

Reported Recommending .....  
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Passed Senate .....  
Failed to Pass Senate .....  
Passed House .....  
Failed to Pass House .....

**Senate File 396**

February 26, 1947.  
Passed on File.

By VITTETOE.

## **A BILL FOR**

An Act to amend, revise, and codify sections one hundred thirty-five point eighteen (135.18) to one hundred thirty-five point twenty-nine (135.29), inclusive, Code 1946, relating to prevention by the department of health of pollution of streams and bodies of water.

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

1 Sections one hundred thirty-five point eighteen (135.18) to  
2 one hundred thirty-five point twenty-nine (135.29), inclusive,  
3 Code 1946, are hereby amended, revised and codified to read as  
4 follows:

1 Section 1. The department may, upon its own initiative,  
2 study, investigate, or survey any stream, lake, or other body of  
3 water within the state and bordering on the state, and may deter-  
4 mine ways and means of eliminating, so far as practicable, all  
5 substances and materials which are rendering the water detrimental  
6 to the public health, or unwholesome, or unfit for domestic use  
7 or as a public water supply, or deleterious to the health of  
8 animals, fish, or aquatic life, or detrimental to the practicable  
9 use of the water for recreational purposes, and may determine  
10 methods, so far as practicable, of preventing such pollution of  
11 such waters. The department shall make such investigations upon

12 the written petition of:

- 13 1. The council of any city or town.
- 14 2. Any local board of health.
- 15 3. The trustees of any township.
- 16 4. Twenty-five residents of the state.

1 Sec. 2. Whenever such complaint of pollution of any of the  
2 aforesaid waters is filed with the department, or whenever it acts  
3 upon its own initiative, it shall make a full and complete investi-  
4 gation which may include such engineering studies, bacteriological,  
5 biological, and chemical analyses of the water and location of the  
6 sources of contamination as may be found necessary, and, if the  
7 pollution is found to exist, the department shall make an order  
8 fixing the time and place for a hearing which shall be not less  
9 than ten days thereafter. Such hearing shall be public and shall  
10 be conducted, so far as possible, in the same manner as a court  
11 hearing, and every alleged offender shall have the right to appear  
12 by counsel, present testimony, and examine witnesses.

1 Sec. 3. Notice of the time and place of hearing shall be  
2 served upon each alleged offender at least ten days before said  
3 hearing in the manner required for the service of notice of the  
4 commencement of an ordinary action in a court of record.

1 Sec. 4. After such hearing the department may, if it believes  
2 the alleged offender is guilty of the charges, enter an order  
3 directing such person to desist in the practice found to be the  
4 cause of such pollution or corruption, or it may order a change  
5 in the method of passing waste materials into the water so that

6 the same will be rendered innocuous and harmless.

1 Sec. 5. No order shall be issued under the provisions of  
2 section 4 hereof that will require the expenditure of more than  
3 five thousand dollars without the written approval of a majority  
4 of the members of the state executive council.

1 Sec. 6. If any such change is ordered, unless such practice  
2 is rendering such water dangerous to the public health, a reason-  
3 able time shall be granted to the offender in which to put in use  
4 the method ordered.

1 Sec. 7. The department shall keep a complete record of such  
2 proceeding, including all the evidence taken, and such record  
3 shall be open to public inspection.

1 Sec. 8. An appeal may be taken by the aggrieved party from  
2 any order entered in such proceeding to the district court of the  
3 county in which the alleged offense was committed. Such appeal  
4 shall be perfected by serving a written notice on the commissioner  
5 of public health within thirty days of the entry of such order.  
6 The hearing on appeal shall be tried as a suit in equity and shall  
7 be de novo. The court may receive additional testimony and may  
8 affirm, modify, or reverse any such order. The setting aside of  
9 any such order of the department by the court upon any such appeal  
10 shall not prevent or preclude said department from again instituting  
11 proceedings against the same person, firm, corporation or municipi-  
12 pality when in its opinion the public health is endangered.

1 Sec. 9. Within thirty days after an application for an appeal  
2 is filed with the commissioner, he shall make, certify, and file

3 in the office of the clerk of the court to which the appeal is  
4 taken, a full and complete transcript of all documents and papers  
5 relating to the case.

1 Sec. 10. The first term after the appeal is taken shall be  
2 the trial term, and if the appeal is taken during a pending term,  
3 it shall be triable during such term at any time after ten days  
4 from the date that the transcript is filed by the commissioner.  
5 The hearing on appeal shall be tried as a suit in equity and  
6 shall be de novo.

1 Sec. 11. Failure to obey any order made by the department  
2 with reference to matters pertaining to the pollution of streams  
3 shall constitute contempt. In such event the department may  
4 certify to the district court of the county in which such disobe-  
5 dience shall occur, or to the district court of Polk county, the  
6 fact of such failure. The district court shall then proceed to  
7 hear and determine the matter and to punish for contempt to the  
8 same extent as though such failure were in connection with an  
9 order made by the district court which is made punishable by  
10 contempt.

1 Sec. 12. Any person, firm, or corporation, or any officer  
2 or agent thereof, found guilty of contempt under section 11 hereof  
3 shall be fined in a sum not to exceed one thousand dollars and,  
4 in addition, if a person, be imprisoned for failure to pay such  
5 fine. The penalties provided in this section shall be considered  
6 as additional to any penalty which may be imposed under the law  
7 relative to nuisances or any other statute relating to the

8 pollution of streams or other bodies of water, and a conviction  
9 under section 11 hereof shall not be a bar to prosecution under  
10 any other penal statute.

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

1     **Sec. 14.** Plans and specifications for any sewerage system  
2 covered by section 13 hereof shall be submitted to the department  
3 before a written permit may be issued, and the construction of

4 any such sewerage system shall be in accordance with said plans  
5 and specifications as approved by the department. In case it  
6 shall be necessary or desirable to make material changes in such  
7 plans or specifications, revised plans or specifications together  
8 with reasons for the proposed changes shall be submitted to the  
9 department for a supplemental written permit.

1 Sec. 15. The department may require any owner of a sewerage  
2 system discharging into any of the aforesaid waters to file with  
3 it complete plans of the whole or of any part of such system and  
4 any other information and records concerning the installation  
5 and operation of such system.

1 Sec. 16. The department shall have the right to establish  
2 procedure for the review of any reports, plans, specifications,  
3 or other data relative to any sewerage system, written permits  
4 for which are required by this act, and may make use of such  
5 assistance for such review as existing boards, commissions, and  
6 departments of the state may be able to render.

1 Sec. 17. The department is empowered to adopt and enforce  
2 rules and regulations governing the method and manner under which  
3 plans, specifications, or other data relative thereto shall be  
4 submitted for sewerage systems or for additions or changes to or  
5 extensions of such systems.

1 Sec. 18. No sewage or any other waste liquid or solid sub-  
2 stance of a decomposable, putrescible, oily, chemical, or  
3 other character whether treated or untreated shall be discharged  
4 directly into any State owned natural or artificial lake, provided

5 that this section shall not be construed as to prohibit the dis-  
6 charge of adequately treated sewage or wastes into a stream  
7 tributary to a lake upon the written permission of the state  
8 department of health and the state conservation commission.