the person holding record title to real estate, and includes both legal and equitable interest under recorded real estate contracts.

21. The term *"percent or percentage"* means the percentage by weight.

22. The term *"person"* includes individual, partnership, association, firm, and corporation.

23. The term *"pesticide"* as used in this chapter means insecticides, miticides, nemacides, fungicides, herbicides and any other substance used in pest control.

24. *"Secretary"* means the secretary of agriculture.

25. The term *"sell"* or *"sale"* includes exchange.

26. A *"soil conditioner"* is any substance which when added to the soil or applied to plants will produce a favorable growth, yield or quality of crop or soil flora or fauna or other soil characteristics, other than a fertilizer, recognized pesticide, unmanipulated animal and vegetable manures or calcium and magnesium carbonate materials used primarily for correcting soil acidity.

27. A *"specialty fertilizer"* is a commercial fertilizer distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries and may include commercial fertilizers used for research or experimental purposes.

28. The term *"ton"* means a net weight of two thousand pounds avoirdupois.

29. The term *"unmanipulated manures"* means any substances composed primarily of excreta, plant remains, or mixtures of such substances which have not been processed in any manner.

30. Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §200.3]

84 Acts, ch 1269, §1; 2000 Acts, ch 1082, §1; 2005 Acts, ch 73, §1; 2009 Acts, ch 41, §263; 2017 Acts, ch 159, §39; 2021 Acts, ch 149, §8

Referred to in §200.5, 200.10, 200.12, 202.1, 570A.1, 579B.1, 716.11

Further definitions, see §189.1

Subsection 24 stricken and former subsections 25 – 31 renumbered as 24 – 30

200.4 License — fee and expiration.

1. Any person who manufactures, mixes, blends, mixes to customer's order, offers for sale, sells, or distributes any fertilizer or soil conditioner in this state must first obtain a license issued by the secretary and pay a twenty dollar license fee for each place of manufacture or distribution from which fertilizer or soil conditioner products are sold or distributed in this state. The license shall expire on July 1 of the even-numbered year following the date the license is issued. A license may be renewed for a two-year period as provided by the department.

2. The licensee shall at all times produce an intimate and uniform mixture of fertilizers or soil conditioners. When two or more fertilizer materials are delivered in the same load, they shall be thoroughly and uniformly mixed unless they are in separate compartments.

[C46, 50, 54, §200.2, 200.4, 200.6; C58, 62, §200.6; C66, 71, 73, 75, 77, 79, 81, §200.4]

87 Acts, ch 225, §205; 2017 Acts, ch 159, §40, 57; 2019 Acts, ch 128, §3

Referred to in §200.3, 200.7, 200.9, 200.18

200.5 Registration.

1. Each brand and grade of commercial fertilizer and each soil conditioner shall be registered before being offered for sale, sold or otherwise distributed in this state; except that a commercial fertilizer formulated according to special specifications furnished by a consumer to fill the consumer's order shall not be required to be registered, but shall be labeled as provided in section 200.6, subsection 3. The application for registration shall be submitted to the secretary on forms furnished by the secretary and shall be accompanied by a label setting forth the guaranteed analysis which shall be the same as that appearing on the registered product.

2. All registration will be permanent, provided, however, that the secretary may request a listing of products to be currently manufactured. The application shall include the following information in the following order:

a. Net weight, if sold in packaged form.
b. Name and address of the registrant.
c. Name of product.
d. Brand.
e. Grade.
f. Guaranteed analysis.

3. In addition to the information required in subsection 2 of this section, applications for registration of soil conditioners must include the name or chemical designation and percentage of content of each of the active ingredients.

4. The secretary is authorized, after public hearing, following due notice, to adopt rules regulating the labeling and registration of specialty fertilizers and other fertilizer products, when necessary in the secretary's opinion. The secretary may require any reasonable information in addition to section 200.3, subsection 14, which is necessary and useful to the purchasers of specialty fertilizers of this state and to promote uniformity among states.

5. The secretary is authorized after public hearing, following due notice, to establish minimum acceptable levels of trace and secondary elements recognized as effective to aid crops produced in Iowa and to require such warning statements as may be deemed necessary to prevent injury to crops.

6. The secretary, whenever the secretary deems it necessary in the administration of this chapter, may require the submission of additional data about any fertilizer or product to support the claims made for it. If it appears to the secretary that the composition of the article is such as to warrant the claims made for it, and if the article, its labeling and other material required to be submitted, comply with the requirements of this chapter, the secretary shall register the product.

7. If it does not appear to the secretary that the article is such as to warrant the proposed claims for it, or if the article and its labeling and other material required to be submitted does not comply with the provision of this chapter, the secretary shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fails to comply with this chapter so as to afford the registrant an opportunity to make the necessary corrections before resubmitting the label.

8. It shall be the responsibility of the registrant to submit satisfactory evidence of favorable effects and safety of the product.

9. The secretary shall establish minimum requirements for the registration of fertilizers and soil conditioners by efficacy testing or the substantiation of data relevant to Iowa crops and soils.

10. A distributor shall not be required to register any brand and grade of commercial fertilizer which is already registered under this chapter by another person.

11. The advisory committee created in section 206.23 shall advise and assist the secretary on the registration of a product of commercial fertilizer or soil conditioner under the provisions of this chapter.

[S13, §2528-f, -f1; C24, 27, 31, 35, 39, §**3139 – 3141;** C46, 50, 54, 58, 62, §200.4; C66, 71, 73, 75, 77, 79, 81, §200.5]

2017 Acts, ch 159, §41

Referred to in §200.6, 200.13

200.6 Labeling.

1. Any commercial fertilizer offered for sale or sold or distributed in this state in bags, or other containers, shall have placed on or affixed to the container in legibly written or printed form, the information required by section 200.5, subsection 2; either on tags affixed to the end of the package or directly on the package.

2. If distributed in bulk, the shipment must be accompanied by a written or printed statement giving the purchaser's name and address in addition to the labeling requirement set forth in section 200.5, subsection 2.

3. A commercial fertilizer formulated according to specifications which are furnished by a consumer prior to mixing shall be labeled to show the net weight, guaranteed analysis, and the name and address of the distributor and may show the net weight and guaranteed

analysis of each of the fertilizer materials or soil conditioners used. It is the responsibility of the distributor to mix these materials uniformly and intimately so that when sampled in the prescribed manner the resulting analysis would meet the guarantee.

4. All bulk bins or intermediate storage of bulk commercial fertilizer where being offered for sale or distributed direct to the consumer shall be labeled showing brand, name and grade of product.

5. All fertilizers distributed or stored in bulk, unless in the manufacturers authorized containers, shall be labeled as the responsibility of the possessor.

6. Soil conditioners shall be labeled in accordance with subsection 1 of this section and in addition shall show the name or chemical designation and content or the active ingredients.

[S13, §2528-f; C24, 27, 31, 35, 39, §**3142;** C46, 50, 54, 58, 62, §200.5; C66, 71, 73, 75, 77, 79, 81, §200.6]

Referred to in §200.5, 200.13

200.7 Fertilizer-pesticide mixture.

Only those persons licensed under section 200.4 shall be permitted to add pesticides to commercial fertilizers. These persons shall at all times produce a uniform mixture of fertilizer and pesticide and shall register and label their product in compliance with both chapter 206 and this chapter.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §200.7]

2001 Acts, ch 24, §36

200.8 Inspection fees.

1. *a.* There shall be paid by the licensee to the secretary for all commercial fertilizers and soil conditioners sold, or distributed in this state, an inspection fee to be fixed annually by the secretary of agriculture at not more than twenty cents per ton. Sales for manufacturing purposes only are hereby exempted from fees but must still be reported showing manufacturer who purchased same. Payment of said inspection fee by any licensee shall exempt all other persons, firms or corporations from the payment thereof.

b. On individual packages of specialty fertilizer containing twenty-five pounds or less, there shall be paid by the manufacturer in lieu of the semiannual inspection fee as set forth in this chapter, an annual registration and inspection fee of one hundred dollars for each brand and grade sold or distributed in the state. In the event that any manufacturer sells specialty fertilizer in packages of twenty-five pounds or less and also in packages of more than twenty-five pounds, this annual registration and inspection fee shall apply only to that portion sold in packages of twenty-five pounds or less, and that portion sold in packages of more than twenty-five pounds shall be subject to the same inspection fee as fixed by the secretary of agriculture as provided in this chapter.

c. Any person other than a manufacturer who annually offers for sale, sells, or distributes specialty fertilizer in the amount of four thousand pounds or more or applies specialty fertilizer for compensation shall pay an annual inspection fee of thirty dollars in lieu of the semiannual inspection fee as set forth in this chapter.

2. Every licensee and any person required to pay an annual registration and inspection fee under this chapter in this state shall:

a. File not later than the last day of January and July of each year, on forms furnished by the secretary, a semiannual statement setting forth the number of net tons of commercial fertilizer or soil conditioners distributed in this state by grade for each county during the preceding six-month period; and upon filing such statement shall pay the inspection fee at the rate stated in subsection 1. However, in lieu of the semiannual statement by grade for each county, on individual packages of specialty fertilizer containing twenty-five pounds or less, the registrant shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of net tons of specialty fertilizer distributed in this state by grade during the preceding twelve-month period.

b. If the tonnage report is not filed or the payment of inspection fees, or both, is not made within ten days after the last day of January and July of each year as required in paragraph "*a*" of this subsection, a penalty amounting to ten percent of the amount due, if any, shall

be assessed against the licensee. In any case, the penalty shall be no less than fifty dollars. The amount of fees due, if any, and penalty shall constitute a debt and become the basis of a judgment against the licensee.

3. If there is an unencumbered balance of funds from the amount of the fees deposited in the general fund pursuant to sections 200.9 and 201A.11 on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 and the annual license fee established pursuant to section 201A.3 for the next fiscal year in such amount as will result in an ending estimated balance of such funds for June 30 of the next fiscal year of three hundred fifty thousand dollars.

4. In addition to the fees imposed under subsection 1, a groundwater protection fee shall be imposed upon nitrogen-based fertilizer. The fee shall be based upon the percentage of actual nitrogen contained in the product. An eighty-two percent nitrogen solution shall be taxed at a rate of seventy-five cents per ton. Other nitrogen-based product formulations shall be taxed on the percentage of actual nitrogen contained in the formulations with the eighty-two percent nitrogen solution serving as the base. The fee shall be paid by each licensee registering to sell fertilizer to the secretary of agriculture. The fees collected shall be deposited in the agriculture management account of the groundwater protection fund. The secretary of agriculture shall adopt rules for the payment, filing, and collection of groundwater protection fees from licensees in conjunction with the collection of registration and inspection fees. The secretary shall, by rule, allow an exemption to the payment of this fee for fertilizers which contain trace amounts of nitrogen.

[C46, 50, 54, §200.15; C58, 62, 66, 71, 73, 75, 77, 79, 81, §200.8]

85 Acts, ch 142, §1; 87 Acts, ch 225, §206, 207; 88 Acts, ch 1169, §1; 94 Acts, ch 1107, §46; 96 Acts, ch 1096, §2, 15; 96 Acts, ch 1219, §34; 2009 Acts, ch 41, §263; 2021 Acts, ch 80, §96

Referred to in §200.9, 455E.11

Subsection 2, paragraph a amended

200.9 Fertilizer fees.

Fees collected for licenses and inspection fees under sections 200.4 and 200.8, with the exception of those fees collected for deposit in the agriculture management account of the groundwater protection fund, shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section to the general fund shall be used only by the department for the purpose of inspection, sampling, analysis, preparation, and publishing of reports and other expenses necessary for administration of this chapter. The secretary may assign moneys to the Iowa agricultural experiment station for research, work projects, and investigations as needed for the specific purpose of improving the regulatory functions for enforcement of this chapter.

[C46, 50, 54, §200.15; C58, 62, 66, 71, 73, 75, 77, 79, 81, §200.9]

87 Acts, ch 225, §208; 91 Acts, ch 260, §1217; 93 Acts, ch 131, §8; 94 Acts, ch 1107, §47

Referred to in §200.8

200.10 Inspection, sampling, and analysis.

1. It shall be the duty of the secretary, who may act through an authorized agent, to sample, inspect, make analysis of, and test commercial fertilizers or soil conditioners distributed within this state at time and place and to such an extent as the secretary may deem necessary, to determine whether such commercial fertilizers and soil conditioners are in compliance with the provisions of this chapter. In the performance of the foregoing duty, the secretary shall counsel with the director of the Iowa agricultural experimental station in respect to the time, place and extent of sampling. The secretary individually or through an agent is authorized to enter upon any public or private premises or conveyances during regular business hours in order to have access to commercial fertilizers or soil conditioners subject to the provisions of this chapter and the rules and regulations pertaining thereto. It shall be the duty of the secretary to maintain a laboratory with the necessary equipment and to employ such employees as may be necessary to aid in the administration and enforcement of this chapter.

2. *a.* The methods of sampling and analysis shall be the official methods of the

association of official agricultural chemists in all cases where methods have been adopted by the association.

b. The findings of the state chemist or the state chemist's deputy, as shown by the sworn statement of the results of analysis of official samples of any brand and grade of commercial fertilizer, fertilizer material or soil conditioner, shall constitute prima facie evidence of their correctness in the courts of this state, as to the particular lots sampled and analyzed.

3. The secretary, in determining for administrative purposes whether any commercial fertilizer is deficient in plant food, or soil conditioner deficient in guaranteed active ingredients, shall be guided by the official sample as defined in section 200.3, subsection 18, and obtained and analyzed as provided for in subsection 2 of this section.

4. The results of official analysis of any commercial fertilizer or soil conditioner which has been found to be in violation of any provision of this chapter, shall be forwarded by the secretary to the registrant. Upon request, the secretary shall furnish to the registrant a portion of any sample.

[C46, 50, 54, §200.7 – 200.9; C58, 62, §200.11; C66, 71, 73, 75, 77, 79, 81, §200.10]
2009 Acts, ch 41, §263

200.11 Filler material.

It shall be unlawful for any person to manufacture, offer for sale or sell in this state, any commercial fertilizer, or soil conditioner containing any substance used as a filler that is injurious to crop growth or deleterious to the soil, or to use in such commercial fertilizer, or soil conditioner as a filler any substance that contains inert or useless plant food material for the purpose or with the effect of deceiving or defrauding the purchaser.

[C46, 50, 54, §200.10; C58, 62, §200.12; C66, 71, 73, 75, 77, 79, 81, §200.11]

200.12 False or misleading statements.

A commercial fertilizer or soil conditioner is misbranded if it does not identify substances promoting plant growth as defined in section 200.3, subsection 11, or if it carries any false or misleading statement upon or attached to the container or stated on the invoice or delivery ticket, or if the container or on the invoice or delivery ticket or in any advertising matter whatsoever connected with, accompanying or associated with the commercial fertilizer or soil conditioner. Further, the burden of proof of the desirable effect of the product on plant growth shall be the responsibility of the registrant.

[C46, 50, 54, §200.11; C58, 62, §200.13; C66, 71, 73, 75, 77, 79, 81, §200.12]

200.13 Reports and publications.

The secretary shall publish at least annually, in such forms as the secretary may deem proper, information concerning the sales of commercial fertilizers, together with such data on their production and use as the secretary may consider advisable. The secretary shall report semiannually the results of the analysis based on official samples taken of commercial fertilizers sold within the state as compared with the analyses guaranteed under section 200.5 and section 200.6, together with name and address of the manufacturer or distributor of such commercial fertilizer at the time the official sample was taken. A copy of this semiannual report will be mailed by the secretary to each corresponding county extension director in the state.

[C46, 50, 54, §200.13; C58, 62, §200.14; C66, 71, 73, 75, 77, 79, 81, §200.13]

200.14 Rules.

1. *a.* The department may adopt rules pursuant to chapter 17A providing minimum general safety standards for the design, construction, location, installation, and operation of equipment for storage, handling, transportation by tank truck or tank trailer, and utilization of fertilizers and soil conditioners.

b. The rules shall be such as are reasonably necessary for the protection and safety of the public and persons using fertilizers or soil conditioners, and shall be in substantial conformity with the generally accepted standards of safety.

c. Fertilizer and soil conditioner equipment shall be installed and maintained in a safe operating condition and in conformity with rules adopted by the department.

2. The department may adopt such reasonable rules as may be necessary in order to carry into effect the purpose, and to secure the efficient administration, of this chapter.

3. This chapter does not prohibit the use of storage tanks smaller than transporting tanks nor the transfer of all kinds of fertilizers or soil conditioners directly from transporting tanks to implements of husbandry, if proper safety precautions are observed.

[C46, 50, 54, §200.13; C58, 62, §200.15; C66, 71, 73, 75, 77, 79, 81, §200.14]

98 Acts, ch 1004, §1, 3; 98 Acts, ch 1223, §22, 38; 99 Acts, ch 12, §8; 2009 Acts, ch 133, §76, 210; 2021 Acts, ch 149, §9

Referred to in §200.21
Section amended

200.15 Refusal to register or cancellation of registration and licenses.

1. Upon satisfactory evidence that the registrant or licensee has used fraudulent or deceptive practices or has willfully violated any provisions of this chapter or any rules and regulations promulgated under this chapter, the secretary is authorized and empowered to do any of the following:

a. Cancel the registration of any product of commercial fertilizer or soil conditioner or license.

b. Refuse to register any product of commercial fertilizer or soil conditioner.

c. Refuse to license any applicant.

2. However, a registration or license shall not be revoked or refused until the registrant or licensee has been given the opportunity to appear for a hearing by the secretary.

[C46, 50, 54, §200.11; C58, 62, §200.16; C66, 71, 73, 75, 77, 79, 81, §200.15]

2020 Acts, ch 1063, §71; 2021 Acts, ch 76, §45
Section amended

200.16 "Stop sale" orders.

The secretary may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of commercial fertilizer or soil conditioner, if the secretary finds the commercial fertilizer or soil conditioner is being offered or exposed for sale in violation of any of the provisions of this chapter or any of the rules and regulations promulgated under this chapter. The secretary may hold the commercial fertilizer or soil conditioner at a designated place until the law has been complied with and the commercial fertilizer or soil conditioner is released in writing by the secretary, or the violation has been otherwise legally disposed of by written authority, and all costs and expenses incurred in connection with the withdrawal have been paid.

[C58, 62, §200.17; C66, 71, 73, 75, 77, 79, 81, §200.16]

2021 Acts, ch 80, §97
Section amended

200.17 Seizure, condemnation, and sale.

Any lot of commercial fertilizer or soil conditioner not in compliance with the provisions of this chapter shall be subject to seizure on complaint of the secretary to a court of competent jurisdiction in the county or adjoining county in which the commercial fertilizer or soil conditioner is located. In the event the court finds the commercial fertilizer or soil conditioner to be in violation of this chapter and orders the condemnation of the commercial fertilizer or soil conditioner, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer or soil conditioner and the laws of the state. However, in no instance shall the disposition of the commercial fertilizer or soil conditioner be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial fertilizer or soil conditioner or for permission to reprocess or relabel the commercial fertilizer or soil conditioner to bring it into compliance with this chapter.

[C58, 62, §200.18; C66, 71, 73, 75, 77, 79, 81, §200.17]

2018 Acts, ch 1041, §53

200.17A Ammonium nitrate security.

A licensee who sells ammonium nitrate on a retail basis shall comply with all of the following:

1. The licensee shall store the ammonium nitrate in a location which secures it from unauthorized access, and which prevents and provides for the detection of its theft.

2. A licensee shall only sell ammonium nitrate to a purchaser who presents a current official identification issued by the federal government or a state government which includes the purchaser's photograph and identifying information including the person's legal name and home address.

3. The licensee shall maintain a record of each sale of ammonium nitrate as follows:

a. The record shall be on a form promulgated or approved by the department. The form shall include at least all of the following:

(1) The date of sale.

(2) The quantity of ammonium nitrate purchased.

(3) The information contained in the purchaser's official identification as provided in this section. If the official identification is a driver's license, the information shall include the driver's license number. A photocopy of the purchaser's current official identification on file with the licensee shall comply with the requirements of this subparagraph.

(4) The purchaser's telephone number.

(5) The purchaser's signature.

b. The licensee shall maintain the record for at least two years after the date of the sale.

4. The department, a law enforcement officer as defined in section 80B.3, or an agent of the United States department of justice may examine and photocopy the record during regular business hours.

2005 Acts, ch 73, §2
Referred to in §200.18

200.18 Violations.

1. If it shall appear from the examination of any commercial fertilizer or soil conditioner or any anhydrous ammonia installation, equipment, or operation that any of the provisions of this chapter or the rules and regulations issued under this chapter have been violated, the secretary shall cause notice of the violations to be given to the registrant, distributor, or possessor from whom said sample was taken; any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the secretary. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this chapter or rules and regulations issued under this chapter have been violated, the secretary may certify the facts to the proper prosecuting attorney.

2. *a.* Except as otherwise provided in this subsection, a person violating this chapter or rules adopted by the secretary pursuant to this chapter is guilty of a simple misdemeanor.

b. A person who tampers with, possesses, or transports anhydrous ammonia or anhydrous ammonia equipment is guilty of a serious misdemeanor under section 124.401F.

c. A person who intentionally presents false identification or other information required in section 200.17A in order to purchase ammonium nitrate commits a serious misdemeanor. A person who purchases ammonium nitrate from a person required to be licensed under section 200.4 with the intention of manufacturing an explosive or incendiary device or material is guilty of a class "D" felony.

3. A person who is licensed pursuant to section 200.4 who fails to comply with the requirements of section 200.17A shall be subject to disciplinary action by the department. For a first violation, the department may suspend the person's license for up to ninety days. For a subsequent violation, the department may suspend the person's license for a longer period or revoke the person's license.

4. Nothing in this chapter shall be construed as requiring the secretary or the secretary's representative to report for prosecution or for the institution of seizure proceedings minor violations of the chapter when the secretary believes that the public interest will be best served by a suitable notice of warning in writing.

5. It shall be the duty of each county attorney to whom any violation is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

6. The secretary is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under this chapter notwithstanding the existence of other remedies at law, said injunction to be issued without bond.

[C46, 50, 54, §200.11, 200.14; C58, 62, §200.19; C66, 71, 73, 75, 77, 79, 81, §200.18]
98 Acts, ch 1004, §2, 3; 99 Acts, ch 12, §9; 2005 Acts, ch 73, §3; 2021 Acts, ch 80, §98
Referred to in §331.756(35)
Subsections 1 and 6 amended

200.19 Exchanges between manufacturers.

Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or soil conditioners to each other by importers, manufacturers, or manipulators who mix fertilizer materials for sale or as preventing the free and unrestricted shipments of commercial fertilizer or soil conditioner to manufacturers or manipulators who have registered their brands as required by the provisions of this chapter.

[C46, 50, 54, §200.5, 200.12; C58, 62, §200.20; C66, 71, 73, 75, 77, 79, 81, §200.19]

200.20 Phosphoric acid, nitrogen, and potash requirements.

1. Except as provided in subsection 2, a person shall not sell, offer for sale, or distribute any of the following:

a. Phosphatic fertilizer containing less than eighteen percent available phosphoric acid (P_2O_5).

b. Nitrogen fertilizer containing less than fifteen percent total nitrogen (N).

c. Potash fertilizer containing less than fifteen percent soluble potash (K_2O).

d. Mixed fertilizer in which the sum of the guaranteed analysis of total nitrogen (N), available phosphoric acid (P_2O_5), and soluble potash (K_2O) totals less than twenty percent.

2. Subsection 1 shall not apply to any of the following:

a. A specialty fertilizer.

b. A fertilizer designed to be applied and ordinarily applied directly to growing plant foliage to stimulate further growth.

c. Compost materials to be applied on land, if any of the following apply:

(1) The land is being used to produce an agricultural commodity that is an organic agricultural product as provided in chapter 190C, including rules adopted by the department under that chapter.

(2) The land is in the transition of being used to produce an agricultural commodity that is an organic agricultural product, pursuant to rules adopted by the department as provided in chapter 190C.

[C77, 79, 81, §200.20]
2000 Acts, ch 1082, §2

200.21 Compliance — a defense to certain nuisance actions.

In a nuisance action or proceeding against an anhydrous ammonia plant brought by or on behalf of the person whose established date of ownership is subsequent to the established date of operation of an anhydrous ammonia plant, proof of compliance with applicable provisions of this chapter and applicable rules adopted pursuant to section 200.14 shall be a defense to a nuisance action or proceeding.

84 Acts, ch 1269, §2

200.22 Local legislation — prohibition.

1. As used in this section:

a. "*Local governmental entity*" means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as

enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter 331, or any special purpose district.

b. *"Local legislation"* means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

2. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a fertilizer or soil conditioner. A local governmental entity shall not adopt or continue in effect local legislation relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a fertilizer or soil conditioner, regardless of whether a statute or rule adopted by the department applies to preempt the local legislation. Local legislation in violation of this section is void and unenforceable.

3. This section does not apply to local legislation of general applicability to commercial activity.

94 Acts, ch 1002, §1; 94 Acts, ch 1198, §41

CHAPTER 200A

BULK DRY ANIMAL NUTRIENT PRODUCTS

200A.1	Title.	200A.9	Fees.
200A.2	Purpose.	200A.10	Examinations.
200A.3	Definitions.	200A.11	Prohibited acts.
200A.4	Rulemaking.	200A.12	Enforcement.
200A.5	License.	200A.13	Violations.
200A.6	Registration.	200A.14	Exchange between producers.
200A.7	Distribution statement required.	200A.15	Use of fees.
200A.8	Distribution reports.		

200A.1 Title.

This chapter shall be known and may be cited by the short title of *"Bulk Dry Animal Nutrient Products Law"*.

98 Acts, ch 1145, §1

200A.2 Purpose.

The purpose of this chapter is to regulate certain bulk dry animal manure for use as a fertilizer or soil conditioner, which is unmanipulated and therefore not subject to regulation under chapter 200.

98 Acts, ch 1145, §2

200A.3 Definitions.

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

1. *"Advertise"* means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag, or articulation.

2. *"Bulk dry animal nutrient product"* or *"bulk product"* means a dry animal nutrient product delivered to a purchaser in bulk form to which a label cannot be attached.

3. *"Department"* means the department of agriculture and land stewardship.

4. *"Distribute"* means to offer for sale, sell, hold out for sale, exchange, barter, supply, or furnish a bulk dry animal nutrient product on a commercial basis.

5. *"Distributor"* means a person who distributes a bulk dry animal nutrient product.

6. *"Dry animal nutrient product"* means any unmanipulated animal manure composed primarily of animal excreta, if all of the following apply:

a. The manure contains one or more recognized plant nutrients which are used for their plant nutrient content.

b. The manure promotes plant growth.

c. The manure does not flow perceptibly under pressure.

d. The manure is not capable of being transported through a mechanical pumping device designed to move a liquid.

e. The constituent molecules of the manure do not flow freely among themselves but do show the tendency to separate under stress.

7. *"Guaranteed analysis"* means the minimum percentage of plant nutrients claimed and reported to the department pursuant to section 200A.6.

8. *"Official sample"* means any sample of a bulk dry animal nutrient product taken by the department according to procedures established by the department consistent with this chapter.

9. *"Percent"* or *"percentage"* means percentage by weight.

10. *"Purchaser"* means a person to whom a dry animal nutrient product is distributed.

11. *"Ton"* means a net weight of two thousand pounds avoirdupois.

98 Acts, ch 1145, §3; 99 Acts, ch 96, §21; 99 Acts, ch 114, §11
Further definitions, see §189.1

200A.4 Rulemaking.

The department shall adopt all rules necessary to administer this chapter including but not limited to rules regulating licensure, labeling, registration, distribution, and storage of bulk dry animal nutrient products. A violation of this chapter includes a violation of any rule adopted pursuant to this section as provided in chapter 17A.

98 Acts, ch 1145, §4

200A.5 License.

A person who distributes a bulk dry animal nutrient product in this state must first obtain a license from the department. A license application must be submitted to the department on a form furnished by the department according to procedures required by the department. A license shall expire on July 1 of the even-numbered year following the date the license is issued. A license may be renewed for a two-year period as provided by the department.

98 Acts, ch 1145, §5; 2019 Acts, ch 128, §4
Referred to in §200A.8, 200A.9, 200A.12, 200A.14

200A.6 Registration.

1. A person shall not distribute a bulk dry animal nutrient product unless the bulk product is registered with the department under this section. The department shall register each bulk product which complies with the requirements of this chapter. If the department determines that a registration application does not comply with the requirements of this chapter, the department shall notify the applicant of the department's determination and the reasons why the application failed to comply with the requirements of this chapter. The department shall provide the applicant with an opportunity to make the necessary corrections before resubmitting the application.

2. A registration application must be submitted to the department on a form furnished by the department according to procedures required by the department. A completed application shall include all of the following:

a. (1) An accompanying label setting forth the guaranteed analysis of the bulk product, in the following form:

Total Nitrogen (N)	..... percent
Available Phosphate (P) or P_2O_5 or both	..... percent
Soluble Potassium (K) or K_2O or both	..... percent

(2) Registration and guarantee of water soluble phosphate (P) or (P_2O_5) shall be permitted.

b. A description of how the distributor plans to obtain the acres necessary for proper application of the bulk product which is not distributed.

c. Evidence of favorable effects and safety of the bulk product necessary to satisfy the department according to rules adopted by the department.

d. Additional data about a bulk product necessary to support claims made about the product, if required by the department.

3. A distributor shall not be required to register any bulk product which is already registered under this chapter by another person.

4. Upon request of the department, the advisory committee created in section 206.23 may advise and assist the department regarding the registration of bulk dry animal nutrient products under the provisions of this chapter.

98 Acts, ch 1145, §6; 2009 Acts, ch 41, §263
Referred to in §200A.3, 200A.7, 200A.11, 200A.12, 200A.14

200A.7 Distribution statement required.

1. The distribution of a bulk dry animal nutrient product must be accompanied by a written or printed distribution statement which may be prepared on a form furnished by the department. The distribution statement shall include all of the following information:

a. The bulk product's guaranteed analysis in the same form as required pursuant to section 200A.6.

b. The name and address of the bulk product's purchaser.

c. A notice to the bulk product's purchaser stating the number of acres needed to apply the purchased bulk product based on the average corn yields in the county where the bulk product is to be applied.

d. A warning that application of a bulk product should not exceed the nitrogen levels necessary to obtain optimum crop yields for the crop being grown based on crop nitrogen usage rate factors.

2. Before transferring possession of a bulk product, the distributor shall present the purchaser with an acknowledgment for the purchaser's signature or initials indicating that the purchaser has read the distribution statement and understands the number of acres required to apply the product according to the information in the distribution statement.

98 Acts, ch 1145, §7
Referred to in §200A.12

200A.8 Distribution reports.

1. A person required to be licensed pursuant to section 200A.5 shall file a distribution report with the department on forms furnished by the department reporting information regarding the person's distribution of bulk products.

2. The report shall be filed with the department not later than the last day of January and the last day of July excluding weekends and state-recognized holidays as provided in section 1C.2.

3. The report shall include all of the following:

a. The number of tons of bulk products distributed by the person in the state during the preceding six-month period. The report shall include the number of tons distributed to each county named in the report and the grade of the distributed bulk product.

b. The name and address of each purchaser and the number of tons purchased.

c. An inspection fee as provided in section 200A.9.

98 Acts, ch 1145, §8
Referred to in §200A.9

200A.9 Fees.

1. A person required to obtain a license as provided in section 200A.5 shall pay the department a fee equal to twenty dollars for each place from which the person distributes a bulk product in this state.

2. *a.* The first person who distributes a bulk product, who is required to be licensed pursuant to section 200A.5, shall pay an inspection fee twice each year. The inspection fee shall be paid at the time of filing each distribution report as required in section 200A.8. The amount of the fee shall be calculated based on the number of tons of bulk dry animal nutrient product distributed by the person as reported in the distribution report.

b. The rate for inspection fees shall be established by the department not more than once each year and shall be not more than twenty cents per ton.

c. An inspection fee shall not be imposed upon a purchaser regardless of whether the purchaser subsequently distributes the product.

3. An inspection fee is delinquent after ten days following the date that a distribution report and fee are due as provided in section 200A.8. A delinquency penalty of not more than ten percent of the amount due shall be assessed against the person who is delinquent. However, the penalty shall be at least fifty dollars. The amount of fees and delinquency penalties due shall constitute a debt and become the basis of a judgment against the delinquent person.

98 Acts, ch 1145, §9; 2019 Acts, ch 128, §5
Referred to in §200A.8, 200A.15

200A.10 Examinations.

1. The department shall maintain a laboratory with the equipment and employees necessary to conduct examinations of bulk dry animal nutrient products and to effectively administer and enforce this chapter.

2. The department, or a person authorized as an agent by the department, shall examine bulk products distributed in this state. An examination may include taking samples, conducting inspections and tests, and analyzing the bulk product.

98 Acts, ch 1145, §10; 2011 Acts, ch 46, §3

200A.11 Prohibited acts.

1. A person shall not distribute a bulk dry animal nutrient product containing any substance used as filler material if any of the following applies:

a. The filler injures plant growth or is deleterious to soil.

b. The person distributing the bulk product misrepresents or deceives the person receiving the bulk product regarding the attributes of the filler material or its effect upon plant growth or soil condition.

2. A person shall not advertise a bulk product by making false or misleading statements regarding the bulk product.

3. A person shall not misbrand a bulk product by providing a distribution statement to a purchaser which fails to identify a substance promoting plant growth according to the bulk product's guaranteed analysis as provided in section 200A.6.

4. The burden of proof regarding a claim made by a person distributing a bulk product, including but not limited to the positive effects of the bulk product on plant growth, shall be the responsibility of the distributor.

5. A distributor shall not store a bulk product in a manner which pollutes the waters of the state.

98 Acts, ch 1145, §11

200A.12 Enforcement.

In enforcing this chapter the department may do any of the following:

1. *a.* Take disciplinary action concerning a registration of a bulk dry animal nutrient product as provided in section 200A.6 or the license of a person distributing a bulk product as provided in section 200A.5. The department may do any of the following:

(1) Cancel the registration or deny an application for registration.

(2) Suspend or terminate the license or deny an application for a license.

b. The disciplinary action must be based upon evidence satisfactory to the department that the registrant, licensee, or applicant has used fraudulent or deceptive practices in violation of this chapter or has willfully disregarded the requirements of this chapter.

2. Issue and enforce a "stop sale, use, or removal" order against the owner or distributor of any lot of a bulk product.

a. The order may require that the bulk product be held at a designated place until released by the department.

b. The department shall release the bulk product pursuant to a release order upon satisfaction that legal issues compelling the issuance of the "stop sale, use, or removal order"

have been resolved and all expenses incurred by the department in connection with the bulk product's removal have been paid to the department.

3. Seize and dispose of any lot of a bulk product which is not in compliance with the provisions of this chapter upon petition to the district court in the county or adjoining county in which the bulk product is located.

a. If the court finds that the bulk product is in violation of this chapter, the court may order the condemnation of the bulk product. However, the court shall not order the seizure and disposition of a bulk product without first providing the owner of the bulk product with an opportunity to apply to the court for release of the bulk product, consent to reprocess the bulk product, or consent to amend a legal record to accurately describe the composition of the bulk product, including a distribution statement as provided in section 200A.7.

b. The department shall, as provided in the court order, dispose of the bulk product in a manner consistent with the quality of the bulk product and the laws of this state.

4. Apply to the district court in the county where a violation of this chapter occurs for a temporary or permanent injunction restraining a person from violating or continuing to violate this chapter, notwithstanding the existence of other remedies at law. The injunction shall be issued without a bond.

5. This section does not require the department to institute a proceeding for a minor violation if the department concludes that the public interest will be best served by a suitable written warning.

98 Acts, ch 1145, §12

200A.13 Violations.

1. A person violating a provision of this chapter is guilty of a simple misdemeanor.

2. *a.* If, after a departmental investigation, it appears that a person is in violation of this chapter, the department shall notify the person of the violation and provide the person with an opportunity to be heard under rules adopted by the department consistent with chapter 17A contested case proceedings.

b. If, after a hearing, the department determines that a violation has occurred, the department may report the violation to the appropriate county attorney for prosecution. The report shall include a certified copy of evidence presented during the hearing. This section does not require the department to report a minor violation for prosecution if the department concludes that the public interest will be best served by a suitable written warning.

c. A county attorney who receives a report of a violation from the department shall institute and prosecute the case in district court without delay.

3. The department may assess a civil penalty for a violation of this chapter which shall not exceed five hundred dollars. Each day that a violation continues shall constitute a separate violation. Moneys collected in civil penalties shall be deposited in the general fund of the state.

98 Acts, ch 1145, §13; 2017 Acts, ch 159, §42

200A.14 Exchange between producers.

Nothing in this chapter shall be construed to restrict or prohibit any of the following:

1. The distribution of a bulk product to importers, manufacturers, or manipulators who mix bulk dry animal nutrient products for distribution.

2. The shipment of a bulk product to a person licensed as a distributor pursuant to section 200A.5 who has registered the bulk product as provided in section 200A.6.

98 Acts, ch 1145, §14

200A.15 Use of fees.

Fees and delinquency penalties collected by the department pursuant to this chapter, including section 200A.9, shall be deposited in the general fund of the state. However, the department may allocate moneys to the Iowa agricultural experiment station for research, work projects, and investigations as needed for the specific purpose of improving the regulatory functions to improve the enforcement of this chapter.

98 Acts, ch 1145, §15

CHAPTER 201
RESERVED

CHAPTER 201A
AGRICULTURAL LIMING MATERIAL

Referred to in §8.60

201A.1 Short title.
201A.2 Definitions.
201A.3 License required.
201A.4 Labeling and advertising.
201A.5 Inspection and investigation.
201A.6 Certification of effective calcium carbonate equivalent — reporting.
201A.7 Toxic materials prohibited.
201A.8 Rules.
201A.9 Enforcement actions.
201A.10 Violations.
201A.11 Fees and appropriation.

201A.1 Short title.

This chapter shall be known and may be cited as the *"Iowa Agricultural Liming Material Act"*.

96 Acts, ch 1096, §3, 15

201A.2 Definitions.

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

1. *"Agricultural liming material"* means a product having calcium and magnesium compounds capable of neutralizing soil acidity.
2. *"Brand"* means the term, designation, trade name, product name, or other specific designation under which individual agricultural liming material is offered for sale.
3. *"Bulk"* means material which is in a nonpackaged form.
4. *"Effective calcium carbonate equivalent"* means the acid-neutralizing capacity of an agricultural liming material.

96 Acts, ch 1096, §4, 15

201A.3 License required.

Agricultural liming material shall not be distributed in this state unless the manufacturer of the agricultural liming material obtains a license for each facility owned by the manufacturer for distribution in this state. The manufacturer shall obtain the license prior to the facility's manufacture of the agricultural liming material. The license shall expire on January 1 of each year, and may be renewed for a period expiring on January 1 of the following year. The manufacturer shall apply for the license on forms prescribed and according to procedures required by the department. An application for a license, including a license renewal, must be accompanied by a license fee established by the department, which shall not exceed forty dollars.

96 Acts, ch 1096, §5, 15

Referred to in §200.8

201A.4 Labeling and advertising.

1. Agricultural liming material shall not be sold, offered for sale, or exposed for sale in this state unless a label accompanies the agricultural liming material which provides the following information:
   a. The name and address of the principal office of the manufacturer or distributor.
   b. The brand or trade name of the agricultural liming material.
   c. The identification of the type of the agricultural liming material.
   d. The undried net weight of the agricultural liming material.

e. The effective calcium carbonate equivalent of the agricultural liming material as determined according to rules adopted by the department.

2. The label must be plainly readable. If the agricultural liming material is in packaged form, the label must be affixed to the outside of the package in a conspicuous manner. The label shall be printed, stamped, or otherwise marked in a manner required by the department. If the agricultural liming material is in bulk form, the label may be contained on a delivery slip.

3. The label or advertising which provides information regarding the agricultural liming material shall not be false or misleading to the purchaser, including information relating to the quality, analysis, type, or composition of the agricultural liming material.

4. If the agricultural liming material is adulterated after it has been packaged, labeled, or loaded, but prior to delivery to a purchaser, the vendor shall provide a notice of the adulteration, which shall be placed on the agricultural liming material as an additional label as provided in this section.

5. For each brand of agricultural liming material sold in bulk, a statement shall be conspicuously posted at the location where the agricultural liming material is delivered for resale or where purchase orders for deliveries of the agricultural liming material are placed. The statement shall include the effective calcium carbonate equivalent of the agricultural liming material as determined according to rules adopted by the department.

96 Acts, ch 1096, §6, 15

201A.5 Inspection and investigation.

The department shall inspect agricultural liming material distributed in this state and investigate persons engaged in the business of manufacturing, distributing, selling, offering for sale, or exposing for sale agricultural liming material in this state. Inspections and investigations shall be performed as determined necessary or practicable by the department, in order to ensure compliance with this chapter. The inspection may include the sampling, analysis, and testing of agricultural liming material, as provided by rules adopted by the department. The department may enter premises of a business engaged in the manufacture, distribution, sale, offer for sale, or exposure for sale of agricultural liming material in this state. The business shall provide timely, convenient, and free access to its agricultural liming material and to its books, records, accounts, papers, documents, and any computer or other recordings relating to the business, during normal business hours. The business shall facilitate the examination and aid in the examination to every extent feasible.

96 Acts, ch 1096, §7, 15

201A.6 Certification of effective calcium carbonate equivalent — reporting.

The department shall certify the effective calcium carbonate equivalent for all agricultural liming material, as provided by rules adopted by the department. The department may establish a fee for analyzing samples of agricultural liming material. The department shall issue a report at least once every three months which lists the agricultural liming material certified by the department. The report shall list the manufacturers of the agricultural liming material, the locations of facilities used to manufacture the agricultural liming material, and the identification of the type of the agricultural liming material produced by the manufacturer.

96 Acts, ch 1096, §8, 15

201A.7 Toxic materials prohibited.

A person shall not sell, offer for sale, or expose for sale agricultural liming material which includes material which is toxic to plants, animals, human, or aquatic life, or which causes soil or water contamination, as provided by rules adopted by the department.

96 Acts, ch 1096, §9, 15

201A.8 Rules.

The department shall adopt rules pursuant to chapter 17A required to administer and enforce the provisions of this chapter.

96 Acts, ch 1096, §10, 15

201A.9 Enforcement actions.

If the department finds that agricultural liming material is being manufactured, used, sold, offered for sale, or exposed for sale in violation of this chapter, the department may enforce the provisions of this chapter by doing any of the following:

1. Issuing and enforcing a stop order to prevent the manufacture, sale, or removal of agricultural liming material. The order may require that the owner or custodian hold the agricultural liming material at a place designated in the order. The stop order shall be in writing and served upon the person owning or controlling the manufacture or sale of the agricultural liming material. The department shall provide for the termination of the stop order upon compliance with the provisions of this chapter. The termination of the stop order shall be in writing and served upon the person as provided for in the stop order. The department may place conditions upon the termination of the stop order, including the payment of reasonable expenses incurred by the department in issuing and enforcing the stop order.

2. Obtaining a court order upon petition filed in district court for the county where the agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale. The court may be petitioned by the department, or, upon request by the department, the attorney general or the county attorney. The court shall hear from all parties in the case. The court may issue an order for any of the following:

a. The seizure of the agricultural liming material. The court shall issue an order, if the court finds that the petition is supported by facts that agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale in violation of this chapter, and the agricultural liming material must be condemned because it fails to meet standards required in this chapter. If warranted, the court shall order that the agricultural liming material be disposed of in a manner provided by rules adopted by the department, which may include reprocessing or relabeling the agricultural liming material in order to ensure that it complies with this chapter. The court may provide that any party to the case dispose of the agricultural liming material.

b. A temporary or permanent injunction against a person violating the provisions of this chapter. The court shall issue an order, if the court finds that the petition is supported by facts that agricultural liming material is being manufactured, sold, offered for sale, or exposed for sale in violation of this chapter. In order to obtain injunctive relief, the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity.

96 Acts, ch 1096, §11, 15

201A.10 Violations.

1. A person violating this chapter or rules adopted by the department under this chapter is guilty of a simple misdemeanor.

2. The department shall provide for the prosecution of a violation of this chapter by referring the violation to the county attorney in the county where the violation occurs. The department shall compile evidence of the violation for prosecution. The county attorney shall prosecute any case determined by the county attorney to be meritorious without delay. The department shall not refer a violation to the county attorney until the department provides the person subject to the violation with an opportunity to be heard by the department according to procedures adopted by the department. A right to a hearing is not a contested case proceeding as provided in chapter 17A. The department is not required to refer a minor violation to a county attorney, and may instead issue a warning to the person subject to the minor violation.

96 Acts, ch 1096, §12, 15

201A.11 Fees and appropriation.

Fees collected under this chapter shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section to the general fund shall be used only by the department for the purpose of administering and enforcing the provisions of this chapter, including inspection, sampling, analysis, and the preparation and publishing of reports.

96 Acts, ch 1096, §13, 15
Referred to in §200.8

CHAPTER 202

COMMODITY PRODUCTION CONTRACTS

Referred to in §459.400

202.1 Definitions.
202.2 Production contracts governed by this chapter.
202.3 Production contracts — confidentiality prohibited.
202.4 Enforcement.
202.5 Penalties.

202.1 Definitions.

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

1. *"Active contractor"* means a person who owns a commodity that is produced by a contract producer at the contract producer's contract operation pursuant to a production contract executed pursuant to section 202.2.

2. *"Commodity"* means livestock, raw milk, or a crop.

3. *"Contract crop field"* means farmland where a crop is produced according to a production contract executed pursuant to section 202.2 by a contract producer who holds a legal interest in the farmland.

4. *"Contract livestock facility"* means an animal feeding operation as defined in section 459.102, in which livestock or raw milk is produced according to a production contract executed pursuant to section 202.2 by a contract producer who holds a legal interest in the animal feeding operation. *"Contract livestock facility"* includes a confinement feeding operation as defined in section 459.102, an open feedlot operation as defined in section 459A.102, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed.

5. *"Contract operation"* means a contract livestock facility or contract crop field.

6. *"Contract producer"* means a person who holds a legal interest in a contract operation and who produces a commodity at the contract producer's contract operation under a production contract executed pursuant to section 202.2.

7. *"Contractor"* means an active contractor or a passive contractor.

8. *a. "Crop"* means a plant used for food, animal feed, fiber, or oil, if the plant is classified as a forage or cereal plant, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. A *"crop"* does not include trees or nuts or fruit grown on trees; sod; shrubs; greenhouse plants; or plants or plant parts produced for precommercial, experimental, or research purposes.

9. *"Farmland"* means agricultural land that is suitable for use in farming as defined in section 9H.1.

10. *"Livestock"* means beef cattle, dairy cattle, sheep, or swine.

11. *"Passive contractor"* means a person who furnishes management services to a contract producer, and who does not own a commodity that is produced by the contract producer at the contract producer's contract operation according to a production contract which is executed pursuant to section 202.2.

12. *"Produce"* means to do any of the following:

a. Provide feed or services relating to the care and feeding of livestock. If the livestock is dairy cattle, *"produce"* includes milking the dairy cattle and storing raw milk at the contract producer's contract livestock facility.

b. Provide for planting, raising, harvesting, and storing a crop. *"Produce"* includes preparing the soil for planting and nurturing the crop by the application of fertilizers or soil conditioners as defined in section 200.3 or pesticides as defined in section 206.2.

13. *"Production contract"* means an oral or written agreement executed pursuant to section 202.2 that provides for the production of a commodity or the provision of management services relating to the production of a commodity by a contract producer.

99 Acts, ch 169, §2, 22 – 24; 2006 Acts, ch 1030, §20, 21
Referred to in §101.21, 459A.103, 459B.103

202.2 Production contracts governed by this chapter.

1. This chapter applies to a production contract that relates to the production of a commodity owned by an active contractor and produced by a contract producer at the contract producer's contract operation, if one of the following applies:

a. The contract is executed by an active contractor and a contract producer for the production of the commodity.

b. The contract is executed by an active contractor and a passive contractor for the provision of management services to the contract producer in the production of the commodity.

c. The contract is executed by a passive contractor and a contract producer, if all of the following apply:

(1) The contract provides for management services furnished by the passive contractor to the contract producer in the production of the commodity.

(2) The passive contractor has a contractual relationship with the active contractor involving the production of the commodity.

2. A production contract is executed when it is signed or orally agreed to by each party or by a person who is authorized by a party to act on the party's behalf.

99 Acts, ch 169, §3, 22 – 24
Referred to in §202.1

202.3 Production contracts — confidentiality prohibited.

1. A contractor shall not on or after May 24, 1999, enforce a provision in a production contract if the provision provides that information contained in the production contract is confidential.

2. A provision which is part of a production contract is void if the provision states that information contained in the production contract is confidential. The confidentiality provision is void whether the confidentiality provision is express or implied; oral or written; required or conditional; contained in the production contract, another production contract, or in a related document, policy, or agreement. This section does not affect other provisions of a production contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require a party to a production contract to divulge the information in the production contract to another person.

99 Acts, ch 169, §4, 22 – 24
Referred to in §202.5, 714.8

202.4 Enforcement.

1. The attorney general's office is the primary agency responsible for enforcing this chapter.

2. In enforcing the provisions of this chapter, the attorney general may do all of the following:

a. Apply to the district court for an injunction to do any of the following:

(1) Restrain a contractor from engaging in conduct or practices in violation of this chapter.

(2) Require a contractor to comply with a provision of this chapter.

b. Apply to district court for the issuance of a subpoena to obtain a production contract for purposes of enforcing this chapter.

c. Bring an action in district court to enforce penalties provided in section 202.5, including the assessment and collection of civil penalties.

99 Acts, ch 169, §5, 22 – 24

202.5 Penalties.

A contractor who executes a production contract that includes a confidentiality provision in a production contract in violation of section 202.3 is guilty of a fraudulent practice as provided in section 714.8.

99 Acts, ch 169, §6, 22 – 24
Referred to in §202.4

CHAPTER 202A

LIVESTOCK MARKETING PRACTICES

For future repeal provisions, see 99 Acts, ch 88, §11

202A.1	Definitions.	202A.5	Rules.
202A.2	Purchase reports — filing.	202A.6	Enforcement.
202A.3	Purchase notice — posting.	202A.7	Penalties.
202A.4	Confidentiality provisions in contracts prohibited.		

202A.1 Definitions.

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

2. *"Livestock"* means live cattle, swine, or sheep.

3. *"Packer"* means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter, if the meat products of the slaughtered livestock which are directly or indirectly to be offered for resale or for public consumption have a total annual value of ten million dollars or more. As used in this chapter, *"packer"* includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer.

99 Acts, ch 88, §2, 13; 99 Acts, ch 208, §49, 74; 2002 Acts, ch 1119, §144

202A.2 Purchase reports — filing.

1. A packer shall file purchase reports with the department which include information relating to the purchase of livestock as required by the department. The purchase reports shall be completed in a manner prescribed by the department. The department may require that purchase reports be filed in an electronic format. A packer shall file purchase reports at times determined practicable by the department, but not later than two business days following the event being reported.

2. *a.* The information required to be reported may include but is not limited to livestock purchased, committed for delivery, or slaughtered. The information may include the volume of daily purchases and the weight, grade, and price paid for livestock, including all premiums, discounts, or adjustments. If livestock is purchased pursuant to contract, the department may require that information in the purchase report be categorized by the type of contract. The purchase reports shall allow the department to compare prices paid under contract with cash market prices.

b. This section does not require that information reported include future plans, events, or transactions, unless provided for by contract.

3. The department may provide for the public dissemination of information contained in purchase reports.

a. The department may enter into an agreement with the United States department of

agriculture or any private marketing service in order to disseminate information contained in purchase reports.

b. The department, in consultation with the office of attorney general, shall designate information in purchase reports that reveals the identity of a packer or livestock seller as confidential pursuant to section 22.7.

99 Acts, ch 88, §3, 11, 13

Referred to in §22.7(39), 202A.3, 202A.5, 202A.6, 202A.7

Future repeal of section if substantially similar federal legislation or regulation is implemented; finding and order by secretary of agriculture; see 99 Acts, ch 88, §11

202A.3 Purchase notice — posting.

1. *a.* A packer shall post a purchase notice which includes information relating to the purchase of livestock as required by the department. The information contained in the purchase notice shall include a summary of information required to be filed in purchase reports as provided in section 202A.2.

b. This section does not require that information contained in a purchase notice include future plans, events, or transactions unless provided for by contract.

2. The information contained in the purchase notice shall appear in a format that can be understood by a reasonable person familiar with selling livestock. The notice shall be posted in a conspicuous place at the point of delivery in a manner prescribed by the department.

99 Acts, ch 88, §4, 13

Referred to in §202A.5, 202A.7

Future repeal of section if substantially similar federal legislation or regulation is implemented; finding and order by secretary of agriculture; see 99 Acts, ch 88, §11

202A.4 Confidentiality provisions in contracts prohibited.

1. A packer shall not include a provision in a contract executed on or after April 29, 1999, for the purchase of livestock providing that information contained in the contract is confidential.

2. A provision which is part of a contract for the purchase of livestock executed on and after April 29, 1999, for the purchase of livestock is void, if the provision states that information contained in the contract is confidential. The provision is void regardless of whether the confidentiality provision is express or implied; oral or written; required or conditional; contained in the contract, another contract, or in a related document, policy, or agreement. This section does not affect other provisions of a contract or a related document, policy, or agreement which can be given effect without the voided provision. This section does not require either party to the contract to divulge the information in the contract to another person.

99 Acts, ch 88, §5, 13

Referred to in §202A.7, 714.8

202A.5 Rules.

1. The department, in consultation with the office of attorney general, shall adopt rules necessary in order to administer this chapter.

2. The department may establish different rules according to the species of livestock governing all of the following:

a. Purchase reporting requirements pursuant to section 202A.2.

b. Purchase notice posting requirements pursuant to section 202A.3.

99 Acts, ch 88, §6, 13

Future repeal of all or a portion of subsection 2 if substantially similar federal legislation or regulation is implemented; finding and order by secretary of agriculture; see 99 Acts, ch 88, §11

202A.6 Enforcement.

1. *a.* The attorney general's office is the primary agency responsible for enforcing this chapter.

b. The department shall notify the attorney general's office if the department has reason to believe that a violation of section 202A.2 has occurred.

2. In enforcing the provisions of this chapter, the attorney general may do all of the following:

a. Apply to the district court for an injunction to do any of the following:

(1) Restrain a packer from engaging in conduct or practices in violation of this chapter.

(2) Require a packer to comply with a provision of this chapter.

b. Apply to district court for the issuance of a subpoena to obtain contracts, documents, or other records for purposes of enforcing this chapter.

c. Bring an action in district court to enforce penalties provided in this chapter, including the imposition, assessment, and collection of monetary penalties.

3. The attorney general shall have access to all information reported by packers pursuant to section 202A.2, regardless of whether the information is confidential. The attorney general may use the information in order to enforce this chapter or may submit the information to a federal agency.

99 Acts, ch 88, §7, 11, 13

Future repeal of subsection 1, paragraph b, and subsection 3 if substantially similar federal legislation or regulation is implemented; finding and order by secretary of agriculture; see 99 Acts, ch 88, §11

202A.7 Penalties.

1. A packer who fails to file a timely, accurate, or complete purchase report as required pursuant to section 202A.2 is subject to a civil penalty of not more than five thousand dollars. Each failure by a packer to file a timely, accurate, or complete purchase report constitutes a separate violation.

2. A packer who fails to post a timely, accurate, or complete purchase notice as required pursuant to section 202A.3 is subject to a civil penalty of not more than one thousand dollars. Each failure by a packer to post a timely, accurate, or complete purchase notice constitutes a separate violation.

3. A packer who includes a confidentiality provision in a contract with a livestock seller in violation of section 202A.4 is guilty of a fraudulent practice as provided in section 714.8.

99 Acts, ch 88, §8, 11, 13

Future repeal of subsections 1 and 2 if substantially similar federal legislation or regulation is implemented; finding and order by secretary of agriculture; see 99 Acts, ch 88, §11

CHAPTER 202B

SWINE AND BEEF PROCESSORS

Referred to in §331.756(29)

Transferred from portions of chapter 9H in Code Supplement 2003 pursuant to Code editor directive in 2003 Acts, ch 115, §16, 19

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SUBCHAPTER I

PURPOSE — DEFINITIONS

202B.101 Purpose.

The purpose of this chapter is to preserve free and private enterprise, prevent monopoly, and also to protect consumers by regulating the balance of competitive forces in beef and swine production, by enhancing the welfare of the farming community, and also by preventing processors from gaining control of beef or swine production.

2003 Acts, ch 115, §4, 16, 19

202B.102 Definitions.

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

1. *"Base price"* means the price paid for swine, delivered to the processor, before application of any premiums or discounts, and expressed in dollars per hundred pounds of hot carcass weight as calculated in the same manner as provided in 7 C.F.R. §59.30.

2. *"Business association"* means a person organized under statute or common law in this state or another jurisdiction for purposes of engaging in a commercial activity on a profit, cooperative, or not-for-profit basis, including but not limited to a corporation or entity taxed as a corporation under the Internal Revenue Code, nonprofit corporation, cooperative association, partnership, limited partnership, limited liability company, limited liability partnership, investment company, joint stock company, joint stock association, or trust, including but not limited to a business trust.

3. *"Cash or spot market purchase"* means the purchase of swine by a processor from a seller, if the swine are slaughtered not more than fourteen days after the date that the seller and the processor agree on a date of delivery of the swine for slaughter and the base price for purchasing the swine is determined by an oral or written agreement between seller and processor executed on the day the swine are delivered for slaughter.

4. *"Cattle operation"* means a location including but not limited to a building, lot, yard, corral, or other place where cattle for slaughter are fed or otherwise maintained.

5. *"Contract feeder"* means a person owning in the applicable reporting year, as provided in section 202B.301, more than two thousand five hundred swine or five thousand head of poultry, if the swine or poultry are subject to a contract or contracts for care and feeding by a person or persons other than the owner on land which is not owned, leased, or held by the owner.

6. *"Contract for the care and feeding of swine"* means an oral or written agreement executed between a person and the owner of swine, under which the person agrees to care for and feed the owner's swine on the person's premises. A contract for the care and feeding of swine does not include an agreement for the sale or purchase of swine.

7. *"Cooperative association"* means the same as defined in section 10.1.

8. *"Indirect"* means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

9. *"Person"* means an individual, business association, government or governmental subdivision or agency, or any other legal entity.

10. *"Processor"* means a person who alone or in conjunction with others directly or indirectly controls the manufacturing, processing, or preparation for sale of beef or pork products, including the slaughtering of cattle or swine or the manufacturing or preparation of carcasses or goods originating from the carcasses, if the beef or pork products have a total annual wholesale value of eighty million dollars or more for the person's tax year. A person shall be deemed to be a processor if any of the following apply:

a. The person has a threshold interest in a processor which is a business association. *"Threshold interest"* means a direct or indirect interest in the business association, calculated as follows:

(1) For a processor of beef products, the person's threshold interest begins at ten percent.

(2) For a processor of pork products, the person's threshold interest begins at ten percent for a processor of pork products having a total annual wholesale value of at least eighty million dollars and decreases to one percent for a processor of pork products having a total annual wholesale value of at least two hundred sixty million dollars. The amount of the decrease in the amount of the threshold interest shall equal one percent for each increased increment of twenty million dollars in total annual wholesale value.

b. The person holds an executive position in a processor of pork products or owes a processor of pork products a fiduciary duty if the processor directly or indirectly controls the processing of pork products having a total annual wholesale value of two hundred sixty million dollars or more. A person who held such an executive position or owed a fiduciary duty shall be deemed to still hold the position or owe the duty for a two-year period following the date that the person relinquishes the position or duty. An executive position in a processor organized as a business association includes but is not limited to a member of a board of directors or an officer of a corporation or cooperative association, a director or officer of a joint stock company or joint stock association, a manager of a limited liability company, a general partner of a limited partnership, or a trustee of a trust.

11. *"Qualified processor"* means a processor of pork products if all of the following apply:

a. (1) (a) Swine producers exercise a controlling interest in the processor. *"Controlling interest"* means actual control or the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a processor, whether through the ownership of voting securities, by contract, or otherwise.

(b) Of the total interest held by all persons in the processor, swine producers hold at least sixty percent of the interest. In addition, of the total interest held by all persons in the processor, swine producers hold at least sixty percent of interests with voting rights.

(2) Of the total interest held by all persons in the processor, all retailers hold a total of not more than twenty percent of the interest.

b. Another processor does not hold a direct or indirect interest in the processor. However, this paragraph does not apply to a person deemed to be a processor solely because the person holds a threshold interest in the processor.

c. Not less than ten percent of the swine slaughtered by the processor each day are purchased through cash or spot market purchases.

d. The processor makes cash or spot market purchases of swine under the same terms and conditions from both sellers of swine who hold a direct or indirect interest in the processor and sellers of swine who do not hold a direct or indirect interest in the processor. In making such cash or spot market purchases of swine, the processor shall not provide sellers of swine

who hold a direct or indirect interest in the processor with a preference over sellers of swine who do not hold a direct or indirect interest in the processor.

12. *"Retailer"* means a person who is engaged in the business of selling pork products, if all of the following apply:

a. The pork products are sold only on a retail basis directly to the ultimate purchasers of the pork products for consumption and not for resale.

b. The person is not engaged in the slaughter of swine.

c. A processor does not have a direct or indirect interest in the person.

13. *"Swine operation"* means a location where swine are fed or otherwise maintained, including a building, lot, yard, or corral; and swine which are fed or otherwise maintained at the location.

14. *"Swine producer"* means a person who owns, controls, or operates a swine operation or who contracts for the care and feeding of swine.

2003 Acts, ch 115, §1 – 3, 10, 16, 19
Referred to in §202B.201, 202B.202, 202B.301, 203.1, 203C.1, 459.102, 459A.103, 459B.103, 579A.1

202B.103 through 202B.200 Reserved.

SUBCHAPTER II

PROHIBITED ACTIVITIES AND OPERATIONS

202B.201 Prohibited operations and activities — exceptions.

1. Except as provided in subsections 2 and 3, and section 202B.202, all of the following apply:

a. For cattle, a processor shall not own, control, or operate a cattle operation in this state.

b. For swine, a processor shall not do any of the following:

(1) (a) (i) Directly or indirectly own, control, or operate a swine operation in this state.

(ii) Finance a swine operation in this state or finance a person who directly or indirectly contracts for the care and feeding of swine in this state.

(iii) Obtain a benefit of production associated with feeding or otherwise maintaining swine, by directly or indirectly assuming a morbidity or mortality production risk, if the swine are fed or otherwise maintained as part of a swine operation in this state or by a person who contracts for the care and feeding of swine in this state.

(iv) Directly or indirectly receive the net revenue derived from a swine operation in this state or from a person who contracts for the care and feeding of swine in this state.

(b) For purposes of subparagraph division (a), subparagraph subdivisions (i) and (ii), both of the following apply:

(i) *"Finance"* means an action by a processor to directly or indirectly loan money or to guarantee or otherwise act as a surety.

(ii) *"Finance"* or *"control"* does not include executing a contract for the purchase of swine by a processor, including but not limited to a contract that contains an unsecured ledger balance or other price risk sharing arrangement. *"Finance"* also does not include providing an unsecured open account or an unsecured loan, if the unsecured open account or unsecured loan is used for the purchase of feed for the swine and the outstanding amount due by the debtor does not exceed five hundred thousand dollars. However, the outstanding amount due to support a single swine operation shall not exceed two hundred fifty thousand dollars.

(2) Directly or indirectly contract for the care and feeding of swine in this state.

2. Subsection 1 shall not apply to a swine producer who holds a threshold interest in a qualified processor in the manner provided in section 202B.102, if all of the following apply:

a. The swine producer's threshold interest in the qualified processor is not more than ten percent.

b. The swine producer is not a processor. However, this paragraph does not apply to a swine producer deemed to be a processor solely because the swine producer holds a threshold interest in the qualified processor as otherwise allowed under this subsection or because the

swine producer holds an executive position in the qualified processor or owes the qualified processor a fiduciary duty.

3. This section shall not preclude a processor from doing any of the following:

a. Contracting for the purchase of cattle or swine, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract, the contract shall do one of the following:

(1) Specify a calendar day for delivery of the cattle or swine.

(2) Specify the month for the delivery, and shall allow the farmer to set the week for the delivery within such month and the processor to set the date for delivery within such week.

b. Carrying on legitimate research, educational, or demonstration activities.

c. Owning and operating facilities to provide normal care and feeding of cattle or swine for a period not to exceed ten days immediately prior to slaughter, or for a longer period in an emergency.

[C77, 79, 81, §172C.2]

88 Acts, ch 1191, §3; 92 Acts, ch 1151, §5

C93, §9H.2

93 Acts, ch 39, §5, 6; 2000 Acts, ch 1048, §2, 3; 2002 Acts, ch 1095, §4, 10 – 12; 2003 Acts, ch 115, §5, 16, 19

CS2003, §202B.201

2009 Acts, ch 41, §79

Referred to in §202B.302, 202B.401

202B.202 Compliance requirements.

1. *a.* A cooperative association which is a party to a contract for the care and feeding of swine in compliance with section 9H.2 prior to May 9, 2003, and which is in violation of section 9H.2, as amended by 2003 Iowa Acts, ch. 115, shall have until June 30, 2007, to comply with section 9H.2, as amended by 2003 Iowa Acts, ch. 115.

b. Notwithstanding any provision of this section, a cooperative association shall not take an action on or after May 9, 2003, that would be in violation of section 9H.2, as amended by 2003 Iowa Acts, ch. 115.

2. A processor that was in compliance with section 9H.2, Code 2001, prior to January 1, 2002, and which is in violation of section 9H.2, as amended by 2002 Iowa Acts, ch. 1095, shall have until June 30, 2006, to comply with section 9H.2, as amended by 2002 Iowa Acts, ch. 1095.

3. Notwithstanding any provision of this section, a processor shall not take an action on or after January 1, 2002, that would be in violation of section 9H.2, as amended by 2002 Iowa Acts, ch. 1095.

4. The two-year period that a person who holds an executive position in a processor or owes a processor a fiduciary duty and thus is deemed to be a processor as provided in section 202B.102, subsection 10, paragraph *"b"*, shall not apply if the person held the position or owed the duty on January 1, 2002, and relinquishes the position or duty on or before June 30, 2006.

2002 Acts, ch 1095, §5, 10 – 12

C2003, §9H.2A

2003 Acts, ch 115, §6 – 9, 16, 19

CS2003, §202B.202

2014 Acts, ch 1026, §143; 2021 Acts, ch 76, §46

Referred to in §202B.201

Subsections 1 – 3 amended

202B.203 through 202B.300 Reserved.

SUBCHAPTER III

REPORTS

202B.301 Reports by contract feeders.

A contract feeder shall file with the secretary of state on or before March 31 of each year on forms adopted pursuant to chapter 17A and supplied by the secretary of state an annual report containing all of the following information, if applicable:

1. The name and address of the person.
2. For each county, which the contractor shall identify, the approximate total number of swine or head of poultry subject to a contract for feeding and care as described in section 202B.102, subsection 6.
3. The name and address of the purchaser of the swine or poultry.

88 Acts, ch 1191, §6
C89, §172C.5B
C93, §9H.5B
2002 Acts, ch 1095, §10 – 12; 2003 Acts, ch 115, §16, 19
CS2003, §202B.301
Referred to in §202B.102

202B.302 Reports by processors.

A processor shall file a report with the secretary of state on or before March 31 of each year, as follows:

1. For all processors, the report shall include all of the following:

a. The number of swine and the number of cattle owned and fed more than thirty days by the processor in this state during the processor's preceding tax year.

b. The total number of swine and the total number of cattle owned and fed more than thirty days by the processor during the processor's preceding tax year.

c. The number of swine and the number of cattle slaughtered in this state by the processor during the processor's preceding tax year.

d. The total number of swine and the total number of cattle slaughtered by the processor during the processor's preceding tax year.

e. The total wholesale value of beef or pork products that have been processed by the processor during the preceding tax year.

f. The total number of swine for which the processor has contracted for feeding as provided in section 202B.201.

2. For a qualified processor, the report shall include all of the following:

a. The total number of swine slaughtered each day during the qualified processor's preceding tax year.

b. The total number of swine slaughtered each day that are purchased through cash or spot market purchases during the qualified processor's preceding tax year.

[C77, 79, 81, §172C.9]
88 Acts, ch 1191, §7
C93, §9H.9
2000 Acts, ch 1022, §1; 2002 Acts, ch 1095, §7, 11, 12; 2003 Acts, ch 115, §16, 19
CS2003, §202B.302

202B.303 Signing reports.

Reports by corporations shall be signed by the president or other officer or authorized representative. Reports by limited liability companies shall be signed by a manager or other authorized representative. Reports by limited partnerships shall be signed by the president or other authorized representative of the partnership. Reports by individuals shall be signed by the individual or an authorized representative.

[C77, 79, 81, §172C.10]
C93, §9H.10

93 Acts, ch 39, §19; 2003 Acts, ch 115, §16, 19
CS2003, §202B.303

202B.304 Duties of secretary of state.

The secretary of state shall notify the attorney general when the secretary of state has reason to believe a violation of this chapter has occurred. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of production operations being carried out in this state by contract feeders and processors and the effect of such practices upon the economy of this state. The reports of contract feeders and processors required in this chapter shall be confidential reports except as to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

[C77, 79, 81, §172C.14]
88 Acts, ch 1191, §9; 91 Acts, ch 172, §7
C93, §9H.14
93 Acts, ch 39, §20; 2003 Acts, ch 115, §13, 16, 19
CS2003, §202B.304

202B.305 Additional information.

The secretary of state shall request additional information as may be necessary or appropriate to enable the secretary of state to administer this chapter.

[C77, 79, 81, §172C.15]
C93, §9H.15
2003 Acts, ch 115, §16, 19
CS2003, §202B.305

202B.306 through 202B.400 Reserved.

SUBCHAPTER IV

PENALTIES

202B.401 Penalties — injunctive relief.

1. The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

2. *a.* A processor who violates section 202B.201 is subject to a civil penalty of not more than twenty-five thousand dollars. Each day that a violation continues shall be considered a separate offense.

b. If the attorney general or a county attorney is the prevailing party in an action for a violation of section 202B.201, the prevailing party shall be awarded court costs and reasonable attorney fees, which shall be taxed as part of the costs of the action. If the attorney general is the prevailing party, the moneys shall be deposited in the general fund of the state. If the county is the prevailing party, the moneys shall be deposited in the general fund of the county.

[C77, 79, 81, §172C.3]
91 Acts, ch 172, §3
C93, §9H.3
2002 Acts, ch 1095, §6, 11, 12; 2003 Acts, ch 115, §16, 19
CS2003, §202B.401

202B.402 Penalties — reports.

1. Failure to timely file a report or the filing of false information is punishable by a civil penalty not to exceed one thousand dollars.

2. For purposes of this section, a report is timely filed if the report is filed prior to May 1 of the year in which it is required to be filed.

3. The secretary of state shall notify a person who the secretary has reason to believe is required to file a report as provided by this chapter and who has not filed a timely report, that the person may be in violation of this section. The secretary of state shall include in the notice a statement of the penalty which may be assessed if the required report is not filed within thirty days. The secretary of state shall refer to the attorney general any person who the secretary has reason to believe is required to report under this chapter if, after thirty days from receipt of the notice, the person has not filed the required report. The attorney general may, upon referral from the secretary of state, file an action in district court to seek the assessment of a civil penalty of one hundred dollars for each day the report is not filed.

[C77, 79, 81, §172C.11]
91 Acts, ch 172, §6
C93, §9H.11
2003 Acts, ch 115, §16, 19
CS2003, §202B.402
2017 Acts, ch 54, §76

CHAPTER 202C

FEEDER PIG DEALERS

202C.1	Definitions.	202C.3	Surety or issuer — liability.
202C.2	Evidence of financial responsibility — requirements.	202C.4	Departmental rules.

202C.1 Definitions.

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

1. *"Dealer"* means a person required to be licensed as a dealer pursuant to section 163.30. However, a dealer does not include a person who operates a livestock market, as defined in section 459.102.

2. *"Department"* means the department of agriculture and land stewardship.

3. *"Feeder pig"* means an immature swine fed for purposes of direct slaughter which weighs one hundred pounds or less.

4. *"Financial institution"* means a bank or savings association authorized by the laws of the United States, which is a member of the federal deposit insurance corporation, the federal savings and loan insurance corporation, or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

5. *"Purchaser"* means the owner or operator of a farm as provided in section 163.30 who is delivered feeder pigs pursuant to a sales agreement in which the owner or operator is a party.

6. *"Sales agreement"* means an oral or written contract executed between a dealer and a purchaser for the sale of feeder pigs.

2003 Acts, ch 90, §2; 2004 Acts, ch 1095, §2, 6; 2012 Acts, ch 1017, §54

202C.2 Evidence of financial responsibility — requirements.

1. A dealer shall provide the department with evidence of financial responsibility as required by the department. The evidence of financial responsibility shall consist of a surety bond furnished by a surety or an irrevocable letter of credit issued by a financial institution.

2. The evidence of financial responsibility shall be provided to the department before the dealer's license is issued or renewed pursuant to section 163.30.

3. The amount of the evidence of financial responsibility shall be established by rules which shall be adopted by the department. Unless the department otherwise has good cause, the rules shall be based upon the volume of sales reported by the dealer to the United States

department of agriculture grain inspection, packers and stockyards administration. However, the evidence of financial responsibility shall not be for less than five thousand dollars or for more than twenty-five thousand dollars. The department may increase the amount of the evidence of financial responsibility for a dealer upon a showing of good cause.

4. The evidence of financial responsibility must be conditioned upon the dealer's faithful performance of the terms and conditions of the sales agreement. The surety's or issuer's liability extends to each such sales agreement executed while the surety bond or letter of credit is in force and until performance or the rescission of the sales agreement.

5. The evidence of financial responsibility shall be continuous in nature until canceled by the surety or issuer. The surety or issuer shall provide at least ninety days' notice in writing to the dealer and the department indicating the surety's or issuer's intent to cancel the surety bond or letter of credit and the effective date of the cancellation. The dealer shall have sixty days from the date of receipt of the surety's or issuer's notice of cancellation to file a replacement. However, the surety or issuer remains liable for damages arising from sales agreements which were executed during the effective period of the evidence of financial responsibility.

2003 Acts, ch 90, §3; 2004 Acts, ch 1095, §3, 6; 2017 Acts, ch 54, §76
Referred to in §163.30

202C.3 Surety or issuer — liability.

1. The purchaser may bring a legal action arising from the breach of a sales agreement against the surety on the bond or issuer on the irrevocable letter of credit in the purchaser's own name in district court to recover any damages as allowed by law. The purchaser may also be awarded interest as determined pursuant to section 668.13, beginning from the date that the sales agreement was executed. The purchaser may also be awarded court costs and reasonable attorney fees, which shall be taxed as part of the costs of the legal action.

2. The aggregate liability of the surety or issuer due to a breach of a sales agreement shall not exceed the amount of the evidence of financial responsibility.

3. A legal action brought by a purchaser against the surety on the bond or the issuer of the irrevocable letter of credit shall be brought not later than one hundred eighty days after the date that the dealer delivers the feeder pigs to the purchaser pursuant to the sales agreement.

2003 Acts, ch 90, §4; 2004 Acts, ch 1095, §4, 6

202C.4 Departmental rules.

The department shall adopt rules as required to administer this chapter, including but not limited to rules providing for amounts of evidence of financial responsibility, qualifications for a surety or financial institution, procedures for filing evidence of financial responsibility, including replacement bonds or letters of credit, requirements for the cancellation of the evidence of financial responsibility, and the liability of a surety or issuer after cancellation.

2003 Acts, ch 90, §5

CHAPTER 203

GRAIN DEALERS

Referred to in §22.7(12), 159.6, 189.16, 190.1, 203C.6, 203C.24, 203D.3A, 203D.4, 203D.5A, 554.7204, 669.14

203.1	Definitions.	203.11B	Grain industry peer review panel.
203.2	Powers and duties of the department.	203.12	Claims — cessation of a license and notice of license revocation.
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203.3	License required — financial responsibility.	203.12B	Appointment of department as receiver.
203.4	Participation in indemnity fund required.	203.13	Enforcement officers. Repealed by 2003 Acts, ch 69, §21.
203.5	License.	203.14	No obligation of state.
203.6	Fees.	203.15	Credit-sale contracts.
203.7	Posting of license.	203.16	Confidentiality of records.
203.8	Payment.	203.17	Documents and records.
203.9	Inspection of premises and records — reconstruction of records.	203.18	Reserved.
203.10	Action affecting a license.	203.19	Cooperative agreements.
203.11	Penalties — injunctions.	203.20	Shrinkage adjustments — disclosures — penalties.
203.11A	Civil penalties.	203.21	Reserved.
		203.22	Prioritization of inspections of grain dealers.

203.1 Definitions.

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

1. *"Bond"* means a bond issued by a surety company or an irrevocable letter of credit issued by a financial institution described in subsection 7.

2. *"Check"* means a paper instrument used for ordering, instructing, or authorizing a financial institution to make payment or credit a presenter's account and debit the issuer's account. *"Check"* includes instruments commonly referred to as a check, draft, share draft, or other negotiable instrument for the payment of money. An instrument may be a check even though it is described on its face by another term, such as "money order".

3. *"Credit-sale contract"* means a contract for the sale of grain pursuant to which the sale price is to be paid more than thirty days after the delivery of the grain to the buyer, or a contract which is titled as a credit-sale contract, including but not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.

4. *"Custom livestock feeder"* means a person who buys grain for the sole purpose of feeding it to livestock owned by another person in a feedlot as defined in section 172D.1, subsection 6, or a confinement building owned or operated by the custom livestock feeder and located in this state.

5. *"Department"* means the department of agriculture and land stewardship.

6. *"Electronic funds transfer"* means a remote electronic transmission used for ordering, instructing, or authorizing a financial institution to pay money to or credit the account of the payee and debit the account of the payer. The remote electronic transmission may be initiated by telephone, terminal, computer, or similar device.

7. *"Financial institution"* means any of the following:

a. A bank or savings association authorized by the laws of any other state or the United States, which is a member of the federal deposit insurance corporation.

b. A bank or association chartered by the farm credit system under the federal Farm Credit Act, as amended, 12 U.S.C. ch. 23.

8. *"Good cause"* means that the department has cause to believe that the net worth or current asset to current liability ratio of a grain dealer presents a danger to sellers with whom the grain dealer does business, based on evidence of any of the following:

a. The making of a payment by use of a check or electronic funds transfer, and a financial institution refuses payment because of insufficient moneys in a grain dealer's account.

b. A violation of recordkeeping requirements provided in this chapter or rules adopted pursuant to this chapter by the department.

c. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer based on a statistical model provided in section 203.22.

9. *"Grain"* means any grain for which the United States department of agriculture has established standards pursuant to the United States Grain Standards Act, 7 U.S.C. ch. 3.

10. *"Grain dealer"* means a person who cumulatively purchases at least one thousand bushels of grain from producers during any calendar month, if such grain is delivered within or into this state for purposes of resale, milling, or processing in this state. However, *"grain dealer"* does not include any of the following:

a. A producer of grain who is buying grain for the producer's own use as seed or feed.

b. A person solely engaged in buying grain future contracts on the board of trade.

c. A person who purchases grain only for sale in a feed regulated under chapter 198.

d. A person who purchases grain only from grain dealers licensed under this chapter.

e. A person engaged in the business of selling agricultural seeds regulated by chapter 199.

f. A person buying grain only as a farm manager.

g. An executor, administrator, trustee, guardian, or conservator of an estate.

h. A custom livestock feeder.

i. A cooperative organized under chapter 501 or 501A, if the cooperative only purchases grain from its members who are producers or from a licensed grain dealer, and the cooperative does not resell that grain.

j. A limited liability company as defined in section 489.102 that meets all of the following requirements:

(1) The majority of voting rights in the limited liability company are held by its members who are producers.

(2) The purpose of the limited liability company is to produce renewable fuel as defined in section 214A.1.

(3) The limited liability company only purchases grain from its members who are producers or from a licensed grain dealer.

(4) The limited liability company does not resell grain that it purchases.

11. *"Person"* means the same as defined in section 4.1 and includes a business association as defined in section 202B.102 or joint or common venture regardless of whether it is organized under a chapter of the Code.

12. *"Producer"* means the owner, tenant, or operator of land in this state who has an interest in and receives all or a part of proceeds from the sale of grain produced on that land.

13. *"Seller"* means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, and includes a person who executes a credit-sale contract as a seller.

14. *"United States Warehouse Act"* means the United States Warehouse Act, 7 U.S.C. ch. 10.

15. *"Warehouse operator"* means the same as defined in section 203C.1.

[C75, 77, 79, 81, §542.1; 81 Acts, ch 180, §1 – 3]

85 Acts, ch 80, §1, 2; 86 Acts, ch 1006, §1; 86 Acts, ch 1152, §1, 2; 86 Acts, ch 1245, §669; 87 Acts, ch 147, §1; 89 Acts, ch 143, §1001; 92 Acts, ch 1239, §55

C93, §203.1

95 Acts, ch 28, §1; 96 Acts, ch 1010, §2; 99 Acts, ch 106, §1 – 3; 2001 Acts, ch 36, §1, 2; 2003 Acts, ch 69, §1, 2, 46; 2004 Acts, ch 1038, §1; 2005 Acts, ch 135, §106; 2007 Acts, ch 22, §47; 2008 Acts, ch 1083, §1, 2; 2008 Acts, ch 1162, §133, 154, 155; 2012 Acts, ch 1017, §55; 2012 Acts, ch 1095, §85, 86

Referred to in §10.1, 203C.1, 203D.1, 714.8, 715A.2

203.2 Powers and duties of the department.

The department may exercise general supervision over the business operations of grain dealers. The supervisory and regulatory powers authorized by this chapter shall be the

responsibility of the warehouse bureau of the department. The department may inspect or cause to be inspected any grain dealer operating in this state and may require the filing of reports pertaining to the operation of the dealer's business. The department shall adopt rules to provide for the efficient administration and regulation of the provisions of this chapter, and may designate an employee of the department to act for the department in any details connected with such administration, including the issuance of licenses and approval of grain dealers' bonds in the name of the department.

[C75, 77, 79, 81, §542.2]
89 Acts, ch 143, §101
C93, §203.2

203.2A Grain purchasers who are not licensed grain dealers — special notice requirements.

1. This section applies to a person who is not required to be issued a license as a grain dealer pursuant to section 203.3. The person shall not purchase grain from a producer for purposes of resale, milling, feeding, or processing.

2. Subsection 1 does not apply to any of the following:

a. A person who purchases less than fifty thousand bushels of grain from all producers in the twelve months prior to purchasing grain from the producer.

b. A person who provides notice to the producer as provided in subsection 3.

3. *a.* The notice must be in the following form:

ATTENTION TO PRODUCERS:
The person purchasing this grain is not a licensed grain dealer and this is not a covered transaction eligible for indemnification from the grain dealers and sellers indemnity fund as provided in Iowa Code section 203D.3

b. The notice must be provided to the producer prior to or at the time of the purchase. The notice may appear on a separate statement or as part of a document received by the producer, including a contract or receipt, as required by the department.

c. The notice must appear in a printed boldface font in at least ten point type.

99 Acts, ch 106, §4; 2012 Acts, ch 1095, §87

203.3 License required — financial responsibility.

1. A person shall not engage in the business of a grain dealer in this state without having obtained a license issued by the department.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the grain dealer purchases any grain by credit-sale contract, or if the value of grain purchased by the grain dealer from producers during the grain dealer's previous fiscal year exceeds five hundred thousand dollars. Any other grain dealer may elect to be licensed as a class 1 grain dealer.

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed a limit of five hundred thousand dollars in value shall file within thirty days of the date the limit is reached a complete application for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

3. An application for a license to engage in business as a grain dealer shall be filed with the department and shall be in a form prescribed by the department. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which records are maintained for transactions of the grain dealer. The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a written request filed with the department, the department or a

designated employee may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least seventy-five thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than thirty-seven thousand five hundred dollars.

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer, except as provided in section 203.15, may elect to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this subsection.

c. A grain dealer shall submit a report to the department according to procedures required by the department, if the grain dealer provides a bond based in part on the number of bushels of unpaid grain purchased by the grain dealer, as provided in rules adopted by the department, in order to satisfy the current assets to current liabilities ratio requirement of this section. The report shall contain information required by the department, including the number of bushels of unpaid grain purchased by the grain dealer. The grain dealer shall submit the report not more than once each month. However, the department may require that a grain dealer submit a report on a more frequent basis, if the department has good cause.

d. The grain dealer shall have and maintain current assets equal to at least one hundred percent of current liabilities or provide a bond under the following conditions:

(1) A grain dealer with current assets equal to at least fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. After the amount of the bond equals one million dollars, the grain dealer may elect to base the remainder of the amount of the bond on the number of bushels of unpaid grain being purchased by the grain dealer, as provided for by rules which shall be adopted by the department. The remaining amount shall equal two thousand dollars for each one thousand dollars of the highest amount of bushels of unpaid grain purchased by the grain dealer during each month.

(2) A grain dealer with current assets equal to less than fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than thirty consecutive days in a twelve-month period.

5. In order to receive and retain a class 2 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least thirty-seven thousand five hundred dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than seventeen thousand five hundred dollars.

b. The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this section.

c. A grain dealer shall submit a report to the department according to procedures required by the department, if the grain dealer provides a bond based in part on the number of bushels of unpaid grain purchased by the grain dealer, as provided in rules adopted by the department, in order to satisfy the current assets to current liabilities ratio requirement of this section. The report shall contain information required by the department, including the number of bushels of unpaid grain purchased by the grain dealer. The grain dealer shall submit the report not more than once each month. However, the department may require that a grain dealer submit a report on a more frequent basis, if the department has good cause.

d. The grain dealer shall have and maintain current assets equal to at least one hundred percent of current liabilities or provide a bond under the following conditions:

(1) A grain dealer with current assets equal to at least fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. After the amount of the bond equals one million dollars, the grain dealer may elect to base the remainder of the amount of the bond on the number of bushels of unpaid grain being purchased by the grain dealer, as provided for by rules which shall be adopted by the department. The remaining amount shall equal two thousand dollars for each one thousand dollars of the highest amount of bushels of unpaid grain purchased by the grain dealer during each month.

(2) A grain dealer with current assets equal to less than fifty percent of current liabilities shall provide a bond of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond shall not be used for longer than thirty consecutive days in a twelve-month period.

6. The department shall adopt rules relating to the form and time of filing of financial statements. The department may require additional information or verification with respect to the financial resources of the applicant and the applicant's ability to pay producers for grain purchased from them.

7. *a.* When the net worth or current ratio of a licensee in good standing is less than that required by this section, the grain dealer shall correct the deficiency or file a deficiency bond or an irrevocable letter of credit within thirty days of written notice by the department. Unless the deficiency is corrected or the deficiency bond or irrevocable letter of credit is filed within thirty days, the grain dealer license shall be suspended.

b. If the department finds that the welfare of grain producers requires emergency action, and incorporates a finding to that effect in its order, immediate suspension of a license may be ordered notwithstanding the thirty-day period otherwise allowed by paragraph "*a*".

8. A deficiency bond or irrevocable letter of credit filed with the department pursuant to

this section shall not be canceled by the issuer on less than ninety days' notice by certified mail to the secretary of agriculture and the principal.

[C75, 77, 79, 81, §542.3; 81 Acts, ch 180, §4; 82 Acts, ch 1093, §1]

83 Acts, ch 18, §1; 83 Acts, ch 54, §1; 83 Acts, ch 175, §1, 2; 84 Acts, ch 1224, §1; 85 Acts, ch 234, §1, 2; 86 Acts, ch 1152, §3, 4; 87 Acts, ch 147, §2, 3; 89 Acts, ch 143, §201, 202, 301, 302, 401, 402; 92 Acts, ch 1239, §56, 57

C93, §203.3

94 Acts, ch 1086, §1 – 4; 2008 Acts, ch 1083, §3, 4

Referred to in §203.2A, 203.4, 203.6, 203.8, 203.9, 203.11, 203.11B, 203.12B, 203.15, 203D.1

203.4 Participation in indemnity fund required.

A grain dealer licensed or required to be licensed pursuant to section 203.3 shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 203D.

[C75, 77, 79, 81, §542.4; 81 Acts, ch 180, §5]

86 Acts, ch 1006, §2; 86 Acts, ch 1152, §5

C93, §203.4

2003 Acts, ch 69, §3

203.5 License.

1. *a.* Upon the filing of an application on a form prescribed by the department and compliance with the terms and conditions of this chapter including rules of the department, the department shall issue the applicant a grain dealer's license. The license expires at the end of the third calendar month following the close of the grain dealer's fiscal year. A grain dealer's license may be renewed annually by filing a renewal application on a form prescribed by the department. An application for renewal must be received by the department on or before the end of the third calendar month following the close of the grain dealer's fiscal year.

b. The department shall not issue a grain dealer's license unless the applicant pays all of the following fees:

(1) For the issuance of a license, all of the following:

(a) A license fee imposed under section 203.6.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee imposed under a previous license as provided in that section.

(2) For the renewal of a license, all of the following:

(a) A renewal fee imposed under section 203.6.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee as provided in that section.

(c) A per-bushel fee as provided in section 203D.3A, and any delinquent per-bushel fee and penalty as provided in that section.

2. The department shall notify a licensed grain dealer of any delinquency in the payment of a participation fee or per-bushel fee as provided in section 203D.3A. The department shall suspend the grain dealer's license thirty days after delivering the notice unless the licensed grain dealer pays the delinquent fee.

3. The department may suspend or revoke the license of a grain dealer who discounts the purchase price paid for grain nominally for the participation fee or per-bushel fee as provided in section 203D.3A while that fee is not in effect.

4. A grain dealer license which has expired may be reinstated by the department upon receipt of a proper renewal application, the renewal fee and a reinstatement fee as provided in section 203.6, and any delinquent participation fee or per-bushel fee and penalty as provided in section 203D.3A. The applicant must file the renewal application and pay the fees and penalty to the department within thirty days from the date of expiration of the grain dealer license.

5. The department may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

6. *a.* The department shall refund a fee paid by an applicant to the department under this section if the department does not issue or renew a grain dealer's license.

b. The department shall prorate a fee paid by an applicant to the department under this section for the issuance or renewal of a license for less than a full year.

7. The department may deny a license to an applicant if the applicant has had a license issued under this chapter or chapter 203C revoked within the past three years, the applicant has been convicted of a felony involving a violation of this chapter or chapter 203C, or the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted.

8. The department may deny a license to an applicant if any of the following apply:

a. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund in regard to a license issued under this chapter or chapter 203C, and the liability has not been discharged, settled, or satisfied.

b. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 203C and the liability has not been discharged, settled, or satisfied.

[C75, 77, 79, 81, §542.5; 81 Acts, ch 180, §6]

84 Acts, ch 1100, §1; 89 Acts, ch 143, §701; 92 Acts, ch 1239, §58

C93, §203.5

2003 Acts, ch 69, §47; 2007 Acts, ch 22, §48; 2010 Acts, ch 1082, §1; 2012 Acts, ch 1095, §88

Referred to in §203.10, 203D.3A, 203D.5

203.6 Fees.

The department shall charge the following fees for deposit in the general fund:

1. *a.* For the issuance or renewal of a license required under section 203.3, and for any inspection of a grain dealer, the fee shall be determined on the basis of all bushels of grain purchased during the grain dealer's previous fiscal year according to the grain dealer's financial statement required in section 203.3. The fee shall be calculated according to the following schedule:

(1) If the total number of bushels purchased is thirty-five thousand or less, the license fee is sixty-six dollars and the inspection fee is eighty-three dollars.

(2) If the total number of bushels purchased is more than thirty-five thousand, but not more than two hundred fifty thousand, the license fee is one hundred sixteen dollars and the inspection fee is one hundred twenty-five dollars.

(3) If the total number of bushels purchased is more than two hundred fifty thousand, but not more than five hundred thousand, the license fee is one hundred sixty-six dollars and the inspection fee is one hundred ninety-one dollars.

(4) If the total number of bushels purchased is more than five hundred thousand, but not more than one million, the license fee is two hundred ninety-one dollars and the inspection fee is two hundred forty-nine dollars.

(5) If the total number of bushels purchased is more than one million, but not more than one million eight hundred fifty thousand, the license fee is four hundred ninety-eight dollars and the inspection fee is three hundred seven dollars.

(6) If the total number of bushels purchased is more than one million eight hundred fifty thousand, but not more than three million two hundred thousand, the license fee is seven hundred six dollars and the inspection fee is three hundred seventy-four dollars.

(7) If the total number of bushels purchased is more than three million two hundred thousand, the license fee is nine hundred fifty-five dollars and the inspection fee is four hundred forty dollars.

b. If the applicant did not purchase grain in the applicant's previous fiscal year, the applicant shall pay the fee specified in paragraph "*a*", subparagraph (1). If during the licensee's fiscal year the number of bushels of grain actually purchased exceeds thirty-five thousand, the licensee shall notify the department and the license and inspection fee shall be adjusted accordingly. Subsequent adjustments shall be made as necessary. An applicant may elect licensing in any category of this subsection. Fees for new licenses issued for less than a full year shall be prorated from the date of application.

2. For an amendment to a license, the fee is ten dollars.

3. For a duplicate license, the fee is five dollars.

4. For reinstatement of a license the fee is fifty dollars.

[C75, 77, 79, 81, §542.6; 81 Acts, ch 180, §7, 32]
83 Acts, ch 18, §2; 83 Acts, ch 175, §3, 4; 84 Acts, ch 1100, §2; 92 Acts, ch 1239, §59
C93, §203.6
2009 Acts, ch 41, §215
Referred to in §203.5

203.7 Posting of license.

The grain dealer's license shall be posted in a conspicuous location in the place of business. A grain dealer's license is not transferable.

[C75, 77, 79, 81, §542.7; 81 Acts, ch 180, §8]
83 Acts, ch 18, §3
C93, §203.7

203.8 Payment.

1. *a.* A grain dealer licensed or required to be licensed pursuant to section 203.3 shall pay the purchase price to the seller for grain upon delivery or demand by the seller, but not later than thirty days after delivery by the seller unless in accordance with the terms of a credit-sale contract that satisfies the requirements of this chapter. The department shall adopt rules for payment by check and electronic funds transfer.

b. A grain dealer licensed or required to be licensed pursuant to section 203.3 shall not hold a check for the purchase of grain more than five days after the grain dealer issues a check to the seller. After that date, the grain dealer shall deliver the check in person or by mail to the seller's last known address.

2. As used in this section:

a. *"Delivery"* means the transfer of title to and possession of grain by a seller to a grain dealer or to another person in accordance with the agreement of the seller and the grain dealer.

b. *"Payment"* means the actual payment or tender of payment by a grain dealer to a seller of the agreed purchase price, or in the case of disputes as to sales of grain, the undisputed portion of the purchase price without reduction for any separate claim of the grain dealer against the seller.

[C75, 77, 79, 81, §542.8; 81 Acts, ch 180, §9]
C93, §203.8
96 Acts, ch 1030, §1; 2003 Acts, ch 69, §4
Referred to in §203.12B
See §203.15

203.9 Inspection of premises and records — reconstruction of records.

1. The department may inspect the premises used by any grain dealer in the conduct of the dealer's business at any time. The department may inspect a grain dealer's records that pertain to grain transactions during ordinary business hours. The department shall inspect a grain dealer's records at least once each eighteen-month period without justification. The department shall prioritize inspections based on the system provided in section 203.22. The department may use a risk rating produced by a statistical model provided in section 203.22 as justification to conduct an inspection. A transporter of grain in transit shall possess bills of lading or other documents covering the grain, and shall present them to any law enforcement officer on demand. If there is justification to believe that a grain dealer is engaged without a license as required pursuant to section 203.3, the department may inspect the grain dealer's records which pertain to grain transactions at any time.

2. If a grain dealer does not maintain a place of business in this state, the department is not required to inspect the grain dealer's records. A grain dealer shall submit the grain dealer's records relating to grain transactions occurring within this state to the department for purposes of an inspection as provided in this section at any reasonable time and place, including the offices of the department during regular business hours, as ordered by the department.

3. A grain dealer shall keep complete and accurate records. A grain dealer shall keep

records for the previous six years. If the grain dealer's records are incomplete or inaccurate, the department may reconstruct the grain dealer's records in order to determine whether the grain dealer is in compliance with the provisions of this chapter. The department may charge the grain dealer the actual cost for reconstructing the grain dealer's records, which shall be considered repayment receipts as defined in section 8.2.

4. The department may suspend or revoke the license of a grain dealer for failing to consent to a departmental inspection or cooperate with the department during an inspection as provided in this chapter.

[C75, 77, 79, 81, §542.9; 81 Acts, ch 180, §10]
84 Acts, ch 1224, §2; 86 Acts, ch 1152, §6; 89 Acts, ch 143, §101; 92 Acts, ch 1239, §60
C93, §203.9
2003 Acts, ch 69, §5; 2012 Acts, ch 1095, §89
Referred to in §203.11, 203.15, 203.22

203.10 Action affecting a license.

1. The cessation of a grain dealer's license occurs from any of the following:

a. The revocation of the license by the department as provided in subsection 2.

b. The cancellation of the license as provided in section 203.5.

c. The expiration of the license according to the terms of the license as provided in this chapter, including a rule adopted in accordance with this chapter pursuant to chapter 17A.

2. The department may issue an order to suspend or revoke the license of a grain dealer who violates a provision of this chapter, including a rule adopted in accordance with this chapter pursuant to chapter 17A.

[C75, 77, 79, 81, §542.10]
86 Acts, ch 1152, §7; 89 Acts, ch 143, §101
C93, §203.10
2003 Acts, ch 69, §6; 2012 Acts, ch 1095, §90; 2013 Acts, ch 90, §33; 2014 Acts, ch 1092, §36
Referred to in §203.12B, 203D.6

203.11 Penalties — injunctions.

1. A person who knowingly submits false information to or knowingly withholds information from the department or any of its employees when required to be submitted or maintained under this chapter, commits a fraudulent practice.

2. *a.* Except as provided in paragraph *"b"*, a person commits a serious misdemeanor if the person does any of the following:

(1) Engages in business as a grain dealer without a license as required in section 203.3.

(2) Obstructs an inspection of the person's business premises or records required to be kept by a grain dealer pursuant to section 203.9.

(3) Uses a scale ticket or credit-sale contract in violation of this chapter or a requirement established by the department under this chapter.

b. A person who commits an offense specified in paragraph *"a"* after having been found guilty of the same offense commits an aggravated misdemeanor.

3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

4. A person in violation of this chapter, or in violation of chapter 714 or 715A, which violation involves the business of a grain dealer, is subject to prosecution by the county attorney in the county where the business is located. However, if the county attorney fails to initiate prosecution within thirty days and upon request by the department, the attorney general may initiate and carry out the prosecution in cooperation, if possible, with the county attorney. The person in violation may be restrained by an injunction in an action brought by the department or the attorney general upon request by the department.

[C75, 77, 79, 81, §542.11; 81 Acts, ch 180, §11]
92 Acts, ch 1239, §61
C93, §203.11
2003 Acts, ch 69, §7

203.11A Civil penalties.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed against a grain dealer for a violation of this chapter.

2. The amount of a civil penalty shall not exceed one thousand five hundred dollars. Each day that a violation continues shall constitute a separate violation. The amount of the civil penalty that may be assessed in a case shall not exceed the amount recommended by the grain industry peer review panel established pursuant to section 203.11B. Moneys collected in civil penalties by the department or the attorney general shall be deposited in the general fund of the state.

3. A civil penalty may be administratively assessed only after an opportunity for a contested case hearing under chapter 17A. The department may be represented in an administrative hearing or judicial proceeding by the attorney general. A civil penalty shall be paid within thirty days from the date that an order or judgment for the penalty becomes final. When a person against whom a civil penalty is administratively assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final until all judicial review processes are completed. When a person against whom a civil penalty is judicially assessed under this section seeks a timely appeal of judgment, the judgment is not final until the right of appeal is exhausted.

4. A person who fails to timely pay a civil penalty as provided in this section shall pay, in addition to the penalty, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

99 Acts, ch 106, §5
Referred to in §203.11B

203.11B Grain industry peer review panel.

1. The department shall establish a grain industry peer review panel to assist the department in assessing civil penalties pursuant to this section and section 203C.36A. The secretary of agriculture shall appoint to the panel the following members:

a. Two natural persons who are grain dealers licensed under this chapter and actively engaged in the grain dealer business.

b. Two natural persons who are warehouse operators licensed pursuant to chapter 203C and actively engaged in the grain warehouse business.

c. One natural person who is a producer actively engaged in grain farming.

2. *a.* The members appointed pursuant to this section shall serve four-year terms beginning and ending as provided in section 69.19. However, the secretary of agriculture shall appoint initial members to serve for less than four years to ensure that members serve staggered terms. A member is eligible for reappointment. A vacancy on the panel shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

b. The panel shall elect a chairperson who shall serve for a term of one year. The panel shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of three or more members. Three members constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the panel. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the panel.

c. Notwithstanding section 7E.6, the members shall only receive reimbursement for actual expenses for performance of their official duties, as provided by the department.

d. The panel shall be staffed by employees of the department.

3. The panel may propose a schedule of civil penalties for minor and serious violations of this chapter and chapter 203C. The department may adopt rules based on the recommendations of the panel as approved by the secretary of agriculture.

4. *a.* The panel shall review cases of grain dealers regulated under this chapter and warehouse operators regulated under chapter 203C who are subject to civil penalties as provided in section 203.11A or 203C.36A. A review shall be performed upon the request of the department or the person subject to the civil penalty.

b. The department shall present reports to the panel in regard to investigations of cases under review which may result in the assessment of a civil penalty against a person. The reports may be reviewed by the panel in closed session pursuant to section 21.5, and are confidential records. In presenting the reports, the department shall make available to the panel records of persons which are otherwise confidential under section 22.7, 203.16, or 203C.24. The panel members shall maintain the confidentiality of records made available to the panel. However, a determination to assess a civil penalty against a person shall be made exclusively by the department.

c. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A or the Iowa rules of civil procedure. The rules adopted by the department may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty.

d. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the civil penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a grain dealer as provided in section 203.3 or the license of a warehouse operator as provided in section 203C.6.

5. This section does not apply to an action by the department for a license suspension or revocation. This section also does not require a review or response if the case is subject to criminal prosecution or involves a petition seeking injunctive relief.

6. A response by the panel may be used as evidence in an administrative hearing or in a civil or criminal case except to the extent that information contained in the response is considered confidential pursuant to section 22.7, 203.16, or 203C.24.

99 Acts, ch 106, §6; 2008 Acts, ch 1083, §5
Referred to in §203.11A, 203.16, 203C.24, 203C.36A

203.12 Claims — cessation of a license and notice of license revocation.

1. Upon the cessation of a grain dealer license by revocation, cancellation, or expiration, any claim for the purchase price of grain against the grain dealer shall be made in writing and filed with the grain dealer and with the issuer of a deficiency bond or of an irrevocable letter of credit and with the department within one hundred twenty days after the date of the cessation. A failure to make this timely claim relieves the issuer and the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

2. Upon the revocation of a grain dealer license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation within the state of Iowa and in a newspaper of general circulation within the county of the grain dealer's principal place of business when that dealer's principal place of business is located in the state of Iowa. The notice shall state the name and address of the grain dealer and the effective date of revocation. The notice shall also state that any claims against the grain dealer shall be made in writing and sent by ordinary mail or delivered personally within one hundred twenty days after revocation to the grain dealer, to the issuer of a deficiency bond or of an irrevocable letter of credit, and to the department, and the notice shall state that the failure to make a timely claim does not relieve the grain dealer from liability to the claimant.

[C79, 81, §542.12]
86 Acts, ch 1152, §8
C93, §203.12
2012 Acts, ch 1095, §91
Referred to in §203D.6

203.12A Lien on grain dealer assets.

1. *a.* As used in this section:

(1) *"Grain dealer assets"* includes proceeds received or due a grain dealer upon the sale, including exchange, collection, or other disposition, of grain sold by the grain dealer. *"Grain dealer assets"* also includes any other funds or property of the grain dealer which can be directly traced as being from the sale of grain by the grain dealer, or which were utilized in the business operation of the grain dealer.

(2) *"Proceeds"* means noncash and cash proceeds as defined in section 554.9102.

b. A court, upon petition by an affected party, may order that claimed grain dealer assets are not grain dealer assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not grain dealer assets as defined in this section.

2. A statutory lien is imposed on all grain dealer assets in favor of sellers who have surrendered warehouse receipts or other written evidence of ownership as part of a grain sale transaction or who possess written evidence of the sale of grain to a grain dealer, without receiving full payment for the grain.

3. The lien shall arise at the time of surrender of warehouse receipts or other written evidence of ownership as part of a grain sale transaction or the time of delivery of the grain for sale, and shall terminate when the liability of the grain dealer to the seller has been discharged. The lien of all sellers is hereby assigned to the Iowa grain indemnity fund board, on behalf of the grain depositors and sellers indemnity fund.

4. To perfect the lien, the Iowa grain indemnity fund board must file a lien statement with the office of the secretary of state. The lien statement is valid only if filed on or after the date of suspension but not later than sixty days after the incurrence date as provided in section 203D.6. The lien statement shall disclose the name of the grain dealer, the address of the dealer's principal place of business, a description of identifiable grain dealer assets, and the amount of the lien. The lien amount shall be the board's estimate of the final cost of reimbursing the grain depositors and sellers indemnity fund for the payment of claims against the fund resulting from the breach of the grain dealer's obligations. The board shall correct the amount not later than one hundred eighty days following the incurrence date. A court, upon petition by an affected person, may correct the amount. The board shall have the burden of proving that the amount is an accurate estimate.

5. The Iowa grain indemnity fund board, upon written demand of the grain dealer, shall file a termination statement with the secretary of state, if after one hundred eighty days from the date that the lien is perfected the grain dealer's license has not ceased by revocation, cancellation, or expiration. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the grain dealer.

6. The secretary of state shall note the filing of a lien statement under this section in a manner provided by chapter 554, the uniform commercial code. The secretary shall note the filing of a termination statement with the lien statement.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section 554.9322.

8. If the grain dealer is also licensed under chapter 203C, and in the event the department is appointed as a receiver under section 203C.3, assets under the authority of the receiver are free from this statutory lien. However, if there are receivership assets in excess of those necessary to fully reimburse depositors, the perfected lien will attach to those excess assets.

9. *a.* The board may enforce the lien in the manner provided in chapter 554, article 9, part 6, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the grain dealer assets, the remaining assets shall be returned to the grain dealer or, if there are competing claims to those remaining assets by other creditors, shall place those assets in the custody of the district court and implead the known creditors.

b. For purposes of enforcement of the lien, the board is deemed to be the secured party and the grain dealer is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 6. If a right or duty under chapter 554, article 9, part 6, is contingent upon the existence of express language in

a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

10. Actions relating to this section shall be brought in the district court in the county in which the grain dealer's primary place of business is located or in Polk county.

92 Acts, ch 1239, §62; 2000 Acts, ch 1149, §163, 187; 2009 Acts, ch 133, §211; 2012 Acts, ch 1095, §92

Referred to in §203.12B, 203D.5A

203.12B Appointment of department as receiver.

1. As used in this section:

a. "Grain dealer assets" means the same as defined in section 203.12A, including any proceeds from a deficiency bond or irrevocable letter of credit, or any insurance policy relating to those assets.

b. "Interested seller" means a person who delivers or has delivered grain to a grain dealer who has not been paid as provided in section 203.8 or according to the terms of a credit-sale contract breached by the grain dealer.

c. "Issuer" means a person who issues a deficiency bond or an irrevocable letter of credit pursuant to section 203.3, or an issuer of grain assets.

2. *a.* The department may file a verified petition in district court requesting that the department be appointed as a receiver, and the district court shall appoint the department as receiver, in order to protect interested sellers, if any of the following apply:

(1) The grain dealer's license is revoked or suspended under section 203.10.

(2) There is evidence that the grain dealer has engaged or is engaging in business under this chapter without obtaining a license as required pursuant to section 203.3.

b. Upon being appointed as a receiver, the department shall take custody and provide for the disposition of the grain dealer assets of the grain dealer under the supervision of the court.

(1) The petition shall be filed in the county in which the grain dealer maintains its principal place of business in this state. The court may issue ex parte any temporary order as it determines necessary to preserve or protect the grain dealer assets and the rights of interested sellers.

(2) The petition shall be accompanied by the department's plan for disposition of grain dealer assets which shall provide terms as may be necessary to preserve or protect the grain dealer assets and the rights of interested sellers, less expenses incurred by the department in connection with the receivership. The plan may provide for the delivery or sale of grain as provided in section 203C.4. The plan may provide for the operation of the business of the grain dealer on a temporary basis and any other course of action or procedure which will serve the interests of interested sellers.

(3) The petition shall be filed with the clerk of the district court who shall set a date for a hearing in the same manner as provided in section 203C.3.

(4) Copies of the petition, the notice of hearing, and the department's plan of disposition shall be delivered to the following:

(a) The grain dealer and each issuer who shall receive copies delivered in the manner required for service of an original notice.

(b) Interested sellers as determined by the department who shall receive copies delivered by ordinary mail.

(5) The failure of a person to receive the required notification shall not invalidate the proceedings on the petition or any part of the petition for the appointment of the department as the receiver.

(6) A person is not a party to the action unless admitted by the court upon application.

3. When appointed as a receiver, the department shall publish notice of the appointment in the same manner provided in section 203C.3.

4. The department may employ or appoint a person to appear on behalf of the department in any proceedings before the court as provided in section 203C.3.

5. An action of the department shall not be subject to the provisions of chapter 17A. A person employed or appointed by the department as receiver shall be deemed to be an

employee of the state as defined in section 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

6. When the department is appointed as a receiver, the issuer shall be joined as a party, and may be ordered by the court to pay indemnification proceeds, and shall be discharged from further liability as provided in section 203C.4. The department shall provide notice to interested sellers within one hundred twenty days after the date of appointment. A failure of a person to file a timely claim as provided by the department shall defeat the claim, except to the extent of any excess grain dealer assets remaining after all timely claims are paid in full.

7. If the court approves the sale of grain, the department shall employ or appoint a merchandiser who shall enjoy the same status, exercise the same powers, and receive compensation to the same extent as a merchandiser employed or appointed pursuant to section 203C.4. A person employed or appointed as a merchandiser must meet the following requirements:

a. Be experienced or knowledgeable in the operation of grain dealers as provided in this chapter.

b. Be experienced or knowledgeable in the marketing of grain.

c. Not have had a grain dealer's license issued pursuant to section 203.3 suspended or revoked as provided in section 203.10.

d. Not have any pecuniary interest in the grain dealer assets of the grain dealer and not have a business relationship with the grain dealer.

8. The sale of the grain shall proceed in the same manner as grain sold pursuant to section 203C.4. The department may, with the approval of the court, continue the operation of all or any part of the business of the grain dealer on a temporary basis and take any other course of action or procedure which will serve the interests of interested sellers. The department is entitled to reimbursement out of grain dealer assets for costs directly attributable to the receivership. The department shall be reimbursed from the grain dealer assets in the same manner as provided in section 203C.4. If the approved plan of disposition requires a distribution of cash proceeds, the department shall submit to the court a proposed plan of distribution of those proceeds. The plan shall be approved and executed and the department shall be discharged and the receivership terminated in the same manner as provided in section 203C.4.

96 Acts, ch 1030, §2; 2009 Acts, ch 41, §216; 2012 Acts, ch 1095, §93

203.13 Enforcement officers. Repealed by 2003 Acts, ch 69, §21.

203.14 No obligation of state.

Nothing in this chapter shall be construed to imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees or officials, either elective or appointive, in respect to any agreement or undertaking to which the provisions of this chapter relate.

[C79, 81, §542.14]

C93, §203.14

203.15 Credit-sale contracts.

A grain dealer shall not purchase grain by a credit-sale contract except as provided in this section.

1. The grain dealer shall be licensed pursuant to section 203.3. All of the following shall apply to a grain dealer required to be licensed under that section who purchases grain by credit-sale contract:

a. The grain dealer shall give written notice to the department prior to engaging in the purchase of grain by credit-sale contract. The notice shall contain information required by the department.

b. All credit-sale contract forms in the possession of the grain dealer shall have been permanently and consecutively numbered at the time of printing of the forms. The grain dealer shall maintain an accurate record of all credit-sale contract forms and numbers

obtained by that dealer. The record shall include the disposition of each numbered form, whether by execution, destruction, or otherwise.

c. The grain dealer who purchases grain by credit-sale contract shall maintain records as required by the department in compliance with this section.

2. In addition to other information as may be required, a credit-sale contract shall contain or provide for all of the following:

a. The seller's name and address.

b. The conditions of delivery.

c. The amount and kind of grain delivered.

d. The price per bushel or basis of value.

e. The date payment is to be made.

f. The duration of the credit-sale contract, which shall not exceed twelve months from the date the contract is executed.

3. Title to all grain sold by a credit-sale contract is in the purchasing grain dealer as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed and dated by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon the cessation of the grain dealer's license by revocation, cancellation, or expiration, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty days after the effective date of the cessation, and the purchase price for all unpriced grain shall be determined as of the effective date of the cessation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, credit-sale contracts may be assigned to the purchaser of the business.

4. *a.* A grain dealer shall not purchase grain on credit-sale contract during any time period in which the grain dealer fails to maintain fifty cents of net worth for each outstanding bushel of grain purchased under credit. The grain dealer may maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of deficiency in net worth.

b. A grain dealer who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act, and who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture shall not purchase grain on credit-sale contract to correct the shortage of grain.

c. (1) A grain dealer must meet at least either of the following conditions:

(a) The grain dealer's last financial statement required to be submitted to the department pursuant to section 203.3 is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state.

(b) The grain dealer files a bond with the department in the amount of one hundred thousand dollars payable to the department.

(2) (a) The bond filed with the department under this paragraph shall be used to indemnify sellers for losses resulting from a breach of a credit-sale contract as provided by rules adopted by the department. The rules shall include but are not limited to procedures and criteria for providing notice, filing claims, valuing losses, and paying claims. The bond provided in this paragraph shall be in addition to any other bond required in this chapter.

(b) The bond shall not be canceled by the issuer on less than ninety days' notice by certified mail to the department and the principal. However, if an adequate replacement bond is filed with the department, the department may authorize the cancellation of the original bond before the end of the ninety-day period.

(c) If an adequate replacement bond is not received by the department within sixty days of the issuance of the notice of cancellation, the department shall suspend the grain dealer's license. The department shall cause an inspection of the licensed grain dealer immediately at the end of the sixty-day period. If a replacement bond is not filed within another thirty days following the suspension, the department shall revoke the grain dealer's license .

(3) When a license is revoked, the department shall provide notice of the revocation by

ordinary mail to the last known address of each holder of an outstanding credit-sale contract and all known sellers.

5. The department may suspend the right of a grain dealer to purchase grain by credit-sale contract based on any of the following conditions:

a. The grain dealer who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture.

b. The grain dealer who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act issues back to the grain dealer a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased on credit and is unpaid for by the grain dealer.

c. The grain dealer fails to maintain requirements relating to net worth or fails to maintain a ratio of current assets to current liabilities, as required in section 203.3.

d. The grain dealer violates this section.

e. The grain dealer's total liabilities are greater than seventy-five percent of the grain dealer's total assets.

f. The grain dealer has made payment by use of a check or electronic funds transfer, and a financial institution refuses payment because of insufficient funds in a grain dealer's account.

g. The department discovers that a grain dealer has delayed payment for grain purchased since the department last inspected the grain dealer pursuant to section 203.9.

6. A grain dealer who purchases grain by credit-sale contract shall obtain from the seller a signed acknowledgment stating that the seller has received notice that grain purchased by credit-sale contract is not protected by the grain depositors and sellers indemnity fund. The form for the acknowledgment shall be prescribed by the department, and the licensed grain dealer and the seller shall each be provided a copy.

[C71, 73, 75, 77, §543.17; C79, 81, §542.8, 543.17; 81 Acts, ch 180, §12]

C83, §542.15

85 Acts, ch 234, §3; 86 Acts, ch 1152, §9; 87 Acts, ch 147, §4; 89 Acts, ch 143, §403; 92 Acts, ch 1239, §63, 64

C93, §203.15

99 Acts, ch 106, §7; 2003 Acts, ch 69, §8 – 11; 2008 Acts, ch 1083, §6, 7; 2009 Acts, ch 41, §80; 2009 Acts, ch 133, §212; 2012 Acts, ch 1095, §94 – 98

Referred to in §203.3, 203D.1

203.16 Confidentiality of records.

Notwithstanding chapter 22, all financial statements of grain dealers under this chapter shall be kept confidential by the department and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.

2. In actions or administrative proceedings commenced under this chapter or chapter 203C.

3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

4. When required by subpoena or court order.

5. Disclosure to law enforcement agencies in regard to the detection and prosecution of public offenses.

6. When released to a bonding company approved by the department, or released to the United States department of agriculture or any of its divisions.

7. Where released at the request of the Iowa accountancy examining board for licensee review and discipline in accordance with chapters 272C and 542 and subject to the confidentiality requirements of section 272C.6.

8. Disclosure to the grain industry peer review panel as provided in section 203.11B.
[81 Acts, ch 180, §13]
C83, §542.16
83 Acts, ch 101, §1; 89 Acts, ch 143, §601
C93, §203.16
99 Acts, ch 106, §8; 2001 Acts, ch 55, §23, 38
Referred to in §203.11B, 203D.4

203.17 Documents and records.

1. The department may adopt rules specifying the form, content, use, and maintenance of documents issued by a grain dealer under this chapter including but not limited to scale tickets, settlement sheets, daily position records, and credit-sale contracts. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

2. All scale ticket forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing. A grain dealer shall maintain an accurate record of all scale ticket numbers. The record shall include the disposition of each numbered form, whether issued, destroyed, or otherwise disposed of.

[81 Acts, ch 180, §14]
C83, §542.17
C93, §203.17
2003 Acts, ch 69, §12; 2008 Acts, ch 1083, §8

203.18 Reserved.

203.19 Cooperative agreements.

1. Notwithstanding the other provisions of this chapter, the department may enter into cooperative agreements with other states for the purpose of making available to those states the information acquired under the bonding, licensing, and examination procedures of this chapter.

2. If a cooperative agreement is in effect under this section, the indemnification requirements of this chapter may be satisfied by filing with the department evidence of a bond or an irrevocable letter of credit on file with a state or of participation in an indemnity fund in a state with which Iowa has a cooperative agreement as provided for by this section.

3. *a.* Indemnification proceeds shall be copayable to the state of Iowa for the benefit of sellers of grain under this chapter.

b. Indemnification proceeds required by this chapter may be made copayable to any state with whom this state has entered into contracts or agreements as authorized by this section, for the benefit of sellers of grain in that state.

[81 Acts, ch 180, §16]
C83, §542.19
86 Acts, ch 1152, §11
C93, §203.19
2009 Acts, ch 41, §263; 2010 Acts, ch 1069, §25

203.20 Shrinkage adjustments — disclosures — penalties.

1. A person who, in connection with the receipt of corn or soybeans for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The use of any rate of weight adjustment for moisture content other than the one prescribed by this subsection is a fraudulent practice. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content that is prescribed by this subsection. Failure to make this disclosure is a simple misdemeanor.

2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.

3. A person who adjusts the scale weight of corn or soybeans both for moisture content and for handling, processing, or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. Failure to make the required disclosure is a simple misdemeanor.

[81 Acts, ch 180, §17]
C83, §542.20
C93, §203.20

203.21 Reserved.

203.22 Prioritization of inspections of grain dealers.

The department shall develop a system to prioritize the inspections of grain dealers provided in section 203.9. The system of prioritization shall be computed each year based on the risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer. The department shall compute the risk by utilizing an available statistical model to measure the financial condition of grain dealers, and especially grain dealers who execute credit-sale contracts. Procedures for utilizing the statistical model shall be adopted by department rules. The statistical model shall be used to provide risk ratings. A risk rating shall be used as a factor by the department to prioritize its inspection schedule. The department may use a risk rating produced by the statistical model as justification to inspect the grain dealer at any time. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the grain dealer based on the statistical model shall be good cause.

92 Acts, ch 1239, §65
Referred to in §203.1, 203.9

CHAPTER 203A

GRAIN BARGAINING AGENTS

Repealed by 2003 Acts, ch 69, §50

CHAPTER 203B

RESERVED

CHAPTER 203C

WAREHOUSES FOR AGRICULTURAL PRODUCTS

Referred to in §22.7(12), 159.6, 189.16, 190.1, 203.5, 203.11B, 203.12A, 203.15, 203.16, 203D.4, 203D.5A, 554.7204, 579B.4, 669.14

This chapter not enacted as a part of this title;
transferred from chapter 543 in Code 1993

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203C.17	Receiving bulk grain at licensed and unlicensed warehouses.
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203C.36	Penalties — injunction.
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203C.37	Issuance of a license and payment of fees.
203C.38	No obligation of state.
203C.39	Grain stored in another warehouse.
203C.40	Prioritization of inspections of warehouse operators.

203C.1 Definitions.

As used in this chapter:

1. *"Agricultural product"* shall mean any product of agricultural activity suitable for storage in quantity, including refined or unrefined sugar and canned agricultural products and shall also mean any product intended for consumption in the production of other agricultural products, such as stock salt, binding twine, bran, cracked corn, soybean meal, commercial feeds, and cottonseed meal.

2. *"Bond"* means a bond issued by a surety company or an irrevocable letter of credit issued by a financial institution.

3. *"Bulk grain"* shall mean grain which is not contained in sacks.

4. *"Check"* means the same as defined in section 203.1.

5. *"Credit-sale contract"* means the same as defined in section 203.1.

6. *"Department"* means the department of agriculture and land stewardship.

7. *"Depositor"* means any person who deposits an agricultural product in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the agricultural product.

8. *"Electronic funds transfer"* means the same as defined in section 203.1.

9. *"Financial institution"* means the same as defined in section 203.1.

10. *"Good cause"* means that the department has cause to believe that the net worth or

current asset to current liability ratio of a warehouse operator presents a danger to depositors with whom the warehouse operator does business, based on evidence of any of the following:

a. The making of a payment by use of a check or electronic funds transfer, and a financial institution refuses payment because of insufficient funds in the warehouse operator's account.

b. A violation of recordkeeping requirements provided in this chapter or rules adopted pursuant to this chapter by the department.

c. A quality or quantity shortage in the warehouse facility.

d. A high risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on a statistical model provided in section 203C.40.

11. *"Grain"* means the same as defined in section 203.1.

12. *"Grain bank"* means grain owned by a depositor and held temporarily by the warehouse operator for use in the formulation of feed or to be processed and returned to the depositor on demand.

13. *"Grain Standards Act"* means the United States Grain Standards Act, 7 U.S.C. ch. 3.

14. *"Incidental warehouse operator"* means a person regulated under chapter 198 whose grain storage capacity does not exceed twenty-five thousand bushels which is used exclusively for grain owned or grain which will be returned to the depositor for use in a feeding operation or as an ingredient in a feed.

15. *"Incidental warehouse operator's obligation"* means a sufficient quantity and quality of grain to cover company owned grain and deposits of grain for which actual payment has not been made.

16. *"License"* means a license issued under this chapter.

17. *"Licensed warehouse"* shall mean a warehouse for the operation of which the department has issued a license in accordance with the provisions of section 203C.6.

18. *"Licensed warehouse operator"* shall mean a warehouse operator who has obtained a license for the operation of a warehouse under the provisions of section 203C.6.

19. *"Official grain standards"* means the standards of quality and condition of grain which establishes the grade, fixed and established by the secretary of agriculture under the Grain Standards Act.

20. *"Open storage"* means grain or agricultural products which are received by a warehouse operator from a depositor for which warehouse receipts have not been issued or a purchase made and the records documented accordingly.

21. *"Person"* means the same as defined in section 4.1 and includes a business association as defined in section 202B.102 or a joint or common venture regardless of whether it is organized under a chapter of the Code.

22. *"Receiving and loadout charge"* shall mean the charge made by the warehouse operator for receiving grain into and loading grain from the warehouse, exclusive of the warehouse operator's other charges.

23. *"Scale weight ticket"* means a load slip or other evidence, other than a receipt, given to a depositor by a warehouse operator licensed under this chapter upon initial delivery of the agricultural product to the warehouse.

24. *"Station"* means a warehouse located more than three miles from the central office of the warehouse.

25. *"Storage"* means any grain or other agricultural products that have been received and have come under care, custody or control of a warehouse operator either for the depositor for which a contract of purchase has not been negotiated or for the warehouse operator operating the facility.

26. *"United States Warehouse Act"* means the same as defined in section 203.1.

27. *"Unlicensed warehouse operator"* means a warehouse operator who retains grain in the warehouse not to exceed thirty days and is not licensed under the provisions of this chapter or the United States Warehouse Act.

28. *"Warehouse"* shall mean any building, structure, or other protected enclosure in this state used or usable for the storage of agricultural products. Buildings used in connection with the operation of the warehouse shall be deemed to be a part of the warehouse.

29. *"Warehouse operator"* means a person engaged in the business of operating or controlling a warehouse for the storing, shipping, handling or processing of agricultural products, but does not include an incidental warehouse operator.

30. *"Warehouse operator's obligation"* means a sufficient quantity and quality of grain or other products for which a warehouse operator is licensed including company owned grain and grain of depositors as the warehouse operator's records indicate. For an unlicensed warehouse operator it means a sufficient quantity and quality of grain to cover company owned grain and all deposits of grain for which actual payment has not been made.

[C24, 27, 31, §9719; C35, §9751-g1; C39, §**9751.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.1; 81 Acts, ch 180, §18]

86 Acts, ch 1006, §3; 86 Acts, ch 1152, §12, 13; 86 Acts, ch 1245, §671; 89 Acts, ch 143, §1002, 1101; 92 Acts, ch 1239, §66

C93, §203C.1

95 Acts, ch 28, §2; 99 Acts, ch 106, §9 – 11; 2003 Acts, ch 69, §13 – 16; 2008 Acts, ch 1083, §9; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1082, §2; 2012 Acts, ch 1095, §99 – 101

Referred to in §203.1, 203D.1

203C.2 Duties and powers of the department — operator recordkeeping.

1. The department shall administer this chapter and may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products.

2. The department may inspect or cause to be inspected any warehouse including warehouse records as provided in this section. Inspections may be made at times and for purposes as the department determines. Except as provided in section 203C.6, the department shall inspect every licensed warehouse and its contents once every twelve months. The department shall prioritize inspections based on the system provided in section 203C.40. The department may require the filing of reports relating to a warehouse or its operation.

a. A licensed warehouse operator operating a licensed warehouse shall provide for complete and correct recordkeeping. The records shall account for the storage and withdrawal of all agricultural products handled in each warehouse which the warehouse operator is licensed to operate. The records shall include all original and duplicate receipts issued by, returned to, and canceled by the warehouse operator. A licensed warehouse operator shall keep records for the previous six years. If the licensed warehouse operator's records are incomplete or inaccurate, the department may reconstruct the warehouse operator's records in order to determine whether the warehouse operator is in compliance with the provisions of this chapter. The department may charge the licensed warehouse operator the actual cost for reconstructing the warehouse operator's records.

b. If upon inspection of a warehouse a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouse operator's books and records according to official grain standards, the department may require an employee of the department to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the department at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day.

3. The department may make available to the United States government, or any of its agencies, including the commodity credit corporation, the results of inspections made and inspection reports submitted to it by employees of the department, upon payment to it of charges as determined by the department, but the charges shall not be less than the actual cost of services rendered, as determined by the department. The department may enter into contracts and agreements for such purpose and shall keep a record of all money thus received.

4. The department may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of a warehouse the only type or types and the quantity of agricultural products which may be stored in the warehouse. The department may prescribe, within the limitations of this chapter, the duties of licensed warehouse operators with respect to the care of and

responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The department may from time to time publish data in connection with the administration of this chapter as may be of public interest.

5. Moneys received by the department in administering this section shall be considered repayment receipts as defined in section 8.2.

[C24, 27, 31, §9739, 9744, 9750; C35, §9751-g22, -g27, -g32; C39, §**9751.22, 9751.27, 9751.32;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.2; 81 Acts, ch 180, §19]

84 Acts, ch 1100, §3; 86 Acts, ch 1152, §14; 92 Acts, ch 1239, §67

C93, §203C.2

2003 Acts, ch 69, §17

Referred to in §203C.36, 203C.40

203C.3 Appointment of department as receiver.

1. The department in its discretion may, following summary suspension of a license under section 203C.10, or following a suspension or revocation of a license as otherwise provided in section 203C.10 or 203C.11, file a verified petition in the district court requesting that the department be appointed as a receiver to take custody of commodities stored in the licensee's warehouse and to provide for the disposition of those assets in the manner provided in this chapter and under the supervision of the court. The petition shall be filed in the county in which the warehouse is located. The district court shall appoint the department as receiver. Upon the filing of the petition the court shall issue ex parte such temporary orders as may be necessary to preserve or protect the assets in receivership, or the value thereof, and the rights of depositors, until a plan of disposition is approved.

2. A petition filed by the department under subsection 1 shall be accompanied by the department's plan for disposition of stored commodities. The plan may provide for the pro rata delivery of part or all of the stored commodities to depositors holding warehouse receipts or unpriced scale weight tickets, or may provide for the sale under the supervision of the department of part or all of the stored commodities for the benefit of those depositors, or may provide for any combination thereof, as the department in its discretion determines to be necessary to minimize losses.

3. When a petition is filed by the department under subsection 1 the clerk of court shall set a date for hearing on the department's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the petition, the notice of hearing, and the department's plan of disposition shall be served upon the licensee and upon the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 in the manner required for service of an original notice. A delay in effecting service upon the licensee or issuer is not cause for denying the appointment of a receiver and is not grounds for invalidating any action or proceeding in connection with the appointment.

4. The department shall cause a copy of each of the documents served upon the licensee under subsection 3 to be mailed by ordinary mail to every person holding a warehouse receipt or unpriced scale weight ticket issued by the licensee, as determined by the records of the licensee or the records of the department. The failure of any person referred to in this subsection to receive the required notification shall not invalidate the proceedings on the petition for the appointment of a receiver or any portion thereof. Persons referred to in this subsection are not parties to the action unless admitted by the court upon application therefor.

5. When appointed as a receiver under this chapter, the department shall cause notification of the appointment to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in this state.

6. The department may designate an employee of the department to appear on behalf of the department in any proceedings before the court with respect to the receivership, and to exercise the functions of the department as receiver under this section and section 203C.4, except that the department shall determine whether or not to petition for appointment as receiver, shall approve the proposed plan for disposition of stored commodities, shall approve

the proposed plan for distribution of any cash proceeds, and shall approve the proposed final report.

7. The actions of the department in connection with petitioning for appointment as a receiver, and all actions pursuant to such appointment, shall not be subject to the provisions of the administrative procedure Act, chapter 17A.

8. A person employed or appointed by the department and carrying out the duties of the department acting as receiver under this chapter shall be deemed to be an employee of the state as defined in section 669.2. Chapter 669 is applicable to any claim as defined in section 669.2 against the person carrying out the duties of the department acting as receiver.

[C79, 81, §543.3]
86 Acts, ch 1152, §15; 89 Acts, ch 143, §501
C93, §203C.3
2014 Acts, ch 1026, §41
Referred to in §203.12A, 203.12B, 203C.12A, 602.8102(76)

203C.4 Powers and duties of receiver.

1. When the department is appointed as receiver under this chapter the issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 203C.6 shall be joined as a party defendant by the department. If required by the court, the issuer shall pay the indemnification proceeds or so much thereof as the court finds necessary into the court, and when so paid the issuer shall be absolutely discharged from any further liability under the bond or irrevocable letter of credit to the extent of the payment.

2. When appointed as receiver under this chapter the department is authorized to give notice in the manner specified by the court to persons holding warehouse receipts or other evidence of deposit issued by the licensee to file their claims within one hundred twenty days after the date of appointment. Failure to timely file a claim shall defeat the claim with respect to the issuer of a deficiency bond or of an irrevocable letter of credit, grain depositors and sellers indemnity fund created in chapter 203D, and any commodities or proceeds from the sale of commodities, except to the extent of any excess commodities or proceeds of sale remaining after all timely claims are paid in full.

3. When the court approves the sale of commodities, the department shall employ a merchandiser to effect the sale of those commodities. A person employed or appointed as a merchandiser is deemed to be an employee of the state as defined in section 669.2 and chapter 669 is applicable to any claim as defined in section 669.2 against the person acting as a merchandiser. A person employed as a merchandiser must meet the following requirements:

a. The person shall be experienced or knowledgeable in the operation of warehouses licensed under this chapter; and if the person has ever held a license issued under this chapter, the person shall never have had that license suspended or revoked.

b. The person shall be experienced or knowledgeable in the marketing of agricultural products.

c. The person shall not be the holder of a warehouse receipt or scale weight ticket issued by the licensee, and shall not have a claim against the licensee whether as a secured or unsecured creditor, and otherwise shall not have any pecuniary interest in the licensee or the licensee's business. The merchandiser shall be entitled to reasonable compensation as determined by the department, payable out of funds appropriated for operating expenses of the department. A sale of commodities shall be made in a commercially reasonable manner and under the supervision of the warehouse bureau of the department. The department shall provide for the payment out of appropriations to the department of all expenses incurred in handling and disposing of commodities. The department shall have authority to sell the commodities, any provision of chapter 554 to the contrary notwithstanding, and any commodities so sold shall be free of all liens and other encumbrances.

4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy, deficiency bond, or irrevocable letter of credit, less expenses incurred by the department in connection with the receivership, to depositors as their interests are

determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.

5. The department may, with the approval of the court, continue the operation of all or any part of the business of the licensee on a temporary basis and take any other course of action or procedure which will serve the interests of the depositors.

6. The department is entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the department is prior to any claims against the commodities or proceeds of sales of commodities, and constitutes a claim against a deficiency bond or irrevocable letter of credit.

7. If the approved plan of disposition requires a distribution of cash proceeds, the department shall submit to the court a proposed plan of distribution of those proceeds. Upon notice and hearing as required by the court, the court shall accept or modify the proposed plan. When the plan is approved by the court and executed by the department, the department shall be discharged and the receivership terminated.

8. At the termination of the receivership the department shall file a final report containing the details of its actions, together with such additional information as the court may require.

[C79, 81, §543.4]

86 Acts, ch 1152, §16; 87 Acts, ch 147, §5; 89 Acts, ch 143, §101, 502

C93, §203C.4

Referred to in §203.12B, 203C.3

203C.5 Rules — documents and forms.

1. The department shall adopt rules as it deems necessary for the efficient administration of this chapter, and may designate an employee or officer of the department to act for the department in any details connected with administration, including the issuance of licenses and approval of deficiency bonds or irrevocable letters of credit in the name of the department, but not including matters requiring a public hearing or suspension or revocation of licenses.

2. *a.* The department may adopt rules specifying the form, content, and use of documents issued by a warehouse operator under this chapter including but not limited to scale tickets, warehouse receipts, settlement sheets, and daily position records. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

b. All scale ticket forms and warehouse receipt forms in the possession of a warehouse operator shall have been permanently and consecutively numbered at the time of printing. A warehouse operator shall maintain an accurate record of the numbers of these documents. The record shall include the disposition of each form, whether issued, destroyed, or otherwise disposed of. The department may by rule require this use of prenumbered forms and recording for documents other than scale tickets and warehouse receipts.

[C24, 27, 31, §9721; C35, §9751-g3; C39, §**9751.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §543.3; C79, 81, §543.5; 81 Acts, ch 180, §20]

86 Acts, ch 1152, §17

C93, §203C.5

2008 Acts, ch 1083, §10

Referred to in §203C.6

203C.6 Issuance of license and financial responsibility.

1. The department, upon application to it, may issue to a warehouse operator or to a person about to become a warehouse operator a license for the operation of a warehouse in accordance with this chapter and the rules adopted by the department under section 203C.5. A single license to operate two or more warehouses located anywhere within the state may be issued.

2. The type of license required shall be determined as follows:

a. A class 1 license is required if the storage capacity of a warehouse is more than one hundred thousand bushels.

b. A class 2 license is required for a warehouse that is not required to have a class 1 license.

3. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon written request, the department may allow asset valuations in accordance with a competent appraisal. Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 warehouse operator if the person has a net worth of less than twenty-five thousand dollars.

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

5. In order to receive and maintain a class 2 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 2 warehouse operator if the person has a net worth of less than ten thousand dollars.

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A warehouse operator shall submit financial statements to the department in addition to those required

in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

6. The department may adopt rules governing the timing and form of financial statements to be submitted to it. The department may require additional information or verification with respect to the financial resources of the applicant or licensee and the applicant's or licensee's ability to maintain the quantity and quality of stored grain.

7. The department may deny a license to an applicant if the applicant has had a license issued under chapter 203 or this chapter revoked within the past three years, the applicant has been convicted of a felony involving violations of chapter 203 or this chapter, or the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted.

8. The department may deny a license to an applicant if any of the following apply:

a. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund through operations under a license issued under this chapter or chapter 203, and the liability has not been discharged, settled, or satisfied.

b. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 203, and the liability has not been discharged, settled, or satisfied.

9. A deficiency bond or irrevocable letter of credit filed with the department pursuant to this section shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the department and the principal.

[C24, 27, 31, §9722; C35, §9751-g4; C39, §**9751.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §543.4; C79, 81, §543.6; 81 Acts, ch 180, §21]

86 Acts, ch 1152, §18, 19; 87 Acts, ch 147, §6, 7; 88 Acts, ch 1134, §98; 89 Acts, ch 143, §303, 304, 702, 801, 802; 92 Acts, ch 1239, §69, 70

C93, §203C.6

2003 Acts, ch 69, §48; 2007 Acts, ch 22, §49; 2008 Acts, ch 1083, §11, 12; 2012 Acts, ch 1095, §102

Referred to in §203.11B, 203C.1, 203C.2, 203C.3, 203C.4, 203C.7, 203C.11, 203C.36, 203C.39

203C.7 Application for the issuance or renewal of a license.

1. Each application for the issuance of a license shall be in writing on a form prescribed by the department, subscribed and sworn to by the applicant or a duly authorized representative of the applicant. In addition to any other information required by rule of the department the application shall include all of the following:

a. The name of the person making the application, the names of all partners if the applicant is a partnership, and the names and titles of the principal officers or managers if the applicant is a legal entity including but not limited to a limited partnership, limited liability partnership, limited liability company, corporation, or cooperative association.

b. The principal office or place of business of the applicant.

c. A general description of each warehouse as to storage capacity, type of construction, mechanical equipment, if any, and condition.

d. The approximate location of each warehouse.

e. The type and quantity of agricultural product, or products intended to be stored in each warehouse.

f. A complete financial statement for use of the department in the administration of this chapter, as required by section 203C.6.

g. A tariff on a form to be prescribed by the department for storage, receiving, and loadout charges.

2. Each application for the renewal of a license shall be in writing and include information required by the department, including changes to information required in subsection 1.

[C24, 27, 31, §9722; C35, §9751-g4; C39, §**9751.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §543.5; C79, 81, §543.7]

89 Acts, ch 143, §803

C93, §203C.7
2010 Acts, ch 1082, §3
Referred to in §203C.9, 203C.37, 203D.3A, 203D.5

203C.8 License to specify type and quantity of products which may be stored.

The department shall determine with respect to each application for a license whether the warehouse or warehouses described in the application is or are suitable for the proper and safe storage of the particular agricultural product or products intended to be stored therein in the quantities specified in the application, provided that no warehouse shall be found to be suitable and safe for the storage of bulk grain unless such warehouse is equipped with a fixed or portable mechanical device of a type in common use as an adjunct to the movement of bulk grain. Each license issued for the operation of a single warehouse shall specify the type or types and quantities of agricultural products which may be stored in such warehouse. Each license issued to a warehouse operator for the operation of two or more warehouses shall specify with respect to each warehouse the type or types and quantities of agricultural product which may be stored in such warehouse. It shall be unlawful for any licensed warehouse operator to accept for storage or to store in any licensed warehouse any agricultural product or products other than the type or types and quantities specified in the license for the operation of such warehouse.

[C24, 27, 31, §9722; C35, §9751-g4; C39, §**9751.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §543.6; C79, 81, §543.8; 81 Acts, ch 180, §22]

C93, §203C.8
Referred to in §203D.5

203C.9 Amendment of license.

The department is authorized, upon its own motion, or upon receipt of written application, to amend any license previously issued by it, to change or modify the provisions as to the type and quantity of agricultural products which may be stored in the warehouse or warehouses in respect to which the license was originally issued. Application for amendments to licenses shall include the same information, except as to the financial condition of the applicant, as required by section 203C.7 to be included in an original application. Applications for amendments of licenses shall be considered by the department on the same basis as applications for original licenses, and except as otherwise provided in this chapter, a license when amended shall have the same status, as of the date of the amendment, as though originally issued as amended.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §543.8; C79, 81, §543.9]

C93, §203C.9

203C.10 Action affecting a license.

1. The cessation of a warehouse operator's license occurs from any of the following:

a. The revocation of the license by the department as provided in subsection 2.

b. The cancellation of the license as provided in section 203C.37.

c. The expiration of the license according to the terms of the license as provided in this chapter, including a rule adopted in accordance with this chapter pursuant to chapter 17A.

2. The department may issue an order to suspend or revoke the license of a warehouse operator who violates a provision of this chapter, including a rule adopted in accordance with this chapter pursuant to chapter 17A.

3. The department may suspend or revoke the license of a warehouse operator for failing to consent to a departmental inspection or cooperate with the department during an inspection as provided by this chapter.

[C24, 27, 31, §9747; C35, §9751-g29; C39, §**9751.29;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.10]

89 Acts, ch 143, §101

C93, §203C.10

98 Acts, ch 1202, §34, 46; 2003 Acts, ch 69, §18; 2012 Acts, ch 1095, §103; 2013 Acts, ch 90, §34; 2014 Acts, ch 1092, §37
Referred to in §203C.3, 203D.6

203C.11 Suspension or revocation for insufficient evidence of financial responsibility — notice.

1. The department shall proceed under section 203C.15 if it has cause to believe that a licensed warehouse operator does not provide for and carry an insurance policy as required in that section.

2. If the department determines that the net worth of a licensed warehouse operator is not in compliance with the requirements of section 203C.6, the department shall issue a notice to the warehouse operator and shall suspend the warehouse operator's license if the warehouse operator does not provide evidence of compliance within thirty days of the issuance of the notice. The department shall inspect the warehouse at the end of the thirty-day period. If evidence of compliance is not provided within sixty days of the issuance of the notice, the department shall revoke the warehouse operator's license, and shall again inspect the warehouse. If a license is revoked, the department shall give notice of the revocation to each holder of an outstanding warehouse receipt and to all known persons who have grain retained in open storage. The revocation notice shall state that the grain must be removed from the warehouse not later than the thirtieth day after the issuance of the revocation notice. The revocation notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. The department shall conduct a final inspection of the warehouse at the end of the thirty-day period following the issuance of the revocation notice.

3. When the department receives notice that a deficiency bond or irrevocable letter of credit is being canceled by the issuer, and determines that upon the cancellation the warehouse operation will not be in compliance with section 203C.6, the department shall suspend the warehouse operator's license if a new deficiency bond or irrevocable letter of credit is not received by the department within sixty days of receipt by the department of the notice of cancellation. If a new deficiency bond or irrevocable letter of credit is not received by the department within thirty days following suspension, the warehouse operator's license shall be revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation, and shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection.

[C24, 27, 31, §9748; C35, §9751-g30; C39, §**9751.30;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.11; 81 Acts, ch 180, §23; 82 Acts, ch 1093, §2]

86 Acts, ch 1006, §4; 86 Acts, ch 1152, §20, 21

C93, §203C.11

2012 Acts, ch 1095, §104

Referred to in §203C.3

203C.12 Participation in fund required.

A person licensed to operate a warehouse under this chapter shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 203D.

[C24, 27, 31, §9723; C35, §9751-g5; C39, §**9751.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.12]

86 Acts, ch 1152, §22

C93, §203C.12

203C.12A Lien on warehouse operator assets.

1. A statutory lien is imposed on all warehouse operator assets in favor of depositors possessing warehouse receipts covering grain stored by the warehouse operator and depositors with written evidence of ownership other than warehouse receipts disclosing a storage obligation of a warehouse operator.

2. *"Warehouse operator assets"* includes proceeds received or due a warehouse operator upon the sale, including exchange, collection, or other disposition, of grain sold by the

warehouse operator. As used in this section, *"proceeds"* means noncash and cash proceeds as defined in section 554.9102. *"Warehouse operator assets"* also includes storage payments received or due to a warehouse operator, grain owned by the warehouse operator, and any other funds or property of the warehouse operator which can be directly traced as being from the sale of grain by the warehouse operator, or which were utilized in the business operation of the warehouse operator. A court, upon petition by an affected party, may order that claimed warehouse operator assets are not warehouse operator assets as defined in this section. The burden of proof shall be upon the petitioner to establish that the assets are not warehouse operator assets as defined in this section.

3. The lien shall arise at the commencement of the storage obligation, and shall terminate when the liability of the warehouse operator to the depositor has been discharged. The lien of all depositors is hereby assigned to the Iowa grain indemnity fund board, on behalf of the grain depositors and sellers indemnity fund.

4. To perfect the lien, the Iowa grain indemnity fund board must file a lien statement with the office of the secretary of state. The lien statement is valid only if filed on or after the date of suspension but not later than sixty days after the incurrence date as provided in section 203D.6. The lien statement shall disclose the name of the warehouse operator, the address of the warehouse operator's principal place of business, a description of identifiable warehouse operator assets, and the amount of the lien. The lien amount shall be the board's estimate of the final cost of reimbursing the grain depositors and sellers indemnity fund for the payment of claims made against the fund resulting from the breach of the warehouse operator's obligations. The board shall correct the amount not later than one hundred eighty days following the incurrence date. A court, upon petition by an affected person, may correct the amount. The board shall have the burden of proving that the amount is an accurate estimate.

5. The Iowa grain indemnity fund board shall upon written demand of the warehouse operator file a termination statement with the secretary of state, if after one hundred eighty days from the date that the lien is perfected the warehouse operator's license has not ceased by revocation, cancellation, or expiration. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the warehouse operator.

6. The secretary of state shall note the filing of a lien statement under this section in a manner provided by chapter 554, the uniform commercial code. The secretary shall note the filing of a termination statement with the lien statement.

7. A lien statement filed under this section shall be a security interest perfected under chapter 554 and subject to the same priority as provided under section 554.9322.

8. In the event the department is appointed as a receiver under section 203C.3, assets under the authority of the receiver are free from this statutory lien. However, if there are receivership assets in excess of those necessary to fully reimburse depositors, the perfected lien will attach to those excess assets.

9. *a.* The Iowa grain indemnity fund board may enforce the lien in the manner provided in chapter 554, article 9, part 6, for the enforcement of security interests. If, upon enforcement of the lien, the lien amount is satisfied in full without exhaustion of the warehouse operator assets, the remaining assets shall be returned to the warehouse operator or, if there are competing claims to those remaining assets by other creditors, those assets shall be placed in the custody of the district court and the known creditors impleaded.

b. For purposes of enforcement of the lien, the board is deemed to be the secured party and the warehouse operator is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 6. If a right or duty under chapter 554, article 9, part 6, is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this section.

10. Actions relating to this section shall be brought in the district court in the county in which the warehouse operator's primary place of business is located or in Polk county.

92 Acts, ch 1239, §71; 2000 Acts, ch 1149, §164, 187; 2009 Acts, ch 41, §263; 2012 Acts, ch 1095, §105

Referred to in §203D.5A

203C.13 Form and amount of evidence of financial responsibility.

1. A warehouse operator who stores only agricultural products other than bulk grain shall have and maintain a net worth of at least ten percent of the value of the warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be eligible for a license to store only agricultural products other than bulk grain if the person has a net worth of less than ten thousand dollars.

2. If the agricultural product or products intended to be stored by the warehouse operator, as specified in the application for a license or amended license, are other than bulk grain, the quantity of such product intended to be stored shall be valued at the fair market price on the date of filing the application, and the minimum amount of bond shall be determined with reference to such value as follows:

a. For intended storage of such products of a value less than twenty thousand dollars the minimum amount of the bond shall be three thousand dollars, plus one thousand dollars for each two thousand dollars, or fraction thereof, of value in excess of six thousand dollars up to twenty thousand dollars.

b. For intended storage of such products of a value not less than twenty thousand dollars and not more than fifty thousand dollars the minimum amount of the bond shall be ten thousand dollars plus one thousand dollars for each three thousand dollars, or fraction thereof, of value in excess of twenty thousand dollars up to fifty thousand dollars.

c. For intended storage of such products of a value not less than fifty thousand dollars the minimum amount of the bond shall be twenty thousand dollars plus one thousand dollars for each five thousand dollars, or fraction thereof, of value in excess of fifty thousand dollars.

3. A bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the department and the principal. When the department receives notice from an issuer that it has canceled the bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain of a warehouse operator, the department shall suspend the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain if a new bond, deficiency bond, or irrevocable letter of credit is not received by the department within sixty days of the issuance of the notice of cancellation. The department shall conduct an inspection of the licensee's warehouse immediately at the end of the sixty-day period. If a new bond, deficiency bond, or irrevocable letter of credit is not provided within ninety days of the issuance of the notice of cancellation, the department shall revoke the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain. The department shall conduct a further inspection of the licensee's warehouse after the ninety-day period. When an authorization to store or accept for storage agricultural products other than bulk grain is revoked, the department shall give notice of the revocation to all known persons who have agricultural products other than bulk grain in storage, and shall notify them that the agricultural products other than bulk grain must be removed from the warehouse not later than one hundred twenty days after the issuance of the notice of cancellation. The revocation notice shall be sent by ordinary mail to the last known address of each person having agricultural products other than bulk grain in storage. The department shall cause a final inspection of the licensee's warehouse after the end of the one hundred twenty-day period.

[C24, 27, 31, §9725; C35, §9751-g6; C39, §**9751.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.13]

86 Acts, ch 1006, §5; 86 Acts, ch 1152, §23, 24

C93, §203C.13
2012 Acts, ch 1095, §106

203C.14 Suit — claims — notice of revocation.

1. A person injured by the breach of an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in a court of competent jurisdiction to recover any damages the person has sustained by reason of the breach.

2. *a.* Upon the cessation of a warehouse operator's license due to revocation, cancellation, or expiration, a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, with the issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit, and, if the claim relates to bulk grain, with the department. The claim must be made within one hundred twenty days after the cessation of the license. The failure to make a timely claim relieves the issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

b. Upon revocation of a warehouse license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouse operator and the effective date of revocation. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, to the issuer of a bond on agricultural products other than bulk grain, deficiency bond, or an irrevocable letter of credit, and to the department within one hundred twenty days after revocation, and the notice shall state that the failure to make a timely claim does not relieve the warehouse operator from liability to the claimant.

c. This subsection does not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the department prior to the expiration of one hundred twenty days after cessation of warehouse operator's license.

[C24, 27, 31, §9749; C35, §9751-g31; C39, §**9751.31;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.14]
86 Acts, ch 1152, §25
C93, §203C.14
2012 Acts, ch 1095, §107; 2012 Acts, ch 1138, §56
Referred to in §203D.6

203C.15 Insurance required — exception.

1. A warehouse operator shall maintain insurance coverage as provided in this section. In order to maintain insurance coverage, all agricultural products in storage in a licensed warehouse and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator as provided in this section for the current value of the agricultural products against loss by fire, inherent explosion, windstorm, or any other similar catastrophe designated by rules which may be adopted by the department.

2. The insurance coverage required in subsection 1 shall be carried by one or more insurance companies. Such an insurance company must be all of the following:

a. Organized or operating under the laws of this state or authorized by the laws of this state to do business in this state.

b. An insurer of agricultural products in this state as provided in subsection 1.

3. Insurance coverage may be terminated by its expiration without renewal, or canceled by the insurance company on its own volition or as a result of an action or inaction by the insured licensed warehouse operator.

4. A licensed warehouse operator shall be responsible for providing the department with all of the following:

a. Evidence of insurance coverage as required in subsection 2 that is an insurance policy or other document approved by the department which evidences property and casualty insurance.

b. Proof of insurance which verifies that evidence of insurance coverage submitted by a licensed warehouse operator complies with subsection 1.

5. A warehouse operator must submit evidence of insurance coverage with the department as required by the department. The department must approve the evidence of insurance coverage before the department files it. A warehouse operator shall not be issued a license or retain a license unless evidence of insurance coverage is on file with the department.

6. The department may demand proof of insurance coverage by the licensed warehouse operator, regardless of whether the department has previously approved proof of insurance or approved or filed evidence of insurance coverage. The demand must be in writing and must explain the department's enforcement action resulting from the warehouse operator's noncompliance.

a. The licensed warehouse operator may comply with the demand by doing any of the following:

(1) Assuring the department that existing evidence of insurance coverage filed with the department complies with the requirements of this section.

(2) Obtaining additional or new insurance coverage. The licensed warehouse operator must submit and the department must approve and file the supplemental or new evidence of insurance coverage necessary to comply with the requirements of this section.

b. If the licensed warehouse operator fails to comply with the requirements of the demand letter as set out in paragraph *"a"*, the department shall take enforcement action as follows:

(1) Thirty days after delivering the demand letter to the licensed warehouse operator, the department shall suspend the warehouse license.

(2) Forty days after delivering the demand letter to the licensed warehouse operator, the department shall revoke the warehouse license.

c. The department may inspect a licensed warehouse at any time.

d. The department shall terminate an enforcement action as provided in paragraph *"b"*, if the licensed warehouse operator submits any proof of insurance or supplemental or new evidence of insurance which the department approves. However, this paragraph *"d"* applies only if the licensed warehouse operator submits the proof of insurance or evidence of insurance prior to the effective date of the revocation.

7. An insurance company shall not cancel insurance coverage unless any of the following applies:

a. The insurance company provides the department and the licensed warehouse operator with at least ninety days' notice of cancellation by mail.

b. The insurance coverage is renewed or replaced by the licensed warehouse operator, and the department has approved and filed the evidence of insurance coverage at the time that the department would have received the mailed notice of cancellation.

8. The department shall take enforcement action against a licensed warehouse whose insurance coverage has been terminated by cancellation or expiration.

a. The department shall suspend the warehouse license. The suspension shall take effect on the date that the insurance coverage terminates. However, the department shall terminate the suspension if the licensed warehouse operator submits proof of insurance or any renewed or new evidence of insurance coverage to the department. In addition, all of the following requirements apply:

(1) The department must receive the proof of insurance or evidence of insurance coverage within ten days after the effective date of the suspension.

(2) The department must approve the proof of insurance or evidence of insurance coverage.

b. The department shall revoke the warehouse license. The revocation shall take effect eleven days after the effective date of the suspension, unless the suspension is terminated as provided in paragraph *"a"*.

9. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection.

10. Claimants against the insurance have precedence in the following order:

a. Holders of warehouse receipts other than the warehouse operator and owners of bulk grain other than the warehouse operator.

b. Owners of all other agricultural products as their interests appear.

c. Warehouse operators who have warehouse receipts.

d. Warehouse operators who are the owners of bulk grain.

11. However, notwithstanding the insurance requirements set forth in this section, a licensed warehouse may exclude from the insurance coverage stored grain to which title is fully vested in the United States government or any of its subdivisions or agencies, provided that the licensed warehouse has on file with the United States government or any of its subdivisions or agencies a current and accepted uninsured storage rate under the provisions of their uniform grain storage agreement. The licensed warehouse shall file a copy of the current uninsured tariff rate with the department immediately upon acceptance of the uninsured rate by the United States government or any of its subdivisions or agencies.

[C24, 27, 31, §9725; C35, §9751-g7; C39, §**9751.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.15]

86 Acts, ch 1006, §6; 86 Acts, ch 1103, §1; 86 Acts, ch 1152, §26; 89 Acts, ch 143, §804

C93, §203C.15

2009 Acts, ch 41, §217; 2012 Acts, ch 1095, §108 – 110; 2013 Acts, ch 30, §42; 2014 Acts, ch 1092, §38

Referred to in §203C.11

203C.16 License required for the storage of bulk grain.

A person other than a licensed warehouse operator shall not place in storage or accept for storage any bulk grain. A person shall not place bulk grain in storage in a warehouse other than a licensed warehouse. This section shall not apply to any of the following:

1. The acceptance and storage of bulk grain by a person bonded and licensed under the United States Warehouse Act.

2. The storage of bulk grain by a person who owns all the stored bulk grain.

3. *a.* The storage of bulk grain by more than one person, if all of the following apply:

(1) The bulk grain was jointly produced by all persons storing the grain.

(2) The bulk grain is stored on the property owned or leased by one of the persons jointly producing the grain.

(3) No person other than persons jointly producing the grain owns the stored bulk grain.

b. As used in this subsection, *"jointly produced"* includes but is not limited to grain owned by a landlord who receives a share of agricultural products as rent.

[C24, 27, 31, §9722, 9724; C35, §9751-g2; C39, §**9751.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.16]

C93, §203C.16

94 Acts, ch 1113, §1; 2012 Acts, ch 1095, §111; 2013 Acts, ch 90, §35

203C.17 Receiving bulk grain at licensed and unlicensed warehouses.

1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. A warehouse receipt shall be issued for all grain held in open storage within one year from the date of delivery to the warehouse, unless the depositor has signed a statement that the depositor does not desire a warehouse receipt. A warehouse

receipt shall be issued upon request by the depositor. The warehouse operator's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.

2. Bulk grain deposited with a licensed warehouse operator for processing, cleaning, drying, shipping for the account of the depositor or any other purpose shall be removed within thirty days or such grain shall be determined as stored grain and the warehouse operator's tariff charges shall apply.

3. Grain received on a scale ticket which fails to have the price fixed and properly documented on the records of the warehouse operator shall be construed to be in open storage.

4. All bulk grain whether open storage or having been placed on warehouse receipt is covered by the grain depositors and sellers indemnity fund created in chapter 203D.

5. Any grain which has been received at any unlicensed warehouse and for which the actual sale price has not been fixed and payment made within thirty days from receipt of the grain, unless covered by a credit-sale contract, shall be construed to be unlawful storage within the meaning of this chapter. Bulk grain received at any unlicensed warehouse for any other purpose must either be returned to the depositor or disposed of by order of the depositor within thirty days from date of actual deposit of the bulk grain.

6. If the depositor of bulk grain in an unlicensed warehouse fails to sell the grain or orders other disposition of the grain, the warehouse operator may purchase the grain, if otherwise allowed by law, on the thirtieth day after deposit at not less than the local market price at the close of business on the thirtieth day or return the grain to the depositor by the thirtieth day.

7. A licensed warehouse operator who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department shall not purchase grain on credit-sale contract to correct the shortage of grain. A licensed warehouse operator shall not issue a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased by credit-sale contract and is unpaid for by the warehouse operator.

8. *a.* At least once each year, a licensed warehouse operator shall send a statement to each holder of a warehouse receipt covering grain stored at the licensed warehouse operator's licensed warehouse for more than one year. The statement shall be delivered in person or mailed to the holder's last known address. The statement shall show the amount of all grain stored pursuant to a warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouse operator against that grain.

b. The failure to prepare a statement required by this subsection is a simple misdemeanor.

c. A violation of this section shall not constitute grounds for the suspension or revocation of a warehouse operator's license.

[C24, 27, 31, §9730; C35, §9751- g12; C39, §**9751.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.17; 81 Acts, ch 180, §24]

86 Acts, ch 1152, §27; 92 Acts, ch 1239, §72, 73

C93, §203C.17

99 Acts, ch 106, §12; 2007 Acts, ch 30, §45, 46, 80; 2009 Acts, ch 41, §218; 2012 Acts, ch 1095, §112

See §203.15

203C.18 Warehouse receipts — issuance, printing, and electronic filing.

1. For all agricultural products that become storage in a licensed warehouse, warehouse receipts signed by the licensed warehouse operator or the operator's authorized agent shall be issued by the licensed warehouse operator. Such warehouse receipts shall be in the form required or permitted by uniform commercial code, sections 554.7202 and 554.7204, provided, however, that each receipt issued for agricultural products, in addition to the matters specified in uniform commercial code, section 554.7202, shall embody in its written or printed terms:

a. The receiving and loadout charges which will be made by the warehouse operator.

b. The grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made; provided that such grade or other class shall be stated according to the official standard of the United

States applicable to such agricultural products as the same may be fixed and promulgated; provided, further, that until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the secretary of agriculture of the United States.

c. A statement that the receipt is issued subject to this chapter.

d. Such other terms and conditions as may be required by rules of the department.

2. Warehouses that are not licensed pursuant to this chapter or by the United States government shall not issue warehouse receipts for agricultural products.

3. A form for a warehouse receipt shall only be printed by a person approved by the department. A form for a warehouse receipt shall be printed in accordance with specifications set forth by the department. A warehouse operator shall surrender to the department all forms for warehouse receipts that are unused at the time that the warehouse operator's license is suspended or ceases due to revocation, cancellation, or expiration. The warehouse operator shall surrender the warehouse receipts in a manner required by the department.

4. The department may adopt rules to allow for the issuance of electronic warehouse receipts by a provider who is a person approved by the department to maintain a secure electronic central filing system of electronic records including warehouse receipts and who is independent of an outside influence or bias in action or appearance.

[C24, 27, 31, §9736, 9737; C35, §9751-g17, 9751-g18; C39, §**9751.17, 9751.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.18; 81 Acts, ch 180, §25]

86 Acts, ch 1152, §28

C93, §203C.18

2007 Acts, ch 30, §45, 46, 81; 2009 Acts, ch 133, §77; 2012 Acts, ch 1095, §113, 114

Referred to in §203C.20

203C.19 Rights and obligations with respect to warehouse receipts — lost receipts.

1. Insofar as not inconsistent with the provisions of this chapter, original or duplicate receipts issued by licensed warehouse operators shall be deemed to have been issued under the provisions of uniform commercial code, chapter 554, article 7.

2. Duplicates and releases for lost, destroyed, or stolen warehouse receipts may be issued only in accordance with the provisions of sections 554.7601 and 554.7601A.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.19]

C93, §203C.19

2007 Acts, ch 30, §45, 46, 82

Referred to in §203C.20

203C.20 Receipt by warehouse operator to self.

A licensed warehouse operator may issue a warehouse receipt for agricultural products owned by the warehouse operator and dispose of the title to or interest in such products through the medium of such receipt. Such receipt shall be of the same standing as though it had been issued to a person other than the licensed warehouse operator upon a rightful deposit of the products by such other person. Sections 203C.18 and 203C.19 shall be applicable to any such receipt.

[C71, 73, 75, 77, 79, 81, §543.20]

C93, §203C.20

203C.21 and 203C.22 Reserved.

203C.23 Warehouse operator's obligation.

1. A warehouse operator shall maintain at all times sufficient quantity and quality of grain or other agricultural products to cover the warehouse operator's obligation. A warehouse operator shall not at any time have less grain or other agricultural products in

the warehouse than the obligations to depositors, as determined by an investigation of the warehouse operator's records.

2. An incidental warehouse operator shall maintain at all times sufficient quantity and quality of grain to cover the incidental warehouse operator's obligation. An incidental warehouse operator shall not at any time have less grain in a warehouse than the obligations to depositors, as determined by an investigation of the incidental warehouse operator's records.

[81 Acts, ch 180, §29]
C83, §543.23
C93, §203C.23
99 Acts, ch 106, §13

203C.24 Confidentiality of records.

Notwithstanding the provisions of chapter 22, all financial statements of warehouse operators under this chapter shall be kept confidential by the department and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 203.
3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.
4. When required by subpoena or other court orders.
5. Disclosure to law enforcement agencies in regards to the detection and prosecution of public offenses.
6. Where released to a bonding company approved by the department or to the United States department of agriculture or any of their divisions.
7. Where released at the request of the Iowa accountancy examining board for licensee review and discipline in accordance with chapters 272C and 542 and subject to the confidentiality requirements of section 272C.6.
8. Disclosure to the grain industry peer review panel as provided in section 203.11B.

[81 Acts, ch 180, §30]
C83, §543.24
83 Acts, ch 104, §2; 89 Acts, ch 143, §602
C93, §203C.24
99 Acts, ch 106, §14; 2001 Acts, ch 55, §24, 38
Referred to in §203.11B, 203D.4

203C.25 Shrinkage adjustments — disclosures — penalties.

1. A person who, in connection with the receipt of corn or soybeans for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The use of any rate of weight adjustment for moisture content other than the one prescribed by this subsection is a fraudulent practice. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content that is prescribed by this subsection. Failure to make this disclosure is a simple misdemeanor.

2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.

3. A person who adjusts the scale weight of corn or soybeans both for moisture content and for handling, processing, or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture

shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. Failure to make the required disclosure is a simple misdemeanor.

[81 Acts, ch 180, §31]
C83, §543.25
C93, §203C.25

203C.26 Reserved.

203C.27 Discrimination. Repealed by 2012 Acts, ch 1095, §117.

203C.28 Tariff rates.

1. A warehouse operator shall, at the time of application for a license, file a tariff with the department which shall contain rates to be charged for receiving, storage, and load-out of grain. The tariff shall be posted in a conspicuous place at the place of business of the licensee in a form prescribed by the department and shall become effective at the time the license becomes effective.
2. Storage charges shall commence on the date of delivery to the warehouse. Storage, receiving, or load-out charges other than those specified in the tariff may be made if the charge is required by the terms of a written contract with the United States government or any of its subdivisions or agencies.
3. Grain deposited with the warehouse for the sole purpose of processing and redelivery to the depositor is subject only to the charges listed under the grain bank section of the tariff. Drying and cleaning of grain shall not be construed as processing.
4. A tariff may be amended at any time and is effective immediately, except that grain in store on the effective date of a storage charge increase does not assume the increased rate until the subsequent anniversary date of deposit. Any decrease in storage rates shall be effective immediately and shall be applicable to all grain in store on the effective date of the decrease.
5. A warehouse operator may file with the department and publish the supplemental tariff applicable only to grain meeting special descriptive standards or characteristics as set forth in the supplemental tariff. A supplemental tariff shall be in a form prescribed by the department and be posted adjacent to the warehouse tariff.
6. All tariff charges shall be nondiscriminatory within classes.

[C24, 27, 31, §9737; C35, §9751-g18; C39, §**9751.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.28]
86 Acts, ch 1103, §2
C93, §203C.28
2014 Acts, ch 1026, §42

203C.29 Reserved.

203C.30 Inspecting and grading.

Grain or any other fungible agricultural product stored in a warehouse licensed under this chapter for which no separate compartment is provided, and its identity preserved, shall be inspected and graded.

[C24, 27, 31, §9733; C35, §9751-g14; C39, §**9751.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.30]
C93, §203C.30
2012 Acts, ch 1095, §115

203C.31 and 203C.32 Reserved.

203C.33 Fees.

1. The department shall charge the following fees for deposit in the general fund:

a. For the issuance or renewal of a warehouse license, the fee shall be determined on the basis of the storage capacity in bushels of grain as follows:

(1) If the total storage capacity is one hundred thousand bushels or less, the fee is fifty-eight dollars.

(2) If the total storage capacity is more than one hundred thousand bushels, but not more than seven hundred fifty thousand bushels, the fee is one hundred twenty-five dollars.

(3) If the total storage capacity is more than seven hundred fifty thousand bushels, but not more than one million five hundred thousand bushels, the fee is one hundred ninety-one dollars.

(4) If the total storage capacity is more than one million five hundred thousand bushels, but not more than three million bushels, the fee is two hundred forty-nine dollars.

(5) If the total storage capacity is more than three million bushels, but not more than four million seven hundred fifty thousand bushels, the fee is three hundred seven dollars.

(6) If the total storage capacity is more than four million seven hundred fifty thousand bushels, but not more than nine million five hundred thousand bushels, the fee is three hundred seventy-four dollars.

(7) If the total storage capacity is more than nine million five hundred thousand bushels, the fee is four hundred forty dollars.

b. For the issuance or renewal of a warehouse license for the storage of products other than bulk grain, the fee shall be determined as follows:

(1) For intended storage of products of a value of one hundred thousand dollars or less, a fee of sixty dollars.

(2) For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of one hundred dollars.

(3) For intended storage of products of a value in excess of three hundred thousand dollars, a fee of two hundred dollars.

c. For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars, and for each additional warehouse or station under the same license, a fee of ten dollars.

d. For each amendment of a license, a fee of ten dollars.

e. For each amendment of a tariff, a fee of ten dollars.

f. For a duplicate license, a fee of five dollars.

g. For the reinstatement of a license, a fee of fifty dollars.

2. Fees for new licenses issued for less than a year shall be prorated from the date of application.

[C24, 27, 31, §9726; C35, §9751-g9; C39, §**9751.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.33; 81 Acts, ch 180, §26, 32]

83 Acts, ch 175, §3, 4; 84 Acts, ch 1100, §4; 92 Acts, ch 1239, §74

C93, §203C.33

2009 Acts, ch 133, §213

Referred to in §203C.37, 203D.3A

203C.34 Display of license.

Every warehouse operator's license issued under this chapter shall be conspicuously displayed in the office of the warehouse for the operation of which the license has been issued.

[C24, 27, 31, §9728; C35, §9751-g10; C39, §**9751.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.34]

86 Acts, ch 1152, §29

C93, §203C.34

203C.35 Licensed warehouse operator to keep records. Repealed by 2003 Acts, ch 69, §22.

203C.36 Penalties — injunction.

1. A person who knowingly withholds information from or knowingly submits false

information to the department or any of its employees in a record required to be maintained or submitted to the department under this chapter commits a fraudulent practice as provided in chapter 714.

2. *a.* Except as provided in paragraph *"b"*, a person commits a serious misdemeanor if the person does any of the following:

(1) Engages in business as a warehouse operator without a license as required in section 203C.6.

(2) Obstructs the inspection of the person's business premises or records required to be kept by a licensed warehouse operator pursuant to section 203C.2.

(3) Uses a scale ticket, warehouse receipt, or other document in violation of this chapter or requirements established by the department under this chapter.

b. A person who commits an offense specified in paragraph *"a"* after having been found guilty of the same offense commits an aggravated misdemeanor.

3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

4. A person in violation of this chapter, or in violation of chapter 714 or 715A, which violation involves the business of a warehouse operator, is subject to prosecution by the county attorney in the county where the business is located. However, if the county attorney fails to initiate prosecution within thirty days, and upon request by the department, the attorney general may initiate and carry out the prosecution in cooperation, if possible, with the county attorney. The person in violation may be restrained by injunction in an action brought by the department or the attorney general upon request by the department.

[C24, 27, 31, §9751; C35, §9751-g33; C39, §**9751.33;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §543.36; 81 Acts, ch 180, §27]

92 Acts, ch 1239, §75

C93, §203C.36

2003 Acts, ch 69, §19

203C.36A Civil penalties.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed against a warehouse operator for a violation of this chapter.

2. The amount of a civil penalty shall not exceed one thousand five hundred dollars. Each day that a violation continues shall constitute a separate violation. The amount of the civil penalty that may be assessed in an administrative case shall not exceed the amount recommended by the grain industry peer review panel established pursuant to section 203.11B. Moneys collected in civil penalties by the department or the attorney general shall be deposited in the general fund of the state.

3. A civil penalty may be administratively assessed only after an opportunity for a contested case hearing under chapter 17A. The department may be represented in an administrative hearing or judicial proceeding by the attorney general. A civil penalty shall be paid within thirty days from the date that an order or judgment for the penalty becomes final. When a person against whom a civil penalty is administratively assessed under this section seeks timely judicial review of an order imposing the penalty as provided under chapter 17A, the order is not final until all judicial review processes are completed. When a person against whom a civil penalty is judicially assessed under this section seeks a timely appeal of judgment, the judgment is not final until the right of appeal is exhausted.

4. A person who fails to timely pay a civil penalty as provided in this section shall pay, in addition to the penalty, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

99 Acts, ch 106, §15

Referred to in §203.11B

203C.37 Issuance of a license and payment of fees.

1. *a.* Upon the filing of an application pursuant to section 203C.7 and compliance with the terms and conditions of this chapter including rules of the department, the department shall

issue the applicant a warehouse operator's license. The license expires at the end of the third calendar month following the close of the warehouse operator's fiscal year. A warehouse operator's license may be renewed annually by the filing of a renewal application on a form prescribed by the department pursuant to section 203C.7. An application for renewal must be received by the department on or before the end of the third calendar month following the close of the warehouse operator's fiscal year.

b. The department shall not approve an application for the issuance or renewal of a warehouse operator's license unless the applicant pays all of the following fees:

(1) For the issuance of a license, all of the following:

(a) A license fee imposed under section 203C.33.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee imposed under a previous license as provided in that section.

(2) For the renewal of a license, all of the following:

(a) A renewal fee imposed under section 203C.33.

(b) A participation fee imposed under section 203D.3A, and any delinquent participation fee as provided in that section.

2. The failure of a warehouse operator to file a renewal application and to pay a renewal fee as provided for in section 203C.33 and any delinquent participation fee as provided in section 203D.3A, on or before the end of the third calendar month following the close of the licensee's fiscal year shall cause a license to expire.

3. A warehouse license that has expired may be reinstated by the department upon receipt of a proper renewal application, the renewal fee and the reinstatement fee as provided for in section 203C.33, and any delinquent participation fee as provided in section 203D.3A. The applicant must file the renewal application and pay the fees to the department within thirty days from the date that the warehouse license expires.

4. The department may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

5. *a.* The department shall refund a fee paid by a person to the department under this section if the department does not issue the person a license or renew the person's license.

b. The department shall prorate a fee paid by a person to the department under this section for the issuance or renewal of a license for less than a full year.

[C71, 73, 75, 77, 79, 81, §543.37; 81 Acts, ch 180, §28]
84 Acts, ch 1100, §5; 92 Acts, ch 1239, §76
C93, §203C.37
2010 Acts, ch 1082, §4; 2011 Acts, ch 34, §159, 170
Referred to in §203C.10, 203D.3A, 203D.5

203C.38 No obligation of state.

Nothing in this chapter shall be construed to imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees or officials, either elective or appointive, in respect of any agreement or undertaking to which the provisions of this chapter relate.

[C71, 73, 75, 77, 79, 81, §543.38]
C93, §203C.38

203C.39 Grain stored in another warehouse.

A licensed warehouse operator may store grain in an alternative warehouse located in Iowa or another state as provided in this section.

1. *a.* The alternative warehouse located in Iowa must be another licensed warehouse or a warehouse licensed pursuant to the United States Warehouse Act.

b. The alternative warehouse located in another state must be licensed pursuant to the applicable laws of the state in which the alternative warehouse is located or the United States Warehouse Act. A warehouse operator shall not store grain in an alternative warehouse located in another state, unless approved in writing by the department in a manner required by the department.

2. In storing grain in an alternative warehouse under subsection 1, all of the following requirements apply:

a. The warehouse operator must obtain from such warehouse operator a nonnegotiable warehouse receipt and such receipt must show clearly the following notation:

Held in trust for depositors of (name of original receiving warehouse).

b. When the licensed warehouse operator begins to use the alternative warehouse, the licensed warehouse operator must have sufficient net worth under section 203C.6 or provide a deficiency bond or an irrevocable letter of credit to cover the increase in the licensed warehouse operator's gross capacity.

3. A licensed warehouse operator may transfer grain for storage to another licensed warehouse operator while the warehouse operator receiving such grain has grain stored elsewhere under the provisions of this section.

[C71, 73, 75, 77, 79, 81, §543.39]
86 Acts, ch 1152, §30; 89 Acts, ch 143, §1102
C93, §203C.39
2003 Acts, ch 69, §20; 2012 Acts, ch 1095, §116

203C.40 Prioritization of inspections of warehouse operators.

The department shall develop a system to prioritize the inspections of warehouse operators provided in section 203C.2. The system of prioritization shall be computed each year based on the risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator. The department shall compute the risk by utilizing an available statistical model to measure the financial condition of warehouse operators. Procedures for utilizing the statistical model shall be adopted by department rules. The statistical model shall be used to provide risk ratings. A risk rating shall be used as a factor by the department to prioritize its inspection schedule. The department may inspect a warehouse operator at any time based on a risk of loss to the fund according to the risk rating. A substantial risk of loss to the grain depositors and sellers indemnity fund caused by the possible insolvency of the warehouse operator based on the statistical model shall be good cause.

92 Acts, ch 1239, §77
Referred to in §203C.1, 203C.2

CHAPTER 203D

GRAIN DEPOSITORS AND SELLERS INDEMNIFICATION

Referred to in §159.6, 189.16, 190.1, 203.4, 203.12, 203C.4, 203C.12, 203C.14, 203C.17, 554.7204, 669.14

This chapter not enacted as a part of this title;
transferred from chapter 543A in Code 1993

203D.1	Definitions.	203D.5	Fees — imposition, adjustment, or waiver.
203D.2	Persons participating in fund.	203D.5A	Lien on licensee's assets.
203D.3	Grain depositors and sellers indemnity fund.	203D.6	Claims against fund.
203D.3A	Fees.	203D.7	No obligation of state.
203D.4	Indemnity fund board.		

203D.1 Definitions.

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

1. *"Board"* means the Iowa grain indemnity fund board created in section 203D.4.
2. *"Credit-sale contract"* means the same as defined in section 203.1.
3. *"Department"* means the department of agriculture and land stewardship.
4. *"Depositor"* means a person who deposits grain in a licensed warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt issued by a licensed warehouse, or who is lawfully entitled to possession of the grain.

5. *"First point of sale"* means the initial transfer of title to grain from a person who has produced the grain or caused the grain to be produced to the first purchaser of the grain for consideration, conditional or otherwise, in any manner or by any means.

6. *"Fund"* means the grain depositors and sellers indemnity fund created in section 203D.3.

7. *"Grain"* means the same as defined in section 203.1.

8. *"Grain dealer"* means the same as defined in section 203.1.

9. *"Licensed grain dealer"* means a person who has obtained a license to engage in the business of a grain dealer pursuant to section 203.3.

10. *"Licensed warehouse"* means the same as defined in section 203C.1.

11. *"Licensed warehouse operator"* means the same as in section 203C.1.

12. *"Licensee"* means a licensed grain dealer or licensed warehouse operator.

13. *"Loss"* means the amount of a claim held by a seller or depositor against a grain dealer or warehouse operator which has not been recovered through other legal and equitable remedies including the liquidation of assets.

14. *a. "Purchased grain"* means grain entered in the company-owned paid position as evidenced on the grain dealer's daily position record.

b. "Purchased grain" does not include grain that is subject to an exempt transaction based on documentation satisfactory to the department showing that the grain dealer did any of the following:

(1) Purchased the grain from the United States government or any of its subdivisions or agencies.

(2) Purchased the grain from a person licensed as a grain dealer in any jurisdiction.

(3) Purchased the grain under a credit-sale contract.

(4) Entered the grain in the company-owned paid position as a cancellation of a collateral warehouse receipt.

(5) Entered the grain in the company-owned paid position as an intra-company location transfer.

15. *"Seller"* means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit-sale contract as a seller as provided in section 203.15. However, *"seller"* does not include any of the following:

a. A person licensed as a grain dealer in any jurisdiction who sells grain to a licensed grain dealer.

b. A person who sells grain that is not produced in this state unless such grain is delivered to a licensed grain dealer at a location in this state as the first point of sale.

16. *"Warehouse operator"* means the same as defined in section 203C.1.

86 Acts, ch 1152, §31
C87, §543A.1
87 Acts, ch 147, §8 – 10; 89 Acts, ch 143, §901, 902
C93, §203D.1
2008 Acts, ch 1083, §13, 14; 2009 Acts, ch 41, §81; 2009 Acts, ch 133, §78; 2010 Acts, ch 1082, §5; 2011 Acts, ch 34, §39; 2012 Acts, ch 1095, §118; 2015 Acts, ch 103, §12

203D.2 Persons participating in fund.

All licensed grain dealers and licensed warehouse operators shall participate in the fund.

86 Acts, ch 1152, §32
C87, §543A.2
87 Acts, ch 147, §11
C93, §203D.2

203D.3 Grain depositors and sellers indemnity fund.

1. The grain depositors and sellers indemnity fund is created in the state treasury as a separate account. The general fund of the state is not liable for claims presented against the fund under section 203D.6.

2. The fund consists of all of the following:

a. Participation fees paid to the department by licensed grain dealers and persons applying to be issued a grain dealer's license as provided in section 203D.3A.

b. Participation fees paid to the department by licensed warehouse operators and persons applying to be issued a warehouse operator's license as provided in section 203D.3A.

c. Per-bushel fees paid to the department by licensed grain dealers as provided in section 203D.3A.

d. Delinquency penalties.

e. Amounts collected by the state pursuant to legal action on behalf of the fund.

f. Interest, earnings on investments, property, or securities acquired through the use of moneys in the fund.

3. The fiscal year of the fund begins July 1 and ends on June 30. Fiscal quarters of the fund begin July 1, October 1, January 1, and April 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles.

4. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 203D.6 and to pay the administrative costs of this chapter.

5. All disbursements from the fund shall be paid by the treasurer of state pursuant to vouchers authorized by the department.

6. The administrative costs of this chapter shall be paid from the fund after approval of the costs by the board.

86 Acts, ch 1152, §33
C87, §543A.3
87 Acts, ch 147, §12 – 15; 88 Acts, ch 1148, §3; 89 Acts, ch 143, §903 – 905
C93, §203D.3
2008 Acts, ch 1083, §15; 2009 Acts, ch 133, §79; 2010 Acts, ch 1082, §6, 7
Referred to in §203.2A, 203D.1, 203D.3A, 203D.5

203D.3A Fees.

The department shall collect fees as provided in this section, if established by the board pursuant to section 203D.5, at rates determined by the board as provided in that section. A person required to pay a fee shall use forms and deliver the payment to the department as required by the department.

1. *a.* A person who applies for the issuance of a new license as a grain dealer pursuant to section 203.5 or a warehouse operator pursuant to sections 203C.7 and 203C.33 shall pay the department an initial participation fee as part of the application.

(1) In calculating the amount of the initial participation fee, an applicant for a license shall be deemed a licensee paying the full amount of the participation fee owing on the licensee's first anniversary date as provided in paragraph "*b*". The department must be satisfied that the applicant is calculating the amount due in good faith and using the best information available.

(2) If the department issues the license, the licensee shall recalculate the participation fee when making a payment on the licensee's first installment date as provided in paragraph "*b*". The licensee may notify the department of any overpayment and shall notify the department of any underpayment by the licensee's first installment date in a manner and according to procedures required by the department. The department shall refund any overpayment to the licensee and the licensee shall pay any additional amount resulting from an underpayment.

b. A licensee shall pay a participation fee on four successive installment dates, with each installment date occurring on the last date of the fund's fiscal quarter as provided in section 203D.3. The licensee shall pay twenty-five percent of the total participation fee assessed on each installment date. However, nothing in this subsection prevents a licensee from paying the participation fee on an accelerated basis. A licensee shall pay the first installment on the last date of the fund's fiscal quarter immediately following the licensee's anniversary date.

(1) For a licensed grain dealer, the anniversary date is the last date to apply for the renewal of the grain dealer's license before the license expires as provided in section 203.5.

(2) For a licensed warehouse operator, the anniversary date is the last date to apply for the renewal of the warehouse operator's license before the license expires as provided in section 203C.37.

c. A licensee is delinquent if the licensee fails to submit the payment when due or if, upon examination, an underpayment of the fee is found by the department.

d. A licensee shall not pass on the cost of a participation fee to sellers. The department may suspend or revoke the license of a grain dealer for passing on the cost, as provided in chapter 203.

2. *a.* A per-bushel fee shall be assessed on all purchased grain.

b. The grain dealer shall forward the per-bushel fee to the department on a quarterly basis in the manner and using the forms prescribed by the department. A licensee is delinquent if the licensee fails to submit the full fee or quarterly forms when due or if, upon examination, an underpayment of the fee is found by the department. The grain dealer is subject to a penalty of ten dollars for each day the grain dealer is delinquent or an amount equal to the amount of the deficiency, whichever is less. However, a licensee who fails to submit the full fee or quarterly forms when due, is subject to a minimum payment of ten dollars. The department may establish and apply a margin of error in determining whether a grain dealer is delinquent. The per-bushel fee shall be collected only once on each bushel of grain.

c. A grain dealer may choose to pass on the cost of a per-bushel fee to the sellers by an itemized discount noted on the settlement sheet. However, if the per-bushel fee is not in effect, no grain dealer shall make such a discount on the purchase of grain. A discount made nominally for the per-bushel fee while the fee is not in effect is grounds for license suspension or revocation under chapter 203.

2010 Acts, ch 1082, §8; 2015 Acts, ch 103, §13
Referred to in §203.5, 203C.37, 203D.3, 203D.5

203D.4 Indemnity fund board.

1. The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of agriculture or a designee who shall serve as president; the state treasurer or a designee who shall serve as treasurer; a representative of the banking industry appointed by the governor, who shall be selected from a list of three nominations made by the secretary of agriculture; and four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, two of whom shall be representatives of producers and who shall be actively participating producers, and two of whom shall be representatives of licensed grain dealers and licensed warehouse operators and who shall be actively participating licensed grain dealers and licensed warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the banking industry representative and the grain industry representatives is three years, and the representatives are eligible for reappointment. However, of the grain industry representatives, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The banking industry representative and the grain industry representatives are entitled to a per diem as specified in section 7E.6 for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Four members of the board constitute a quorum, and the affirmative vote of four members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

2. The duties of the board include the review and determination of claims, and the review and approval of administrative costs of the fund. To carry out these duties, the board has the power to adopt rules regarding its organization and procedures for determining claims. Further, the board shall approve rules proposed by the department for the administration of the per-bushel fee prior to their adoption by the department. The board may provide comment and advice to the department in regard to the department's administration of chapters 203 and 203C where the department's policies and rules may affect the exposure of the fund to liability. However, the board shall not become actively involved in a determination by the department as to whether disciplinary action is to be taken against a particular licensee. The

board is not a forum for review or appeal in regard to any particular action taken by the department against a licensee.

3. The department through the grain warehouse bureau shall perform the administrative functions necessary for the operation of the board and the fund. Administrative costs approved by the board shall be paid from the fund. The rules of the department shall contain the rules of the board adopted for its organization and its procedures. The department shall adopt rules for the administration of the per-bushel fee upon the board's approval of the rules proposed by the department. The secretary of agriculture, as president of the board as well as head of the department of agriculture and land stewardship, shall administer the department so as to minimize the risk of loss to the fund while protecting interests of depositors and sellers of grain. Policies and rules for the administration of chapters 203 and 203C which, as determined by the secretary of agriculture, may affect the exposure of the fund, shall be presented to the board for comment prior to their adoption by the department. The department shall make reports to the board in regard to licensee investigations which may result in disciplinary action against a licensee and exposure of the fund. The reports may be discussed by the board in closed session pursuant to section 21.5, and are confidential. In making the report, the department shall make available to the board records of licensees which are otherwise confidential under section 22.7, 203.16, or 203C.24. However, a determination to take disciplinary action against a particular licensee shall be made exclusively by the department. A report to the board is not a prerequisite to disciplinary action against a licensee. Review of any action against a licensee, whether or not relating to the fund, shall be made exclusively through the department.

86 Acts, ch 1152, §34
C87, §543A.4
87 Acts, ch 147, §16; 89 Acts, ch 143, §906; 90 Acts, ch 1256, §49
C93, §203D.4
2008 Acts, ch 1083, §16; 2010 Acts, ch 1121, §2
Referred to in §203D.1
Confirmation, see §2.32

203D.5 Fees — imposition, adjustment, or waiver.

1. The board shall annually review the debits of and credits to the grain depositors and sellers indemnity fund created in section 203D.3 and shall determine whether to impose the participation fee and per-bushel fee as provided in section 203D.3A, make adjustments to the fees effective on the previous July 1, or waive the fees as necessary to comply with this section. The board shall make the determination not later than May 1 of each year. The board shall impose the fees or adjust the fees effective on the previous July 1 in accordance with chapter 17A. The imposition or adjustment of the fees shall become effective as follows:

a. For the participation fee, on the following July 1. However, the licensee shall continue to pay the participation fee at the rate in effect on the prior July 1, until the licensee has paid the amount owing.

b. For a per-bushel fee, on the following July 1.

2. *a.* Except as provided in paragraph *"b"*, the rate of a participation fee owed by a licensee shall be calculated as follows:

(1) For a licensed grain dealer, not more than fourteen thousandths of a cent per bushel assessed on all purchased grain during the grain dealer's last fiscal year at each location at which records are maintained for transactions of the grain dealer, as determined according to information submitted by the grain dealer to the department for the issuance or renewal of a license as provided in section 203.5.

(2) For a licensed warehouse operator, not more than fourteen thousandths of a cent per bushel of bulk grain storage capacity for each warehouse licensed pursuant to section 203C.8 or five hundred dollars, whichever is less. The participation fee shall be determined using information provided to the department by the warehouse operator applying for the issuance or renewal of a license as provided in sections 203C.7 and 203C.37.

b. A licensee shall pay a participation fee of at least fifty dollars.

3. The rate of the per-bushel fee shall not exceed one-quarter cent per bushel assessed on all purchased grain.

4. If on the last date of the fund's fiscal year as provided in section 203D.3 the assets of the fund exceed eight million dollars, less any encumbered balances or pending or unsettled claims, all of the following apply:

a. The participation fee shall be waived and shall not be assessable or owing for the following fiscal year of the fund. However, the licensee shall continue to pay any owing participation fee that was in effect on the prior July 1.

b. The per-bushel fee shall be waived and shall not be assessable or owing.

5. The board shall reinstate the fees as provided in this section if the assets of the fund, less any unencumbered balances or pending or unsettled claims, are three million dollars or less.

86 Acts, ch 1152, §35
C87, §543A.5
87 Acts, ch 147, §17; 88 Acts, ch 1148, §4; 89 Acts, ch 143, §907
C93, §203D.5
2009 Acts, ch 17, §1, 6; 2009 Acts, ch 133, §229; 2010 Acts, ch 1082, §9; 2015 Acts, ch 103, §14, 15
Referred to in §203D.3A

203D.5A Lien on licensee's assets.

The board may enforce a lien attached to assets held by a licensee under chapter 203 or 203C. The lien shall be perfected and enforced pursuant to section 203.12A or 203C.12A.

92 Acts, ch 1239, §78

203D.6 Claims against fund.

1. *Persons who may file claims.* A depositor or seller may file a claim with the department for indemnification of a loss from the grain depositors and sellers indemnity fund. A claim shall be filed in the manner prescribed by the board.

2. *Time of filing claim.*

a. As used in this subsection, an incurrence date is when either of the following occurs:

(1) The cessation of the license of the grain dealer as described in section 203.10 or warehouse operator as described in section 203C.10.

(2) The filing of a petition in bankruptcy by a licensed grain dealer or licensed warehouse operator.

b. To be timely, a claim must be filed within a claim period beginning on either incurrence date and ending one hundred twenty days after that incurrence date, regardless of whether a previous claim period has expired.

3. *Notice.* The department shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice shall also state that any claims against the fund on account of the licensee shall be sent by ordinary mail to the department within one hundred twenty days after the incurrence date, and that the failure to make a timely claim relieves the fund from liability to the claimant. This notice may be incorporated by the department with a notice required by section 203.12 or 203C.14.

4. *Determination of eligible claims.* The board shall determine a claim to be eligible for payment from the fund if the board finds all of the following:

a. That the claim was timely filed.

b. That the incurrence date was on or after May 15, 1986.

c. That the claimant qualifies as a depositor or seller.

d. That the claim derives from a covered transaction. For purposes of this paragraph, a claim derives from a covered transaction if the claimant is a seller who transferred title to the grain to a licensed grain dealer other than by credit-sale contract within six months of the

incurrence date for a claim period as provided in subsection 2, or if the claimant is a depositor who delivered the grain to a licensed warehouse operator.

e. That there is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

f. A claim has not been paid for the same loss.

5. *Value of loss — warehouse claims.* The board shall determine the dollar value of a claim incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered for storage to the licensed warehouse operator. If the department has been appointed by the court as receiver of the grain assets of the warehouse operator, the value shall be presumed to be as stated in the plan of disposition approved by the court. If the warehouse operator has filed a petition in bankruptcy, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date the petition was filed. If there is neither a department receivership nor a bankruptcy filing, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date of license revocation or cancellation. If more than one date applies to a claim, the board may choose between the two. However, the board may accept an alternative valuation of a claim upon a showing of just cause by the depositor or department. All depositors filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at time of payment from the fund.

6. *Value of loss — grain dealer claims.* The dollar value of a claim incurred by a seller who has sold grain or delivered grain for sale or exchange and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of the sale. If the sold grain was unpriced, the value of a claim shall be presumed to be based upon the fair market price, free-on-board from the site of the grain dealer, being paid to producers for grain by the grain terminal operator nearest the grain dealer on the date of the license revocation or cancellation or the filing of a petition in bankruptcy. If more than one date applies to a claim, the board may choose between the two. However, the board may accept an alternative valuation of a claim upon a showing of just cause by the seller or department. All sellers filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at the time of payment from the fund.

7. *Procedure — appeal.* The board, through the department, shall provide for notice to each depositor and seller upon its determination of eligibility and value of loss. Within twenty days of the notice, the depositor or seller may request a hearing for the review of either determination. The request shall be made in the manner provided by the board. The hearing and any further appeal shall be conducted as a contested case subject to chapter 17A. A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides.

8. *Payment of claims.* Upon a determination that the claim is eligible for payment, the board shall provide for payment of ninety percent of the loss, as determined under subsection 5, but not more than three hundred thousand dollars per claimant. If at any time the board determines that there are insufficient funds to make payment of all claims, the board may order that payment be deferred on specified claims. The department, upon the board's instruction, shall hold those claims for payment until the board determines that the fund again contains sufficient assets.

9. *Subrogation of fund.* In the event of payment of a loss under this section, the fund is subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor or seller against any person regarding the loss. The depositor or seller shall render all necessary assistance to aid the department and the board in securing the rights granted in this section. No action or claim initiated by a depositor or seller and pending at the time of payment from the fund shall be compromised or settled without the consent of the board.

10. *Time limitation on claims.*

a. A claim shall expire if five years after the board determines that the claim is eligible, the claimant has failed to do any of the following:

(1) Provide for the fund's subrogation or has failed to render all necessary assistance to aid the department and the board in securing the department's rights of subrogation as required in this section.

(2) Failed to provide necessary documentation or information required by the board in order to process the claim.

b. The fund shall not be liable for the payment of an expired claim.

86 Acts, ch 1152, §36
C87, §543A.6
87 Acts, ch 147, §18, 19; 89 Acts, ch 143, §908
C93, §203D.6
2008 Acts, ch 1083, §17 – 19; 2009 Acts, ch 17, §2 – 6; 2012 Acts, ch 1095, §119
Referred to in §203.12A, 203C.12A, 203D.3

203D.7 No obligation of state.

This chapter does not imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees, or officials, either elective or appointive, in respect of any agreement or undertaking to which this chapter relates.

86 Acts, ch 1152, §37
C87, §543A.7
C93, §203D.7

CHAPTER 204

IOWA HEMP ACT

Referred to in §80.5, 124.204, 124.401, 124.401G, 317.1D, 453B.17, 453B.18

204.1	Short title.	204.9	Right of access.
204.2	Definitions.	204.10	Order of disposal.
204.3	State plan — implementing rules.	204.11	Disciplinary action.
204.4	Hemp license — requirements.	204.12	Civil penalties.
204.5	Hemp fees.	204.13	Injunctive relief.
204.6	Hemp fund.	204.14	Criminal offense — falsified permit or certificate.
204.7	Regulations — exemption for certain criminal offenses.	204.14A	Criminal offense — inhalation.
204.8	Inspections and tests — harvest and transportation permit — certificate of analysis.	204.15	Negligent violation — program.
		204.16	Waivers or variances.
		204.17	Statutory construction.

204.1 Short title.

This chapter shall be known as the *"Iowa Hemp Act"*.

2019 Acts, ch 130, §1, 18, 19

204.2 Definitions.

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

1. *"Certificate of analysis"* means proof that a crop produced on a licensee's crop site qualifies as hemp as provided in section 204.8.

2. *"Consumable hemp product"* means a hemp product that includes a substance that is metabolized or is otherwise subject to a biotransformative process when introduced into the human body.

a. A consumable hemp product may be introduced into the human body by ingestion or absorption by any device including but not limited to an electronic device.

b. A consumable hemp product may exist in a solid or liquid state.

c. A hemp product is deemed to be a consumable hemp product if it is any of the following:

(1) Designed by the processor, including the manufacturer, to be introduced into the human body.

(2) Advertised as an item to be introduced into the human body.

(3) Distributed, exported, or imported for sale or distribution to be introduced into the human body.

d. *"Consumable hemp product"* includes but is not limited to any of the following:

(1) A noncombustible form of hemp that may be digested, such as food; internally absorbed, such as chew or snuff; or absorbed through the skin, such as a topical application.

(2) Hemp processed or otherwise manufactured, marketed, sold, or distributed as food, a food additive, a dietary supplement, or a drug.

e. *"Consumable hemp product"* does not include a hemp product if the intended use of the hemp product is introduction into the human body by any method of inhalation, as prohibited under section 204.14A.

3. *"Controlled substance"* means the same as defined in section 124.101.

4. *"Conviction"* means a conviction for an indictable offense, in this state or another state, and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

5. *"Crop site"* or *"site"* means a single contiguous parcel of agricultural land suitable for the planting, growing, or harvesting of hemp, if the parcel does not exceed forty acres.

6. *"Department"* means the department of agriculture and land stewardship.

7. *"Federal Food, Drug, and Cosmetic Act"* means the Act so entitled as codified in 21 U.S.C. §301 et seq., including regulations adopted pursuant to that Act by the United States food and drug administration under the Code of Federal Regulations, Title 21.

8. *"Federal hemp law"* means that part of Tit. X of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334, that authorizes hemp production according to a state plan approved by the United States department of agriculture, as provided in §10113 of that Act, amending the Agricultural Marketing Act of 1946, 7 U.S.C. §1621 et seq., including by adding §297A through 297E.

9. *a.* *"Hemp"* means the plant cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a maximum delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis as calculated pursuant to an official test as provided in section 204.8.

b. *"Hemp"* also means a plant of the genus cannabis other than cannabis sativa L., with a maximum delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis as calculated pursuant to an official test as provided in section 204.8, but only to the extent allowed by the department in accordance with applicable federal law, including the federal hemp law.

10. *"Hemp license"* or *"license"* means a hemp license issued pursuant to section 204.4.

11. *a.* *"Hemp product"* means an item derived from or made by processing hemp or parts of hemp, including but not limited to any item manufactured from hemp, including but not limited to cloth, cordage, fiber, food, fuel, paint, paper, particle board, plastic, hemp seed, seed meal, or seed oil.

b. *"Hemp product"* does not include any of the following:

(1) An item or part of an item with a maximum tetrahydrocannabinol concentration that exceeds three-tenths of one percent on a dry weight basis.

(2) Hemp seed that is capable of germination.

12. *"Licensee"* means a person who obtains a hemp license from the department under this chapter.

13. *"Local law enforcement agency"* means an office of county sheriff or a municipal police department.

14. *"Negligent violation program"* or *"program"* means the program that may be established by the department to allow a licensee to correct certain violations of this chapter as provided in section 204.15.

15. *"Produce"* means to provide for the planting, raising, cultivating, managing, harvesting, and storing a crop.

16. *"Temporary harvest and transportation permit"* means a document allowing the harvesting of a crop produced on a licensee's crop site and the temporary movement of that crop subject to limitations provided in section 204.8.

2019 Acts, ch 130, §2, 18, 19; 2020 Acts, ch 1065, §2, 3, 19; 2020 Acts, ch 1121, §107 – 109; 2021 Acts, ch 93, §37, 38

Referred to in §124.201A, 124.204, 716.14

Subsection 11, paragraph b, subparagraph (1) amended

204.3 State plan — implementing rules.

1. The department shall prepare a state plan to be submitted to the United States secretary of agriculture under the federal hemp law.

2. Upon approval of the state plan, the department shall assume primary regulatory authority over the production of hemp in this state as provided in this chapter. However, nothing in this chapter affects the powers and duties of the department of public safety or local law enforcement agencies from enforcing any law within its purview or jurisdiction. The department of public safety shall be the chief criminal enforcement agency under this chapter.

3. The department may prepare any number of amended state plans or any number of amendments to an existing state plan to be submitted for approval by the United States secretary of agriculture.

4. The department may provide for the receipt, filing, processing, and return of documents described in this chapter in an electronic format, including but not limited to the transmission of documents by the internet. The department shall provide for the authentication of official forms in an electronic format that may include electronic signatures as provided in chapter 554D. An official form in an electronic format shall have the same validity and is discoverable and admissible in evidence if given under penalty of perjury in the same manner as an original printed form. The department shall provide for the issuance of certificates of analysis in an electronic format as provided in section 204.8.

5. *a.* The department shall prepare the state plan, any amended state plan, or amendment to an approved state plan, by adopting rules pursuant to chapter 17A.

b. The department may adopt the rules on an emergency basis as provided in section 17A.4, subsection 3, and section 17A.5, subsection 2, and the rules shall be effective immediately upon filing unless a later date is specified in the rules.

2019 Acts, ch 130, §3, 18, 19; 2020 Acts, ch 1065, §4, 19; 2020 Acts, ch 1121, §107 – 109

204.4 Hemp license — requirements.

1. The department shall establish and administer a process to receive, evaluate, and approve or disapprove applications for a hemp license.

2. The department shall prepare and publish one or more hemp license application forms in cooperation with the department of public safety. A completed application form submitted to the department shall contain all of the following:

a. The applicant's full name and residence address.

b. A legal description and map of each crop site where the applicant proposes to produce the hemp including its global positioning system location.

c. The number of crop acres to be used for hemp production.

d. The name of the hemp variety.

e. The results of a national criminal history record check of an applicant as may be required by the department. The department shall inform an applicant if a national criminal history record check will be conducted. If a national criminal history record check is conducted, the applicant shall provide the applicant's fingerprints to the department. The department shall provide the fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall pay the actual cost of conducting any national criminal history record check to the department of agriculture and land stewardship. The department shall pay the actual

cost of conducting the national criminal history record check to the department of public safety from moneys deposited in the hemp fund pursuant to section 204.6. The department of public safety shall treat such payments as repayment receipts as defined in section 8.2. The results of the national criminal history check shall not be considered a public record under chapter 22.

f. Any other information required in order to administer and enforce the provisions of this chapter.

3. As a condition for the issuance of a hemp license, the licensee consents to the department, the department of public safety, or a local law enforcement agency entering upon a crop site as provided in section 204.9.

4. The department may do all of the following:

a. Require that all or some licenses expire on the same date.

b. Provide a different application form and requirements relating to the submission, evaluation, and approval or disapproval of an application for a renewed hemp license consistent with federal law.

5. An applicant shall not be issued a hemp license unless the applicant agrees to comply with all terms and conditions relating to the regulation of a licensee as provided in this chapter.

6. A person may hold any number of licenses at the same time. However, the person shall not hold a legal or equitable interest in a licensed crop site, if the total number of acres of all licensed crop sites in which the person holds all such interests equals more than forty acres.

7. An initial hemp license expires one year from the date of issuance and may be issued on a renewal basis annually. The department may require that a licensee apply for an amended or new initial license if information contained in the existing application is no longer accurate or is incomplete.

8. The department and the department of public safety shall cooperate to develop procedures for the sharing of information regarding applicants, including information required to be completed on application forms. Upon request, the department or the department of public safety shall provide information regarding an applicant to a department of agriculture or law enforcement agency in another state.

9. Information received on an application form shall be maintained by the department for not less than three years.

10. The department shall disapprove the application of a person for good cause, which shall include, but is not limited to, any of the following:

a. A conviction for committing a criminal offense involving a controlled substance as described in section 204.7.

b. A third violation of a provision of this chapter in a five-year period. The department shall disapprove any application of a person for a five-year period following the date of the person's last violation in the same manner as provided in section 204.15.

c. The revocation of a hemp license under section 204.11, or the revocation of a license, permit, registration, or other authorization to produce hemp in any other state.

11. A hemp license shall be suspended or revoked as provided in section 204.11.

2019 Acts, ch 130, §4, 18, 19
Referred to in §204.2, 204.5, 204.7, 204.11, 204.15

204.5 Hemp fees.

1. The department shall impose, assess, and collect the following hemp fees:

a. A license fee which shall be paid by a person being issued a hemp license as provided in section 204.4.

b. An inspection fee which shall be paid by a licensee for the inspection of the licensee's crop site, including obtaining samples of plants to conduct a test, as provided in section 204.8.

2. *a.* For each hemp license, the license fee shall be imposed on an interim basis until June 30, 2022. The amount of the license fee shall not be more than the following:

(1) Five hundred dollars plus five dollars per acre, for each crop site that is five acres or less.

(2) Seven hundred and fifty dollars, plus five dollars per acre, for each crop site that is more than five acres but not more than ten acres.

(3) One thousand dollars plus five dollars per acre, for each crop site that is more than ten acres.

b. For conducting an inspection and official test as provided in section 204.8, the department shall charge an inspection fee on an interim basis until June 30, 2022, as follows:

(1) In the case of an annual inspection and official test, a base fee of not more than one thousand dollars. The department may charge a supplemental fee in an amount determined by the department for conducting an inspection and official test of any additional variety of hemp produced on the same licensed crop site.

(2) In the case of any other inspection and official test, conducted at the request of the licensee, the department shall charge a base fee or supplemental fee in the same manner as provided in subparagraph (1).

c. This subsection is repealed on July 1, 2022.

3. *a.* The department shall adopt rules to establish hemp fees for the issuance of a hemp license pursuant to section 204.4.

b. The department shall adopt rules to establish hemp fees for conducting inspections and obtaining samples of plants to conduct tests, including but not limited to an annual inspection and official test, pursuant to section 204.8.

c. The department shall calculate the rates, or a range of rates, of the hemp fees to be effective for each successive twelve-month period. The total amount of hemp fees collected by the department pursuant to this subsection shall not be more than the department's estimate of the total amount of revenues necessary to administer and enforce the provisions of this chapter based on the expected revenue collected from the hemp fees and the costs to be incurred by the department in administering and enforcing the provisions of this chapter during that period. The department may adjust the rates within the range throughout the period as the department determines necessary to comply with this paragraph.

d. The department may establish different rates for any category of hemp fees based on criteria determined relevant by the department, which may include the number of acres of the licensee's crop site and the type of hemp license issued.

e. (1) The rules shall first take effect immediately after the repeal of subsection 2.

(2) This paragraph "*e*" is repealed immediately after the rules described in subparagraph (1) take effect.

4. The license fee and any annual inspection fee shall be collected by the department at the time the hemp license application is submitted.

5. Any hemp fee collected by the department under this section shall be deposited in the hemp fund established pursuant to section 204.6.

6. The department may refund all or any part of a hemp fee collected under this section to an applicant.

2019 Acts, ch 130, §5, 18, 19
Referred to in §204.6

204.6 Hemp fund.

1. A hemp fund is established in the state treasury under the management and control of the department.

2. The hemp fund shall include moneys collected by the department from hemp fees imposed and assessed under section 204.5 and moneys appropriated by the general assembly for deposit in the hemp fund. The hemp fund may include other moneys available to and obtained or accepted by the department, including moneys from public or private sources.

3. Moneys in the hemp fund are appropriated to the department and shall be used exclusively to carry out the responsibilities conferred upon the department under this chapter as determined and directed by the department, and shall not require further special authorization by the general assembly.

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

b. Notwithstanding section 8.33, moneys credited to the hemp fund that remain unexpended or unobligated at the end of a fiscal year shall not revert to any other fund.

2019 Acts, ch 130, §6, 18, 19
Referred to in §204.4, 204.5

204.7 Regulations — exemption for certain criminal offenses.

1. The Iowa crop improvement association recognized in chapter 177 shall adopt procedures to certify hemp seed capable of germination. Hemp seed certified under this subsection shall be presumed to comply with the requirements for hemp produced under this chapter.

2. A person who materially falsifies any information contained in an application under section 204.4 shall be ineligible to produce hemp under this chapter.

3. *a.* A licensee convicted of an offense punishable as a felony, for producing, possessing, using, harvesting, handling, manufacturing, marketing, transporting, delivering, or distributing a controlled substance before, on, or after the implementation date of this chapter shall be ineligible to produce hemp under this chapter for a ten-year period following the date of conviction.

b. A licensee convicted in another state of an offense, punishable in that state as a felony, substantially corresponding to an offense described in paragraph *"a"*, before, on, or after the implementation date of this chapter, shall be ineligible to produce hemp under this chapter for a ten-year period following the date of conviction. The department shall recognize the statute of another state which defines such offense substantially equivalent to an offense described in paragraph *"a"* as a corresponding statute.

4. The department shall adopt rules regulating the production of hemp, including but not limited to inspection and testing requirements under section 204.8 or 204.9, and the issuance of a temporary harvest and transportation permit or certificate of analysis under section 204.8. The department shall adopt rules as necessary to administer the negligent violation program. The department may adopt other rules as necessary or desirable to administer and enforce the provisions of this chapter relating to hemp or hemp products.

5. *a.* A person is not subject to a criminal offense involving hemp as otherwise prohibited in chapter 124 or 453B, if all of the following apply:

(1) If the person is a licensee, the person carries the person's hemp license when possessing hemp.

(2) The person carries a certificate of analysis, or a temporary harvest and transportation permit, if the person is in possession of harvested hemp. If the person is transporting harvested hemp into or through this state, the person must carry a certificate of analysis or an equivalent document issued to the person by the jurisdiction where the hemp was produced.

(3) The person carries a certificate of analysis, if the person is delivering hemp seed for planting.

(4) The person carries a bill of lading under all of the following circumstances:

(a) The person is in possession of hemp in transit to transfer ownership.

(b) The person is delivering hemp seed for planting and the seed is not of the licensee's own production.

(c) A person brings hemp produced in another state into or through this state.

b. For purposes of paragraph *"a"*, a criminal offense involving hemp includes but is not limited to production, use, harvest, transportation, delivery, distribution, or sale.

6. A person other than a licensee is not subject to a criminal offense involving hemp as described in subsection 5 if the person is authorized to be on the licensee's crop site by the licensee.

7. *a.* Except as provided in subsection 8, and section 204.14A, a person may engage in the retail sale of a hemp product if the hemp was produced in this state or another state in compliance with the federal hemp law or other applicable federal law. A person may engage in the retail sale of a hemp product if the hemp was produced in another jurisdiction in compliance with applicable federal law and the laws of the other jurisdiction, if such law is substantially the same as applicable federal law.

b. A person may transport a hemp product within and through this state and may export a hemp product to any foreign nation, in accordance with applicable federal law and the law of the foreign nation.

c. A hemp product complying with this subsection is not a controlled substance under chapter 124 or 453B.

8. *a.* Except as provided in paragraph *"e"*, a consumable hemp product shall not be manufactured, sold, or consumed in this state unless all of the following conditions are met:

(1) The consumable hemp product is manufactured in this state in compliance with this chapter.

(2) The hemp contained in the consumable hemp product was produced exclusively in this state in compliance with this chapter.

(3) The consumable hemp product complies with packaging and labeling requirements, which shall be established by the department of inspections and appeals by rule.

b. A person manufacturing a consumable hemp product in this state shall register with the department of inspections and appeals on a form prescribed by the department of inspections and appeals by rule. The department of inspections and appeals may impose a fee, established by the department of inspections and appeals by rule, on a registrant not to exceed the cost of processing the registration. The department of inspections and appeals shall adopt rules for the revocation of a registration issued to a manufacturer who manufactures a consumable hemp product not in compliance with this chapter.

c. A person selling a consumable hemp product in this state shall register with the department of inspections and appeals on a form prescribed by the department of inspections and appeals by rule and shall keep on the premises of the person's business a copy of the certificate of analysis issued pursuant to section 204.8 for the hemp contained in the consumable hemp products sold by the person. The department of inspections and appeals may impose a fee, established by the department of inspections and appeals by rule, on a registrant not to exceed the cost of processing the registration. The department of inspections and appeals shall adopt rules for the revocation of a registration issued to a person who sells a consumable hemp product not in compliance with this section.

d. Except as otherwise provided in this subsection, a political subdivision of the state shall not adopt any ordinance, rule, or regulation regarding the manufacture, sale, or consumption of a consumable hemp product.

e. A consumable hemp product manufactured in another jurisdiction pursuant to a state or tribal plan approved by the United States department of agriculture pursuant to the federal hemp law may be imported for use by a consumer or sale by a retailer to a consumer if the state has substantially similar testing requirements as those provided in section 204.8.

f. A consumable hemp product manufactured, sold, or consumed in compliance with this subsection is not a controlled substance under chapter 124 or 453B regardless of whether the consumable hemp product has been approved by the United States food and drug administration.

2019 Acts, ch 130, §7, 18, 19; 2020 Acts, ch 1065, §5 – 11, 19; 2020 Acts, ch 1121, §107 – 109
Referred to in §204.4, 204.17

204.8 Inspections and tests — harvest and transportation permit — certificate of analysis.

1. *a.* The department shall conduct an annual inspection of a licensee's crop site to determine if the crop produced at the site qualifies as hemp under this section. The annual inspection shall include obtaining a sample of plants that are part of the crop and providing for an official test of that sample. The inspection shall be conducted as provided in section 204.9.

b. A licensee shall deliver a notice to the department stating the expected harvest date for the crop produced at the licensee's crop site. The department must receive the notice at least thirty days prior to the expected harvest date. The department shall conduct the annual inspection of the site within thirty days prior to the actual harvest date.

c. The department shall provide the department of public safety any official test results that indicate a sample has a maximum concentration of delta-9 tetrahydrocannabinol in excess of two percent on a dry weight basis.

d. A licensee shall not harvest any portion of a crop produced at the licensee's crop site unless the department has obtained a sample of plants to conduct a test as provided in this section and has issued the licensee a temporary harvest and transportation permit or certificate of analysis. The department may adopt rules that it determines necessary or desirable to administer and enforce the terms and conditions of a permit. The department shall have unrestricted access to a crop site subject to a permit. A licensee subject to a permit shall receive permission from the department prior to moving the hemp, shall not commingle the hemp, and shall not transfer the hemp to another person.

e. The department shall issue a verified copy of the temporary harvest and transportation permit or certificate of analysis to any other person upon request of the licensee. The permit or certificate shall be published by the department as an official form.

f. To the extent allowed by the federal hemp law, the certificate of analysis shall be proof that the harvested crop described on the form qualifies as hemp pursuant to the results of an official test.

g. A temporary harvest and transportation permit expires when the department issues the licensee a certificate of analysis. A permit or certificate of analysis terminates upon the issuance of an order of disposal of the licensee's crop as provided in section 204.10 or upon the revocation of the licensee's hemp license as provided in section 204.11.

2. The department may conduct official tests for additional varieties of hemp located on the same licensed crop site. The department may conduct additional inspections and tests upon the request of a licensee.

3. The official test shall be a composite test of the plants obtained by the department from a licensee's crop site during the annual inspection and shall be conducted by a laboratory designated by the department. The sample must have an acceptable delta-9 tetrahydrocannabinol concentration, resulting from a post decarboxylation analysis, that does not exceed three-tenths of one percent on a dry weight basis.

a. The laboratory shall report delta-9 tetrahydrocannabinol concentration on a dry weight basis that accounts for a measurement uncertainty associated with the result of a measurement. The measurement uncertainty shall characterize the dispersion of the values that could be reasonably attributed to the particular quantity subject to measurement. The acceptable delta-9 tetrahydrocannabinol concentration occurs when the application of the measurement uncertainty to the reported delta-9 tetrahydrocannabinol concentration on a dry weight basis produces a distribution or range that includes three-tenths of one percent or less.

b. The post decarboxylation value is the result of an analysis determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the delta-9 tetrahydrocannabinol concentration and delta-9 tetrahydrocannabinolic acid content and reported on a dry weight basis. The post decarboxylation value may be determined by using a chromatographic technique using heat and gas chromatography, through which the tetrahydrocannabinolic acid content is converted from its acid form to its neutral form. The post decarboxylation value may also be calculated by using a high-performance liquid chromatograph technique, which keeps the tetrahydrocannabinolic acid intact and requires a conversion calculation of that tetrahydrocannabinolic acid to determine the total potential delta-9 tetrahydrocannabinol content in a given sample.

4. The department of public safety or a local law enforcement agency may conduct an inspection of a licensee's crop site in order to determine that the licensee is complying with the criminal provisions of this chapter as well as chapters 124 and 453B. The department of public safety or a local law enforcement agency may conduct a test of the plants obtained by that department or local law enforcement agency from the licensee's crop site during the inspection according to procedures adopted by the department of public safety.

2019 Acts, ch 130, §8, 18, 19; 2020 Acts, ch 1065, §12, 13, 19; 2020 Acts, ch 1121, §107 – 109; 2021 Acts, ch 80, §99

Referred to in §124.401G, 204.2, 204.3, 204.5, 204.7, 204.9, 204.10, 204.15, 453B.18

Subsection 1, paragraph c amended

204.9 Right of access.

1. *a.* The department, including an authorized inspector, employee, or agent of the department, may enter onto a crop site during reasonable hours to determine whether a licensee is acting in compliance with the requirements under this chapter. The department may also enter into any structure if all of the following apply:

(1) The structure is not a dwelling.

(2) The structure is located on or in close proximity to the licensee's crop site, and the use of such structure is directly related to the production of hemp, including but not limited to a barn, machine shed, greenhouse, or storage crib.

b. The department may require the licensee to furnish business records, including books, accounts, records, files, and any other documents in print or electronic media that the department deems relevant to an inquiry conducted under this chapter.

c. The department may request the department of public safety or a local law enforcement agency accompany the department of agriculture and land stewardship when conducting an inspection.

2. *a.* The department of public safety or a local law enforcement agency may conduct an inspection of a licensee's crop site or enter into a structure located on or in close proximity to the crop site and may require a licensee to furnish business records, in the same manner and according to the same limitations as the department of agriculture and land stewardship pursuant to subsection 1.

b. The department of public safety or a local law enforcement agency may obtain a sample of plants that are part of the crop and provide for a test of that sample as provided in section 204.8. The department of public safety or a local law enforcement agency shall not impose, assess, or collect a fee for conducting an inspection or test under this section.

3. A person shall not prevent the department, the department of public safety, or a local law enforcement agency from administering and enforcing the provisions of this section by any means, including but not limited to any act, including a refusal to allow entry, misrepresentation, omission, or concealment of facts.

4. A licensee shall not harvest any portion of a crop produced at the licensee's crop site if the department, the department of public safety, or a local law enforcement agency has been prevented from accessing the site under this section.

2019 Acts, ch 130, §9, 18, 19; 2020 Acts, ch 1063, §72; 2020 Acts, ch 1065, §14, 19; 2020 Acts, ch 1121, §107 – 109

Referred to in §204.4, 204.7, 204.8

204.10 Order of disposal.

1. If a crop that is produced at a licensee's crop site does not qualify as hemp according to an official test conducted pursuant to section 204.8, but has a maximum concentration not in excess of two percent delta-9 tetrahydrocannabinol on a dry weight basis, the department, in consultation with the department of public safety, shall order the disposal of the crop by destruction at the site or if necessary require the crop to be removed to another location for destruction.

2. The department may request assistance from the department of public safety or a local law enforcement agency as necessary to carry out the provisions of this section. The department upon request shall deliver any sample of the crop to the department of public safety or a local law enforcement agency.

3. The licensee shall pay the department for all actual and reasonable costs of the destruction of the crop. If the department assumes any amount of the costs, it may charge that amount to the licensee. If the licensee fails to reimburse any of that amount to the department, the department may report the amount to the county treasurer. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse the department within thirty days from the collection of the property taxes.

4. To the extent allowed by applicable federal law, the department may provide for the

disposal of the mature stalks of the crop confiscated by the department for the licensee's on-farm use and at the licensee's expense.

2019 Acts, ch 130, §10, 18, 19; 2020 Acts, ch 1065, §15, 19; 2020 Acts, ch 1121, §107 – 109
Referred to in §124.506, 204.8, 204.11

204.11 Disciplinary action.

1. The department may suspend or revoke a hemp license obtained under section 204.4 by a person who does any of the following:

a. Provides false or misleading information to the department under this chapter, including by submitting a false application.

b. Fails to comply with or violates any provision of this chapter, including a rule adopted by the department, the department of public safety, or a condition of an application for the issuance of a hemp license under section 204.4.

c. Fails to comply with an order issued by the department under this chapter.

2. The department shall revoke a license issued pursuant to section 204.4, if any of the following apply:

a. The department would disapprove a new application to that person for good cause as provided in section 204.4, subsection 10.

b. The person submits a materially false application to participate in the negligent violation program.

3. The suspension or revocation of a hemp license is in addition to an order of disposal under section 204.10; the imposition of a civil penalty under section 204.12, subject to the provisions of section 204.15; or the imposition of any other civil or criminal penalty authorized under state law.

2019 Acts, ch 130, §11, 18, 19
Referred to in §204.4, 204.8

204.12 Civil penalties.

1. A person who violates a provision of this chapter is subject to a civil penalty of not less than five hundred dollars and not more than two thousand five hundred dollars. The department shall impose, assess, and collect the civil penalty. Each day that a continuing violation occurs may be considered a separate offense.

2. Notwithstanding subsection 1, a civil penalty shall not be imposed, assessed, or collected against a licensee who is participating in or has successfully completed the negligent violation program pursuant to section 204.15.

3. All civil penalties collected under this section shall be deposited into the general fund of the state.

2019 Acts, ch 130, §12, 18, 19
Referred to in §204.11, 204.15

204.13 Injunctive relief.

The department, or the attorney general acting on behalf of the department, may apply to the district court for injunctive relief in order to restrain a person from acting in violation of this chapter. In order to obtain injunctive relief, the department, or attorney general, shall not be required to post a bond or prove the absence of an adequate remedy at law unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

2019 Acts, ch 130, §13, 18, 19

204.14 Criminal offense — falsified permit or certificate.

A person is subject to criminal penalties provided under the applicable provisions in chapter 124 or 453B, if all of the following apply:

1. The person commits an offense under one of the applicable provisions of chapter 124 or 453B by possessing, handling, using, manufacturing, marketing, transporting, delivering, or distributing the plant cannabis, regardless of whether the plant was produced in compliance with the provisions of this chapter.

2. *a.* Except as provided in paragraph *"b"*, the person is required to hold a certificate of analysis to possess, handle, use, manufacture, market, transport, deliver, or distribute hemp that has been harvested under this chapter.

b. The person is required to hold a temporary harvest and transportation permit to possess, harvest, or move hemp.

3. The person knowingly or intentionally does any of the following:

a. Falsifies the temporary harvest and transportation permit or certificate of analysis.

b. Acquires the temporary harvest and transportation permit or certificate of analysis that the person knows has been falsified.

2019 Acts, ch 130, §14, 18, 19; 2020 Acts, ch 1065, §16, 19; 2020 Acts, ch 1121, §107 – 109

204.14A Criminal offense — inhalation.

1. A person shall not possess, use, manufacture, market, transport, deliver, or distribute harvested hemp or a hemp product if the intended use of the harvested hemp or hemp product is introduction into the body of a human by any method of inhalation, including any of the following:

a. Smoke produced from combustion.

b. A type of article that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical process.

c. A device, including but not limited to a cigarette, cigar, cigarillo, or pipe, regardless of whether such device produces smoke or vapor.

2. A person who violates subsection 1 is guilty of a serious misdemeanor.

3. This section does not apply to the extent that federal law, including the federal Food, Drug, and Cosmetic Act, authorizes as its intended use the introduction of harvested hemp or a hemp product into the body of a human by a method of inhalation.

2020 Acts, ch 1065, §17, 19; 2020 Acts, ch 1121, §107 – 109
Referred to in §204.2, 204.7

204.15 Negligent violation — program.

1. *a.* The department may find that a licensee has negligently violated a provision of this chapter by doing any of the following:

(1) Completing an application for a license without providing a legal description of the crop site pursuant to section 204.4.

(2) Failing to renew a hemp license for an existing crop site or obtain a hemp license for a new crop site pursuant to section 204.4.

(3) Producing a crop on the licensee's crop site with a maximum concentration of delta-9 tetrahydrocannabinol that exceeds three-tenths of one percent according to the results of an official test of a sample obtained from the licensed crop site pursuant to an inspection conducted under section 204.8.

b. It is conclusively presumed that a licensee acted with a culpable mental state greater than negligence, if the department obtains a sample of a crop produced on the licensee's crop site and the official test results of the sample conducted pursuant to section 204.8 indicate a maximum concentration of delta-9 tetrahydrocannabinol in excess of two percent on a dry weight basis.

c. If the department determines a licensee violated this chapter with a culpable mental state greater than negligence, the department shall immediately report the licensee's violation to the department of public safety, the county attorney, and the attorney general, who shall take action as the facts and circumstances warrant. The department shall also report the licensee to the United States attorney general to the extent required by the federal hemp law.

2. The department may establish a negligent violation program. The purpose of the program is to allow a participating licensee who has negligently violated a provision of this chapter as described in subsection 1 to comply with a corrective plan established by the department to correct each negligent violation, including by providing for all of the following:

a. A reasonable date, established by the department, for the licensee to correct each cause for the violation.

b. The filing of periodic reports to the department evidencing that the licensee is complying with the requirements of this chapter. The licensee shall submit the reports to the department according to a schedule required by the department. The licensee shall submit a report to the department for at least two years from the date that the licensee first participated in the program.

c. Any other requirement established by the department.

3. A licensee shall be ineligible to participate in the negligent violation program, if a test of a sample of plants that are part of a crop produced on the licensee's crop site exceeds a maximum concentration of two percent delta-9 tetrahydrocannabinol on a dry weight basis.

4. A person who has violated a provision of this chapter three times in a five-year period shall be ineligible to participate in the negligent violation program, or produce hemp, for a period of five years beginning on the date of the third violation.

5. The department shall certify that a licensee has successfully completed the negligent violation program. The certification shall be published by the department as an official form. The department shall deliver the certification to the licensee which shall be proof of the licensee's compliance.

6. A licensee who is participating in or has successfully completed the negligent violation program shall not be subject to any of the following:

a. A civil penalty under section 204.12 for committing a violation of this chapter.

b. A criminal offense under chapter 124 or 453B arising out of a negligent violation of this chapter, if the licensee would otherwise be guilty of producing, possessing, using, harvesting, handling, or distributing the plant cannabis pursuant to the results of a test conducted pursuant to section 204.8.

2019 Acts, ch 130, §15, 18, 19; 2020 Acts, ch 1063, §73
Referred to in §124.401G, 204.2, 204.4, 204.11, 204.12, 453B.18

204.16 Waivers or variances.

If the department determines there is a conflict with a regulation or order promulgated by a federal agency and a provision of this chapter, the department may grant a variance or waiver from the provision of this chapter to the extent such variance or waiver is allowed under the federal hemp law and the United States department of agriculture. The waiver or variance shall expire not later than July 1 of the succeeding legislative session.

2019 Acts, ch 130, §16, 18, 19

204.17 Statutory construction.

1. Nothing in this chapter shall be construed or applied to be less stringent than required under the federal hemp law.

2. Nothing in this chapter shall be construed or applied to be in conflict with any of the following:

a. Applicable federal law and related regulations.

b. Other laws of this state, including any administrative rules, relating to product development, product manufacturing, consumer safety, or public health so long as the state law is compatible with applicable federal law.

c. Local law relating to product development, product manufacturing, consumer safety, or public health so long as the local law is consistent with federal and state law, except as provided in section 204.7, subsection 8.

3. Except as provided in section 204.7, nothing in this chapter shall be construed or applied to prohibit a person from possessing, handling, using, manufacturing, marketing, transporting, delivering, or distributing a hemp product.

4. Nothing in this chapter shall be construed or applied to authorize a person to manufacture, recommend, possess, use, dispense, deliver, transport, or administer medical cannabidiol pursuant to chapter 124E.

5. Nothing in this chapter shall be construed or applied to infringe upon the ability of the department of public safety or a local law enforcement agency to obtain a search warrant issued by a court, or enter onto any premises in a manner consistent with the laws of this

state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

6. Nothing in this chapter shall be construed or applied to affect a statute or rule which applies to hemp or a hemp product, if it would apply in the same manner as to other articles subject to the same general regulation.

2019 Acts, ch 130, §17 – 19; 2020 Acts, ch 1065, §18, 19; 2020 Acts, ch 1121, §107 – 109

CHAPTER 205

SALE AND DISTRIBUTION OF POISONS

Referred to in §155A.6, 155A.6A, 155A.6B, 155A.13A, 155A.13C, 155A.17, 155A.17A, 155A.26, 155A.42, 159.6

205.1	Sale of abortifacients.	205.7	Labeling poisons.
205.2	Exception.	205.8	Certain sales excepted.
205.3	Prescriptions.	205.9	Prohibited sales.
205.4	Wood or denatured alcohol.	205.10	False representations.
205.5	Regulations as to sales of certain poisons.	205.11	Enforcement.
		205.12	Chemical analysis of drugs.
205.6	Poison register.	205.13	Applicability of other statutes.

205.1 Sale of abortifacients.

No person shall sell, offer or expose for sale, deliver, give away, or have in the person's possession with intent to sell, except upon the original written prescription of a licensed physician, dentist, or veterinarian, any cotton root, ergot, oil of tansy, oil of savin, or derivatives of any of said drugs.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593; S13, §2593, 2596-a; C24, 27, 31, 35, 39, §**3170;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.1]

Referred to in §205.2

205.2 Exception.

The requirements of section 205.1 that certain drugs shall be furnished only upon written prescription, shall not apply to the sale of such drugs to persons who wholesale or retail the same, nor to any licensed physician, dentist, or veterinarian for use in the practice of that person's profession.

[S13, §2596-a; C24, 27, 31, 35, 39, §**3171;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.2]

205.3 Prescriptions.

A person shall not fill a prescription for a drug required by chapter 124 or this chapter to be furnished only upon written prescription unless the prescription is ordered for a medical, dental, or veterinary purpose only.

[S13, §2596-a; C24, 27, 31, 35, 39, §**3172;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.3]

85 Acts, ch 73, §1

205.4 Wood or denatured alcohol.

No person shall have in the person's possession or dispose of in any manner any article intended for use of humans or domestic animals, for internal or external use, for cosmetic purposes, for inhalation, or for perfumes, which contains methyl (wood) alcohol, crude or refined, or completely denatured alcohol. Nothing in this section shall be construed to apply to specially denatured alcohols the formula of which has been approved and the manufacture and use regulated by the federal government.

[S13, §4999-a36; C24, 27, 31, 35, 39, §**3173;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.4]

205.5 Regulations as to sales of certain poisons.

It shall be unlawful for any person except a licensed pharmacist to sell at retail any of the poisons enumerated in this section: Ammoniated mercury, mercury bichloride, red mercuric iodide, and other poisonous salts and compounds of mercury; salts and compounds of arsenic; salts of antimony; salts of barium except the sulphate; salts of thallium; hydrocyanic acid and its salts; chromic, glacial acetic, and picric acids; chloral hydrate, croton oil, creosol, chloroform, dinitrophenol, ether, oil of bitter almonds, phenol, phosphorus and sodium fluoride; aconitine, arecoline, atropine, brucine, homatropine, hyoscyamine, nicotine, strychnine, and the salts of these alkaloids; aconite, belladonna, cantharides, digitalis, nux vomica, veratrum, and the preparations of these poisonous drugs.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593; S13, §2593; C24, 27, 31, 35, 39, §**3174;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.5]

2001 Acts, ch 24, §37

Referred to in §205.6, 205.7, 205.8, 205.9, 205.10

205.6 Poison register.

It shall be unlawful for any pharmacist to sell at retail any of the poisons enumerated in section 205.5 unless the pharmacist ascertains that the purchaser is aware of the character of the drug and the purchaser represents that it is to be used for a proper purpose and every sale of any poison enumerated in section 205.5 shall be entered in a book kept for that purpose, to be known as a "Poison Register" and the same shall show the date of the sale, the name and address of the purchaser, the name of the poison, the purpose for which it was represented to be purchased, and the name of the natural person making the sale, which book or books shall be open for inspection by the board of pharmacy, or any magistrate or peace officer of this state, and preserved for at least five years after the date of the last sale therein recorded.

[C97, §2593; S13, §2593; C24, 27, 31, 35, 39, §**3175;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.6]

2007 Acts, ch 10, §160

Referred to in §205.8, 205.9

205.7 Labeling poisons.

Except as otherwise provided, it shall be unlawful to vend, sell, dispense, or give away any poison enumerated in section 205.5, or sodium chlorate or crude carbolic acid, or any other potent poisons, without affixing to the bottle, box, vessel, or package containing the same, a label containing the name of the poison either printed or plainly written, and the word "Poison" printed in red ink, and the name and place of business of the distributor, manufacturer, wholesaler or dealer; and every package or container which contains ammonia water, concentrated lye, denatured alcohol, formaldehyde, benzol, carbon tetrachloride, commercial hydrochloric, nitric, sulphuric or oxalic acids, shall be labeled with the name of the poison, which label shall bear the name and place of business of the distributor, manufacturer, wholesaler, or dealer, the most available antidote and the word "Poison" printed in red ink in a conspicuous place thereon.

[C51, §2728; R60, §4374; C73, §4038; C97, §2588, 2593, 4976; S13, §2593; SS15, §2588; C24, 27, 31, 35, 39, §**3176;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.7]

Referred to in §205.8

205.8 Certain sales excepted.

Nothing in sections 205.5 through 205.7 shall apply:

1. To proprietary medicines, provided they are not in themselves poisonous and are sold in original unbroken packages.

2. To the filling of prescriptions from or the sale to licensed physicians, dentists, or veterinarians or sales to another pharmacist or to hospitals; or to drugs dispensed by licensed physicians, dentists, or veterinarians, as an incident to the practice of their professions.

3. To insecticides and fungicides as defined in chapter 206 and commercial feeds as defined in section 198.3, provided same be labeled in accordance with said section and sold in original unbroken packages, provided, however, that stock dips and fly sprays may be

sold in bulk or otherwise and the vessel or container need not have printed on the label the most available antidote.

4. To any proprietary preparation intended for use in destroying mice, rats, gophers or other lower animals, provided same is sold in original unbroken packages and bears the word "Poison", the most available antidote, and the name of the manufacturer.

[C97, §2593; S13, §2593; C24, 27, 31, 35, 39, §**3177;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.8]

2021 Acts, ch 80, §100
Unnumbered paragraph 1 amended

205.9 Prohibited sales.

It shall be unlawful for any person in this state to sell or deliver any poison to any person known to be of unsound mind or under the influence of intoxicants, and it shall likewise be unlawful for any person in this state to sell or deliver any poison enumerated in section 205.5 to any minor under sixteen years of age except upon a written order signed by some responsible person known to the person selling or delivering the same, which said written order shall contain all of the information required to be entered in the poison register under the provisions of section 205.6.

[C27, 31, 35, §3177-b1; C39, §**3177.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.9]

205.10 False representations.

Any person who obtains any poison enumerated in section 205.5 under a false name or statement shall be guilty of a fraudulent practice.

[C51, §2728; R60, §4374; C73, §4038; C97, §2593; S13, §2593; C24, 27, 31, 35, 39, §**3178;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.10]

205.11 Enforcement.

The provisions of this chapter and chapters 124 and 126 shall be administered and enforced by the board of pharmacy. In discharging any duty or exercising any power under those chapters, the board of pharmacy shall be governed by all the provisions of chapter 189, which govern the department of agriculture and land stewardship when discharging a similar duty or exercising a similar power with reference to any of the articles dealt with in this subtitle, to the extent that chapter 189 is not inconsistent with this chapter and chapters 124 and 126.

[C24, 27, 31, 35, 39, §**3179;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.11]

89 Acts, ch 197, §27; 2007 Acts, ch 10, §161

205.12 Chemical analysis of drugs.

Any chemical analysis deemed necessary by the board of pharmacy in the enforcement of this chapter and chapters 124 and 126 shall be made by the department of agriculture and land stewardship when requested by the board of pharmacy.

[C24, 27, 31, 35, 39, §**3180;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.12]

89 Acts, ch 197, §28; 2007 Acts, ch 10, §162

205.13 Applicability of other statutes.

Insofar as applicable, the provisions of chapter 189 shall apply to the articles dealt with in this chapter and chapters 124 and 126. The powers vested in the department of agriculture and land stewardship by chapter 189 shall be deemed for the purpose of this chapter and chapters 124 and 126 to be vested in the board of pharmacy.

[C24, 27, 31, 35, 39, §**3181;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §205.13]

89 Acts, ch 197, §29; 2007 Acts, ch 10, §163

CHAPTER 206

PESTICIDES

Referred to in §200.7, 205.8, 455B.390, 455B.491

206.1 Title.
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206.23 Advisory committee created — duties.
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206.24 Agricultural initiative.
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206.26 through 206.30 Reserved.
206.31 Application of pesticides for structural pest control.
206.32 Chlordane — prohibition.
206.33 Daminozide — prohibition.
206.34 Local legislation — prohibition.

206.1 Title.

This chapter shall be known and may be cited as the *"Pesticide Act of Iowa"*.

[C66, 71, 73, 75, 77, 79, 81, §206.1]

206.2 Definitions.

When used in this chapter:

1. *"Active ingredient"* means:

a. In the case of a pesticide other than a plant growth regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests.

b. In the case of a plant growth regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof.

c. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.

d. In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

2. *"Adulterated"* shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

3. *"Antidote"* means the most practical immediate treatment in case of poisoning and includes first aid treatment.

4. *"Certified applicator"* means any individual who is certified under this chapter as authorized to use any pesticide.

5. *"Certified commercial applicator"* means a pesticide applicator or individual who applies or uses a pesticide or device on any property of another for compensation.

6. *"Certified private applicator"* means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than

trading of personal services between producers of agricultural commodities, on the property of another person.

7. *"Chlordane"* means 1,2,4,5,6,7,8,8-octachloro-4,7-methano-3a,4,7,7a-tetrahydroindane; Octa klor: 1068; Velsicol 1068; Dowklor.

8. *"Commercial applicator"* means a person, corporation, or employee of a person or corporation who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying a pesticide but does not include a farmer trading work with another, a person employed by a farmer not solely as a pesticide applicator who applies pesticide as an incidental part of the person's general duties, or a person who applies pesticide as an incidental part of a custom farming operation.

9. *"Department"* means the department of agriculture and land stewardship.

10. *"Device"* means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects, birds, or rodents or destroying, repelling, or mitigating fungi, nematodes, weeds, or such other pests as may be designated by the secretary, but not including equipment used for the application of pesticides when sold separately therefrom.

11. *"Distribute"* means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

12. *"Financial institution"* means a bank or savings association authorized by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation.

13. *"Hazard"* means a probability that a given pesticide will have an adverse effect on humans or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

14. *"Inert ingredient"* means an ingredient which is not an active ingredient.

15. *"Ingredient statement"* means either:

a. A statement of the name and percentage by weight of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

b. When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

16. *"Label"* means the written, printed, or graphic matter on, or attached to, the pesticide or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the pesticide or device.

17. *"Labeling"* means all labels and other written, printed, or graphic matter:

a. Upon the pesticide or device or any of its containers or wrappers.

b. Accompanying the pesticide or device at any time.

c. To which reference is made on the label or in literature accompanying the pesticide or device, except when accurate, nonmisleading reference is made to current official publications of the United States department of agriculture or interior, the United States public health service, the state agricultural experiment stations, the Iowa state university, the Iowa department of public health, the department of natural resources, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides.

18. *"Misbranded"* shall apply:

a. To any pesticide or device if its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.

b. To any pesticide:

(1) If it is an imitation of or is offered for sale under the name of another pesticide.

(2) If its labeling bears any reference to registration under this chapter, when not so registered.

(3) If the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public.

(4) If the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living persons and other vertebrate animals.

(5) If the label does not bear an ingredient statement on that part of the immediate

container and on the outside container or wrapper, if there is to be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase.

(6) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or graphic matter in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(7) If in the case of an insecticide, nematocide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living persons or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such pesticide.

(8) If in the case of a plant growth regulator, defoliant, or desiccant when used as directed it shall be injurious to living humans or other vertebrate animals, or vegetation to which it is applied, or to the person applying such pesticide; provided, that physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant growth regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

19. *"Permit"* means a written certificate, issued by the secretary or the secretary's agent under rules adopted by the department authorizing the use of certain state restricted use pesticides.

20. *"Person"* means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

21. *"Pesticide"* means any of the following:

a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating directly or indirectly any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living persons, which the secretary shall declare to be a pest.

b. Any substances intended for use as a plant growth regulator, defoliant, or desiccant.

22. *"Pesticide dealer"* means any person who distributes restricted use pesticides, pesticide for use by commercial or public pesticide applicators, or general use pesticides labeled for agricultural or lawn and garden use with the exception of dealers whose gross annual pesticide sales are less than ten thousand dollars for each business location owned or operated by the dealer.

23. *"Plant growth regulator"* means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

24. *a. "Public applicator"* means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency.

b. "Public applicator" does not include an employee who works only under the direct supervision of a public applicator.

25. *"Registrant"* means the person registering any pesticide or device or who has obtained a certificate of license from the department pursuant to the provisions of this chapter.

26. *"Restricted use pesticide"* means any pesticide restricted as to use by rule of the secretary as adopted under section 206.20.

27. *"Secretary"* means the secretary of agriculture.

28. *"State restricted use pesticide"* means a pesticide which is restricted for sale, use, or distribution under section 206.20.

29. *"Toxic to humans"* means not generally recognized as safe as provided by the United States food and drug administration pursuant to 21 C.F.R. pt. 182.

30. *"Under the direct supervision of"* means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator or a state licensed commercial applicator who is available if and when

needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

31. *"Unreasonable adverse effects on the environment"* means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

[C24, 27, 31, 35, 39, §**3182;** C46, 50, 54, 58, 62, §206.1; C66, 71, 73, 75, 77, 79, 81, §206.2]

83 Acts, ch 101, §34; 86 Acts, ch 1245, §643; 87 Acts, ch 225, §209 – 213; 87 Acts, ch 177, §1; 88 Acts, ch 1197, §1; 91 Acts, ch 124, §2; 92 Acts, ch 1020, §1; 92 Acts, ch 1112, §1; 95 Acts, ch 172, §1; 2003 Acts, ch 86, §1, 3; 2012 Acts, ch 1017, §56; 2012 Acts, ch 1095, §120, 131; 2014 Acts, ch 1092, §39 – 45; 2015 Acts, ch 29, §31; 2016 Acts, ch 1073, §64; 2017 Acts, ch 159, §43; 2018 Acts, ch 1041, §54, 55

Referred to in §202.1, 206.31, 455B.491, 570A.1, 579B.1, 716.11
Further definitions, see §189.1

206.3 Examination and orders.

The examination of pesticides and those products to which pesticides have been applied for the content of pesticide residues shall be made under the direction of the secretary, or the secretary's authorized representative, for the purpose of determining whether they comply with the requirements of this chapter and rules adopted under this chapter. If it shall appear from such examination that a pesticide fails to comply with the provisions of this chapter, and the secretary, or the secretary's authorized representative, contemplates instituting criminal proceedings against any person, the secretary or representative shall cause notice to be given to such person. Any person so notified shall be given an opportunity to present the person's views, either orally or in writing, with regard to such contemplated proceedings and if thereafter in the opinion of the secretary, or authorized representative, it shall appear that the provisions of the chapter have been violated by such person, then the secretary or authorized representative may refer the facts to the county attorney for the county in which the violation shall have occurred with a copy of the results of the analysis or the examination of such article; provided, however, that nothing in this chapter shall be construed as requiring the secretary or representative to report for prosecution or for the institution of proceedings in minor violations of the chapter whenever the secretary or representative believes that the public interests will be best served by a suitable notice of warning in writing.

[C66, 71, 73, §206.7; C75, 77, 79, 81, §206.3]

206.4 Classification of licenses.

1. The secretary may classify or subclassify certifications or licenses to be issued under this chapter. Each classification shall be subject to separate testing procedures and requirements. However, no person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the secretary under the authority of this section.

2. The secretary in promulgating rules under this chapter shall prescribe standards for the certification of applicators of pesticides. In determining these standards the secretary shall take into consideration standards of the United States environmental protection agency and is authorized to adopt by rule these standards.

[C75, 77, 79, 81, §206.4]

206.5 Certification requirements — rules.

1. A commercial or public applicator shall not apply any pesticide and a person shall not apply any restricted use pesticide without first complying with the certification requirements of this chapter and such other restrictions as determined by the secretary.

2. *a.* A commercial applicator shall pay a seventy-five dollar fee for a three-year certification. A public applicator or a private applicator shall pay a fifteen dollar fee for a three-year certification.

b. To be initially certified as a commercial, public, or private applicator, a person must complete an educational program which shall consist of an examination required to be passed by the person. After initial certification the commercial, public, or private applicator

must renew the certification by completing the educational program which shall consist of either an examination or continuing instructional courses. The commercial, public, or private applicator must pass the examination each third year following initial certification or may elect to attend two hours of continuing instructional courses each year.

3. A commercial, public, or private applicator is not required to be certified to apply pesticides for a period of twenty-one days from the date of initial employment if the commercial, public, or private applicator is under the direct supervision of a certified applicator. For the purposes of this section, *"under the direct supervision of"* means that the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is physically present, by being in sight or hearing distance of the supervised person.

4. A commercial applicator who applies pesticides to agricultural land may, in lieu of the requirement of direct supervision, elect to be exempt from the certification requirements for a commercial applicator for a period of twenty-one days, if the applicator meets the requirements of a private applicator.

5. A person employed by a farmer not solely as a pesticide applicator who applies restricted use pesticides as an incidental part of the person's general duties or a person who applies restricted use pesticides as an incidental part of a custom farming operation is required to meet the certification requirements of a private applicator.

6. An employee of a food processing and distribution establishment is exempt from the certification requirements of this section provided that at least one person holding a supervisory position is certified and provided that the employer provides a program, approved by the department, for training, testing, and certification of personnel who apply, as an incidental part of their duties, any pesticide on property owned or rented by the employer. However, an employee exempt from the certification requirements of this section shall not apply restricted use pesticides. The secretary shall adopt rules to administer the provisions of this subsection.

7. *a.* The secretary shall adopt, by rule, requirements for the examination, reexamination, and certification of applicants.

b. The department shall adopt rules providing for the program requirements which may include the safe handling, application, and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon the groundwater.

(1) The department shall adopt by rule criteria for allowing a person required to be certified to complete either a written or oral examination.

(2) The department shall administer the instructional courses, by either teaching the courses or selecting persons to teach the courses, according to criteria as provided by rules adopted by the department. The department shall, to the extent possible, select persons to teach the courses in each county. The department is not required to compensate persons selected to teach the courses. In selecting persons, the department shall rely upon organizations interested in the application of pesticides, including associations representing pesticide applicators and associations representing agricultural producers.

(3) The Iowa cooperative extension service in agriculture and home economics of Iowa state university of science and technology shall cooperate with the department in administering the instructional courses. The Iowa cooperative extension service may teach courses, train persons selected to teach courses, or distribute informational materials to persons teaching the courses.

c. The secretary shall also adopt rules which allow for an exemption from certification for a person who uses certain services and is not solely a pesticide applicator, but who uses the services as an incidental part of the person's duties.

[C75, 77, 79, 81, §206.5]

87 Acts, ch 225, §214; 88 Acts, ch 1169, §2; 88 Acts, ch 1197, §2; 89 Acts, ch 296, §20; 92 Acts, ch 1112, §2; 93 Acts, ch 176, §35, 36; 95 Acts, ch 172, §2; 2009 Acts, ch 41, §83; 2012 Acts, ch 1095, §121 – 123; 2021 Acts, ch 28, §1

Referred to in §206.6, 206.10, 206.23A

Subsection 6 amended

206.6 License for commercial applicators.

1. *Commercial applicator.* No person shall engage in the business of applying pesticides to the lands or property of another at any time without being licensed by the secretary. The secretary shall require an annual license fee of not more than twenty-five dollars for each license. Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations, license classification or classifications for which the applicant is applying.

2. *Nonresident applicator.* Any nonresident applying for a license under this chapter to operate in the state shall file a written power of attorney designating the secretary of state as the agent of such nonresident upon whom service of process may be had in the event of any suit against said nonresident person, and such power of attorney shall be so prepared and in such form as to render effective the jurisdiction of the courts of this state over such nonresident applicants. A nonresident who has a duly appointed resident agent upon whom process may be served as provided by law shall not be required to designate the secretary of state as such agent. The secretary of state shall be allowed such fees as provided by law for designating resident agents. The secretary shall be furnished with a copy of such designation of the secretary of state or of a resident agent, such copy to be certified by the secretary of state.

3. *Examination for commercial applicator license.* The secretary of agriculture shall not issue a commercial applicator license until the individual engaged in or managing the pesticide application business and employed by the business to apply pesticides is certified by passing an examination to demonstrate to the secretary the individual's knowledge of how to apply pesticides under the classifications the individual has applied for, and the individual's knowledge of the nature and effect of pesticides the individual may apply under such classifications. The applicant successfully completing the certification requirement shall be a licensed commercial applicator.

4. *Renewal of applicant's license.* The secretary of agriculture shall renew any applicant's license under the classifications for which such applicant is licensed, provided that all of the applicant's personnel who apply pesticides are certified commercial applicators.

5. *Issue commercial applicator license.*

a. The secretary shall approve an application and issue a commercial applicator license to the applicant as follows:

(1) The applicant is qualified as found by the secretary to apply pesticides in the classifications for which the applicant has applied.

(2) The applicant must furnish to the department evidence of financial responsibility as required under section 206.13.

(3) An applicant applying for a license to engage in aerial application of pesticides must demonstrate compliance with the requirements of the federal aviation administration, the United States department of transportation, and any other applicable federal or state laws or regulations to operate the equipment described in the application.

b. The secretary shall adopt by rule, additional requirements for issuing a license to a person who is a nonresident of this state engaged in the aerial application of pesticides, which may include but is not limited to conditions for the operation of the aircraft and the application of the pesticides under the supervision of a person who is a resident of this state and licensed as a commercial applicator under this section or as a pesticide dealer under section 206.8. The secretary shall not adopt rules concerning the operation of aircraft when a nonresident person is not engaged in the commercial application of pesticides.

c. The secretary shall issue a commercial applicator license limited to the classifications for which the applicant is qualified, which shall expire as provided in section 206.5, unless it has been revoked or suspended by the secretary for cause. The secretary may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons.

6. *Public applicator.*

a. All state agencies, counties, municipal corporations, and any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides.

b. Public applicators for agencies listed in this subsection shall be subject to certification requirements as provided for in this section. The public applicator license shall be valid only when such applicator is acting as an applicator applying pesticides used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides only to experimental plots. Public agencies or municipal corporations licensed pursuant to this section shall be licensed public applicators.

c. Such agencies and municipal corporations shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

[C66, 71, 73, §206.5; C75, 77, 79, 81, §206.6]

83 Acts, ch 101, §35, 36; 87 Acts, ch 225, §215 – 217; 2008 Acts, ch 1045, §1 – 3; 2009 Acts, ch 133, §80; 2012 Acts, ch 1095, §124, 126

Referred to in §206.13, 206.17, 206.18, 206.23A, 558A.4

206.7 Certified applicators.

1. *Requirement for certification.* A commercial or public applicator shall not apply any pesticide without first complying with the certification standards.

2. *Certification standards.* Certification standards shall be adopted by the secretary to determine the individual's competence with respect to the application and handling of the restricted use pesticides. In determining these standards, the secretary shall take into consideration the standards of the United States environmental protection agency.

3. *Reasons for not qualifying.* If the secretary does not qualify the applicator under this section the secretary shall inform the applicant in writing of the reasons therefor.

[C75, 77, 79, 81, §206.7]

87 Acts, ch 225, §218

Referred to in §206.17

206.7A Discharge of pesticides into natural lakes — civil penalty.

1. A person shall not intentionally spray, place, discharge, or otherwise put a pesticide off label into a natural lake, or an artificial lake connected to a natural lake, that is used as a source water for public or private water supplies.

2. This section does not apply to a commercial, public, or private applicator who is certified pursuant to this chapter.

3. A person who violates this section shall be subject to a civil penalty in the amount of one thousand dollars.

2018 Acts, ch 1085, §1; 2019 Acts, ch 59, §58

Referred to in §206.22

206.8 Pesticide dealer license.

1. It shall be unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained a license from the secretary which shall expire at the end of the calendar year of issue. A license shall be required for each location or outlet located within this state from which such pesticides are distributed. Any manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for the manufacturer's, registrant's, or distributor's principal out-of-state location or outlet.

2. The annual license fee for a pesticide dealer is due and payable by June 30 of each year to the department. The annual license fee is based on the gross retail sales of all pesticides sold for use in this state by the dealer in the previous year. The license fee shall be set as follows:

a. (1) A pesticide dealer with less than one hundred thousand dollars in gross retail pesticide sales shall pay a license fee according to the following schedule:

(a) Ten dollars, if the annual gross retail pesticide sales are less than ten thousand dollars.

(b) Twenty-five dollars, if the annual gross retail pesticide sales are ten thousand dollars or more but less than twenty-five thousand dollars.

(c) Fifty dollars, if the annual gross retail pesticide sales are twenty-five thousand dollars or more but less than fifty thousand dollars.

(d) Seventy-five dollars, if the annual gross retail pesticide sales are fifty thousand dollars or more but less than seventy-five thousand dollars.

(e) One hundred dollars, if the annual gross retail pesticide sales are seventy-five thousand dollars or more but less than one hundred thousand dollars.

(2) The secretary shall provide for a three-month grace period for licensure and shall impose a late fee of twenty-five dollars.

b. (1) A pesticide dealer with one hundred thousand dollars or more in gross retail pesticide sales shall pay a license fee based on one-tenth of one percent of the gross retail pesticide sales in the previous year.

(2) The secretary shall provide for a three-month grace period for licensure and shall impose a late fee of five percent of the license fee calculated in subparagraph (1).

3. Up to twenty-five dollars of each annual license fee shall be retained by the department for administration of the program, and the remaining moneys collected shall be deposited in the agriculture management account of the groundwater protection fund.

4. Application for a license required for manufacturers and distributors who are not engaged in the retail sale of pesticides shall be accompanied by a twenty-five dollar fee for each business location within the state required to be licensed, and shall be on a form prescribed by the secretary.

5. This section does not apply to either of the following:

a. A pesticide applicator who applies pesticides which are owned and furnished to the pesticide applicator by another person, if the pesticide applicator does not charge for the sale of the pesticides.

b. A federal, state, county, or municipal governmental entity which provides pesticides only for its own programs.

[C75, 77, 79, 81, §206.8]

87 Acts, ch 225, §219, 220; 88 Acts, ch 1156, §1; 91 Acts, ch 89, §1; 93 Acts, ch 176, §37; 2009 Acts, ch 41, §84; 2012 Acts, ch 1095, §127; 2017 Acts, ch 159, §44

Referred to in §206.6, 206.10, 206.12, 455E.11

206.9 Cooperative agreements.

The secretary may cooperate, receive grants-in-aid, and enter into agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, or trade associations to obtain assistance in the implementation of this chapter and to do all of the following:

1. Secure uniformity of regulations.

2. Cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs.

3. Contract for monitoring pesticides for the national plan.

4. Prepare and submit state plans to meet federal certification standards.

5. Regulate certified applicators.

6. Develop, in conjunction with the Iowa cooperative extension service in agriculture and home economics, courses available to the public regarding pesticide best management practices.

[C66, 71, 73, §206.11; C75, 77, 79, 81, §206.9]

87 Acts, ch 225, §221

206.10 License renewals — delinquent fee.

1. If the application for renewal of a license provided for in this chapter is not filed prior to the first of January in any year, a delinquent fee of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license is issued. A delinquent fee does not apply if the applicant furnishes an affidavit certifying that

the applicant has not applied pesticides after the expiration of the applicant's license. All licenses issued under this chapter expire December 31 each year.

2. Subsection 1 does not apply to any of the following:

a. A license issued to a pesticide dealer that expires as provided in section 206.8.

b. A certificate issued to a certified applicator that expires as provided in section 206.5.

[C75, 77, 79, 81, §206.10]

91 Acts, ch 89, §2; 2012 Acts, ch 1095, §128

206.11 Distribution or sale of pesticides.

1. It shall be unlawful for any person to distribute, give, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

a. Any pesticide which has not been registered pursuant to the provisions of section 206.12.

b. Any pesticide, if any of the claims made for it, or if any of the directions for its use, differ in substance from the representations made in connection with its registration.

c. Any pesticide if the composition thereof differs from its composition as represented in connection with its registration, unless within the discretion of the secretary, or the secretary's authorized representative, a change in the labeling or formula of a pesticide within a registration period, has been authorized, without requiring a reregistration of the product.

d. Any pesticide, unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing the following:

(1) The name and address of the manufacturer, registrant, or person for whom manufactured.

(2) The name, brand, or trademark of said article.

(3) The net weight or measure of the contents subject, however, to such reasonable variations as the secretary may permit.

(4) An ingredient statement as required in section 206.12.

(5) The date of manufacture of products found by the secretary to be subject to deterioration because of age.

e. Any pesticide which contains any substance or substances in quantities highly toxic to humans; determined as provided in section 206.12, unless the label shall bear, in addition to any other matter required by this chapter:

(1) The skull and cross-bones.

(2) The word "poison" prominently, in red, on a background of distinctly contrasting color.

(3) A statement of an antidote for the pesticide.

(4) Instructions for safe disposal of the container when the used container is found by the secretary after public hearing to be hazardous to humans or other vertebrate animals.

f. Any standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate and barium fluosilicate unless such pesticides have been distinctly colored or discolored as provided by regulations issued in accordance with this chapter, or any other white powder which the secretary, or the secretary's authorized representatives, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored; unless it has been so colored or discolored; provided, that the secretary, or authorized representative, may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the secretary or representative determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health or safety.

g. Any pesticide which is adulterated or misbranded.

2. It shall be unlawful:

a. For any person to detach, alter, deface, or destroy in whole or in part, any label or

labeling provided for in this chapter or the rules promulgated hereunder, or to add any substance to, or take any substance from a pesticide in a manner that may defeat the purpose of this chapter.

b. For any person to use for the person's own advantage or to reveal, other than to the secretary, or officials or employees of the state or officials or employees of the United States department of agriculture, or other federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, in accordance with such directions as the secretary may prescribe, any information relative to formulae of products acquired by authority of section 206.12.

c. For any person to interfere in any way with the secretary or the secretary's duly authorized agents in carrying out the duties imposed by this chapter.

3. It shall be unlawful:

a. To distribute any restricted use pesticide to any person who is required by law or rules promulgated under such law to be certified to use or purchase such restricted pesticides unless such person or the person's agent, to whom distribution is made, is certified to use or purchase such restricted pesticide. Subject to conditions established by the secretary such certification may be obtained immediately prior to distribution from any person designated by the secretary.

b. For any person to use or cause to be used any pesticide contrary to its labeling or to rules of the state of Iowa if those rules differ from or further restrict the usage.

c. For any person to handle, transport, store, display, or distribute pesticides in such a manner as to endanger human beings and their environment or to endanger food, feed, or any other products that may be transported, stored, displayed or distributed with such pesticides.

d. For any person to dispose of, discard, or store any pesticides or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

4. The secretary may suspend an applicator's license pending inquiry, and, after opportunity for a hearing, to be held within ten days, may deny, suspend, revoke or modify any provision of any license, permit or certification issued under this chapter, if the secretary finds that the applicant or the holder of a license, permit or certification has committed any of the following acts, each of which is declared to be a violation of this chapter. However, any licensed or unlicensed person shall be subject to the penalties provided for by section 206.22.

a. Made a pesticide recommendation or application inconsistent with the labeling.

b. Applied known ineffective or improper materials.

c. Operated faulty or unsafe equipment.

d. Operated in a faulty, careless or negligent manner.

e. Neglected or, after notice, refused to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the secretary.

f. Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required.

g. Made false or fraudulent records, invoice or reports.

h. Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification.

i. Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license, permit or certification to be used by another person.

j. Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land.

k. Impersonated any federal, state, county or city inspector or official.

[C97, §2588; SS15, §2588; C24, 27, 31, 35, 39, §**3183, 3184;** C46, 50, 54, 58, 62, §206.2, 206.3; C66, 71, 73, §206.3; C75, 77, 79, 81, §206.11]

2012 Acts, ch 1095, §132

Referred to in §206.18, 206.22, 206.23B

206.12 Registration.

1. Every pesticide which is distributed, sold, or offered for sale for use within this state or delivered for transportation or transported in intrastate commerce between points within the state through any point outside this state shall be registered with the department of agriculture and land stewardship. All registration of products shall expire on the thirty-first day of December following date of issuance, unless such registration shall be renewed annually, in which event expiration date shall be extended for each year of renewal registration, or until otherwise terminated; provided that:

a. For the purpose of this chapter, fertilizers in mixed fertilizer-pesticide formulations shall be considered as inert ingredients.

b. Within the discretion of the secretary, or the secretary's authorized representative, a change in the labeling or formulae of a pesticide may be made within the current period of registration, without requiring a reregistration of the product, provided the name of the item is not changed.

c. The secretary shall provide for a three-month grace period for registration.

2. The registrant shall file with the department a statement containing:

a. The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

b. The name of the pesticide.

c. A complete copy of the labeling accompanying the pesticide and a statement of all claims made and to be made for it including directions for use.

d. A full description of the tests made and results thereof upon which the claims are based, if requested by the secretary. In the case of renewal or reregistration, a statement may be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

3. The registrant, before selling or offering for sale any pesticide for use in this state, shall register each brand and grade of such pesticide with the secretary upon forms furnished by the secretary, and the secretary shall set the registration fee annually at one-fifth of one percent of gross sales within this state with a minimum fee of two hundred fifty dollars and a maximum fee of three thousand dollars for each and every brand and grade to be offered for sale in this state except as otherwise provided. The annual registration fee for products with gross annual sales in this state of less than one million five hundred thousand dollars shall be the greater of two hundred fifty dollars or one-fifth of one percent of the gross annual sales as established by affidavit of the registrant. The secretary shall adopt by rule exemptions to the minimum fee. Fifty dollars of each fee collected shall be deposited in the general fund of the state, shall be subject to the requirements of section 8.60, and shall be used only for the purpose of enforcing the provisions of this chapter and the remainder of each fee collected shall be placed in the agriculture management account of the groundwater protection fund.

4. The secretary, whenever the secretary deems it necessary in the administration of this chapter, may require the submission of the complete formula of any pesticide. If it appears to the secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of this chapter, the secretary shall register the article.

5. If it does not appear to the secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this chapter, the secretary shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with this chapter so as to afford the registrant an opportunity to make the necessary corrections.

6. Notwithstanding any other provisions of this chapter, registration is not required in the case of a pesticide shipped from one plant within this state to another plant within this state operated by the same person.

7. *a.* Each licensee under section 206.8 shall file an annual report at the time of application for licensure with the secretary of agriculture in a form specified by the secretary of agriculture and which includes the following information:

(1) The gross retail sales of all pesticides sold at retail for use in this state by a licensee

with one hundred thousand dollars or more in gross retail sales of the pesticides sold for use in this state.

(2) The individual label name and dollar amount of each pesticide sold at retail for which gross retail sales of the individual pesticide are three thousand dollars or more.

b. A person who is subject to the household hazardous materials permit requirements, and whose gross annual retail sales of pesticides are less than ten thousand dollars for each business location owned or operated by the person, shall report annually, the individual label name of an individual pesticide for which annual gross retail sales are three thousand dollars or more. The information shall be submitted on a form provided to household hazardous materials permittees by the department of natural resources, and the department of natural resources shall remit the forms to the department of agriculture and land stewardship.

c. Notwithstanding the reporting requirements of this section, the secretary of agriculture may, upon recommendation of the advisory committee created pursuant to section 206.23, and if the committee declares a pesticide to be a pesticide of special concern, require the reporting of annual gross retail sales of a pesticide.

d. A person who sells feed which contains a pesticide as an integral part of the feed mixture shall not be subject to the reporting requirements of this section. However, a person who manufactures feed which contains a pesticide as an integral part of the feed mixture shall be subject to the licensing requirements of section 206.8.

e. The information collected and included in the report required under this section shall remain confidential. Public reporting concerning the information collected shall be performed in a manner which does not identify a specific brand name in the report.

[C66, 71, 73, §206.4; C75, 77, 79, 81, §206.12]

87 Acts, ch 225, §222, 223; 88 Acts, ch 1156, §2 – 4; 90 Acts, ch 1133, §1; 91 Acts, ch 89, §3; 91 Acts, ch 124, §3; 91 Acts, ch 260, §1218; 93 Acts, ch 131, §9; 94 Acts, ch 1107, §49; 2000 Acts, ch 1066, §41; 2009 Acts, ch 41, §85; 2012 Acts, ch 1095, §133 – 135

Referred to in §206.11, 206.16, 206.22, 455E.11

206.13 Evidence of financial responsibility required by commercial applicator.

1. The department shall not issue a commercial applicator's license as required in section 206.6 until the applicant has furnished evidence of financial responsibility with the department. The evidence of financial responsibility shall consist of a surety bond, a liability insurance policy, or an irrevocable letter of credit issued by a financial institution. The department may accept a certification of the evidence of financial responsibility. The evidence of financial responsibility shall pay the amount that the beneficiary is legally obligated to pay as damages caused by the pesticide operations of the applicant. However, the evidence of financial responsibility does not apply to damages or an injury which is expected or intended from the standpoint of the beneficiary. A liability insurance policy shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance. The evidence of financial responsibility need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicant.

2. The amount of the evidence of financial responsibility as provided for in this section shall be not less than one hundred thousand dollars for property damage and public liability insurance, each separately, or liability insurance with limits of one hundred thousand dollars per occurrence and three hundred thousand dollars annual aggregate. The evidence of financial responsibility shall be maintained at not less than that amount at all times during the licensed period. The department shall be notified ten days prior to any reduction in the surety bond or liability insurance made at the request of the applicant or cancellation of the surety bond by the surety or the liability insurance by the insurer. The department shall be notified ninety days prior to any reduction of the amount of the irrevocable letter of credit at the request of the applicant or the cancellation of the irrevocable letter of credit by the financial institution. The total and aggregate liability of the surety, insurer, or financial

institution for all claims shall be limited to the face of the surety bond, liability insurance policy, or irrevocable letter of credit.

[C75, 77, 79, 81, §206.13]

2003 Acts, ch 86, §2, 3; 2012 Acts, ch 1095, §129; 2013 Acts, ch 15, §10, 11

Referred to in §206.6

206.14 Reports of pesticide accidents, incidents or loss.

1. The secretary may by rule require the reporting of significant pesticide accidents or incidents to a designated state agency.

2. Any person claiming damages from a pesticide application shall have filed with the secretary on a form prescribed by the secretary a written statement claiming that the person has been damaged.

a. This report shall have been filed within sixty days after the alleged date that damages occurred. If a growing crop is alleged to have been damaged, the report must be filed prior to the time that twenty-five percent of the crop has been harvested. Such statement shall contain, but shall not be limited to the name of the person allegedly responsible for the application of said pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damage is alleged to have occurred, and the date on which the alleged damage occurred.

b. The secretary shall prepare a form to be furnished to persons to be used in such cases and such form shall contain such other requirements as the secretary may deem proper. The secretary shall, upon receipt of such statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility of the damages claimed, and furnish copies of such statements as may be requested. The secretary shall inspect damages whenever possible and when the secretary determines that the complaint has sufficient merit the secretary shall make such information available to the person claiming damage and to the person who is alleged to have caused the damage.

3. The filing of such a report or failure to give notice shall not preclude recovery in an action for damages and shall not affect the limitations of actions set forth in chapter 614. Nothing herein shall prohibit an action for damages for bodily injury or death to any person.

a. The filing of such report or the failure to file such a report shall not be a violation of this chapter. However, if the person failing to file such report is the only one injured from such use or application of a pesticide by others, the secretary may, when in the public interest, refuse to hold a hearing for the denial, suspension or revocation of a license or permit issued under this chapter until such report is filed.

b. Where damage is alleged to have occurred, the claimant shall permit the secretary, the licensee and the licensee's representatives, such as surety or insurer, to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee.

4. The secretary shall require, by rule, that veterinarians licensed and practicing veterinary medicine in the state promptly report to the department a case of domestic livestock poisoning or suspected poisoning by agricultural chemicals.

[C73, §206.13, 455B.102; C75, 77, §206.14, 455B.102; C79, §206.14, 455B.132; C81, §206.14]

Referred to in §139A.21

206.15 Licensee to keep records.

The secretary shall require commercial applicators and certified commercial applicators to maintain records with respect to application of pesticides. Such relevant information as the secretary may deem necessary may be specified by regulation. Such records shall be kept for a period of three years from the date of the application of the pesticide to which such records refer, and the secretary shall, upon request in writing, be furnished with a copy of such records forthwith.

[C75, 77, 79, 81, §206.15]

206.16 Confiscation.

1. Any pesticide or device that is distributed, sold, or offered for sale within this state or

delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be liable to be proceeded against in any district court in any county of the state where it may be found and seized for confiscation by condemnation.

a. In the case of a pesticide:

(1) If it is adulterated or misbranded.

(2) If it has not been registered under the provisions of section 206.12.

(3) If it fails to bear on its label the information required by this chapter.

(4) If it is a white powder pesticide and is not colored as required under this chapter.

b. In the case of a device, if it is misbranded.

2. If the article is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court may direct and the proceeds if such article is sold, less legal costs, shall be paid to the state treasurer; provided, that the article shall not be sold contrary to the provisions of this chapter; and, provided further, that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling or reprocessing as the case may be.

3. When a decree of condemnation is entered against the article, court costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

4. When the secretary has reasonable cause to believe a pesticide or device is being distributed, stored, transported, or used in violation of any of the provisions of this chapter, or of any of the prescribed rules under this chapter, the secretary may issue and serve a written "stop sale, use, or removal" order upon the owner or custodian of any such pesticide or device. If the owner or custodian is not available for service of the order, the secretary may attach the order to the pesticide or device and notify the registrant. The pesticide or device shall not be sold, used, or removed until the provisions of this chapter have been complied with and the pesticide or device has been released in writing under conditions specified by the secretary or the violation has been otherwise disposed of as provided in this chapter by a court of competent jurisdiction.

[C66, 71, 73, §206.10; C75, 77, 79, 81, §206.16]

Referred to in §206.23A, 206.23B

206.17 Reciprocal agreement.

The secretary may waive all or part of the examination requirements provided for in sections 206.6 and 206.7 on a reciprocal basis with any other state which has substantially the same standards.

[C75, 77, 79, 81, §206.17]

206.18 Exception to penalties.

1. The penalties provided for violations of section 206.11, subsection 1, shall not apply to:

a. Any carrier while lawfully engaged in transporting a pesticide within this state, if such carrier shall, upon request, permit the secretary or the secretary's designated agent to copy all records showing the transactions in and movement of the articles.

b. Public officials of this state and the federal government engaged in the performance of their official duties.

c. The manufacturer or shipper of a pesticide for experimental use only:

(1) By or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of pesticides.

(2) By others if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only — not to be sold", together with the manufacturer's name and address; provided, however, that if a written permit has been obtained from the secretary, pesticides may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit.

2. No article shall be deemed in violation of this chapter when intended solely for export to

a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this chapter shall apply.

3. The provisions of section 206.6 relating to licenses and requirements for their issuance shall not apply to any farmer applying pesticides for the farmer or with ground equipment or manually for the farmer's neighbors; provided, that:

a. The farmer operates farm property and operates and maintains pesticide application equipment primarily for the farmer's own use;

b. The farmer is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and that the farmer shall not publicly claim to be a pesticide applicator;

c. The farmer operates the pesticide application equipment only in the vicinity of the farmer's own property and for the accommodation of the farmer's neighbors.

4. The licensing requirements of section 206.6 shall not apply to persons using hand-powered or self-propelled equipment not exceeding seven and one-half horsepower as determined by rules promulgated by the department to apply pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve feet high, as an incidental part of taking care of household lawns and yards provided, that such persons shall not publicly hold themselves out as being in the business of applying pesticides, and that such persons do not apply restricted use pesticides or state restricted use pesticides, restricted to use only by certified applicators.

5. The provisions of section 206.6 relating to licenses and requirements for their issuance shall not apply to a doctor of veterinary medicine applying pesticides to animals during the normal course of veterinary practice; provided that the veterinarian is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation or does not publicly claim to be a pesticide applicator; and that the veterinarian does not apply restricted use pesticides, or state restricted use pesticides, restricted to use by certified applicators only.

[C66, 71, 73, §206.8; C75, 77, 79, 81, §206.18]

206.19 Rules.

The department shall, by rule, after public hearing following due notice:

1. Declare as a pest any form of plant or animal life or virus which is unduly injurious to plants, humans, domestic animals, articles, or substances.

2. Determine the proper use of pesticides including but not limited to their formulations, times and methods of application, and other conditions of use.

3. Determine in cooperation with municipalities, the proper notice to be given by a commercial or public applicator to occupants of adjoining properties in urban areas prior to or after the exterior application of pesticides, and establish a schedule to determine the periods of application least harmful to living beings. The rules shall provide that a commercial or public applicator must provide notice only if an occupant requests that the commercial or public applicator provide the occupant notice in a timely manner prior to the application. The request shall include the name and address of the occupant, a telephone number of a location where the occupant may be contacted during normal business hours and evening hours, and the address of each property that adjoins the occupant's property. The notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier. Municipalities shall cooperate with the department by reporting infractions and in implementing this subsection.

4. Adopt rules providing guidelines for public bodies to notify adjacent property occupants regarding the application of herbicides to noxious weeds or other undesirable vegetation within highway rights-of-way.

5. *a.* Establish, assess, and collect civil penalties for a violation of a provision in this chapter or a rule adopted pursuant to this chapter by a commercial applicator or private applicator. In determining the amount of a civil penalty to be assessed for a violation, the department shall consider all of the following factors:

(1) The willfulness of the violation.

(2) The actual or potential danger of injury to the public health or safety, or damage to the environment caused by the violation.

(3) The actual or potential cost of the injury or damage caused by the violation to the public health or safety, or to the environment.

(4) The actual or potential cost incurred by the department in enforcing this chapter and rules adopted pursuant to this chapter against the violator.

(5) The remedial action required of the violator.

(6) The violator's previous history of complying with orders or decisions of the department.

b. The amount of the civil penalty that may be assessed for each violation committed by a commercial applicator or private applicator shall not exceed five hundred dollars.

[C66, §206.6; C71, §206.6, 206.12; C73, §206.12, 455B.102; C75, 77, §206.19, 455B.102; C79, §206.19, 455B.132; C81, §206.19]

87 Acts, ch 177, §2; 87 Acts, ch 225, §224; 88 Acts, ch 1118, §2; 93 Acts, ch 130, §1; 95 Acts, ch 172, §3; 2009 Acts, ch 41, §263; 2021 Acts, ch 28, §2

Referred to in §206.23A, 206.23B
Subsection 5 amended

206.20 Restricted use pesticides classified.

The secretary shall determine, by rule, the pesticides to be classified as restricted use pesticides. In determining these rules the secretary shall take into consideration the pesticides classified as restricted use by the United States environmental protection agency and is authorized to adopt by reference these classifications.

[C75, 77, 79, 81, §206.20]

87 Acts, ch 177, §3; 88 Acts, ch 1118, §3

Referred to in §206.2

206.21 Secretary of agriculture — duties.

1. The secretary is authorized, after public hearing following due notice, to make appropriate rules for carrying out the provisions of this chapter, including rules providing for the collection and chemical examination of samples of pesticides or devices.

2. *a.* The secretary, including the secretary's authorized agents, inspectors, or employees, may enter into or upon any place during reasonable business hours in order to do any of the following:

(1) Take periodic random samples for chemical examinations of pesticides and devices.

(2) Open any bundle, package or other container containing or believed to contain a pesticide in order to determine whether the pesticide or device complies with the requirements of this chapter.

(3) Monitor the use of or review the pesticide application.

b. Methods of analysis shall be those currently used by the association of official agricultural chemists.

3. The secretary of agriculture, in cooperation with the advisory committee created pursuant to section 206.23, shall designate areas with a history of concerns regarding nearby pesticide applications as pesticide management areas. The secretary shall adopt rules for designating pesticide management areas.

[C66, 71, 73, §206.6; C75, 77, 79, 81, §206.21]

87 Acts, ch 225, §225; 2012 Acts, ch 1095, §136

206.22 Penalties.

1. Any person violating section 206.11, subsection 1, paragraph *"a"*, shall be guilty of a simple misdemeanor.

2. Any person violating any provision of this chapter other than section 206.11, subsection 1, paragraph *"a"*, or section 206.7A shall be guilty of a serious misdemeanor; provided, that any offense committed more than five years after a previous conviction shall be considered a first offense; and provided, further, that in any case where a registrant was issued a warning by the secretary pursuant to the provisions of this chapter, such registrant shall upon conviction of a violation of any provision of this chapter other than section 206.11,

subsection 1, paragraph *"a"*, or section 206.7A, be guilty of a serious misdemeanor; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article, the registration of which has been terminated, may not again be registered unless the article, its labeling, and other material required to be submitted appear to the secretary to comply with all the requirements of this chapter.

3. Notwithstanding any other provisions of the section, in case any person, with intent to defraud, uses or reveals information relative to formulae of products acquired under authority of section 206.12, the person shall be guilty of a serious misdemeanor.

[C66, 71, 73, §206.9; C75, 77, 79, 81, §206.22]

92 Acts, ch 1112, §3; 95 Acts, ch 172, §4; 2018 Acts, ch 1085, §2; 2019 Acts, ch 59, §59

Referred to in §206.11

206.23 Advisory committee created — duties.

1. An advisory committee to the secretary is created. The advisory committee shall have the following members:

a. The dean, college of veterinary medicine, Iowa state university of science and technology, or the dean's designee;

b. The dean, university of Iowa college of medicine, or the dean's designee;

c. An entomologist, botanist, geneticist, horticulturist, agronomist and two persons representing the general public appointed by the secretary. Appointive members of the advisory committee shall serve terms of four years.

2. The advisory committee shall assist the secretary in obtaining scientific data and coordinating agricultural chemical regulatory, enforcement, research, and educational functions of the state. The advisory committee shall recommend rules regarding the sale, use, or disuse of agricultural chemicals to the secretary.

3. The advisory committee shall adopt rules relating to its procedures, and meetings under the general supervision of the secretary.

4. The members of the advisory committee shall be reimbursed for actual and necessary expenses incurred by them in the discharge of their official duties.

[C81, §206.23]

2001 Acts, ch 74, §8

Referred to in §200.5, 200A.6, 206.12, 206.21, 455B.491

206.23A Commercial pesticide applicator peer review panel.

1. The department shall establish a commercial pesticide applicator peer review panel to assist the department in assessing or collecting a civil penalty pursuant to section 206.19. The secretary shall appoint the following members:

a. A person actively engaged in the business of applying pesticides by use of an aircraft and who is licensed as an aerial commercial applicator in this state pursuant to section 206.6.

b. A person actively engaged in the business of applying pesticides in urban areas on lawns and gardens, and who is licensed as a commercial applicator pursuant to section 206.6.

c. A person actively engaged in the business of applying pesticides within structures used for residential or commercial purposes, and who is licensed as a commercial applicator pursuant to section 206.6.

d. A person actively engaged in the business of applying pesticides on agricultural land used for farming and who is licensed as a commercial applicator pursuant to section 206.6.

e. A person certified as a public applicator pursuant to section 206.5.

2. *a.* The members appointed pursuant to this section shall serve four-year terms beginning and ending as provided in section 69.19. However, the secretary shall appoint initial members to serve for less than four years to ensure that members serve staggered terms. A member is eligible for reappointment. A vacancy on the panel shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

b. The panel shall elect a chairperson who shall serve for a term of one year. The panel shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members. Three voting members constitute a quorum and the

affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the panel. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the panel.

c. Notwithstanding section 7E.6, the members shall only receive reimbursement for actual expenses for performance of their official duties, as provided by the department.

d. The panel shall be staffed by the department.

3. The panel shall make recommendations to the department regarding the establishment of civil penalties and procedures to assess and collect penalties, as provided in section 206.19. The panel may propose a schedule of penalties for minor and serious violations. The department may adopt rules based on the recommendations of the panel as approved by the secretary.

4. The panel shall review cases of persons required to be licensed as commercial applicators who are subject to civil penalties as provided in section 206.19 according to rules adopted by the department. A review shall be performed upon request by the secretary or the person subject to the civil penalty. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The rules may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a commercial applicator.

5. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A.

6. This section does not apply to a license revocation proceeding. This section does not require the department to delay the prosecution of a case if immediate action is necessary to reduce the risk of harm to the environment or public health or safety. This section also does not require a review or response if the department refers a violation of this chapter for criminal prosecution, or for an action involving a stop order issued pursuant to section 206.16. The department shall consider any available response by the panel, but is not required to change findings of an investigation, a penalty sought to be assessed, or a manner of collection.

7. An available response by the panel may be used as evidence in an administrative hearing, or a civil or criminal case, except to the extent that information is considered confidential pursuant to section 22.7.

93 Acts, ch 130, §2

206.23B Private pesticide applicator peer review panel.

1. The department shall establish a private pesticide applicator peer review panel to assist the department in assessing or collecting a civil penalty pursuant to section 206.19. The secretary shall appoint five members, including three certified private applicators and two members of the public who have not been licensed or certified under this chapter. The appointments shall be made on a geographically balanced basis.

2. *a.* The members appointed pursuant to this section shall serve four-year terms beginning and ending as provided in section 69.19. However, the secretary shall appoint initial members to serve for less than four years to ensure that members serve staggered terms. A member is eligible for reappointment. A vacancy on the panel shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

b. The panel shall elect a chairperson who shall serve for a term of one year. The panel shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members. Three voting members constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the panel. The majority shall not include any member who has a conflict of

interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the panel.

c. Notwithstanding section 7E.6, the members shall only receive reimbursement for actual expenses for performance of their official duties, as provided by the department.

d. The panel shall be staffed by the department.

3. The panel shall make recommendations to the department regarding the establishment of civil penalties and procedures to assess and collect penalties, as provided in section 206.19. The panel may propose a schedule of penalties for minor and serious violations. The department may adopt rules based on the recommendations of the panel as approved by the secretary.

4. The panel shall review cases of persons required to be certified as private applicators who are subject to civil penalties as provided in section 206.19 according to rules adopted by the department. A review shall be performed upon request by the secretary or the person subject to the civil penalty. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The rules may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the certification of a private applicator.

5. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A.

6. This section does not apply to a certification revocation proceeding under section 206.11. This section does not require the department to delay the prosecution of a case if immediate action is necessary to reduce the risk of harm to the environment or public health or safety. This section also does not require a review or response if the department refers a violation of this chapter for criminal prosecution, or for an action involving a "stop sale, use, or removal" order issued pursuant to section 206.16. The department shall consider any available response by the panel, but is not required to change findings of an investigation, a penalty sought to be assessed, or a manner of collection.

7. An available response by the panel may be used as evidence in an administrative hearing, or a civil or criminal case, except to the extent that information is considered confidential including as provided in section 22.7.

2021 Acts, ch 28, §3
NEW section

206.24 Agricultural initiative.

1. A program of education and demonstration in the area of the agricultural use of fertilizers and pesticides shall be initiated by the secretary of agriculture. The secretary shall coordinate the activities of the state regarding this program.

2. Education and demonstration programs shall promote the widespread adoption of management practices which protect groundwater. The programs may include but are not limited to programs targeted toward the individual farm owner or operator, high school and college students, and groundwater users, in the areas of best management practices, current research findings, and health impacts. Emphasis shall be given to programs which enable these persons to demonstrate best management practices to their peers.

87 Acts, ch 225, §226; 2015 Acts, ch 30, §67

206.25 Pesticide containers disposal.

The department of agriculture and land stewardship, in cooperation with the department of natural resources, shall develop a program for handling used pesticide containers which reflects the state solid waste management policy.

87 Acts, ch 225, §227; 2002 Acts, ch 1162, §37

206.26 through 206.30 Reserved.

206.31 Application of pesticides for structural pest control.

1. *Definitions.* Notwithstanding section 206.2, as used in this chapter with regard to the application of pesticides used for structural pest control:

a. *"Commercial applicator"* means a person, or employee of a person, who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying a pesticide or servicing a device but shall not include a farmer trading work with another.

b. *"Public applicator"* means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency.

c. *"Structural pest control"* means controlling any pests in, on, or around food handling establishments; human dwellings; institutions such as schools and hospitals; industrial establishments, including warehouses and grain elevators; and any other structures in adjacent areas.

2. *Additional certification requirements.*

a. A person shall not apply a restricted use pesticide used for structural pest control without first complying with the certification requirements of this chapter and other restrictions as determined by the secretary.

b. The secretary shall require applicants for certification as commercial or public applicators of pesticides applied for structural pest control to take and pass a written test.

3. *Examination for commercial applicator license.* The secretary of agriculture shall not issue a commercial applicator license for applying pesticides for structural pest control until the individual engaged in or managing the pesticide application business or employed by the business is certified by passing an examination to demonstrate to the secretary the individual's knowledge of how to apply pesticides under the classifications the individual has applied for, and the individual's knowledge of the nature and effect of pesticides the individual may apply under such classifications.

4. *Renewal of applicant's license.* The secretary of agriculture shall renew an applicant's license for applying pesticides for structural pest control under the classifications for which the applicant is licensed, provided that all of the applicant's personnel who apply pesticides for structural pest control have also been certified.

5. *Rules and fee.* The secretary shall adopt by rule, pursuant to chapter 17A, requirements for the examination and certification of the applicants and set a fee of not more than five dollars for certification.

87 Acts, ch 177, §4; 88 Acts, ch 1118, §4; 88 Acts, ch 1197, §3; 2009 Acts, ch 41, §263

206.32 Chlordane — prohibition.

1. A person shall not offer for sale, sell, purchase, apply, or use chlordane in this state.

2. The department, working in conjunction with the department of natural resources, shall identify existing stocks of chlordane, shall formulate recommendations for the safe disposal of existing stocks of chlordane, and shall make those recommendations available to the owners of existing stocks of chlordane.

88 Acts, ch 1118, §1; 2015 Acts, ch 30, §68; 2015 Acts, ch 103, §16

206.33 Daminozide — prohibition.

A person shall not offer for sale, sell, purchase, apply, or use a pesticide containing daminozide in this state if the pesticide is sold, purchased, applied, or used for purposes of enhancing or improving a product produced to be consumed.

89 Acts, ch 127, §1; 90 Acts, ch 1260, §24

206.34 Local legislation — prohibition.

1. As used in this section:

a. *"Local governmental entity"* means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as

enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter 331, or any special purpose district.

b. *"Local legislation"* means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

2. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a pesticide. A local governmental entity shall not adopt or continue in effect local legislation relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a pesticide, regardless of whether a statute or rule adopted by the department applies to preempt the local legislation. Local legislation in violation of this section is void and unenforceable.

3. This section does not apply to local legislation of general applicability to commercial activity.

94 Acts, ch 1002, §2; 94 Acts, ch 1198, §42

CHAPTER 206A

RESERVED

CHAPTER 207

COAL MINING

Referred to in §159.5, 159.6, 161A.4, 189.16, 190.1, 557C.2

This chapter not enacted as a part of this title;
transferred from chapter 83 in Code 1993

207.1 Policy.
207.2 Definitions.
207.3 Mining license.
207.4 Mine site permit.
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207.14 Enforcement.
207.15 Penalties.
207.16 Release of performance bonds or deposits.
207.17 Citizen suits.
207.18 Coal exploration permits.
207.19 Surface effects of underground coal mining operations.
207.20 Authority to enter into cooperative agreements.
207.21 Abandoned mine reclamation program.
207.22 Acquisition and reclamation of land.
207.23 Liens.
207.24 Water rights and replacement.
207.25 Additional duties and powers of the division.
207.26 Mining operations not subject to this chapter.
207.27 Experimental practices.
207.28 Employee protection.
207.29 Powers and authority of division.

207.1 Policy.

1. It is the policy of this state to provide for the rehabilitation and conservation of land affected by coal mining and preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health and safety of the people of this state.

2. The general assembly finds and declares that because the federal Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, codified at 30 U.S.C. ch. 25, subch. IV, provides for a permit system to regulate the mining of coal and reclamation of the mining

sites and provides that permits may be issued by states which are authorized to implement the provisions of that Act, it is in the interest of the people of Iowa to enact the provisions of this chapter in order to authorize the state to implement the provisions of the federal Surface Mining Control and Reclamation Act of 1977 and federal regulations and guidelines issued pursuant to that Act.

[C79, §83A.12(2); C81, §83.1]

C93, §207.1

2006 Acts, ch 1010, §61; 2011 Acts, ch 34, §40; 2015 Acts, ch 103, §17

207.2 Definitions.

As used in this chapter, unless context otherwise requires:

1. *"Administrator"* means the administrator of the division or a designee.
2. *"Committee"* means the state soil conservation and water quality committee established in section 161A.4.
3. *"Division"* means the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to section 159.5.
4. *"Fund"* means the abandoned mine reclamation fund established pursuant to this chapter.
5. *"Imminent danger to the health and safety of the public"* means the existence of a condition or practice, or a violation of a permit or other requirement of this chapter in a coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before it can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the person's self to the danger during the time necessary for abatement.
6. *"Mine"* means an underground mine operation or surface mine operation developed and operated for the purpose of extracting coal.
7. *"Operator"* means a person engaged in coal mining who removes or intends to remove more than fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in one location.
8. *"Permit"* means a permit to conduct surface coal mining and reclamation operations issued by the division.
9. *"Permit area"* means the area of land indicated on the approved map submitted with the operator's application.
10. *"Prime farmland"* means the same as prescribed by the United States department of agriculture pursuant to 7 C.F.R. §657.5(a).
11. *"Secretary"* means the United States secretary of the interior or a designee.
12. *"State program"* means the procedures for regulating coal mining and reclamation operations established by this chapter.
13. *"Surface coal mining and reclamation operations"* means surface coal mining operations and all activities necessary and incident to the reclamation of such operations after the effective date of this chapter.
14. *"Surface coal mining operations"* means both:

a. Activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine subject to the requirements of this chapter. However, these activities do not include the extraction of coal incidental to the extraction of other minerals if coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale or include coal explorations subject to this chapter.

b. The areas upon which such activities occur or where such activities disturb the natural land surface.

15. *"Unwarranted failure to comply"* means the failure of an operator to prevent the occurrence of or abate a violation of a permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care.

[C81, §83.2]

86 Acts, ch 1245, §601

C93, §207.2
2012 Acts, ch 1095, §137; 2013 Acts, ch 90, §36; 2015 Acts, ch 103, §40; 2017 Acts, ch 159, §45

207.3 Mining license.

1. A person shall not engage in a surface coal mining operation without first obtaining a license from the division. Licenses shall be issued upon application submitted on a form provided by the division and accompanied by a fee of fifty dollars. An applicant shall furnish on the form information necessary to identify the applicant. Licenses expire on December 31 following the date of issuance and shall be renewed by the division upon application submitted within thirty days prior to the expiration date and accompanied by a fee of ten dollars.

2. The division may, after notification to the committee, commence proceedings to suspend, revoke, or refuse to renew a license of a licensee for repeated or willful violation of any of the provisions of this chapter or of the federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §801 et seq.

3. The hearing shall be held pursuant to chapter 17A not less than fifteen nor more than thirty days after the mailing or service of the notice. If the licensee is found to have willfully or repeatedly violated any of the provisions of this chapter or of the federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §801 et seq., the committee may affirm or modify the proposed suspension, revocation, or refusal to renew the license.

4. Suspension or revocation of a license shall become effective thirty days after the mailing or service of the decision to the licensee. If the committee finds the license should not be renewed, the renewal fee shall be refunded and the license shall expire on the expiration date or thirty days after mailing or service of the decision to the licensee, whichever is later.

[C79, §83A.12(1); C81, §83.3]
C93, §207.3
2011 Acts, ch 34, §41

207.4 Mine site permit.

1. *a.* Prior to beginning mining or removal of overburden at mining site, an operator shall obtain a permit from the division for the site. Application for a permit shall be made upon a form provided by the division. The permit fee shall be established by the division in an amount not to exceed the cost of administering the permit provisions of this chapter.

b. The application shall include but not be limited to:

(1) A legal description of the land where the site is located and the estimated number of acres affected.

(2) A statement explaining the authority of the applicant's legal right to operate a mine on the land.

(3) A reclamation plan meeting the requirements of this chapter.

(4) A determination by an appropriate state or federal agency of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity, and quality of water in surface and groundwater systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the division of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. If the division finds that the probable total annual production at all locations of a coal mining operator will not exceed one hundred thousand tons, the determination of probable hydrologic consequences and a statement of the result of test borings on core samplings which the division may require shall upon the written request of the operator be performed by a qualified public or private laboratory designated by the division and the cost of the preparation of the determination and statement shall be assumed by the division.

2. All permits issued pursuant to the requirements of this chapter shall be issued for a term not to exceed five years. If the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and

the opening of the operation and if the application is full and complete for the longer term, the division may grant a permit for the longer term. A successor in interest to a permittee who applies for a new permit within thirty days of succeeding to the interest and is able to continue the bond coverage may continue coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

3. A permit terminates if the permittee has not commenced the coal mining operations covered by the permit within three years of issuance of the permit. However, the division may grant reasonable extensions of time upon a showing that the extensions are necessary because of litigation precluding the commencement or threatening substantial economic loss to the permittee or because of conditions beyond the control and without the fault or negligence of the permittee. If a coal lease is issued under the federal Mineral Leasing Act, as amended, extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that Act. If coal is to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee is deemed to have commenced mining operations when the construction of the synthetic fuel or generating facility is initiated.

4. A valid permit carries the right of successive renewal upon expiration within the boundaries of the existing permit. On application for renewal the burden shall be on the opponents of approval. Upon application the renewal shall be issued unless the division establishes any of the following:

a. The terms and conditions of the existing permit are not being satisfactorily met.

b. The present coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter.

c. The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas.

d. The operator has not shown that the performance bond for the operation and any additional bond the division may require will continue in full force and effect for the renewal requested.

e. Additional revised or updated information required by the division has not been provided.

5. *a.* A permit renewal shall be for a term not to exceed the period of the original permit.

b. Application for renewal shall be made at least one hundred twenty days prior to the expiration of the permit. Prior to the approval of a renewal of permit the division shall provide notice to the appropriate public authorities.

[C81, §83.4]
C93, §207.4
2014 Acts, ch 1026, §43; 2015 Acts, ch 29, §32
Mine site permit fee set at fifteen dollars per site acre; 88 Acts, ch 1272, §4

207.5 Public notice and hearing.

1. An applicant for a coal mining and reclamation permit or its renewal shall file a copy of the application for public inspection with the county recorder of each county where the mining is proposed to occur.

2. An applicant for a coal mining and reclamation permit or its renewal shall submit to the division a copy of the applicant's advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission the advertisement shall be placed by the applicant in a local newspaper of general circulation in the locality of the proposed mine weekly for four consecutive weeks. The division shall notify various local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies where the proposed mining will take place, informing them of the operator's intention to mine a particularly described tract of land, indicating the application number and where a copy of the proposed mining and reclamation plan may be inspected. They may submit written comments within a reasonable period established by the division on the effect of the proposed operation on the environment within their area of responsibility. The

comments shall immediately be transmitted to the applicant and shall be made available to the public at the same locations as the mining permit application.

3. A person having an interest which is or may be adversely affected or a federal, state, or local governmental agency may file written objections to the proposed initial or revised application for a permit for coal mining and reclamation operation with the division within sixty days after the last publication of the advertisement. The objections shall immediately be transmitted to the applicant and shall be made available to the public. If objections are filed and an informal conference requested within a reasonable time, the division shall hold an informal conference in the locality of the proposed mining operations and shall publish the date, time and location in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. Upon request by an interested party, the division may arrange with the applicant access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond. If all parties requesting the informal conference stipulate agreement prior to the conference and withdraw their request, the conference need not be held.

4. An application for a permit shall show a certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for that mining and reclamation operation or evidence satisfactory to the division that the applicant has an adequate self-insurance plan. The policy or self-insurance plan shall provide for personal injury and property damage protection adequate to compensate persons entitled to compensation because of damage as a result of coal mining and reclamation operations including use of explosives. The policy or self-insurance plan shall be maintained in full force and effect during the terms of the permit, any renewal and all reclamation operations.

[C81, §83.5]
C93, §207.5

207.6 Blasting plan required.

1. An application for a permit shall contain a blasting plan which outlines the procedures and standards by which the operator will meet the requirements of the division.

2. The division may promulgate rules requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in coal mining operations.

[C81, §83.6]
C93, §207.6

207.7 Environmental protection performance standards.

The division shall adopt rules for environmental protection performance standards that are consistent with federal regulations authorized under the federal Surface Mining Control and Reclamation Act and amendments to that Act.

[C77, 79, §83A.31; C81, §83.7]
87 Acts, ch 47, §1
C93, §207.7
Referred to in §207.9, 207.10, 207.16, 207.18, 207.27

207.8 Determining if land is unsuitable for mining.

1. The division by rule shall designate a site unsuitable for coal mining if the division determines on the basis of an application or petition that reclamation as required by this chapter is not technologically and economically feasible and may designate a site unsuitable for coal mining if such operations will:

a. Be incompatible with existing state or local land use plans or programs.

b. Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or esthetic values or natural systems.

c. Affect renewable resource lands in which such operations could result in a substantial

loss or reduction of long range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas.

d. Affect natural hazards lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

2. The requirements of this section do not apply to lands on which coal mining operations are being conducted as of August 3, 1977, or under a permit issued pursuant to this chapter or pursuant to section 83A.12, Code 1979, or where substantial legal and financial commitments in an operation were in existence prior to January 4, 1977.

3. Prior to designating a land area as unsuitable for coal mining operations, the division shall prepare a detailed statement on the potential coal resources of the area, the demand for coal resources, and the impact of the designation on the environment, the economy, and the supply of coal.

4. A person having an interest which is or may be adversely affected may petition the division to have an area designated or to have the designation terminated. The petition shall contain allegations of facts with supporting evidence tending to establish the allegations. Within ten months after receipt of the petition the division shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of the hearing. After a person has filed a petition and before the hearing, any person may intervene by filing allegations. Within sixty days after the hearing, the division shall issue and furnish to the petitioner and any other party to the hearing a written decision regarding the petition and the reasons. If all the petitioners stipulate agreement prior to the hearing and withdraw their request, the hearing need not be held.

5. Subject to valid existing rights, coal mining operations, except those which exist on the effective date of this chapter, shall not be permitted on any of the following:

a. Lands within the boundaries of units of the national park systems, the national system of trails, the national wilderness preservation system, the national wildlife refuge systems, the wild and scenic rivers system, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and national recreation areas designated by Act of Congress.

b. Lands which will adversely affect any publicly owned park or places included in the national register of historic sites unless approved jointly by the division and the federal, state, or local agency with jurisdiction over the park or the historic site.

c. Within one hundred feet of the outside right-of-way line of a public road, except where mine access roads or haulage roads join the right-of-way line and except that the division may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected.

d. Within three hundred feet of an occupied dwelling or a privately owned building, unless waived by the owner, or within three hundred feet of a public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

[C77, 79, §83A.13; C81, §83.8]

C93, §207.8

2006 Acts, ch 1010, §62

207.9 Permit approval or denial.

1. Upon the basis of a complete mining application and reclamation plan or a revision or renewal, the division shall grant, require modification of, or deny the application for a permit in a reasonable time set by the division and notify the applicant in writing. The applicant shall have the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after granting of a permit, the division shall notify the political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

2. A permit or revision application shall not be approved unless the application affirmatively demonstrates and the division finds in writing on the basis of the application

or other information documented in the approval, and made available to the applicant, the following:

a. The permit application is accurate, complete and in compliance with all the requirements of this chapter.

b. The applicant has demonstrated that reclamation as required by this chapter and the state program can be accomplished under the reclamation plan contained in the permit application.

c. The division has assessed the probable cumulative impact of all anticipated mining in the area on the hydrologic balance and the proposed operation has been designed to prevent material damage to hydrologic balance outside permit area.

d. The area proposed to be mined is not included within an area designated unsuitable for coal mining or is not within an area proposed for such designation.

e. If the private mineral estate has been severed from the private surface estate, the applicant has submitted any of the following:

(1) The written consent of the surface owner to the extraction of coal.

(2) A conveyance that expressly grants or reserves the right to extract the coal by surface mining.

(3) If the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship as determined in accordance with state law. This chapter does not authorize the division to adjudicate property rights disputes.

3. The applicant shall file with the permit application a schedule listing any and all notices of violations of this chapter and any law or rule of the federal or a state government pertaining to air or water environmental protection incurred by the applicant in connection with a coal mining operation during the three previous years. The schedule shall also indicate the final resolution of the notice of violation. If any information available to the division indicates that a coal mining operation owned or controlled by the applicant is currently in violation of this chapter or the other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority which has jurisdiction over the violation and the permit shall not be issued to an applicant after a finding by the division after an opportunity for a hearing that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter.

4. If the area proposed to be mined contains prime farmland, the division shall, after consultation with the United States secretary of agriculture, and pursuant to regulations issued by the secretary with the concurrence of the secretary of agriculture, grant a permit to mine on prime farmland if the division finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards established by section 207.7. Any operator who mines coal on agricultural land shall restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined agricultural land of similar quality in the surrounding area under equivalent levels of management.

5. Within sixty days a person having an interest which is or may be adversely affected may appeal to the committee the decision of the division granting or denying a permit as a contested case under chapter 17A.

[C81, §83.9]
C93, §207.9

207.10 Performance bond requirement.

1. After a permit application has been approved but before issuance, the applicant shall file with the division, on a form furnished by the division, a bond for performance payable to the state and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the division pursuant to this chapter.

2. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash,

or government securities, or certificates of deposit or letters of credit with the division on the same conditions as for filing of bonds.

3. The amount of the bond or other security required to be filed with the division shall be equal to the estimated cost of reclamation of the site if performed by the division. The estimated cost of reclamation of each individual site shall be determined by the division on the basis of relevant factors. The division may require each applicant to furnish information necessary to estimate the cost of reclamation. The amount of the bond or other security may be increased or reduced as the permitted operation changes, or when the cost of future reclamation changes. However, the bond amount shall not be less than ten thousand dollars.

4. Liability under the bond shall be for the duration of the coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements in the rules promulgated under section 207.7.

5. If the license to do business in Iowa of a surety of a bond filed with the division is suspended or revoked, the operator, within thirty days after receiving notice from the division, shall substitute another surety. If the operator fails to make substitution, the division may suspend the operator's authorization to conduct mining on the site covered by the bond until substitution has been made. The commissioner of insurance shall notify the division whenever the license of any surety providing bond for an operator is suspended or revoked.

6. Notwithstanding sections 12C.7, subsection 2, and 666.3, the interest or earnings on investments or time deposits of the proceeds of a performance bond forfeited to the division, cash deposited under subsection 2, any funds provided for the abandoned mine reclamation program under section 207.21 and any civil penalties collected pursuant to sections 207.14 and 207.15 shall be credited to the payment of costs and administrative expenses associated with the reclamation, restoration or abatement activities of the division. The division may expend funds credited to it under this subsection to conduct reclamation activities on any areas disturbed by coal mining not subject to a presently valid permit to conduct surface mining.

[C81, §83.10]
85 Acts, ch 140, §1
C93, §207.10
Referred to in §207.14

207.11 Political subdivision engaged in mining.

An agency or political subdivision of the state or a publicly owned utility or corporation of a political subdivision which engages or intends to engage in coal mining shall meet all requirements of this chapter.

[C81, §83.11]
C93, §207.11

207.12 Revision of permits.

1. *a.* An operator may apply for a revision or cancellation of a permit. The application shall be submitted by the operator on a form provided by the division, and shall contain information as required by the division.

b. The division shall establish rules for determining the scale or extent of a revision request to which all permit application information requirements and procedures including notice and hearings, shall apply. Revisions which propose significant alterations in the reclamation plan shall be subject to notice and hearing requirements.

2. An application for a revision of a permit shall not be approved unless the division finds that reclamation as required by this chapter can be accomplished under the revised reclamation plan.

3. Extensions to the area covered by the permit except incidental boundary revisions must be made subject to the requirements for an application for new permit.

4. If the application is to cancel the permit as it pertains to any or all of the unmined part of a site, the division shall, after ascertaining that overburden has not been disturbed or deposited on the land, order release of the bond or the security posted on that portion of the

land being removed from the permit and cancel or amend the operator's permit to conduct mining on the site. Land where overburden has been disturbed or deposited shall not be removed from a permit or released from bond or security under this section.

5. A transfer, assignment, or sale of the rights granted under a permit shall not be made without the written approval of the division.

6. Fees for revision or cancellation shall be determined by the division but shall not exceed the cost of administering revisions or cancellations of permits as authorized under this section.

7. The division shall review outstanding permits within a time limit prescribed by rule and may require reasonable revision or modification of the permit provisions during the term of the permit. However, the revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by the division.

[C81, §83.12]
C93, §207.12
2009 Acts, ch 41, §263

207.13 Inspections and monitoring.

1. *a.* The division shall make inspections of any mining and reclamation operations as are necessary to evaluate the administration of this chapter and authorized representatives of the division shall have a right to entry at any mining and reclamation operation. If the operator refuses to consent to the inspection, the division shall request the attorney general to immediately obtain a warrant for the inspection.

b. The division shall determine what records and other information shall be maintained and furnished to the division by the operators for the effective administration of this chapter.

2. The inspections by the division shall:

a. Occur at a frequency of one complete inspection per calendar quarter and at least one partial inspection on an irregular basis in those months where a complete inspection is not performed.

b. Occur without prior notice to the permittee, agents or employees except for necessary on-site meetings with the permittee.

c. Include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.

3. If the division has reason to believe that an operator is in violation of a requirement of this chapter or a permit condition, the division shall immediately order an inspection of the coal mining operation within ten days of receiving notice of the alleged violation.

4. An operator shall conspicuously maintain a clearly visible sign at the entrances to the mining and reclamation operation which sets forth the name, business address, permit number and phone number of the operator.

5. Each inspector shall immediately inform the operator in writing of each violation, and shall report in writing any violation to the division.

6. Copies of any record, reports, inspection materials, or information obtained under this section by the division shall be made immediately available to the public at central and sufficient locations in the area of mining so that they are conveniently available to residents in the areas of mining.

7. An employee of the division performing any function or duty under this chapter shall not have a direct or indirect financial interest in any mining operation.

[C81, §83.13]
C93, §207.13
2002 Acts, ch 1050, §20; 2009 Acts, ch 41, §263

207.14 Enforcement.

1. *a.* When on the basis of an inspection, the administrator determines that a condition or practice exists which creates an imminent danger to the health or safety of the public or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the administrator shall immediately order a cessation of coal mining and reclamation operations to the extent necessary until the administrator determines that the

condition, practice, or violation has been abated, or until the order is modified, vacated, or terminated by the division pursuant to procedures set out in this section.

b. If the administrator finds that the ordered cessation will not completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm, the administrator shall require the operator to take whatever steps the administrator deems necessary to abate the imminent danger or the significant environmental harm.

2. *a.* When on the basis of an inspection, the administrator determines that any operator is in violation of any requirement of this chapter or permit condition, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm, the administrator shall issue a notice to the operator fixing a reasonable time but not more than ninety days for the abatement of the violation and providing opportunity for public hearing.

b. If upon expiration of the time as fixed the administrator finds in writing that the violation has not been abated, the administrator, notwithstanding sections 17A.18 and 17A.18A, shall immediately order a cessation of coal mining and reclamation operations relating to the violation until the order is modified, vacated, or terminated by the administrator pursuant to procedures outlined in this section. In the order of cessation issued by the administrator under this subsection, the administrator shall include the steps necessary to abate the violation in the most expeditious manner possible.

3. When on the basis of an inspection the administrator determines that a pattern of violations of the requirements of this chapter or any permit conditions exists or has existed, and if the administrator also finds that the violations are willful or caused by the unwarranted failure of the operator to comply with any requirements of this chapter or any permit conditions, the administrator shall immediately issue an order to the operator to show cause as to why the permit should not be suspended or revoked and the bond or security forfeited, and shall provide opportunity for a hearing as a contested case pursuant to chapter 17A. Upon the operator's failure to show cause, the administrator shall immediately suspend or revoke the permit.

4. *a.* A permittee may request in writing an appeal to the committee of a decision made in a hearing under subsection 3 within thirty days of the decision. The committee shall review the record made in the contested case hearing, and may hear additional evidence upon a showing of good cause for failure to present the evidence in the hearing, or if evidence concerning events occurring after the hearing is deemed relevant to the proceeding. However, the committee shall not review a decision in a proceeding if the division seeks to collect a civil penalty pursuant to section 207.15, and those decisions are final agency actions subject to direct judicial review as provided in chapter 17A.

b. The contested case hearing shall be scheduled within thirty days of receipt of the request by the division. If the decision in the contested case is to revoke the permit, the permittee shall be given a specific period to complete reclamation, or the attorney general shall be requested to institute bond forfeiture proceedings.

5. In any administrative proceeding under this chapter or judicial review, the amount of all reasonable costs and expenses, including reasonable attorney fees incurred by a person in connection with the person's participation in the proceedings or judicial review, may be assessed against either party as the court in judicial review or the committee in administrative proceedings deems proper.

6. Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the operator or an agent and all notices and orders shall be in writing and signed. A notice or order issued pursuant to this section may be modified, vacated, or terminated by the administrator. Any notice or order issued pursuant to this section which requires cessation of mining by the operator expires within thirty days of actual notice to the operator unless a public hearing is held at or near the site so that any viewings of the site can be conducted during the course of the hearing.

7. *a.* A permittee issued a notice or order under this section or any person having an

interest which is or may be adversely affected by the notice or order or by its modification, vacation, or termination may apply to the committee for review within thirty days of receipt of the notice or order or within thirty days of its modification, vacation, or termination. The review shall be treated as a contested case under chapter 17A.

b. Pending completion of any investigation or hearings required by this section, the applicant may file with the division a written request that the administrator grant temporary relief from any notice or order issued under this section together with a detailed statement giving reasons for granting such relief.

c. The administrator shall issue an order or decision granting or denying the request for relief within five days of its receipt. The administrator may grant such relief under such conditions as the administrator may prescribe if all of the following occur:

(1) A hearing has been held in the locality of the permit area in which all parties were given an opportunity to be heard. The hearing need not be held as a contested case under chapter 17A.

(2) The applicant shows that there is substantial likelihood that the findings of the committee will be favorable to the applicant.

(3) Such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.

8. At the request of the division, the attorney general shall institute any legal proceedings, including an action for an injunction or a temporary injunction necessary to enforce the penalty provisions of this chapter or to obtain compliance with this chapter. Injunctive relief may be requested to enforce a cessation order issued by the administrator pending a hearing pursuant to subsection 4.

9. When on the basis of an inspection, or other information available to the division, the administrator has reasonable cause to believe that the operator is unable to complete reclamation of all or a portion of the permit area as required by law, the administrator shall issue an order to the operator to show cause as to why all or a portion of the performance bond required by section 207.10 should not be revoked.

[C81, §83.14; 82 Acts, ch 1119, §1, 2]
85 Acts, ch 140, §2 – 4
C93, §207.14
98 Acts, ch 1202, §35, 46; 2009 Acts, ch 41, §219
Referred to in §207.10, 207.15

207.15 Penalties.

1. *a.* (1) A person who violates a permit condition, a provision of this chapter, or a rule or order issued under this chapter is subject to a civil penalty not to exceed five thousand dollars per day for each day of violation.

(2) If a violation results in the issuance of a cessation order, a civil penalty shall be imposed. The penalty shall not exceed five thousand dollars for each day of violation.

b. In determining the amount of the penalty, consideration shall be given to the operator's history of previous violations at the particular mining operation, the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation.

c. An operator who fails to correct a violation for which a notice or order has been issued within the period permitted for its correction shall be required to pay a civil penalty of not less than seven hundred fifty dollars for each day during which the failure or violations continue.

2. *a.* If a notice or order has been issued, the division may assess a recommended penalty in accordance with a schedule established by rule. The person to whom the notice or order was issued may submit written information within fifteen days of the notice or order to be considered by the division. The division shall serve the assessment by certified mail, return receipt requested, within thirty days of issuance of the notice or order. The division may reassess any penalty if necessary to account for facts not reasonably available on the date

of issuance of the assessment. A person may consent to a penalty assessment by paying the penalty without resort to judicial proceedings.

b. If a violation results in the issuance of a cessation order pursuant to section 207.14 the division shall assess a penalty.

3. A contested case hearing may be requested pursuant to section 207.14, subsection 4, to review a notice, order, or penalty assessment. A person to whom a penalty assessment has been issued may request a contested case hearing solely for review of the amount of the penalty. A penalty assessment is final if a request for review is not made in a timely manner.

4. Judicial review of any action of the division shall be in accordance with chapter 17A. Judicial review of a penalty assessment shall not be permitted unless the petitioner has posted a bond equal to the amount of the assessed penalty in the district court or has placed the proposed amount in an interest-bearing escrow fund approved by the division.

5. If a violation results in a cessation order pursuant to section 207.14, the attorney general, at the request of the division, shall institute a civil action in district court for injunctive relief.

6. Notwithstanding section 17A.20, an appeal bond shall be required for an appeal of a judgment assessing a civil penalty.

7. A person who willfully and knowingly violates a condition of a permit or any other provision of this chapter, or makes a false statement, representation, or certification, or knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or any order or decision of this chapter, shall be guilty of a serious misdemeanor and notwithstanding section 903.1 the maximum fine shall be ten thousand dollars.

8. Whenever a corporate operator violates a condition of a permit or any other provision of this chapter or fails or refuses to comply with any provision of this chapter, a director, officer, or agent of that corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties or criminal fines and imprisonment that may be imposed upon a person under this section.

9. An employee of the division performing any function or duty under this chapter who knowingly and willfully has a direct or indirect financial interest in any coal mining operation shall be guilty of a serious misdemeanor and notwithstanding section 903.1 the maximum fine shall be two thousand five hundred dollars.

[C81, §83.15]
84 Acts, ch 1153, §1, 2; 85 Acts, ch 140, §5
C93, §207.15
2009 Acts, ch 133, §81
Referred to in §207.10, 207.14, 207.18

207.16 Release of performance bonds or deposits.

1. Each operator upon completion of any reclamation work required by this chapter shall apply to the division in writing for approval of the work. The division shall promulgate rules consistent with Pub. L. No. 95-87, §519, codified at 30 U.S.C. §1269, regarding procedures and requirements to release performance bonds or deposits.

2. The division may release in whole or part the bonds or deposits if the division is satisfied the reclamation covered by the bonds or deposits or portions thereof has been accomplished as required by this chapter according to stages determined by the division by rule. When the operator has completed successfully all surface coal mining and reclamation activities, the remaining portion of the bond shall be released upon the expiration of the period specified for operator responsibility in the rules promulgated pursuant to section 207.7. A bond shall not be fully released until all reclamation requirements of this chapter are fully met.

3. A person with a valid legal interest which might be adversely affected by release of the bond or a federal, state, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or which is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from bond to the division within sixty days after the last publication as required by rule of a notice of a request

for bond release by the operator. If written objections are filed and a hearing is requested, the division shall inform all the interested parties of the time and place of the hearing, and hold a public hearing as a contested case in the locality of the coal mining operation or at the state capital, at the request of the objectors, within thirty days of the request. The date, time, and location shall be advertised by the division in a newspaper of general circulation in the locality for two consecutive weeks.

[C81, §83.16]
C93, §207.16
2006 Acts, ch 1010, §63; 2011 Acts, ch 34, §42

207.17 Citizen suits.

1. A person having an interest which is or may be adversely affected may commence a civil action on the person's own behalf to compel compliance with this chapter as follows:

a. Against the division or any other governmental agency or subdivision which is alleged to be in violation of the provisions of this chapter or of any rule, order or permit issued or against any other person who is alleged to be in violation of any rule, order or permit issued pursuant to this chapter.

b. Against the division where there is alleged a failure of the division to perform any act or duty required under this chapter. The suit shall be filed in the county where the mining operation is or, if against the division, in the district court for Polk county or the county of the petitioner's residence.

2. An action shall not be commenced:

a. Under subsection 1, paragraph *"a"* of this section until sixty days after the plaintiff has given notice in writing of the violation to the division and to any alleged violator, or if the state has commenced and is diligently prosecuting a civil action against that operator for compliance with the provisions of this chapter; however, the person may intervene in the action as a matter of right.

b. Under subsection 1, paragraph *"b"* of this section until sixty days after the plaintiff has given notice in writing to the division in the manner provided by rule; however, if the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff, the action may be brought immediately after giving notice.

3. The division may intervene in any action under this section.

4. The court, in issuing a final order in an action brought pursuant to subsection 1 of this section, may award costs of litigation including attorney and expert witness fees to any party.

5. This section does not restrict a right which any person or class may have under a statute or common law to seek enforcement of any of the provisions of this chapter or to seek any other relief. The availability of judicial review of the actions of the division shall not restrict any rights established by this section.

6. A person whose person or property is injured through the violation by any operator of a rule, order, or permit issued pursuant to this chapter may bring an action for damages including reasonable attorney and expert witness fees only in the county in which the coal mining operation complained of is located. This subsection shall not affect the rights or limits under workers' compensation as provided in chapter 85.

[C81, §83.17]
C93, §207.17

207.18 Coal exploration permits.

1. A coal exploration operation in this state which substantially disturbs the natural land surface shall be conducted in accordance with exploration rules issued by the division. The rules shall include at a minimum the following:

a. The requirement that prior to conducting an exploration the person must file with the division a notice of intention to explore describing the exploration area and the period of exploration.

b. Provisions for reclamation of the lands disturbed by the exploration in accordance with the environmental performance standards mandated by section 207.7.

2. Information submitted to the division pursuant to this section and determined by the division, following consultation with the person submitting the information, to be confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person intending to explore the described area shall not be available for public examination.

3. A person who conducts coal exploration activities which substantially disturb the natural land surface in violation of this section shall be subject to the provisions of section 207.15.

4. An operator shall not remove more than fifty tons of coal pursuant to an exploration permit without the specific written approval of the division.

[C81, §83.18]
C93, §207.18

207.19 Surface effects of underground coal mining operations.

1. The provisions of this chapter shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The division shall promulgate such modifications in its rules to allow for such distinct differences and still fulfill the purposes of this chapter and be consistent with the requirements of Pub. L. No. 95-87, §516, codified at 30 U.S.C. §1266, and the permanent regulations issued pursuant to that Act.

2. In order to protect the stability of the land, the division shall suspend underground coal mining under urbanized areas, cities, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if the administrator finds imminent danger to inhabitants of the urbanized areas, cities, and communities.

[C81, §83.19]
C93, §207.19
2006 Acts, ch 1010, §64; 2011 Acts, ch 34, §43

207.20 Authority to enter into cooperative agreements.

The division may enter into a cooperative agreement with the secretary to provide for the division to regulate mining and reclamation operations on federal lands within the state. If the division enters into a cooperative agreement with the secretary under this section, such agreement shall be conducted according to the provisions of chapter 28E.

[C81, §83.20]
C93, §207.20
Referred to in §207.27

207.21 Abandoned mine reclamation program.

1. The division shall participate in the abandoned mine reclamation program under Pub. L. No. 95-87, Tit. IV, codified at 30 U.S.C. ch. 25, subch. IV. There is established an abandoned mine reclamation fund under the control of the division.

2. *a.* Lands and water eligible for reclamation or drainage abatement expenditures under this section include the following:

(1) Lands which were mined for coal or affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws.

(2) Coal lands and water damaged by coal mining processes and abandoned after August 3, 1977, if they were mined for coal or affected by coal mining processes and if either of the following occurred:

(a) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and April 10, 1981, and any moneys for reclamation or abatement that are available pursuant to a bond or other form of financial

guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

(b) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and November 5, 1990, and the surety of the mining operator became insolvent during that period and, as of November 5, 1990, moneys immediately available from proceedings relating to the insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

b. If requested by the governor, the division may fill voids and seal tunnels, shafts, and entryways resulting from any previous noncoal mining operation, and may reclaim surface impacts of any such noncoal underground or surface mines that were mined prior to August 3, 1977, and which constitute an extreme danger to the public health, safety, general welfare, or property. Sites and areas designated for remedial action pursuant to the federal Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. §7901 et seq., or which have been listed for remedial action pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., are not eligible for expenditures under this section.

3. Expenditure of moneys from the abandoned mine reclamation fund on eligible lands and water for the purpose of this program shall reflect the following priorities in the order stated:

a. The protection of public health, safety, and property from extreme danger of adverse effects of coal mining practices.

b. The protection of public health and safety from adverse effects of coal mining practices.

c. The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and agricultural productivity.

d. The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.

e. The development of publicly owned land adversely affected by coal mining practices including land acquired as provided in this section for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

4. *a.* The division shall submit to the secretary a state reclamation plan and annual projects to carry out the purposes of this program. The plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of Pub. L. No. 95-87, Tit. IV, codified at 30 U.S.C. ch. 25, subch. IV.

b. The division may annually submit to the secretary an application with such information as determined by the secretary for the support of the state program and implementation of specific reclamation projects.

c. The costs for each proposed project under this program shall include actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction and inspection costs, and other necessary administrative expenses.

d. The division shall prepare and submit annual and other reports as required by the secretary.

5. The division in participating in the abandoned mine reclamation program under Pub. L. No. 95-87, Tit. IV, codified at 30 U.S.C. ch. 25, subch. IV, shall have the following additional powers:

a. To engage in any work and to do all things necessary or expedient, including promulgation of rules, to implement and administer the provisions of this program.

b. To engage in cooperative projects with any other governmental unit provided that

such cooperative projects shall be under a cooperative agreement conducted according to the provisions of chapter 28E.

c. To request the attorney general to seek injunctive relief to restrain any interference with the exercise of the right to enter or to conduct work under this program.

d. To construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

[C81, §83.21]

C93, §207.21

97 Acts, ch 115, §1, 2; 2010 Acts, ch 1061, §180; 2011 Acts, ch 34, §44 – 46; 2015 Acts, ch 103, §18

Referred to in §207.10

207.22 Acquisition and reclamation of land.

1. *a.* The division, pursuant to a state program approved by the secretary, may take action as provided in paragraph *"b"* of this subsection if it finds all of the following:

(1) Land or water resources have been adversely affected by past coal mining practices.

(2) The adverse effects are at a stage where in the public interest action to restore, reclaim, abate, control, or prevent should be taken.

(3) The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known or readily available, or will not give permission for the United States, this state, political subdivisions, their agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

b. Upon giving notice by mail to the owners if known or by posting notice upon the premises and advertising once in a local newspaper of general circulation if not known, the division may enter upon the property adversely affected by past coal mining practices and any other property to have access to the property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and not as an act of condemnation of property or trespass. The moneys expended for the work and the benefits accruing to the property shall be chargeable against such property and shall mitigate or offset any claim on or any action brought by an owner of any interest in the property for any alleged damages because of the entry. This provision does not create new rights of action or eliminate existing immunities.

2. The division may enter upon a property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. The entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and not as an act of condemnation of property or trespass.

3. The division pursuant to an approved state program may acquire any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the secretary determines that acquisition of the land is necessary to successful reclamation and that:

a. The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open spaces benefits and that permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or

b. Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of Pub. L. No. 95-87, Tit. IV, codified at 30 U.S.C. ch. 25, subch. IV, or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effect of past coal mining practices.

4. Title to all lands acquired pursuant to this section shall be in the name of this state. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

5. If land acquired pursuant to this section is deemed to be suitable for industrial, commercial, agricultural, residential, or recreational development, the division with authorization from the secretary may sell the land by public sale under a system of competitive bidding, at not less than fair market value and under rules promulgated to insure that the lands are put to proper use consistent with local land use plans.

6. The division if requested after appropriate public notice shall hold a public hearing with the appropriate notice, in the county of the lands acquired pursuant to this section. The hearings shall be held at a time that affords local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands.

7. The division may cooperate with the secretary in acquiring land by purchase, donation, or condemnation to assist the housing of people disabled as the result of employment in the mines or incidental work, persons displaced by acquisition of land pursuant to this section, or persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency as determined by the secretary. The fund provided under this section shall not be used to pay the actual construction costs of housing.

[C81, §83.22]

C93, §207.22

2002 Acts, ch 1119, §145; 2010 Acts, ch 1061, §180; 2011 Acts, ch 34, §47; 2011 Acts, ch 131, §56, 158

207.23 Liens.

1. Within six months after the completion of a project to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the division shall itemize the money expended on the project and may file a lien statement in the office of the district court clerk of each county in which a portion of the property affected by the project is located, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past mining practices if the money so expended results in a significant increase in property value. A copy of the lien statement and the appraisal, if required, shall be served upon affected property owners in the manner provided for service of an original notice. The lien shall not exceed the amount determined by the appraiser to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices. A lien shall not be filed in accordance with this subsection against the property of a person who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation performed.

2. The owner of property to which the lien attaches may petition the court within sixty days after receipt of service of the lien statement, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount found to be the increase in value of the property shall constitute the amount of the lien and shall be recorded in the office of the district court in each county in which the owner's property is located. A party aggrieved by the decision may appeal as provided by law.

3. The lien provided in this section has priority over all other liens or security interests which have attached to the property, whenever those liens may have arisen, except liens of real estate taxes imposed upon the property.

[C81, §83.23]

C93, §207.23

97 Acts, ch 115, §3, 4; 2012 Acts, ch 1105, §1, 27, 28; 2012 Acts, ch 1138, §13; 2015 Acts, ch 103, §19

207.24 Water rights and replacement.

1. This chapter shall not be construed as affecting the right of any person's interest in water resources affected by a mining operation.

2. The operator of a mine shall replace the water supply of an owner of interest in real property who obtains all or part of the owner's supply of water for any legitimate use from an underground or surface source if the supply has been affected by contamination, diminution, or interruption proximately resulting from the mine operation.

[C81, §83.24]
C93, §207.24

207.25 Additional duties and powers of the division.

In addition to the duties and powers conferred upon the division, it shall have the power to prescribe by rule the necessary procedures and requirements of operators to carry out the purpose and provisions of this chapter.

[C81, §83.25]
C93, §207.25

207.26 Mining operations not subject to this chapter.

The provisions of this chapter shall not apply to any of the following activities:

1. The extraction of coal by a landowner for the landowner's own noncommercial use from land owned or leased by the landowner.

2. The extraction of coal as an incidental part of federal, state or local government-financed highway or other construction under rules promulgated by the division.

[C81, §83.26]
88 Acts, ch 1022, §1
C93, §207.26

207.27 Experimental practices.

In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, agricultural, residential, or public use including recreational facilities, the division with approval by the secretary may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections 207.7 and 207.20 if the experimental practices are potentially as environmentally protective, during and after mining operations, as those required by promulgated standards, the mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices, and the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

[C81, §83.27]
C93, §207.27

207.28 Employee protection.

1. A person shall not discharge, or in any other way discriminate against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

2. Any employee or a representative of employees who believes that the employee or representative has been fired or discriminated against by a person in violation of subsection 1 of this section may, within thirty days after the alleged violation occurs, apply to the administrator for a review as provided by rule of the firing or alleged discrimination.

[C81, §83.28]
C93, §207.28

207.29 Powers and authority of division.

The division may engage in any work and do all things necessary or expedient, including adoption of rules, to implement and administer the provisions of an abandoned mine reclamation program.

97 Acts, ch 115, §5

CHAPTER 208

MINES

Referred to in §159.5, 159.6, 161A.4, 189.16, 190.1

This chapter not enacted as a part of this title;
transferred from chapter 83A in Code 1993

208.1 Policy.
208.2 Definitions.
208.3 through 208.6 Reserved.
208.7 Mining license — fees and expiration.
208.8 Suspension, revocation, or refusal to issue license.
208.9 Registering mine site.
208.10 Violation — enforcement.
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208.13 Registering surface mining site — sign at entrance — penalty. Repealed by 96 Acts, ch 1043, §20.
208.14 Bond.
208.15 Amendment or cancellation.
208.16 Transfer to new operator.
208.17 Reclamation requirements.
208.18 Periodic reports.
208.19 Reclamation schedule.
208.20 Extension of time.
208.21 Political subdivision engaged in mining.
208.22 Hearing on violation. Repealed by 96 Acts, ch 1043, §20.
208.23 Form of bond.
208.24 Single bond for multiple sites.
208.25 Cancellation of bond.
208.26 Rules — inspection of site.
208.27 Hearing on violations. Repealed by 96 Acts, ch 1043, §20.
208.28 Forfeiture of bond — licensure restrictions.
208.29 and 208.30 Repealed by 96 Acts, ch 1043, §20.

208.1 Policy.

It is the policy of this state to provide for the reclamation and conservation of land affected by the mining of gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal, and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

[C71, 73, 75, 77, 79, 81, §83A.1]

85 Acts, ch 137, §1

C93, §208.1

96 Acts, ch 1043, §1

208.2 Definitions.

When used in this chapter, unless the context otherwise requires:

1. *"Administrator"* means the administrator of the division or a designee.

2. *"Affected land"* means the area of land from which overburden has been removed or upon which overburden has been deposited or land which has otherwise been disturbed, changed, influenced, or altered in any way in the course of mining, including processing and stockpile areas but not including roads.

3. *"Committee"* means the state soil conservation and water quality committee established in section 161A.4.

4. *"Division"* means the division of soil conservation and water quality created within the department of agriculture and land stewardship pursuant to section 159.5.

5. *"Exploration"* means the mining of limited amounts of any mineral to determine the location, quantity, or quality of the mineral deposit.

6. *"Highwall"* means the unexcavated face of exposed overburden and mineral in a surface mine.

7. *"Mine"* or *"mine site"* means a site where mining is being conducted or has been conducted in the past.

8. *"Mineral"* means gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal.

9. *"Mining"* means the excavation of gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal, for sale or for processing or consumption in the regular operation of a business and shall include surface mining and underground mining.

10. *"Mining operation"* means activities conducted by an operator on a mine site relative to the excavation of minerals and shall include disturbing overburden, excavation, and processing of minerals, stockpiling and removal of minerals from a site, and all reclamation activities conducted on a mine site.

11. *"Operator"* means any person, firm, partnership, corporation, or political subdivision engaged in and controlling a mining operation.

12. *"Overburden"* means all of the earth and other materials which lie above natural mineral deposits and includes all earth and other materials disturbed from their natural state in the process of mining.

13. *"Pit floor"* or *"quarry floor"* means the lower limit of a surface excavation to extract minerals.

14. *"Political subdivision"* means any county, district, city, or other public agency within the state of Iowa.

15. *"Reclamation"* means the process of restoring disturbed lands to the premined uses of the lands or other productive uses.

16. *"Surface mining"* means mining by removing the overburden lying above the natural deposits and excavating directly from the natural deposits exposed, or by excavating directly from deposits lying exposed in their natural state and shall include dredge operations conducted in or on natural waterways or artificially created waterways within the state.

17. *"Topsoil"* means the natural medium located at the land surface with favorable characteristics for the growth of vegetation.

18. *"Underground mining"* means mining by digging or constructing access tunnels, adits, ramps, or shafts and excavating directly from the natural mineral deposits exposed.

[C24, 27, 31, 35, 39, §**1244;** C46, 50, 54, 58, 62, 66, §82.27; C71, 73, §82.27, 83A.2; C75, 77, 79, 81, §83A.2]

85 Acts, ch 137, §2 – 5; 86 Acts, ch 1245, §602, 2050

C93, §208.2

96 Acts, ch 1043, §2; 2015 Acts, ch 103, §41; 2017 Acts, ch 159, §46

Referred to in §208.7

208.3 through 208.6 Reserved.

208.7 Mining license — fees and expiration.

An operator shall not engage in mining as defined by section 208.2 without first obtaining a license from the division. A license shall be issued and renewed upon approval by the division following the submission of a completed application by the operator. An application shall be submitted on a form provided by the division and shall be accompanied by a license fee of fifty dollars. Each applicant shall be required to furnish on the form information necessary to identify the applicant. The initial license shall expire on December 31 of the year of issue. An initial license shall be renewed by the division as required by the division. The renewed license shall expire the last day of the second December following the date of issue. The division shall renew a license upon approving an application submitted within thirty days prior to the expiration date. The application for a renewed license must be accompanied by a fee of twenty dollars. A political subdivision shall not be required to pay a license fee.

[C39, §**1242.5**; C46, 50, 54, 58, 62, 66, §82.22; C71, 73, §82.22, 83A.7; C75, 77, 79, 81, §83A.7]

C93, §208.7
96 Acts, ch 1043, §3; 2017 Acts, ch 159, §47; 2018 Acts, ch 1026, §65
Referred to in §208.14

208.8 Suspension, revocation, or refusal to issue license.

1. The division may, for repeated or willful violation of any of the provisions of this chapter, initiate an action to suspend, revoke, or refuse to issue a mining license.

2. The division shall, by certified mail or personal service, serve on the operator notice in writing of the charges and grounds upon which the license is to be suspended, revoked, or will not be issued. The notice shall include the time and the place at which a hearing shall be held before the committee, a subcommittee appointed by the committee, or the committee's designee, to determine whether to suspend, revoke, or refuse to issue the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

3. An operator whose license the division proposes to suspend, revoke, or refuse to issue has the right to counsel and may produce witnesses and present statements, documents, and other information in the operator's behalf at the hearing.

4. If after full investigation and hearing the operator is found to have willfully or repeatedly violated any of the provisions of this chapter, the committee or subcommittee may affirm or modify the proposed suspension, revocation, or refusal to issue the license.

5. When the committee or subcommittee finds that a license should be suspended or revoked or should not be issued, the division shall so notify the operator in writing by certified mail or by personal service.

a. The suspension or revocation of a license shall become effective thirty days after notice to the operator.

b. If the license or renewal fee has been paid and the committee or subcommittee finds that the license should not be issued, then the license shall expire thirty days after notice to the operator.

6. An action by the committee or subcommittee to affirm or modify the proposed suspension, revocation, or refusal to issue a license constitutes a final agency action for purposes of judicial review pursuant to section 208.11 and chapter 17A.

[C71, 73, 75, 77, 79, 81, §83A.8]
85 Acts, ch 137, §8
C93, §208.8
96 Acts, ch 1043, §4

208.9 Registering mine site.

1. At least seven days before beginning mining or removal of overburden at a mine site not previously registered, an operator engaging, or preparing to engage, in mining in this state shall register the mine site with the division. Application for registration shall be made upon a form provided by the division and shall be accompanied by a bond or security as provided by section 208.14. A registration renewal shall be filed annually. Application for renewal of registration shall be on a form provided by the division. The registration and registration cancellation fees shall be established by the division in an amount not to exceed the cost of administering the provisions of this chapter. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

2. A mine site registered pursuant to this chapter shall have a clearly visible sign which identifies the mining operation. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the division, invalidates the registration.

3. The division shall automatically invalidate all registrations of an operator who fails to renew the operator's mining license within a time period set by the division, who has

been denied license renewal by the committee or subcommittee, or whose license has been suspended or revoked by the committee or subcommittee.

[C71, 73, 75, 77, 79, 81, §83A.9]
85 Acts, ch 137, §9
C93, §208.9
96 Acts, ch 1043, §5
Referred to in §208.15, 208.16

208.10 Violation — enforcement.

1. The administrator may issue an order directing the operator to desist in an activity or practice which constitutes a violation of any provision of this chapter or any rules adopted by the division, or to take such corrective action as may be necessary to ensure that the violation will cease. If corrective measures sought by the division are not commenced within the time period designated in the order, the division may refer the violation to the attorney general for further action.

2. The operator may contest an order issued under this section through contested case proceedings pursuant to chapter 17A by filing with the administrator a notice of appeal within thirty days of receipt of the order for review by the division.

3. At the request of the division, the attorney general shall institute any legal proceedings, including an action for a civil penalty, injunction, or temporary injunction, necessary to enforce the provisions of this chapter or to obtain compliance with this chapter. Action by the attorney general may be taken in lieu of or in conjunction with any administrative action by the division.

4. Falsification of information required to be submitted under this chapter is a violation of this chapter.

[C71, 73, 75, 77, 79, 81, §83A.10]
C93, §208.10
96 Acts, ch 1043, §6
Referred to in §208.10A

208.10A Penalties.

1. Any person who violates an order issued pursuant to section 208.10 shall be subject to an administrative penalty determined by the division not to exceed five thousand dollars per violation.

a. The division shall establish, by rule, a schedule or range of administrative penalties. The schedule shall provide procedures and criteria for the assessment of these penalties.

b. Administrative penalties may be assessed in lieu of or in conjunction with any action initiated by the attorney general on behalf of the division.

c. All penalties shall be paid within thirty days of the date that the order assessing the penalty becomes final. An operator who fails to pay an administrative penalty assessed by a final order of the division shall pay, in addition, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

d. The attorney general shall, at the request of the division, institute proceedings to recover all penalties assessed.

2. If any person violates a provision of this chapter, or any rule or order adopted by the division pursuant to this chapter, the division may notify the attorney general who shall institute a civil action in district court for injunctive relief and for the assessment of a civil penalty not to exceed ten thousand dollars per violation.

3. Penalties, bond reversions, and bond forfeitures collected under the provisions of this chapter or any rule adopted by the division pursuant to this chapter shall be deposited in an interest-bearing account and may be used for the cost and administrative expenses of reclamation or rehabilitation activities for any mine site as deemed necessary and appropriate by the division.

96 Acts, ch 1043, §7

208.11 Judicial review.
Judicial review of the action of the committee or division may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.
[C71, 73, 75, 77, 79, 81, §83A.11]
C93, §208.11
2003 Acts, ch 44, §114
Referred to in §208.8

208.12 Reserved.

208.13 Registering surface mining site — sign at entrance — penalty. Repealed by 96 Acts, ch 1043, §20.

208.14 Bond.
The application for registration shall be accompanied by a bond or security as required under section 208.23 or 208.24. After ascertaining that the applicant is licensed under section 208.7 and is not in violation of this chapter with respect to any mine site previously registered with the division, the division shall register the mine site and shall issue the applicant written authorization to operate a mine.
[C71, 73, 75, 77, 79, 81, §83A.14]
85 Acts, ch 137, §13
C93, §208.14
Referred to in §208.9, 208.16, 208.24

208.15 Amendment or cancellation.
An operator may at any time apply for amendment or cancellation of registration of any site. The application for amendment or cancellation of registration shall be submitted by the operator on a form provided by the division and shall identify as required under section 208.9 the tract or tracts of land to be added to or removed from registration. If the application is for an increase in the area of a registered site, the application shall be processed in the same manner as an application for original registration. If the application is to cancel registration of any or all of the unmined part of a site, the division shall after ascertaining that no overburden has been disturbed or deposited on the land order release of the bond or the security posted on the land being removed from registration and cancel or amend the operator's written authorization to conduct mining on the site. Fees for amendment or cancellation of registration shall be determined as provided in section 208.9. No land where overburden has been disturbed or deposited shall be removed from registration or released from bond or security under this section.
[C71, 73, 75, 77, 79, 81, §83A.15]
C93, §208.15
96 Acts, ch 1043, §8
Referred to in §208.23, 208.24

208.16 Transfer to new operator.
1. If control of a mine site registered pursuant to section 208.9 is acquired by an operator other than the operator holding authorization to conduct mining on the site, the new operator shall within thirty days apply for registration of the site. The application shall be made and processed as provided under sections 208.9 and 208.14. The former operator's bond or security shall not be released until the new operator's bond or security has been accepted by the division.
2. The division may establish procedures for transferring the responsibility for reclamation of a mine site to a state agency or political subdivision, or to a private entity, which intends to use the site for other purposes. The division, with agreement from the receiving agency or subdivision, or from a private entity, to complete adequate reclamation,

may approve the transfer of responsibility, release the bond or security, and terminate or amend the operator's authorization to conduct mining on the site.

[C71, 73, 75, 77, 79, 81, §83A.16]
C93, §208.16
96 Acts, ch 1043, §9; 2004 Acts, ch 1175, §228
Referred to in §208.17

208.17 Reclamation requirements.

1. An operator authorized under this chapter to operate a mine, after completion of mining operations and within the time specified in section 208.19, shall:

a. Grade affected lands to slopes having a maximum of one foot vertical rise for each four feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each four feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain. However, water impoundments, pit or quarry floors, and highwalls are not subject to the requirements of this paragraph.

b. Stabilize and revegetate affected lands, except for water impoundments and pit or quarry floors as approved by the division before the release of the bond as provided in section 208.19.

c. Properly dispose of all mine-related debris, junk, waste materials, old equipment, and other materials of similar or like nature, within the registration boundaries of the site.

2. Notwithstanding subsection 1, overburden piles where deposition has not occurred for a period of twelve months shall be stabilized and revegetated.

3. Topsoil that is a part of overburden shall not be destroyed or buried in the process of mining.

4. The division may grant a variance from the requirements of subsections 1 and 2.

5. A bond or security posted under this chapter to assure reclamation of affected lands shall not be released until all of the reclamation work required by this section has been performed in accordance with this chapter and division rules, except when a replacement bond or security is posted by a new operator or responsibility is transferred under section 208.16.

[C71, 73, 75, 77, 79, 81, §83A.17]
85 Acts, ch 137, §14
C93, §208.17
96 Acts, ch 1043, §10
Referred to in §208.19, 208.23, 208.28

208.18 Periodic reports.

An operator shall file with the division a periodic report for each mine site under registration.

1. The report shall make reference to the most recent registration of the mine site and shall show:

a. The location and extent of all surface land area on the mine site affected by mining during the period covered by the report.

b. The extent to which removal of mineral products from all or any part of the affected lands has been completed.

2. The report shall be filed not later than twelve months after original registration of the site and prior to the expiration of each subsequent twelve-month period. A report shall also be filed within thirty days after completion of all mining operations at the site regardless of the date of the last preceding report. Forms for the filing of periodic reports required by this section shall be provided by the division.

[C71, 73, 75, 77, 79, 81, §83A.18]
85 Acts, ch 137, §15
C93, §208.18
96 Acts, ch 1043, §11
Referred to in §208.19

208.19 Reclamation schedule.

1. An operator of a mine shall reclaim affected lands according to a schedule established by the division, but within a period not to exceed three years, after the filing of a report required under section 208.18 indicating the mining of any part of a site has been completed.

2. For certain postmining land uses, such as a sanitary landfill, the division may allow an extended reclamation period.

3. An operator, upon completion of any reclamation work required by section 208.17, shall apply to the division in writing for approval of the work. The division shall within a reasonable time determined by divisional rule inspect the completed reclamation work. Upon determination by the division that the operator has satisfactorily completed all required reclamation work on the land included in the application, the division shall release the bond or security on the reclaimed land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct mining on the site.

[C71, 73, 75, 77, 79, 81, §83A.19]
85 Acts, ch 137, §16; 87 Acts, ch 115, §11
C93, §208.19
96 Acts, ch 1043, §12; 2017 Acts, ch 54, §76
Referred to in §208.17, 208.20, 208.24

208.20 Extension of time.

The time for completion of reclamation work may be extended upon presentation by the operator of evidence satisfactory to the division that reclamation of affected land cannot be completed within the time specified by section 208.19.

[C71, 73, 75, 77, 79, 81, §83A.20]
85 Acts, ch 137, §17
C93, §208.20
96 Acts, ch 1043, §13

208.21 Political subdivision engaged in mining.

Any political subdivision of the state of Iowa which engages or intends to engage in mining shall meet all requirements of this chapter except the subdivision shall not be required to post bond or security on registered land and shall not be required to pay licensing fees.

[C71, 73, 75, 77, 79, 81, §83A.21]
C93, §208.21
96 Acts, ch 1043, §14

208.22 Hearing on violation. Repealed by 96 Acts, ch 1043, §20.

208.23 Form of bond.

1. A bond filed with the division by an operator pursuant to this chapter shall be in a form prescribed by the division, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the division pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash or certificates of deposit with the division on the same conditions as prescribed by this section for filing of bonds. The amount of the bond required to be filed with an application for registration of a mining site, or to increase the area of a site previously registered, shall be equal to the cost of reclaiming the site as required under section 208.17 and estimated by the division.

2. The estimated cost of reclamation of each individual site shall be determined by the division on the basis of the requirements of this chapter and other relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, depth of the mineral deposit being mined, and cost of administration. The division may require an operator to furnish information necessary to estimate the cost of reclaiming the site. The amount of the bond may be increased or

reduced from time to time as determined necessary and appropriate by the division or in accordance with section 208.15.

[C71, 73, 75, 77, 79, 81, §83A.23]
85 Acts, ch 137, §18
C93, §208.23
96 Acts, ch 1043, §15
Referred to in §208.14, 208.24

208.24 Single bond for multiple sites.

An operator who registers with the division two or more mine sites may elect, at the time the second or a subsequent site is registered, to post a single bond in lieu of separate bonds on each site. A single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has registered, determined as provided in section 208.23. The penalty of a single bond on two or more mine sites may be increased or decreased from time to time in accordance with sections 208.14, 208.15, and 208.19. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the division.

[C71, 73, 75, 77, 79, 81, §83A.24]
85 Acts, ch 137, §19
C93, §208.24
96 Acts, ch 1043, §16
Referred to in §208.14

208.25 Cancellation of bond.

No bond filed with the division by an operator pursuant to this chapter may be canceled by the surety without at least ninety days' notice to the division. If the license to do business in Iowa of any surety of a bond filed with the division is suspended or revoked, the operator, within thirty days after receiving notice thereof from the division, shall substitute for the surety a corporate surety licensed to do business in Iowa. Upon failure of the operator to make substitution of surety as herein provided, the division shall have the right to suspend the operator's authorization to conduct mining on the site covered by the bond until substitution has been made. The commissioner of insurance shall notify the division whenever the license of any surety to do business in Iowa is suspended or revoked.

[C71, 73, 75, 77, 79, 81, §83A.25]
C93, §208.25
96 Acts, ch 1043, §17

208.26 Rules — inspection of site.

The division may adopt rules to implement the provisions of this chapter. The administrator or the administrator's designee may enter at all times upon any mine site or suspected mine site for the purpose of determining whether the operator is or has been complying with the provisions of this chapter. All operators shall cooperate with the division in seeking methods of operation which will cause minimum disruption to the land and property adjoining a mining operation.

[C71, 73, 75, 77, 79, 81, §83A.26]
C93, §208.26
96 Acts, ch 1043, §18

208.27 Hearing on violations. Repealed by 96 Acts, ch 1043, §20.

208.28 Forfeiture of bond — licensure restrictions.

1. The attorney general, upon request of the division, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee reclamation of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the division pursuant to this chapter. The division shall have the power to reclaim as required by section 208.17 any mined land with respect to which a bond has been forfeited, using

the proceeds of the forfeiture to pay for the necessary reclamation work and associated administrative costs.

2. If the proceeds from bond forfeiture proceedings are insufficient to fully satisfy the estimated cost of reclaiming disturbed lands as required under section 208.17 and division rules, the operator shall be liable for remaining costs. The division may complete, or authorize completion of, the necessary reclamation and may authorize the attorney general to bring a civil action to recover from the operator all actual or estimated costs of reclamation in excess of the amount forfeited or require the operator to complete reclamation.

3. If the amount of bond forfeited exceeds the amount necessary to complete reclamation, the unused funds shall be returned to the operator or the surety, as appropriate.

[C71, 73, 75, 77, 79, 81, §83A.28]
85 Acts, ch 137, §20
C93, §208.28
96 Acts, ch 1043, §19

208.29 and 208.30 Repealed by 96 Acts, ch 1043, §20.

CHAPTER 208A

MOTOR VEHICLE ANTIFREEZE

208A.1	Definitions.	208A.7	List of approved brands.
208A.2	What deemed adulterated.	208A.8	Advertising restricted.
208A.3	What deemed misbranded.	208A.9	Prosecution.
208A.4	Inspection by department.	208A.10	Fees remitted.
208A.5	Samples — analysis.	208A.11	Penalty.
208A.6	Rules.	208A.12	Citation of chapter.

208A.1 Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. *"Antifreeze"* shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

2. *"Person"* shall include individuals, partnerships, corporations, companies, and associations.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.1]
2013 Acts, ch 90, §37

208A.2 What deemed adulterated.

An antifreeze shall be deemed to be adulterated if either of the following apply:

1. It consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user.

2. Its strength, quality, or purity falls below the standard of strength, quality, or purity under which it is sold.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.2]
2013 Acts, ch 90, §38

208A.3 What deemed misbranded.

An antifreeze shall be deemed to be misbranded if either of the following apply:

1. Its labeling is false or misleading in any particular.

2. In package form it does not bear a label containing the name and place of business of

the manufacturer, packer, seller, or distributor and an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.3]

2013 Acts, ch 90, §39

208A.4 Inspection by department.

1. Before any antifreeze is sold, exposed for sale, or held with intent to sell within this state, a sample of the product must be inspected by the department of agriculture and land stewardship. Upon application of the manufacturer, packer, seller, or distributor and the payment of a fee of twenty dollars for each brand of antifreeze submitted, the department shall inspect the antifreeze submitted. If the antifreeze is not adulterated or misbranded, if it meets the standards of the department, and is not in violation of this chapter, the department shall give the applicant a written permit authorizing the sale of such antifreeze in this state until the formula or labeling of the antifreeze is changed in any manner.

2. If the department finds at a later date that the product to be sold, exposed for sale, or held with intent to sell has been materially altered or adulterated, a change has been made in the name, brand, or trademark under which the antifreeze is sold, or it violates the provisions of this chapter, the department shall notify the applicant and the permit shall be canceled forthwith.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.4]

2021 Acts, ch 80, §101

Section amended

208A.5 Samples — analysis.

The department shall enforce the provisions of this chapter by inspections, chemical analysis, or any other appropriate methods. All samples for inspection or analysis shall be taken from stocks in the state or intended for sale in the state or the department through its agents may call upon the manufacturer or distributor applying for an inspection of an antifreeze to supply such samples thereof for analysis. The department, through its agents, shall have free access by legal means during business hours to all places of business, buildings, vehicles, cars and vessels used in the manufacture, transportation, sale or storage of any antifreeze, and it may open by legal means any box, carton, parcel, or package, containing or supposed to contain any antifreeze and may take therefrom samples for analysis.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.5]

208A.6 Rules.

The department shall have authority to promulgate such rules as are necessary to promptly and effectively enforce the provisions of this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.6]

208A.7 List of approved brands.

The department may furnish upon request a list of the brands and trademarks of antifreeze inspected by the department during the calendar year which have been found to be in accord with this chapter.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.7]

208A.8 Advertising restricted.

No advertising literature relating to any antifreeze sold or to be sold in this state shall contain any statement that the antifreeze advertised for sale has met the requirements of the department until such antifreeze has been given the laboratory test and inspection of the department, and found to meet all the standard requirements and not to be in violation of this chapter. Then such statement may be contained in any advertising literature where such brand or trademark of antifreeze is being advertised for sale, and such statement may be used on all regular containers of such antifreeze.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.8]

208A.9 Prosecution.
Whenever the department shall discover any antifreeze is being sold or has been sold in violation of this chapter, the facts shall be furnished to the attorney general who shall institute proper proceedings.
[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.9]

208A.10 Fees remitted.
All fees provided for in this chapter shall be collected by the secretary of agriculture and shall be deposited in the general fund of the state.
[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.10]
91 Acts, ch 260, §1219

208A.11 Penalty.
If any person, partnership, corporation, or association shall violate the provisions of this chapter, such person, partnership, corporation or association shall be deemed guilty of a simple misdemeanor and, upon conviction thereof, the department may after due hearing cancel registration.
[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.11]

208A.12 Citation of chapter.
This chapter may be cited as the *"Iowa Antifreeze Act"*.
[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §208A.12]

CHAPTER 209

RESERVED

CHAPTER 210

STANDARD WEIGHTS AND MEASURES

210.1	Standard established.	210.14	Hop boxes.
210.2	Length and surface measure.	210.15	Milk and cream bottles or containers.
210.3	Land measure.	210.16	Flour.
210.4	Weight.	210.17	Mason work or stone.
210.5	Liquids.	210.18	Sales to be by standard weight or measure — labeling.
210.6	Dry measure.	210.19	Standard weight of bread.
210.7	Bottomless measure.	210.20	Wrapper.
210.8	Sales of dry commodities.	210.21	Violations.
210.9	Drugs and section comb honey exempted.	210.22	"Person" defined.
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210.11	Sale of fruits and vegetables by dry measure.	210.24	Enforcement — rules and regulations.
210.12	Sale of fruits and vegetables in baskets.	210.25	Weighing bread.
210.13	Berry boxes and climax baskets.	210.26	Measuring saw logs.

210.1 Standard established.
The weights and measures which have been presented by the department to the United States national institute of standards and technology and approved, standardized, and

certified by the institute in accordance with the laws of the Congress of the United States shall be the standard weights and measures throughout the state.

[C51, §937; R60, §1775; C73, §2037; C97, §3009; S13, §3009-c; C24, 27, 31, 35, 39, §**3227;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.1]

90 Acts, ch 1045, §3

Referred to in §210.2, 210.4, 210.5, 210.6

210.2 Length and surface measure.

The unit or standard measure of length and surface from which all other measures of extension shall be derived and ascertained, whether they be lineal, superficial, or solid, shall be the standard yard secured in accordance with the provisions of section 210.1. It shall be divided into three equal parts called feet, and each foot into twelve equal parts called inches, and for the measure of cloth and other commodities commonly sold by the yard it may be divided into halves, quarters, eighths, and sixteenths. The rod, pole, or perch shall contain five and one-half such yards, and the mile, one thousand seven hundred sixty such yards.

[C51, §937; R60, §1775; C73, §2038 – 2040; C97, §3010; S13, §3009-d; C24, 27, 31, 35, 39, §**3228;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.2]

210.3 Land measure.

The acre for land measure shall be measured horizontally and contain ten square chains and be equivalent in area to a rectangle sixteen rods in length and ten rods in breadth, six hundred and forty such acres being contained in a square mile. The chain for measuring land shall be twenty-two yards long, and be divided into one hundred equal parts, called links.

[C73, §2041; C97, §3011; S13, §3009-d; C24, 27, 31, 35, 39, §**3229;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.3]

210.4 Weight.

The units or standards of weight from which all other weights shall be derived and ascertained shall be the standard avoirdupois and troy weights secured in accordance with the provisions of section 210.1. The avoirdupois pound, which bears to the troy pound the ratio of seven thousand to five thousand seven hundred sixty, shall be divided into sixteen equal parts called ounces; the hundred-weight shall consist of one hundred avoirdupois pounds, and twenty hundred-weight shall constitute a ton. The troy ounce shall be equal to the twelfth part of a troy pound.

[C51, §938; R60, §1776; C73, §2042, 2043; C97, §3012; S13, §3009-e; C24, 27, 31, 35, 39, §**3230;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.4]

210.5 Liquids.

The unit or standard measure of capacity for liquids from which all other measures of liquids shall be derived and ascertained shall be the standard gallon secured in accordance with the provisions of section 210.1. The gallon shall be divided by continual division by the number two so as to make half-gallons, quarts, pints, half-pints, and gills. The barrel shall consist of thirty-one and one-half gallons, and two barrels shall constitute a hogshead.

[C73, §2044, 2045; C97, §3013; S13, §3009-g; C24, 27, 31, 35, 39, §**3231;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.5]

210.6 Dry measure.

The unit or standard measure of capacity for substances not liquids from which all other measures of such substances shall be derived and ascertained shall be the standard half-bushel secured in accordance with the provisions of section 210.1. The peck, half-peck, quarter-peck, quart, pint, and half-pint measures for measuring commodities which are not liquids, shall be derived from the half-bushel by successively dividing the cubic inch capacity of that measure by two.

[C73, §2046, 2047; C97, §3014; S13, §3009-f; C24, 27, 31, 35, 39, §**3232;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.6]

210.7 Bottomless measure.

Bottomless dry measures shall not be used unless they conform in shape to the United States standard dry measures.

[SS15, §3009-j; C24, 27, 31, 35, 39, §**3233;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.7]

210.8 Sales of dry commodities.

All dry commodities unless bought or sold in package or wrapped form shall be bought or sold only by the standard weight or measure established in this chapter, or by numerical count, unless the parties otherwise agree in writing, except as provided in sections 210.9 through 210.12.

[SS15, §3009-j; C24, 27, 31, 35, 39, §**3234;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.8]

2021 Acts, ch 80, §102
Referred to in §210.9
Section amended

210.9 Drugs and section comb honey exempted.

The requirements of section 210.8 shall not apply to drugs or section comb honey.

[SS15, §3009-j; C24, 27, 31, 35, 39, §**3235;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.9]
Referred to in §210.8

210.10 Bushel measure.

When any of the commodities enumerated in this section shall be sold by the bushel or fractional part thereof, except when sold in a United States standard container or as provided in sections 210.11 and 210.12, the measure shall be determined by avoirdupois weight and shall be computed as follows:

Commodities	*Pounds*
Apples	48
Apples, dried	24
Alfalfa seed	60
Barley	48
Beans, green, unshelled	56
Beans, dried	60
Beans, lima	56
Beets	56
Blue grass seed	14
Bran	20
Bromus inermis	14
Broom corn seed	50
Buckwheat	48
Carrots	50
Castor beans, shelled	50
Charcoal	20
Cherries	40
Clover seed	60
Coal	80
Coke	40
Corn on the cob (field)	70
Corn in the ear, unhusked (field)	75
Corn, shelled (field)	56
Corn meal	48
Cucumbers	48
Emmer	40
Flaxseed	56

Grapefruit	48
Grapes, with stems	40
Hempseed	44
Hickory nuts, hulled	50
Hungarian grass seed	50
Kaffir corn	56
Lemons	48
Lime	80
Millet seed	50
Oats	32
Onions	52
Onion top sets	28
Onion bottom sets	32
Oranges	48
Orchard grass seed	14
Osage orange seed	32
Parsnips	45
Peaches	48
Peaches, dried	33
Peanuts	22
Pears	45
Peas, green, unshelled	50
Peas, dried	60
Plums	48
Popcorn, on the cob	70
Popcorn, shelled	56
Potatoes	60
Quinces	48
Rape seed	50
Redtop seed	14
Rutabagas	60
Rye	56
Salt	80
Sand	130
Shorts	20
Sorghum saccharatum seed	50
Soybeans	60
Spelt	40
Sweet corn	50
Sweet potatoes	50
Timothy seed	45
Tomatoes	50
Turnips	55
Walnuts, hulled	50
Wheat	60
All root crops not specified above	50

[C51, §940; R60, §1778, 1781 – 1784; C73, §2049; C97, §3016; S13, §3009-h; C24, 27, 31, 35, 39, §**3236;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.10]

Referred to in §210.8, 717A.1

210.11 Sale of fruits and vegetables by dry measure.

Blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets in quantities of one peck or less, may be sold by the quart, pint, or half-pint, dry measure.

[SS15, §3009-i; C24, 27, 31, 35, 39, §**3237;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.11]

Referred to in §210.8, 210.10

210.12 Sale of fruits and vegetables in baskets.

Grapes, other fruits, and vegetables may be sold in climax baskets; but when said commodities are sold in such manner and the containers are labeled with the net weight of the contents in accordance with the provisions of section 189.9, all the provisions of chapter 191 shall be deemed to have been complied with.

[C24, 27, 31, 35, 39, §**3238;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.12]

2007 Acts, ch 126, §41

Referred to in §210.8, 210.10

210.13 Berry boxes and climax baskets.

Berry boxes sold, used, or offered or exposed for sale shall have an interior capacity of one quart, pint, or half-pint dry measure. Climax baskets sold, used, or offered or exposed for sale shall be of the standard size fixed below:

1. Two-quart basket: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches, and width five inches, outside measurement; basket to have a cover five by eleven inches, when a cover is used.

2. Four-quart basket: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement; basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

3. Twelve-quart basket: Length of bottom piece, sixteen inches; width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch, outside measurement; top of basket, length nineteen inches, height of basket, seven and one-sixteenth inches, width nine inches, outside measurement; basket to have cover nine inches by nineteen inches, when cover is used.

[SS15, §3009-i; C24, 27, 31, 35, 39, §**3239;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.13]

210.14 Hop boxes.

The standard box used in packing hops shall be thirty-six inches long, eighteen inches wide, and twenty-three and one-fourth inches deep, inside measurement.

[C73, §2051; C97, §3018; C24, 27, 31, 35, 39, §**3240;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.14]

210.15 Milk and cream bottles or containers.

The standard bottle or container used for the sale of milk and cream shall be of a capacity of one gallon, one-half gallon, three pints, one quart, one pint, one-half pint, one-third quart, one gill, filled full to the bottom of the lip.

[S13, §3009-k; C24, 27, 31, 35, 39, §**3241;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.15]

210.16 Flour.

The standard weights of flour when sold in package form shall be as follows: Two, five, ten, twenty-five, fifty, or one hundred pounds.

[C24, 27, 31, 35, 39, §**3242;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.16]

210.17 Mason work or stone.

The perch of mason work or stone shall consist of twenty-five feet, cubic measure.

[C51, §939; R60, §1777; C73, §2050; C97, §3017; C24, 27, 31, 35, 39, §**3243;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.17]

210.18 Sales to be by standard weight or measure — labeling.

1. All commodities bought or sold by weight or measure shall be bought or sold only by the standards established by this chapter, unless the vendor and vendee otherwise agree. Sales by weight shall be by avoirdupois weight unless troy weight is agreed upon by the vendor and vendee.

2. All commodities bought or sold in package form shall be labeled in compliance with the general provisions for labeling provided for in section 189.9 and sections 189.11 through 189.16, unless otherwise provided for in this chapter.

[SS15, §3009-j; C24, 27, 31, 35, 39, §**3244;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.18]

2021 Acts, ch 80, §103
Section amended

210.19 Standard weight of bread.

The standard loaf of bread shall weigh one pound, avoirdupois weight. All bread manufactured, procured, made or kept for the purpose of sale, offered or exposed for sale, or sold in the form of loaves, shall be one of the following standard weights and no other, namely: Three-quarters pound, one pound, one and one-quarter pound, one and one-half pound, or multiples of one pound, avoirdupois weight; and provided further, that the provisions of this section shall not apply to biscuits, buns, crackers, rolls or to what is commonly known as *"stale"* bread and sold as such, in case the seller shall, at the time of sale, expressly state to the buyer that the bread so sold is *"stale"* bread. In case of twin or multiple loaves, the weight specified in this section shall apply to the combined weight of the two units.

[C27, 31, 35, §3244-b1; C39, §**3244.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.19]
Referred to in §210.21, 210.23, 210.24

210.20 Wrapper.

There shall be printed upon the wrapper of each loaf of bread in plain conspicuous type, the name and address of the manufacturer and the weight of the loaf in terms of one of the standard weights herein specified.

[C27, 31, 35, §3244-b2; C39, §**3244.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.20]
Referred to in §210.21, 210.23, 210.24

210.21 Violations.

It shall be unlawful for any person to manufacture, procure, or keep for the purpose of sale, offer or expose for sale, or sell bread in the form of loaves which are not of one of the weights specified in section 210.19 or violate the rules of the secretary of agriculture pertaining thereto. Any person who, in person or by a servant, or agent, or as the servant or agent of another, shall violate any of the provisions of sections 210.19, 210.20, this section, and sections 210.22 through 210.25, shall be guilty of a simple misdemeanor.

[C27, 31, 35, §3244-b3; C39, §**3244.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.21]
2021 Acts, ch 80, §104
Referred to in §210.22, 210.23, 210.24
Section amended

210.22 "Person" defined.

The word *"person"* as used in section 210.21 shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

[C27, 31, 35, §3244-b4; C39, §**3244.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.22]
Referred to in §210.21, 210.23, 210.24

210.23 Exception.

Any person engaged in home baking is exempt from the provisions of sections 210.19 through 210.22.

[C27, 31, 35, §3244-b5; C39, §**3244.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.23]

2021 Acts, ch 80, §105
Referred to in §210.21, 210.24
Section amended

210.24 Enforcement — rules and regulations.

The secretary of agriculture shall enforce the provisions of sections 210.19 through 210.23, this section, and section 210.25. The secretary shall make rules for the enforcement of the provisions of said sections not inconsistent therewith, and such rules and regulations shall include reasonable variations and tolerances.

[C27, 31, 35, §3244-b6; C39, §**3244.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.24]

2021 Acts, ch 80, §106
Referred to in §210.21
Section amended

210.25 Weighing bread.

Bread when weighed for inspection shall be weighed in the manufacturer's plant when said bread is wrapped ready for delivery, and bread coming into the state from an adjoining state when weighed for inspection shall be weighed in the packages, containers, vehicles, or trucks of the manufacturer at the time when said bread crosses the state line, or at the first point of stop for sale or delivery of said bread after crossing the Iowa state line, and the weight shall be determined by averaging the weight of not less than fifteen loaves picked at random from any given lot.

[C35, §3244-f1; C39, §**3244.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §210.25]
Referred to in §210.21, 210.24

210.26 Measuring saw logs.

The Scribner decimal "C" log rule is hereby adopted as the standard log rule for determining the board-foot content of saw logs; and all contracts hereafter entered into for the cutting, purchase and sale of saw logs shall be deemed to be made on the basis of such standard rule unless some other method is specifically agreed upon.

[C62, 66, 71, 73, 75, 77, 79, 81, §210.26]

CHAPTER 211

RESERVED

CHAPTER 212

SALES OF CERTAIN COMMODITIES FROM BULK

212.1	Definitions.	212.4	Sales without delivery.
212.1A	Coal, charcoal, and coke.	212.5	Reserved.
212.2	Delivery tickets required.		
212.3	Disposition of delivery tickets.	212.6	Inspection of vehicles.

212.1 Definitions.

As used in this chapter, unless the context otherwise requires, *"department"* means the department of agriculture and land stewardship.

2017 Acts, ch 159, §48
Former §212.1 transferred to §212.1A

212.1A Coal, charcoal, and coke.

No person shall sell, offer or expose for sale any coal, charcoal, or coke in any other manner than by weight, or represent any of said commodities as being the product of any county, state, or territory, except that in which mined or produced, or represent that said commodities contain more British thermal units than are present therein.

[S13, §3009-l; C24, 27, 31, 35, 39, §**3245;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §212.1]
C2018, §212.1A

212.2 Delivery tickets required.

A person shall not deliver any bulk commodities, other than liquids, by vehicle unless otherwise provided for, without each delivery being accompanied by two duplicate delivery tickets. Each delivery ticket shall be written in ink or other indelible substance and include all of the following:

1. The actual weight distinctly expressed in pounds or kilograms of the gross weight of the load.
2. The tare of the delivery vehicle, and the net amount in weight of the commodity or, if the commodity is weighed by hopper scale or belt conveyor, the net weight of the commodity expressed in pounds or kilograms without expression of the tare of the delivery vehicle or the gross weight of the load.
3. The names of the purchaser and the dealer from whom the commodity was purchased.
4. The date delivered and the type of commodity being delivered.

[S13, §3009-l; C24, 27, 31, 35, 39, §**3246;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §212.2]
2017 Acts, ch 159, §49
Referred to in §212.3

212.3 Disposition of delivery tickets.

One duplicate delivery ticket described in section 212.2 shall be delivered to the vendee and the other duplicative delivery ticket shall be returned to the vendor or retained electronically by the vendor if approval from the department has previously been granted. Upon demand of the department the person in charge of the load shall surrender one of the duplicate delivery tickets to the person making such demand. If the duplicative delivery ticket is retained, an official weight slip shall be delivered by the department to the vendee or the vendee's agent.

[S13, §3009-l; C24, 27, 31, 35, 39, §**3247;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §212.3]
2017 Acts, ch 159, §50; 2018 Acts, ch 1026, §66

212.4 Sales without delivery.

When the vendee carries away the commodity purchased, a delivery ticket, showing the actual number of pounds received by the vendee, shall be issued to the vendee by the vendor.

[S13, §3009-l; C24, 27, 31, 35, 39, §**3248;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §212.4]

212.5 Reserved.

212.6 Inspection of vehicles.

The department may stop any wagon, auto truck, or other vehicle loaded with any commodity being bought, offered or exposed for sale, or sold, and compel the person having charge of the same to bring the load to a scale designated by said department and weighed for the purpose of determining the true net weight of the commodity.

[S13, §3009-l; SS15, §3009-n; C24, 27, 31, 35, 39, §**3250;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §212.6]

CHAPTER 213

STATE METROLOGIST

213.1	State metrologist.	213.4	through 213.6 Repealed by 98 Acts, ch 1032, §10.
213.2	Physical standards.		
213.3	Testing weights and measures.	213.7	Expenses.

213.1 State metrologist.

The department may designate one of its assistants to act as state metrologist of weights and measures. All weights and measures sealed by the state metrologist shall be impressed with the word "Iowa."

[C73, §2053 – 2055; C97, §3020; S13, §3009-b; C24, 27, 31, 35, 39, §**3251;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §213.1]

2013 Acts, ch 15, §2

213.2 Physical standards.

Weights and measures, which conform to the standards of the United States national institute of standards and technology existing as of January 1, 1979, that are traceable to the United States standards supplied by the federal government or approved as being in compliance with its standards by the national bureau of standards shall be the state primary standard of weights and measures. Such weights and measures shall be verified upon initial receipt of same and as often as deemed necessary by the secretary of agriculture. The secretary may provide for the alteration in the state primary standard of weights and measures in order to maintain traceability with the standard of the United States national institute of standards and technology. All such alterations shall be made pursuant to rules promulgated by the secretary in accordance with chapter 17A.

[C73, §2053, 2054; C97, §3020; S13, §3009-b; C24, 27, 31, 35, 39, §**3252;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §213.2]

90 Acts, ch 1045, §3; 2012 Acts, ch 1095, §145

213.3 Testing weights and measures.

Upon written request of any citizen, firm, or corporation, city or county, or educational institution of the state made to the department, a test or calibration of any weights, measures, weighing or measuring devices, and instruments or apparatus to be used as standards shall be made.

[S13, §3009-b; C24, 27, 31, 35, 39, §**3253;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §213.3]

213.4 through 213.6 Repealed by 98 Acts, ch 1032, §10.

213.7 Expenses.

All expenses directly incurred in furnishing the several cities with standards, or in comparing those that may be in their possession, shall be borne by said cities.

[C73, §2061; C97, §3024; C24, 27, 31, 35, 39, §**3257;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §213.7]

CHAPTER 214

COMMERCIAL WEIGHING AND MEASURING DEVICES — MOTOR FUEL PUMPS

Referred to in §323.1, 323.3

214.1 Definitions.
214.2 License.
214.3 License terms and fees.
214.4 Failure to pay license fee — removal from service.
214.5 Inspection stickers.
214.6 Duties of weighmaster.
214.7 Registers.
214.8 Penalty.
214.9 Self-service motor fuel pumps.
214.10 Rules.
214.11 Inspections — recalibrations — penalty.

214.1 Definitions.

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

1. *"Commercial weighing and measuring device"* or *"device"* means the same as defined in section 215.1.

2. *"Motor fuel"*, *"retail dealer"*, *"retail motor fuel site"*, and *"wholesale dealer"* mean the same as defined in section 214A.1.

3. *"Motor fuel blender pump"* or *"blender pump"* means a motor fuel meter that dispenses a type of motor fuel that is blended from two or more different types of motor fuels and which may dispense more than one type of blended motor fuel.

4. *"Motor fuel pump"* means a meter or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank, on a retail basis.

5. *"Motor fuel storage tank"* or *"storage tank"* means an aboveground or belowground container that is a fixture used to store an accumulation of motor fuel.

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

[C73, §2065; C97, §3027; SS15, §3009-m; C24, 27, 31, 35, 39, §**3258;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.1]

80 Acts, ch 1054, §20; 87 Acts, ch 93, §1, 2; 90 Acts, ch 1084, §1; 2006 Acts, ch 1142, §2, 26; 2008 Acts, ch 1169, §12, 30; 2012 Acts, ch 1095, §146, 147; 2014 Acts, ch 1104, §5; 2021 Acts, ch 149, §10

Referred to in §159A.11, 214A.1, 323.1, 422.11O, 422.11P, 422.11Y, 452A.2, 455G.31
Further definitions, see §189.1
NEW subsection 6

214.2 License.

A person who uses or displays for use any commercial weighing and measuring device, as defined in section 215.1, shall secure a license from the department.

[SS15, §3009-m; C24, 27, 31, 35, 39, §**3259;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.2]

87 Acts, ch 93, §3; 90 Acts, ch 1084, §2

214.3 License terms and fees.

1. A license issued by the department for the inspection of a commercial weighing and measuring device shall expire on December 31 of each year, and for a motor fuel pump on June 30 of each year.

2. The license inspection fee on a commercial weighing and measuring device is due the day the device is placed into service. A license inspection fee shall be charged to the person owning or operating a commercial weighing and measuring device inspected in accordance with the class or section for devices as established by handbook 44 of the United States national institute of standards and technology.

3. The fee due under this section for a commercial weighing and measuring device shall be as follows:

a. Class S-IIIL.

(1) Railroad track scales, one hundred six dollars and fifty cents.

(2) Other scales.

(a) 500 to 1,000 pounds capacity, sixteen dollars and fifty cents.

(b) 1,001 to 30,000 pounds capacity, thirty-one dollars and fifty cents.

(c) 30,001 to 50,000 pounds capacity, sixty-one dollars and fifty cents.

(d) 50,001 pounds capacity or more, eighty-four dollars.

(3) A minimum fee of forty-six dollars and fifty cents shall be charged for each vehicle or livestock scale.

b. Class S-II and S-III, nine dollars.

(1) Bench scale, nine dollars.

(2) Counter scale, nine dollars.

(3) Portable platform scale, nine dollars.

(4) Livestock monorail scale, nine dollars.

(5) Single animal scale, nine dollars.

(6) Grain test scale, nine dollars.

(7) Precious metal and gems scale, nine dollars.

(8) Postal scale, nine dollars.

c. (1) Grain moisture meters, twenty-four dollars.

(2) Additional meters at the same location, sixteen dollars and fifty cents.

d. Class M-I. One hundred-gallon prover.

(1) Bulk meters, nine dollars.

(2) Bulk liquid petroleum gas meters, fifty-two dollars and fifty cents.

(3) Bulk refined fuel meters, nine dollars.

(4) Mass flow meters, nine dollars.

e. Class M-II. Five-gallon prover.

(1) Slow flow meters, nine dollars.

(2) Retail motor fuel pump, four dollars and fifty cents.

[SS15, §3009-m; C24, 27, 31, 35, 39, §**3260;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.3]

87 Acts, ch 93, §4; 88 Acts, ch 1272, §21; 90 Acts, ch 1084, §3; 92 Acts, ch 1239, §36, 37; 2006 Acts, ch 1142, §83; 2021 Acts, ch 149, §11, 12

Referred to in §214.4, 215A.9
Subsection 1 amended
Subsection 3, paragraph e, subparagraph (2) amended

214.4 Failure to pay license fee — removal from service.

1. If the department does not receive payment of the license fee required pursuant to section 214.3 within one month from the due date, the department shall deliver a notice to the owner or operator of the device. The notice shall state all of the following:

a. The owner or operator is delinquent in the payment of the required fee.

b. The owner or operator has fifteen days after receipt of the notice to pay the license fee required pursuant to section 214.3.

c. If the department does not receive payment of the license fee as required, the department may summarily tag and remove from service the commercial weighing and measuring device.

2. If the license fee is not received by the department within fifteen days after receipt of the notice by the owner or operator of the commercial weighing and measuring device, the department may tag and remove from service the device for which the license fee has not been paid.

94 Acts, ch 1198, §43; 2021 Acts, ch 149, §13

Subsection 1, unnumbered paragraph 1 amended

214.5 Inspection stickers.

For each commercial weighing and measuring device licensed, the department shall issue an inspection sticker, which shall not exceed two inches by two inches in size. The inspection sticker shall be displayed prominently on the front of the commercial weighing and measuring

device and the defacing or wrongful removal of the sticker shall be punished as provided in chapter 189. Absence of an inspection sticker is prima facie evidence that the commercial weighing and measuring device is being operated contrary to law.

[SS15, §3009-m; C24, 27, 31, 35, 39, §**3262;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.5]

87 Acts, ch 93, §5; 90 Acts, ch 1084, §4

214.6 Duties of weighmaster.

A weighmaster shall ensure that a commercial weighing and measuring device is correctly balanced to make true weights, and shall render a correct account to the person having weighing done.

[C73, §2065; C97, §3027; C24, 27, 31, 35, 39, §**3263;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.6]

2007 Acts, ch 126, §42; 2021 Acts, ch 149, §14

Referred to in §214.8

Section amended

214.7 Registers.

Weighmasters are required to make true weights and keep a correct register of all weighing done by them, giving the amount of each weight, date thereof, and the name of the person or persons for whom done, and give, upon demand, to any person having weighing done, a certificate showing the weight, date, and for whom weighed.

[C73, §2066, 2067; C97, §3028; C24, 27, 31, 35, 39, §**3264;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.7]

Referred to in §214.8

214.8 Penalty.

Any weighmaster violating any of the provisions of sections 214.6 and 214.7, shall be guilty of a simple misdemeanor, and be liable to the person injured for all damages sustained.

[C73, §2068; C97, §3029; C24, 27, 31, 35, 39, §**3265;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §214.8]

214.9 Self-service motor fuel pumps.

A self-service motor fuel pump located at a retail motor fuel site may be equipped with an automatic latch-open device on the fuel dispensing hose nozzle only if the nozzle valve is the automatic closing type.

[C81, §214.9]

87 Acts, ch 93, §6; 2006 Acts, ch 1142, §83; 2008 Acts, ch 1169, §13, 30

214.10 Rules.

The department of agriculture and land stewardship may promulgate rules pursuant to chapter 17A as necessary to promptly and effectively enforce the provisions of this chapter.

[C81, §214.10]

214.11 Inspections — recalibrations — penalty.

1. The department shall provide for annual inspections of all motor fuel pumps, including but not limited to motor fuel blender pumps, licensed under this chapter. Inspections shall be for the purpose of determining the accuracy and correctness of motor fuel pumps. For that purpose the department's inspectors may enter upon the premises of any wholesale dealer or retail dealer.

2. Upon completion of an inspection, the inspector shall affix the department's seal to the measuring mechanism of the motor fuel pump. The seal shall be appropriately marked, dated, and recorded by the inspector. If the owner of an inspected and sealed motor fuel pump is registered with the department as a servicer in accordance with section 215.23, or employs a person so registered as a servicer, the owner or other servicer may open the motor fuel pump, break the department's seal, recalibrate the measuring mechanism if necessary, and

reseal the motor fuel pump as long as the department is notified of the recalibration within forty-eight hours, in a manner provided by the department.

3. A person violating a provision of this section is, upon conviction, guilty of a simple misdemeanor.

87 Acts, ch 93, §7; 2006 Acts, ch 1142, §83; 2012 Acts, ch 1095, §148; 2021 Acts, ch 149, §15
Section amended

CHAPTER 214A

MOTOR FUEL

Referred to in §323.1, 323.4A

214A.1 Definitions.
214A.2 Tests and standards.
214A.2A Kerosene.
214A.2B Laboratory for motor fuel and biofuels.
214A.2C Auditing programs.
214A.3 Advertising.
214A.4 Intrastate shipments.
214A.5 Documentation.
214A.6 Department tests — fee. Repealed by 2005 Acts, ch 159, §2.
214A.7 Department inspection — samples tested.
214A.8 Prohibition.
214A.9 Poster showing analysis. Repealed by 2013 Acts, ch 15, §9.
214A.10 Transfer pipes.
214A.11 Penalties.
214A.12 Industrial petroleum — permits.
214A.13 Chemists — employment of.
214A.14 Appropriation.
214A.15 Gasoline receptacles. Repealed by 2021 Acts, ch 149, §17.
214A.16 Notice of renewable fuel — decal.
214A.17 Documentation in transactions.
214A.18 MTBE prohibition.
214A.19 Demonstration grants authorized.
214A.20 Limitation on liability.

214A.1 Definitions.

The following definitions shall apply to the various terms used in this chapter:

1. *"Advertise"* means to present a commercial message in any medium, including but not limited to print, radio, television, sign, display, label, tag, or articulation.

2. *"A.S.T.M. international"* means the American society for testing and materials international.

3. *"Biobutanol"* means isobutyl or n-butyl alcohol that is to be blended with gasoline if it meets the standards provided in section 214A.2.

4. *"Biobutanol blended gasoline"* means a formulation of gasoline which is a liquid petroleum product blended with biobutanol, if the formulation meets the standards provided in section 214A.2.

5. *"Biodiesel"* means a renewable fuel comprised of mono-alkyl esters of long-chain fatty acids derived from vegetable oils or animal fats, which meets the standards provided in section 214A.2.

6. *"Biodiesel blended fuel"* means a blend of biodiesel with petroleum-based diesel fuel which meets the standards, including separately the standard for its biodiesel component, provided in section 214A.2.

7. *"Biodiesel fuel"* means biodiesel or biodiesel blended fuel.

8. *"Biofuel"* means ethanol, biobutanol, or biodiesel.

9. *"Dealer"* means a wholesale dealer or retail dealer.

10. *"Department"* means the department of agriculture and land stewardship.

11. *"Diesel fuel"* means any liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel powered engine, including but not limited to a motor vehicle, equipment as defined in section 322F.1, or a train. Diesel fuel includes a liquid product prepared, advertised, offered for sale, or sold for use as, or commonly and commercially used as, motor fuel for use in an internal combustion engine and ignited by pressure without the presence of an electric spark. Diesel fuel must meet the standards provided in section 214A.2.

12. *"Distributor"* means the same as defined in section 452A.2.

13. *"E-85 gasoline"* or *"E-85"* means ethanol blended gasoline formulated with a percentage of between seventy and eighty-five percent by volume of ethanol, if the formulation meets the standards provided in section 214A.2.

14. *"Ethanol"* means ethyl alcohol that is to be blended with gasoline if it meets the standards provided in section 214A.2.

15. *"Ethanol blended gasoline"* means a formulation of gasoline which is a liquid petroleum product blended with ethanol, if the formulation meets the standards provided in section 214A.2.

16. *"Gasoline"* means any liquid product prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, motor fuel for use in a spark-ignition, internal combustion engine, and which meets the specifications provided in section 214A.2.

17. *"Marketer"* means a dealer, distributor, nonrefiner biofuel manufacturer, or supplier.

18. *"Motor fuel"* means a substance or combination of substances which is intended to be or is capable of being used for the purpose of operating an internal combustion engine, including but not limited to a motor vehicle, and is kept for sale or sold for that purpose.

19. *"Motor fuel pump"* and *"motor fuel blender pump"* or *"blender pump"* means the same as defined in section 214.1.

20. *"Motor fuel storage tank"* means the same as defined in section 214.1.

21. *"MTBE"* means methyl tertiary butyl ether.

22. *"Nonrefiner biofuel manufacturer"* means the same as defined in section 452A.2.

23. *"Oxygenate"* means oxygen-containing compounds, including but not limited to alcohols, ethers, or ethanol.

24. *"Pipeline company"* means the same as defined in section 479B.2.

25. *"Refiner"* means a person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person.

26. *"Renewable fuel"* means a combustible liquid derived from grain starch, oilseed, animal fat, or other biomass; or produced from a biogas source, including any nonfossilized decaying organic matter which is capable of powering machinery, including but not limited to an engine or power plant. Renewable fuel includes but is not limited to biofuel, ethanol blended gasoline, biobutanol blended gasoline, or biodiesel blended fuel meeting the standards provided in section 214A.2.

27. *"Retail dealer"* means a person engaged in the business of storing and dispensing motor fuel from a motor fuel pump for sale on a retail basis, regardless of whether the motor fuel pump is located at a retail motor fuel site including a permanent or mobile location.

28. *"Retail motor fuel site"* means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

29. *"Sell"* means to sell or to offer for sale.

30. *"Standard ethanol blended gasoline"* means ethanol blended gasoline for use in gasoline-powered vehicles not required to be flexible fuel vehicles, that meets the requirements of section 214A.2.

31. *"Supplier"* means the same as defined in section 452A.2.

32. *"Terminal"* means the same as defined in section 452A.2.

33. *"Terminal operator"* means the same as defined in section 452A.2.

34. *"Terminal owner"* means the same as defined in section 452A.2.

35. *"Unleaded gasoline"* means gasoline, including ethanol blended gasoline or biobutanol blended gasoline, if all of the following applies:

a. It has an octane number of not less than eighty-seven as provided in section 214A.2.

b. Lead or phosphorus compounds have not been intentionally added to it.

c. It does not contain more than thirteen thousandths grams of lead per liter and not more than thirteen ten-thousandths grams of phosphorus per liter.

36. *"Wholesale dealer"* means a person, other than a retail dealer, who operates a place of

business where motor fuel is stored and dispensed for sale in this state, including a permanent or mobile location.

[C31, 35, §5093-d1; C39, §**5095.01;** C46, 50, 54, 58, 62, 66, 71, §323.1; C73, 75, 77, 79, 81, §214A.1]

85 Acts, ch 76, §1; 86 Acts, ch 1146, §1; 86 Acts, ch 1245, §644; 89 Acts, ch 75, §1; 2000 Acts, ch 1224, §27; 2004 Acts, ch 1086, §106; 2006 Acts, ch 1142, §3 – 5, 83; 2008 Acts, ch 1169, §14 – 16, 30; 2010 Acts, ch 1031, §245, 246; 2013 Acts, ch 15, §3; 2013 Acts, ch 90, §40; 2013 Acts, ch 127, §2; 2014 Acts, ch 1104, §6 – 8; 2015 Acts, ch 103, §20; 2019 Acts, ch 128, §6

Referred to in §8A.362, 159A.2, 159A.3, 159A.11, 203.1, 214.1, 216B.3, 260C.19A, 262.25A, 279.34, 307.20, 307.21, 323.1, 323A.1, 331.908, 364.20, 422.11O, 422.11P, 422.11Y, 423.3, 452A.2, 452A.6, 452A.32, 455G.31, 714.7D, 904.312A

Further definitions, see §189.1

214A.2 Tests and standards.

1. The department shall adopt rules pursuant to chapter 17A for carrying out this chapter. The rules may include but are not limited to specifications relating to motor fuel, including but not limited to renewable fuel such as ethanol blended gasoline, biobutanol blended gasoline, biodiesel, biodiesel blended fuel, and motor fuel components such as an oxygenate. In the interest of uniformity, the department shall adopt by reference other specifications relating to tests and standards for motor fuel, including renewable fuel and motor fuel components, established by the United States environmental protection agency and A.S.T.M. international.

2. Octane number shall conform to the average of values obtained from the A.S.T.M. international D2699 research method and the A.S.T.M. international D2700 motor method.

a. Octane number for regular grade unleaded gasoline shall follow the specifications of A.S.T.M. international but shall not be less than eighty-seven.

b. Octane number for premium grade unleaded gasoline shall follow the specifications of A.S.T.M. international but shall not be less than ninety.

3. *a.* For motor fuel advertised for sale or sold as gasoline by a dealer, the motor fuel must meet requirements for that type of motor fuel and its additives established by the United States environmental protection agency including as provided under 42 U.S.C. §7545.

b. If the motor fuel is advertised for sale or sold as ethanol blended gasoline, the motor fuel must comply with departmental standards which shall meet all of the following requirements:

(1) Ethanol must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D4806 for denatured fuel ethanol for blending with gasoline for use as automotive spark-ignition engine fuel, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

(2) Gasoline blended with ethanol must meet requirements established by rules adopted in part or in whole based on A.S.T.M. international specification D4814.

(3) For ethanol blended gasoline, at least nine percent by volume must be fuel grade ethanol. In addition, the following applies:

(a) For the period beginning on September 16 and ending on May 31 of each year, the state grants a waiver of one pound per square inch from the A.S.T.M. international D4814 Reid vapor pressure requirement.

(b) For the period beginning on June 1 and ending on September 15 of each year the United States environmental protection agency must grant a one pound per square inch waiver for ethanol blended conventional gasoline with at least nine but not more than ten percent by volume of ethanol pursuant to 40 C.F.R. §80.27.

(4) For standard ethanol blended gasoline, it must be ethanol blended gasoline classified as any of the following:

(a) From E-9 to E-15, if the ethanol blended gasoline meets the standards for that classification as otherwise provided in this paragraph "*b*".

(b) Higher than E-15, if authorized by the department pursuant to approval for the use of that classification of ethanol blended gasoline in this state by the United States environmental protection agency, by granting a waiver or the adoption of regulations.

(5) E-85 gasoline must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D5798, described as a fuel blend for use in ground vehicles with automotive spark-ignition engines, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

c. If the motor fuel is advertised for sale or sold as biobutanol blended gasoline, the motor fuel must comply with departmental standards which shall meet all of the following requirements:

(1) Biobutanol must be an agriculturally derived isobutyl or n-butyl alcohol that meets A.S.T.M. international specification D7862 for butanol for blending with gasoline for use as automotive spark-ignition engine fuel, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

(2) Gasoline blended with biobutanol must meet requirements established by rules adopted in part or in whole based on A.S.T.M. international specification D4814.

4. *a.* For motor fuel advertised for sale or sold as diesel fuel by a dealer, the motor fuel must meet requirements for that type of motor fuel and its additives established by the United States environmental protection agency including as provided under 42 U.S.C. §7545.

b. If the motor fuel is advertised for sale or sold as biodiesel or biodiesel blended fuel, the motor fuel must comply with departmental standards which shall comply with specifications adopted by A.S.T.M. international for biodiesel or biodiesel blended fuel, to every extent applicable as determined by rules adopted by the department.

(1) Biodiesel must conform to A.S.T.M. international specification D6751 or a successor A.S.T.M. international specification as established by rules adopted by the department. The specification shall apply to biodiesel before it leaves its place of manufacture.

(2) At least one percent of biodiesel blended fuel by volume must be biodiesel.

(3) The biodiesel may be blended with diesel fuel whose sulfur, aromatic, lubricity, and cetane levels do not comply with A.S.T.M. international specification D975 grades 1-D or 2-D, low sulfur 1-D or 2-D, or ultra-low sulfur grades 1-D or 2-D, provided that the finished biodiesel blended fuel meets A.S.T.M. international specification D975 or a successor A.S.T.M. international specification as established by rules adopted by the department.

(4) Biodiesel blended fuel classified as B-6 or higher but not higher than B-20 must conform to A.S.T.M. international specification D7467 or a successor A.S.T.M. international specification as established by rules adopted by the department.

5. *a.* Ethanol blended gasoline shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol blended gasoline.

b. Biobutanol blended gasoline shall be designated Bu-xx where "xx" is the volume percent of biobutanol in the biobutanol blended gasoline.

c. Biodiesel fuel shall be designated B-xx where "xx" is the volume percent of biodiesel.

6. Motor fuel shall not contain more than trace amounts of MTBE, as provided in section 214A.18.

[C31, 35, §5093-d2; C39, §**5095.02;** C46, 50, 54, 58, 62, 66, 71, §323.2; C73, 75, 77, 79, 81, §214A.2; 82 Acts, ch 1131, §1, ch 1170, §1]

84 Acts, ch 1083, §1; 85 Acts, ch 76, §2 – 5; 85 Acts, ch 195, §23; 89 Acts, ch 75, §2; 90 Acts, ch 1252, §14; 91 Acts, ch 87, §1; 2000 Acts, ch 1224, §28; 2003 Acts, ch 167, §1, 4; 2004 Acts, ch 1086, §106; 2006 Acts, ch 1142, §6 – 8, 83; 2006 Acts, ch 1175, §8, 23; 2008 Acts, ch 1169, §17, 18, 30; 2009 Acts, ch 41, §263; 2009 Acts, ch 179, §118; 2010 Acts, ch 1031, §247; 2011 Acts, ch 113, §1; 2013 Acts, ch 15, §4 – 6; 2014 Acts, ch 1104, §9 – 11; 2015 Acts, ch 103, §21

Referred to in §159A.12, 214A.1, 214A.2B, 214A.3, 214A.4, 214A.5, 214A.7, 214A.8, 214A.16, 214A.20, 216B.3, 260C.19A, 262.25A, 307.21, 323.1, 422.11O, 422.11P, 422.11Y, 423.4, 452A.12, 455G.31, 904.312A

214A.2A Kerosene.

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

2. A product commonly known as kerosene and a distillate or a petroleum product of lower gravity (Baume scale), when not used to propel a motor vehicle or for compounding or combining with a motor fuel, are exempt from this chapter except as provided in this section.

86 Acts, ch 1146, §2; 2006 Acts, ch 1142, §9; 2021 Acts, ch 149, §16

Subsection 1 amended

214A.2B Laboratory for motor fuel and biofuels.

A laboratory for motor fuel and biofuels is established at a community college which is engaged in biofuels testing on July 1, 2007, and which testing includes but is not limited to B-20 biodiesel fuel testing for motor trucks and the ability of biofuels to meet A.S.T.M. international standards. The laboratory shall conduct testing of motor fuel sold in this state and biofuel which is blended in motor fuel in this state to ensure that the motor fuel or biofuels meet the requirements in section 214A.2.

2007 Acts, ch 215, §97; 2008 Acts, ch 1032, §35, 108; 2008 Acts, ch 1169, §19, 30

214A.2C Auditing programs.

The department shall establish and administer programs for the auditing of motor fuel including biofuel processing and production plants, for screening and testing motor fuel, including renewable fuel, and for the inspection of motor fuel sold by dealers, including retail dealers who sell and dispense motor fuel from motor fuel pumps.

2019 Acts, ch 131, §32

214A.3 Advertising.

1. For all motor fuel, a person shall not knowingly do any of the following:

a. Advertise the sale of any motor fuel which does not meet the standards provided in section 214A.2.

b. Falsely advertise the quality or kind of any motor fuel or a component of motor fuel.

c. Add a coloring matter to the motor fuel which misleads a person who is purchasing the motor fuel about the quality of the motor fuel.

2. For a renewable fuel, all of the following apply:

a. A person shall not knowingly falsely advertise that a motor fuel is a renewable fuel or is not a renewable fuel.

b. (1) Ethanol blended gasoline sold by a dealer shall be designated according to its classification as provided in section 214A.2. However, a person advertising E-9 or E-10 gasoline may only designate it as ethanol blended gasoline. A person advertising ethanol blended gasoline formulated with a percentage of between seventy and eighty-five percent by volume of ethanol shall designate it as E-85. A person shall not knowingly falsely advertise ethanol blended gasoline by using an inaccurate designation in violation of this subparagraph.

(2) A person shall not knowingly falsely advertise biobutanol blended gasoline by using an inaccurate designation as provided in section 214A.2.

(3) A person shall not knowingly falsely advertise biodiesel fuel by using an inaccurate designation as provided in section 214A.2.

[C31, 35, §5093-d3; C39, §**5095.03;** C46, 50, 54, 58, 62, 66, 71, §323.3; C73, 75, 77, 79, 81, §214A.3]

89 Acts, ch 75, §3; 2006 Acts, ch 1142, §10; 2008 Acts, ch 1169, §20, 30; 2009 Acts, ch 179, §119; 2014 Acts, ch 1104, §12

214A.4 Intrastate shipments.

A wholesale dealer or retail dealer shall not receive or sell or hold for sale, within this state, any motor fuel or oxygenate for which specifications are prescribed in this chapter, unless the dealer first secures from the refiner or producer of the motor fuel or oxygenate, a statement, verified by the oath of a competent chemist employed by or representing the refiner or producer, showing the true standards and tests of the motor fuel or oxygenate, obtained by the methods referred to in section 214A.2. The verified tests are required and must accompany the bill of lading or shipping documents representing the shipment of the motor fuel or oxygenate into this state before the shipment can be received and unloaded.

[C31, 35, §5093-d4; C39, §**5095.04;** C46, 50, 54, 58, 62, 66, 71, §323.4; C73, 75, 77, 79, 81, §214A.4]

89 Acts, ch 75, §4; 2006 Acts, ch 1142, §83

214A.5 Documentation.

1. A wholesale dealer or retail dealer shall, when making a sale of motor fuel, give to a purchaser upon demand a sales slip.

2. A wholesale dealer selling ethanol blended gasoline, biobutanol blended gasoline, or biodiesel blended fuel to a purchaser shall provide the purchaser with a statement indicating its designation as provided in section 214A.2. The statement may be on the sales slip provided in this section or a similar document, including but not limited to a bill of lading or invoice.

[C31, 35, §5093-d5; C39, §**5095.05;** C46, 50, 54, 58, 62, 66, 71, §323.5; C73, 75, 77, 79, 81, §214A.5]

89 Acts, ch 75, §5; 2006 Acts, ch 1142, §11, 83; 2006 Acts, ch 1175, §18, 23; 2009 Acts, ch 179, §120; 2014 Acts, ch 1104, §13

214A.6 Department tests — fee. Repealed by 2005 Acts, ch 159, §2.

214A.7 Department inspection — samples tested.

The department shall, from time to time, make or cause to be made tests of any motor fuel or biofuel which is being sold, or held or offered for sale within this state. A departmental inspector may enter upon the premises of a dealer and take from any container a sample of the motor fuel or biofuel, not to exceed one gallon. The sample shall be sealed and appropriately marked or labeled by the inspector and delivered to the department. The department shall make, or cause to be made, complete analyses or tests of the motor fuel or biofuel by the methods specified in section 214A.2.

[C31, 35, §5093-d7; C39, §**5095.07;** C46, 50, 54, 58, 62, 66, 71, §323.7; C73, 75, 77, 79, 81, §214A.7]

89 Acts, ch 75, §7; 2006 Acts, ch 1142, §12, 83; 2006 Acts, ch 1175, §9, 18, 23; 2013 Acts, ch 15, §7

214A.8 Prohibition.

A dealer shall not knowingly sell motor fuel or biofuel in the state that fails to meet applicable standards as provided in section 214A.2.

[C31, 35, §5093-d8; C39, §**5095.08;** C46, 50, 54, 58, 62, 66, 71, §323.8; C73, 75, 77, 79, 81, §214A.8]

89 Acts, ch 75, §8; 2006 Acts, ch 1142, §13, 83

214A.9 Poster showing analysis. Repealed by 2013 Acts, ch 15, §9.

214A.10 Transfer pipes.

A wholesale dealer, retail dealer, or other person shall not, within this state, use the same pipeline for transferring motor fuel, including gasoline, or oxygenate from one container to another, if the pipeline is used for transferring kerosene or other flammable product used for open flame illuminating or heating purposes.

[C31, 35, §5093-d10; C39, §**5095.10;** C46, 50, 54, 58, 62, 66, 71, §323.10; C73, 75, 77, 79, 81, §214A.10]

89 Acts, ch 75, §9; 92 Acts, ch 1163, §48; 2006 Acts, ch 1142, §83

214A.11 Penalties.

1. Except as provided in subsection 2, a person who violates a provision of this chapter is guilty of a serious misdemeanor. Each day that a continuing violation occurs shall be considered a separate offense.

2. The state may proceed against a person who violates this chapter by initiating an alternative civil enforcement action in lieu of a prosecution. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A or as a civil judicial proceeding by the attorney general upon referral by the department. The department may impose, assess, and collect the civil penalty. The civil penalty shall be for at least one hundred dollars but not more than one thousand dollars for

each violation. Each day that a continuing violation occurs shall be considered a separate offense.

a. Except as provided in paragraph "*b*", the state is precluded from prosecuting a violation pursuant to subsection 1 if the state is a party in the alternative civil enforcement action, the department has made a final decision in the contested case proceeding, or a court has entered a final judgment.

b. If a party to an alternative civil enforcement action fails to pay the civil penalty to the department within thirty days after the party has exhausted the party's administrative remedies and the party has not sought judicial review in accordance with section 17A.19, the department may order that its final decision be vacated. When the department's final decision is vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action. If a party to an alternative civil enforcement action fails to pay the civil penalty within thirty days after a court has entered a final judgment, the department may request that the attorney general petition the court to vacate its final judgment. When the court's judgment has been vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action.

[C31, 35, §5093-d11; C39, §**5095.11;** C46, 50, 54, 58, 62, 66, 71, §323.11; C73, 75, 77, 79, 81, §214A.11]

2006 Acts, ch 1142, §14

214A.12 Industrial petroleum — permits.

Any wholesale dealer as defined in this chapter may apply to the department for a permit to make importations of petroleum products for industrial use only and not intended to be used for internal combustion engines, on a form to be supplied by the department, and upon receiving such permission may make importations of petroleum products for industrial use only, exempt from the specifications of this chapter.

[C31, 35, §5093-d12; C39, §**5095.12;** C46, 50, 54, 58, 62, 66, 71, §323.12; C73, 75, 77, 79, 81, §214A.12]

2020 Acts, ch 1063, §74

214A.13 Chemists — employment of.

The secretary of agriculture shall employ one or more chemists and incur such other expense as shall be necessary for the purpose of carrying into effect the provisions of this chapter.

[C31, 35, §5093-d13; C39, §**5095.13;** C46, 50, 54, 58, 62, 66, 71, §323.13; C73, 75, 77, 79, 81, §214A.13]

214A.14 Appropriation.

There is hereby appropriated out of any funds in the state treasury not otherwise appropriated funds sufficient to pay the expenses incurred as authorized by this chapter.

[C31, 35, §5093-d14; C39, §**5095.14;** C46, 50, 54, 58, 62, 66, 71, §323.14; C73, 75, 77, 79, 81, §214A.14]

214A.15 Gasoline receptacles. Repealed by 2021 Acts, ch 149, §17.

214A.16 Notice of renewable fuel — decal.

1. *a.* If ethanol blended gasoline is sold from a motor fuel pump, the motor fuel pump shall have affixed a decal identifying the ethanol blended gasoline.

b. If the motor fuel pump dispenses ethanol blended gasoline classified as E-11 to E-15 for use in gasoline-powered vehicles not required to be flexible fuel vehicles, the motor fuel pump shall have affixed a decal as prescribed by the United States environmental protection agency.

c. If the motor fuel pump dispenses ethanol blended gasoline classified as higher than standard ethanol blended gasoline pursuant to section 214A.2, the decal shall contain language that the ethanol blended gasoline is for use in flexible fuel vehicles.

d. If biobutanol blended gasoline is sold from a motor fuel pump, the motor fuel pump shall have affixed a decal identifying the biobutanol blended gasoline.

e. If biodiesel fuel is sold from a motor fuel pump, the motor fuel pump shall have affixed a decal identifying the biodiesel fuel as provided in 16 C.F.R. pt. 306.

2. The design and location of the decal shall be prescribed by rules adopted by the department. A decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6. The department may approve an application to place a decal in a special location on a pump or container or use a decal with special lettering or colors, if the decal appears clear and conspicuous to the consumer. The application shall be made in writing pursuant to procedures adopted by the department.

[82 Acts, ch 1170, §2]

85 Acts, ch 76, §6; 89 Acts, ch 296, §21; 91 Acts, ch 254, §14; 94 Acts, ch 1119, §23; 2000 Acts, ch 1224, §29; 2006 Acts, ch 1142, §83; 2008 Acts, ch 1169, §21, 30; 2009 Acts, ch 179, §121; 2013 Acts, ch 15, §8; 2014 Acts, ch 1104, §14; 2017 Acts, ch 159, §51

Referred to in §159A.6

214A.17 Documentation in transactions.

Upon any delivery of motor fuel to a retailer, the invoice, bill of lading, shipping or other documentation shall disclose the presence, type, and amount of oxygenates over one percent by weight contained in the fuel.

85 Acts, ch 76, §7; 2006 Acts, ch 1142, §83

214A.18 MTBE prohibition.

1. A person shall not do any of the following:

a. Sell motor fuel containing more than trace amounts of MTBE in this state.

b. Store motor fuel containing more than trace amounts of MTBE in a motor fuel storage tank located in this state.

2. As used in this section, *"trace amounts"* means not more than one-half of one percent by volume.

2000 Acts, ch 1224, §30; 2006 Acts, ch 1142, §83

Referred to in §214A.2

214A.19 Demonstration grants authorized.

1. The department, conditioned upon the availability of moneys, may award demonstration grants to persons who purchase vehicles which operate on alternative fuels, including but not limited to E-85 gasoline, biodiesel, compressed natural gas, electricity, solar energy, or hydrogen. A grant shall be for the purpose of conducting research connected with the fuel or the vehicle, and not for the purchase of the vehicle itself, except that the money may be used for the purchase of the vehicle if all of the following conditions are satisfied:

a. The department retains the title to the vehicle.

b. The vehicle is used for continuing research.

c. If the vehicle is sold or when the research related to the vehicle is completed, the proceeds of the sale of the vehicle shall be used for additional research.

2. The governor shall seek the cooperation of the governors of other states willing to cooperate to establish an alternative fuels consortium. The purposes of the consortium may include, but are not limited to, coordinating the research, production, and marketing of alternative fuels within the participating states. The consortium may also coordinate presentation of consortium policy on alternative fuels to automakers and federal regulatory authorities.

90 Acts, ch 1252, §15; 2006 Acts, ch 1142, §77; 2019 Acts, ch 128, §7

214A.20 Limitation on liability.

1. A retail dealer or other marketer, pipeline company, refiner, terminal operator, or terminal owner is not liable for damages caused by the use of incompatible motor fuel dispensed at the retail dealer's retail motor fuel site, if all of the following apply:

a. The incompatible motor fuel complies with the specifications for a type of motor fuel as provided in section 214A.2.

b. The incompatible motor fuel is selected by the end consumer of the motor fuel.

c. The incompatible motor fuel is dispensed from a motor fuel pump that correctly labels the type of fuel dispensed.

2. For purposes of this section, a motor fuel is incompatible with a motor according to the manufacturer of the motor.

2011 Acts, ch 113, §2; 2013 Acts, ch 127, §3

CHAPTER 215

INSPECTION OF WEIGHTS AND MEASURES

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215.26 Definitions. Transferred to §215.1; 2019 Acts, ch 128, §8.

215.1 Definitions.

As used in this chapter:

1. *"Commercial weighing and measuring device"* means a weight or measure or weighing or measuring device used to establish size, quantity, area or other quantitative measurement of a commodity sold by weight or measurement, or where the price to be paid for producing the commodity is based upon the weight or measurement of the commodity. The term includes an accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation may affect the accuracy of the device. *"Commercial weighing and measuring device"* includes a public scale or a commercial scanner.

2. *"Department"* means the department of agriculture and land stewardship.

3. *"Liquefied petroleum gas"* means liquids that do not remain in a liquid state at atmospheric pressures and temperatures composed predominantly of any of the following hydrocarbons, or mixtures of hydrocarbons: propane, propylene, butanes including normal butane or isobutane, and butylenes.

4. *"Packer"* means a person engaged in the business of any of the following:

a. Buying livestock in commerce for purposes of slaughter;

b. Manufacturing or preparing meats or meat food products for sale or shipment in commerce;

c. Marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

5. *"Service agency"* means an individual, firm or corporation which holds itself out to the public as having servicers available to install, service or repair a weighing or measuring device for hire.

6. *"Servicer"* means an individual employed by a service agency who installs, services or repairs a commercial weighing or measuring device for hire, commission or salary.

[C81, §215.26]

90 Acts, ch 1084, §10, 11; 2007 Acts, ch 126, §43; 2012 Acts, ch 1095, §143, 144; 2019 Acts, ch 128, §8

C2020, §215.1

Referred to in §214.1, 214.2

Former §215.1 transferred to §215.1A pursuant to directive; 2019 Acts, ch 128, §8

215.1A Inspections.

The department shall regularly inspect all commercial weighing and measuring devices, and when a complaint is made to the department that any false or incorrect weights or measures are being made, the department shall inspect the commercial weighing and measuring devices which caused the complaint. The department may inspect prepackaged goods to determine the accuracy of their recorded weights.

[S13, §3009-o; SS15, §3009-n; C24, 27, 31, 35, 39, §**3266;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.1]

2012 Acts, ch 1095, §138; 2019 Acts, ch 128, §8

C2020, §215.1A

215.2 Special inspection request — fees.

The fee for special tests, including but not limited to, using state inspection equipment, for the calibration, testing, certification, or repair of a commercial weighing and measuring device shall be paid by the servicer or person requesting the special test in accordance with the following schedule:

1. Class S, scales, seventy-five dollars per hour.
2. Class M, meters, fifty-two dollars and fifty cents per hour.

[SS15, §3009-n; C24, 27, 31, 35, 39, §**3267;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.2]

88 Acts, ch 1272, §22; 90 Acts, ch 1084, §5; 92 Acts, ch 1239, §38

Annual license fees; §214.3

215.3 Payment by party complaining. Repealed by 2021 Acts, ch 149, §21.

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

A commercial weighing and measuring device found to be inaccurate or incorrect upon inspection by the department shall be rejected or tagged "condemned until repaired" and the inspection sticker shall be removed. If notice is received by the department that the device has been repaired and upon reinspection the device is found to be accurate or correct, a license fee may be charged for the reinspection. However, a second license fee shall be charged if upon reinspection the device is found to be inaccurate. The device shall be tagged "condemned" and removed from service if a third reinspection fails.

[SS15, §3009-n; C24, 27, 31, 35, 39, §**3269;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.4]

90 Acts, ch 1084, §7; 2012 Acts, ch 1095, §139; 2021 Acts, ch 149, §18

Section amended

215.5 Confiscation of scales.

The department may seize without warrant and confiscate any incorrect scales, weights, or measures, or any weighing apparatus or part thereof which do not conform to the state standards or upon which the license fee has not been paid. If any weighing or measuring apparatus or part thereof be found out of order the same may be tagged by the department "condemned until repaired", which tag shall not be altered or removed until said apparatus is properly repaired.

[S13, §3009-q; C24, 27, 31, 35, 39, §**3270;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.5]

215.6 False weights or measures.

If any person engaged in the purchase or sale of any commodity by weight or measurement, or in the employment of labor where the price thereof is to be determined by weight or measurement of the articles upon which such labor is bestowed, has in the person's possession any inaccurate scales, weights, or measures, or other apparatus for determining the quantity of any commodity, which do not conform to the standard weights and measures, the person shall be punished as provided in chapter 189.

[SS15, §3009-p; C24, 27, 31, 35, 39, §**3271;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.6]

215.7 Transactions by false weights or measures.

1. A person shall be deemed to have violated the provisions of this chapter if the person does any of the following :

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

b. Makes a settlement for or enters a credit, based upon any false weight or measurement, for any commodity purchased.

c. Makes a settlement for or enters a credit, based upon any false weight or measurement, for any labor where the price of producing or mining is determined by weight or measure.

d. Records a false weight or measurement upon the weight ticket or book.

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

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

[SS15, §3009-j; C24, 27, 31, 35, 39, §**3272;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.7]

2012 Acts, ch 1095, §140; 2013 Acts, ch 90, §41; 2021 Acts, ch 149, §19
Section amended

215.8 Reasonable variations. Repealed by 2021 Acts, ch 149, §21. See §215.7(2).

215.9 Power of political subdivision limited.

A commodity weighed upon any scale bearing a sticker issued by the department shall not be required to be reweighed as required by ordinance of any political subdivision including but not limited to a city, nor shall a commodity's sale, at the weights so ascertained, and because thereof, be, by such ordinance, prohibited or restricted.

[SS15, §3009-m; C24, 27, 31, 35, 39, §**3274;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.9]

2012 Acts, ch 1095, §141

215.10 Installation of new scales.

It shall be unlawful to install a scale, used for commercial purposes in this state, unless the scale is so installed that it is easily accessible for inspection and testing by equipment of the department and with due regard to the scale's size and capacity. Every scale manufacturer or dealer shall, upon selling a scale of the above types in Iowa, submit to the department upon forms provided by the department, the make, capacity of the scale, the date of sale, and the date and location of its installation.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.10]

215.11 Dial visible to public.

The weight indicating dial or beams on counter scales used to weigh articles sold at retail shall be so located that the reading dial indicating the weight shall at all times be visible to the public.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.11]

215.12 Bond of scale repairers.

Any person, firm, or corporation engaging in any scale repair work for hire in this state shall first file with the department a bond of the form required by chapter 64 in the sum of one thousand dollars conditioned to guarantee the quality and faithful performance of the assumed task and providing for liquidated damages for failure to perform such conditions. Such person, firm, or corporation, on depositing with the department a bond in the amount of one thousand dollars shall be furnished a certificate authorizing them to do what is known as scale repair work, or installation of new scales in the state of Iowa. This certificate shall be valid until revoked by the secretary of agriculture.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.12]

215.13 Graduations on beam.

All new weigh beams or dials on what is known as livestock scales used for determining the weight in buying or selling livestock shall be in not over five-pound graduations.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.13]

215.14 Approval by department.

A commercial weighing and measuring device shall not be installed in this state unless approved by the department.

1. A pit type scale or any other scale installed in a pit, regardless of capacity, that is installed on or after July 1, 1990, shall have a clearance of not less than four feet from the finished floor line of the scale to the bottom of the "I" beam of the scale bridge. Livestock shall not be weighed on any scale other than a livestock scale or pit type scale.

2. An electronic pitless scale shall be placed on concrete footings with concrete floor. The concrete floor shall allow for adequate drainage away from the scale as required by the department. There shall be a clearance of not less than eight inches between the weigh bridge and the concrete floor to facilitate inspection and cleaning.

3. Before approval by the department, the specifications for a commercial weighing and measuring device shall be furnished to the purchaser of the device by the manufacturer. The approval shall be based upon the recommendation of the United States national institute of standards and technology.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.14]

90 Acts, ch 1045, §1; 2003 Acts, 1st Ex, ch 2, §16, 209; 2012 Acts, ch 1095, §142

215.15 Scale pit.

Scale pit shall have proper room for inspector or service person to repair or inspect scale. Scale pit shall remain dry at all times and adequate drainage shall be provided for the purpose of inspecting and cleaning.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.15]

215.16 Weighing beyond capacity.

It shall be unlawful for any person, firm, or corporation to use such a scale for weighing commodities the gross weight of which is greater than the factory rated scale capacity. The capacity of the scale shall be stamped by the manufacturer on each weigh beam or dial. The capacity of the scale shall be posted so as to be visible to the public.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.16]

215.17 Test weights to be used.

1. A person engaged in scale repair work for hire shall use only test weights sealed by a laboratory approved by the department in determining the effectiveness of repair work and the test weights shall be sealed as to their accuracy once each year. However, a person shall not claim to be an official scale inspector and shall not use the test weights except to determine the accuracy of scale repair work done by the person and the person shall not be entitled to a fee for their use.

2. Calibration shall not be required of a tank which is not used for the purpose of

measuring, or which is equipped with a meter, and vehicle tanks loaded from meters and carrying a printed ticket showing gallonage shall not be required to be calibrated.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.17]

92 Acts, ch 1239, §39; 2010 Acts, ch 1061, §41; 2015 Acts, ch 103, §22, 23

215.18 Specifications and tolerances.

The specifications, tolerances, and other technical requirements for commercial, law enforcement, data gathering, and other weighing and measuring devices, as adopted by the national conference on weights and measures and published in the national institute of standards and technology, handbook 44, "Specifications, tolerances, and other technical requirements for weighing and measuring devices", shall apply to weighing and measuring devices in this state, except insofar as modified or rejected by rule and shall be observed in all inspections and tests.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §215.18]

90 Acts, ch 1084, §8

Referred to in §215A.3

215.19 Automatic recorders on scales.

Except for scales used by packers slaughtering fewer than one hundred twenty head of livestock per day, all scales with a capacity over five hundred pounds, which are used for commercial purposes in this state, and installed after January 1, 1981, shall be equipped with a type-registering weigh beam, a dial with a mechanical ticket printer, an automatic weight recorder, or some similar device which shall be used for printing or stamping the weight values on scale tickets. A scale equipped with a malfunctioning automatic weight recorder may be used for not more than seven days if the device is unable to print or stamp the ticket so long as a repair to the automatic recorder is immediately initiated and the user dates, signs, and accurately handwrites the required information on the ticket until the device is operational.

[C66, 71, 73, 75, 77, 79, 81, §215.19]

2017 Acts, ch 159, §52

Referred to in §327D.130

215.20 Liquid petroleum gas measurement.

1. All liquefied petroleum gas, including but not limited to propane, butane, and mixtures of them, shall be kept, offered, exposed for sale, or sold by the pound, metered cubic foot of vapor, defined as one cubic foot at 60 degrees Fahrenheit, or by the gallon, defined as two hundred thirty-one cubic inches at 60 degrees Fahrenheit.

2. All metered sales exceeding one hundred gallons shall be corrected to a temperature of 60 degrees Fahrenheit through use of an approved meter with a sealed automatic compensation mechanism. All sale tickets for sales exceeding one hundred gallons shall show the stamped delivered gallons and shall state that the temperature correction was automatically made.

3. A reasonable tolerance within a maximum of plus or minus one percent shall be allowed on liquid petroleum gas meters licensed for commercial use in this state.

[C66, 71, 73, 75, 77, 79, 81, §215.20]

88 Acts, ch 1272, §23; 90 Acts, ch 1084, §9; 2014 Acts, ch 1026, §44

215.21 Individual carcass weights.

With payment for each purchase of livestock except poultry bought on a carcass weight or grade and yield basis, each packer shall provide the seller with one statement displaying the individual carcass weights of all the animals sold.

[C81, §215.21]

215.22 Packer-monorail scale.

The speed of a monorail scale operation used by a packer shall not exceed the manufacturer's recommendation or specifications for accurate weighing under normal, in-use operating conditions. The operational speed shall be permanently marked on the

indicating element. Adequate measures shall be provided whereby testing and inspections can be conducted under normal in-use conditions. Tare weights for trolleys or gambrels shall be registered with the department. The registered tare adjustment on the indicating element shall be sealed or pinned.

[C81, §215.22]

215.23 Servicer's license — fee and term.

1. The department may adopt rules pursuant to chapter 17A setting forth qualification requirements for persons applying for a servicer's license, including an examination.

2. In determining a servicer's qualifications, the department may consider the specifications of the United States national institute of standards and technology, handbook 44, "Specifications, Tolerances, and Technical Requirements for Weighing and Measuring Devices", or the current successor or equivalent specifications adopted by the United States national institute of standards and technology.

3. The department may require the payment of a license fee for an amount established by rule for each license issued under this section.

4. A license shall expire two years from its date of issuance.

[C81, §215.23]

90 Acts, ch 1045, §2; 2015 Acts, ch 30, §69; 2021 Acts, ch 149, §20

Referred to in §214.11

Section amended

215.24 Rules.

The department may adopt rules pursuant to chapter 17A as necessary to promptly and effectively enforce the provisions of this chapter.

[C81, §215.24]

2015 Acts, ch 30, §70

215.25 Railroad track scales.

The department shall inspect the railroad track scales referred to in section 327D.127. The department may adopt rules establishing standards for the scales. The rules may include but are not limited to safety standards, accuracy and the style and content of forms and certificates to be used for weighing.

[C81, §215.25]

215.26 Definitions. Transferred to §215.1; 2019 Acts, ch 128, §8.

CHAPTER 215A

MOISTURE-MEASURING DEVICES

215A.1	Definitions.	215A.7	Located where visible to public.
215A.2	Inspection by department.	215A.8	Untested devices not to be used — exception.
215A.3	Rules adopted — hearing.		
215A.4	Officer assigned to act.	215A.9	Inspection fee.
215A.5	Marking with seal.	215A.10	Penalty.
215A.6	Procedure when device rejected.		

215A.1 Definitions.

As used in this chapter:

1. *"Agricultural products"* means any product of agricultural activity which is tested for moisture content when offered for sale, processing, or storage.

2. *"Department"* means the Iowa department of agriculture and land stewardship.

3. *"Moisture-measuring devices"* means any device or instrument used by any person in proving or ascertaining the moisture content of agricultural products.

4. *"Person"* means an individual, corporation, partnership, cooperative association, or two

or more persons having a joint or common interest in the same venture and shall include the United States, the state, or any subdivision of either.

5. "*Secretary*" means the secretary of agriculture.

[C71, 73, 75, 77, 79, 81, §215A.1]

2012 Acts, ch 1023, §157

Further definitions, see §189.1

215A.2 Inspection by department.

The department shall inspect or cause to be inspected at least annually every moisture-measuring device used in commerce in this state, except those belonging to the United States or the state, or any subdivision of either, except as herein provided. The department may inspect or cause to be inspected at the convenience of the department any moisture-measuring device upon a request in writing from the owner thereof.

[C71, 73, 75, 77, 79, 81, §215A.2]

215A.3 Rules adopted — hearing.

The department is charged with the enforcement of this chapter and, after due publicity and due public hearing, is empowered to establish rules, regulations, specifications, standards, and tests as necessary in order to secure the efficient administration of this chapter. Publicity concerning the public hearing shall be reasonably calculated to give interested parties adequate notice and adequate opportunity to be heard. In establishing such rules, regulations, specifications, standards, and tests the department may use the specifications and tolerances established in section 215.18, and shall use the specifications and tolerances established by the United States department of agriculture as of November 15, 1971, in chapter XII of GR instruction 916-6, equipment manual, used by the United States department of agriculture grain inspection, packers and stockyards administration. The department may from time to time publish such data in connection with the administration of this chapter as may be of public interest.

[C71, 73, 75, 77, 79, 81, §215A.3]

95 Acts, ch 216, §25

215A.4 Officer assigned to act.

The department may at its discretion designate an employee or officer of the department to act for the department in any details connected with the administration of this chapter.

[C71, 73, 75, 77, 79, 81, §215A.4]

215A.5 Marking with seal.

If an inspection or comparative test reveals that the moisture-measuring device being inspected or tested conforms to the standards and specifications established by the department, the department shall cause the same to be marked with an appropriate seal. Any moisture-measuring device which upon inspection is found not to conform with the specifications and standards established by the department shall be marked with an appropriate seal showing such device to be defective, which seal shall not be altered or removed until said moisture-measuring device is properly repaired and reinspected. The owner or user of such device shall be notified of such defective condition by the department or its properly designated employees on an inspection form prepared by the department.

[C71, 73, 75, 77, 79, 81, §215A.5]

Referred to in §215A.6, 215A.9

215A.6 Procedure when device rejected.

1. Any defective moisture-measuring device, while so marked, sealed, or tagged, as provided in section 215A.5, may be used to ascertain the moisture content of agricultural products offered for sale, processing, or storage, only under the following conditions:

a. The person shall keep a record, open to inspection, of every commercial sample of agricultural products inspected by the tagged device, showing that an adjustment was made on all such agricultural products tested.

b. The device shall be repaired to comply with section 215A.5 within a period of thirty days, and the department thereupon notified.

2. If, upon reinspection, the device is again rejected under the provisions of section 215A.5, such device shall be sealed and shall not be used until repaired and reinspected.

[C71, 73, 75, 77, 79, 81, §215A.6]

2009 Acts, ch 41, §263

215A.7 Located where visible to public.

Every device used to ascertain the moisture content of agricultural products offered for sale, processing, or storage shall be used in a location visible to the general public and the detailed procedure for operating a moisture-measuring device shall be displayed in a conspicuous place close to the moisture-measuring device.

[C71, 73, 75, 77, 79, 81, §215A.7]

215A.8 Untested devices not to be used — exception.

No person shall use or cause to be used any grain moisture-measuring device which has not been inspected and approved for use by the department; except, a newly purchased grain moisture-measuring device may be used prior to regular inspection and approval if the user of such device has given notice to the department of the purchase and before use of such new device.

[C71, 73, 75, 77, 79, 81, §215A.8]

215A.9 Inspection fee.

1. The department shall charge, assess, and cause to be collected at the time of inspection an inspection fee in accordance with the fee schedule established pursuant to section 214.3, subsection 3.

2. A fee of fifteen dollars shall be charged for each device subject to reinspection under section 215A.5. All moneys received by the department under the provisions of this chapter shall be handled in the same manner as "repayment receipts" as defined in chapter 8, and shall be used for the administration and enforcement of the provisions of this chapter.

[C71, 73, 75, 77, 79, 81, §215A.9]

90 Acts, ch 1084, §12; 92 Acts, ch 1239, §40; 2018 Acts, ch 1041, §127

215A.10 Penalty.

Every person who uses or causes to be used a moisture-measuring device in commerce with knowledge that such device has not been inspected and approved by the department in accordance with the provisions of this chapter shall be guilty of a simple misdemeanor.

[C71, 73, 75, 77, 79, 81, §215A.10]