

Reported Recommending
Ind. Postponed
Passed Senate
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Failed to Pass House

House File 437

February 27, 1947.
Public Health.

By TROEGER and LAWRENCE.

A BILL FOR

An Act relating to the public health and the pollution of waters; to define pollution: to repeal Sections one hundred thirty-five point eighteen (135.18), one hundred thirty-five point nineteen (135.19) and one hundred thirty-five point twenty-nine (135.29), Code 1946, and to enact substitutes therefor; and to amend Sections one hundred thirty-five point twenty-one (135.21), one hundred thirty-five point twenty five (135.25) and one hundred thirty-five point twenty-seven (135.27), Code 1946; and to amend Chapter one hundred thirty-five (135), Code 1946, by adding thereto provisions relating to sewerage systems and permits for the installation of or change in such systems and the powers and duties of the state department of health in relation thereto; and to prevent the discharge of treated or untreated sewage into state owned lakes.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Section one hundred thirty-five point eighteen
2 (135.18), Code 1946, is hereby repealed and the following
3 enacted in lieu thereof: "Pollution—Defined. The term
4 'pollution' means the discharge or deposit of sewage, industrial
5 wastes or other wastes in such condition, manner, or quantity
6 as may cause:

- 7 a. The formation of sludge banks, or
8 b. The dissolved oxygen content of the stream to drop below

9 four (4) parts per million on the average cross-section
10 of the stream, or

11 c. The deposit of chemical or other industrial wastes so
12 as to render the stream injurious to aquatic
13 life.”

1 Sec. 2. Chapter one hundred thirty-five (135), Code
2 1946, is hereby amended by adding thereto the following new
3 section: “Powers and Duties of the Department. The department,
4 upon its own initiative, may study and investigate or survey
5 all problems concerned with the pollution of any stream, lake
6 or other body of water, its prevention, abatement and control
7 and may determine methods, so far as practicable, of preventing
8 pollution of such waters. The Department may make such
9 investigation upon the written petition of:

10 1. The Council of any town.

11 2. Any local Board of Health.

12 The power vested by this section in the Department shall
13 not apply, however, to the lower five thousand (5,000) feet of
14 any stream flowing into a river at a place where such river
15 forms a part of the boundary line of the State.

16 The Department on its own initiative may study and investigate
17 streams, lakes or other bodies of water for the purpose of
18 improving said water in reference to public health or source of
19 domestic water supply and aquatic life.”

1 Sec. 3. Section one hundred thirty-five point nineteen
2 (135.19), Code 1946, is hereby repealed and the following

3 enacted in lieu thereof: "Time and Place of Hearing. Whenever
4 such complaint of pollution of any of the aforesaid waters is
5 filed with the Department, or whenever it acts upon its own
6 initiative, it may make a full and complete investigation which
7 may include such engineering studies, bacteriological,
8 biological, and chemical analyses of the water and location
9 of the sources of contamination as may be found necessary, and,
10 if the pollution is found to exist, the Department may make an
11 order fixing the time and place for a hearing which shall be
12 not less than thirty days thereafter. Such hearing shall be
13 public and shall be conducted, so far as possible, in the same
14 manner as a court hearing, and every alleged offender shall have
15 the right to appear by counsel, present testimony, and
16 examine witnesses."

1 Sec. 4. Section one hundred thirty-five point twenty-one
2 (135.21), Code 1946, is hereby amended by adding a period
3 following the word "pollution" in line 5 and striking the
4 remainder thereof.

1 Sec. 5. Chapter one hundred thirty-five (135), Code 1946,
2 is hereby amended by adding thereto the following new section:
3 "Pending Actions. Any present pending action shall be governed
4 by the provisions of this chapter as amended."

1 Sec. 6. Section one hundred thirty-five point twenty-five
2 (135.25), Code 1946, is hereby amended by adding immediately
3 after the period (.) at the end thereof the following: "The
4 hearing on appeal shall be tried as a suit in equity and shall

5 be de novo. The court may receive additional testimony, may
6 affirm, modify or reverse any such order. The modifying or
7 setting aside of any such order by the court upon any such appeal
8 shall prevent or preclude said department from again instituting
9 proceedings against the same person, firm, corporation or
10 municipality for a period of two (2) years.”

1 Sec. 7. Section one hundred thirty-five point twenty-seven
2 (135.27), Code 1946, is hereby amended by striking therefrom the
3 last sentence, commencing with the words “The hearing” in line
4 six (6) of said section and continuing to the end of the section.

1 Sec. 8. Section one hundred thirty-five point twenty-nine
2 (135.29), Code 1946, is hereby repealed and the following
3 enacted in lieu thereof: “Penalty. Any person, firm, or
4 corporation, or any officer or agent thereof, found guilty of
5 contempt under section one hundred thirty-five point twenty-eight
6 (135.28) shall be fined in a sum not to exceed one thousand
7 dollars and, in addition, if a person, be imprisoned for failure
8 to pay such fine. The penalties provided in this section shall
9 be considered as additional to any penalty which may be imposed
10 under the law relative to nuisances or any other statute relating
11 to the pollution of streams or other bodies of water, and a
12 conviction under section one hundred thirty-five point twenty-
13 eight (135.28) shall not be a bar to prosecution under any
14 other penal statute.”

1 Sec. 9. Chapter one hundred thirty-five (135), Code 1946,
2 is hereby amended by adding thereto the following sections:

3 1. After the effective date of this act, no sewerage
4 system which proposes to discharge into any of the waters
5 specified in section one hundred thirty-five point eighteen
6 (135.18) hereof, sewage or any other liquid or solid substance
7 of a decomposable, putrescible, oily, acid, or other character
8 which may cause pollution of any of the aforesaid waters of
9 the state, shall be installed until a written permit for such
10 sewerage system has been granted by the department. No changes,
11 additions to, or extensions of any existing sewage systems
12 discharging into any of the aforesaid waters, including changes
13 of or additions to or extensions of the method of treating or
14 disposing of the sewage, and no extension of or addition to
15 any factory, manufacturing establishment, or business enterprise,
16 the operation of which will substantially increase the amount
17 of polluting material, shall be made until plans for such
18 changes, additions, or extensions shall have been submitted to
19 and a written permit obtained from the department. Provided,
20 however, that no permit shall be required for any new sewerage
21 system or changes or additions to or extensions of existing
22 systems that receive or may receive only domestic or sanitary
23 sewage from a building housing or occupied by fifteen persons
24 or less.

25 2. Plans and specifications for any sewerage system
26 covered by subsection 1 shall be submitted to the Department
27 before a written permit may be issued, and the construction of
28 any such sewerage system shall be in accordance with said plans

29 and specifications as approved by the Department. In case it
30 shall be necessary or desirable to make material changes in
31 such plans or specifications, revised plans or specifications
32 together with reasons for the proposed changes shall be
33 submitted to the department for a supplemental written permit.

34 3. The department may require any owner of a sewerage
35 system discharging into any of the aforesaid waters to file with
36 it complete plans of the whole or of any part of such system
37 and any other information and records concerning the installation
38 and operation of such system.

39 4. The department shall have the right to establish
40 procedure for the review of any reports, plans, specifications,
41 or other data relative to any sewerage system, written permits
42 for which are required by this act, and may make use of such
43 assistance for such review as existing boards, commissions,
44 and departments of the state may be able to render.

45 5. The Department is empowered to adopt and enforce rules
46 and regulations governing the method and manner under which
47 plans, specifications, or other data relative thereto shall be
48 submitted for sewerage systems or for additions or changes to
49 or extensions of such systems.

50 6. No sewage or any other waste liquid or solid substance
51 of a decomposable, putrescible, oily, chemical, or other
52 character whether treated or untreated shall be discharged
53 directly into any state owned natural or artificial lake,
54 provided that this section shall not be construed as to prohibit

55 the discharge of adequately treated sewage or wastes into a
56 stream tributary to a lake upon the written permission of the
57 state department of health and the state conservation commission.

EXPLANATION OF H. F. 437

Pertains to amend Chapter 135, Code of 1946, relating to stream pollution.

Section 135.18 amplifies the definition of stream pollution and applicability of the law and establishes a definite standard for the rivers and streams of Iowa.

Section 135.19 makes permissive rather than mandatory "complete bacteriological and chemical analyses." In many cases pollution is so evident that costly series of analyses are unnecessary to prove pollution.

Section 135.25 provides that the hearing on appeal shall be tried as a suit in equity and that the court may receive additional testimony and may affirm, modify, or reverse the order. It also provides that the setting aside of an order by the court does not prevent subsequent proceedings against the same source of pollution if the public health is endangered after a period of two years.

Section 135.29 provides the same penalty as previously and clarifies the law as to who may be punished.

Subsection 1 in the proposed additions to Chapter 135 requires a permit from the Department for new sewerage systems or extensions or additions which would increase pollution. Industrial and all pollutional waste is included. Under the present law the Department has the power to order abatement of existing pollution but cannot take action to prevent pollution.

Subsection 2 requires that plans and specifications for all sewerage systems defined in the previous subsection be submitted for approval.

Subsection 3 allows the department to require plans and records of sewerage systems discharging pollutional wastes.

Subsection 4 and 5 empower the department to establish procedure for review of plans and proposals and enforce rules under which reports, plans and specifications are to be submitted.

Subsection 6 prohibits the discharge of sewage or pollutional wastes into state owned lakes.