

*2/7/02 Referred to W&M*

FEB 6 2002  
STATE GOVERNMENT

HOUSE FILE 2236  
BY METCALF

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act regulating farmers market stands, providing for fees,  
2 making penalties applicable, and providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*HF 2236*

1 Section 1. Section 137F.1, subsection 5, Code Supplement  
2 2001, is amended to read as follows:

3 5. "Farmers market" means a marketplace established at a  
4 recognized fixed location at which the marketplace seasonally  
5 operates principally outdoors as a common market for where  
6 vendors or concessionaires principally sell or distribute  
7 whole uncut fresh fruits and vegetables on a retail basis for  
8 off-the-premises consumption.

9 Sec. 2. Section 137F.1, Code Supplement 2001, is amended  
10 by adding the following new subsection:

11 NEW SUBSECTION. 5A. "Farmers market stand" means the  
12 premises which are part of a farmers market where a person  
13 operates as a vendor or concessionaire.

14 Sec. 3. Section 137F.3, unnumbered paragraph 1, Code 2001,  
15 is amended to read as follows:

16 The director shall regulate, license, and inspect food  
17 establishments, and food processing plants, and farmers market  
18 stands, and enforce this chapter, pursuant to rules adopted by  
19 the department in accordance with chapter 17A. Municipal  
20 corporations shall not regulate, license, inspect, or collect  
21 license fees from food establishments and food processing  
22 plants, except as provided in this section.

23 Sec. 4. Section 137F.4, Code 2001, is amended to read as  
24 follows:

25 137F.4 LICENSE REQUIRED.

26 1. a. A person shall not operate a food establishment or  
27 food processing plant to provide goods or services to the  
28 general public, or open a food establishment to the general  
29 public, until the appropriate license has been obtained from  
30 the regulatory authority. ~~Safe~~ The sale of products at  
31 wholesale to outlets not owned by a commissary owner requires  
32 a food processing plant license.

33 b. A person shall not operate a farmers market stand where  
34 potentially hazardous food is sold or distributed unless the  
35 person obtains a farmers market stand license as provided in

1 section 137F.8.

2 2. a. A Except as provided in paragraph "b", a license  
3 shall-expire issued under this chapter expires one year from  
4 the date of issue.

5 b. For each farmers market stand covered by a license, the  
6 license covering that stand expires when the farmers market  
7 where the stand is located closes for the season.

8 3. A license issued under this chapter is renewable. All  
9 licenses other than farmers market stand licenses issued under  
10 this chapter that are not renewed by the licensee on or before  
11 the expiration date shall be subject to a penalty of ten  
12 percent per month of the license fee if the license is renewed  
13 at a later date.

14 Sec. 5. Section 137F.6, unnumbered paragraph 1, Code 2001,  
15 is amended to read as follows:

16 The regulatory authority shall collect ~~the-following-annual~~  
17 license fees as provided in this section. Unless otherwise  
18 specifically provided in this section, fees shall be collected  
19 on an annual basis. The license fees shall be as follows:

20 Sec. 6. Section 137F.6, Code 2001, is amended by adding  
21 the following new subsection:

22 NEW SUBSECTION. 7. For a farmers market stand license as  
23 provided in section 137F.8, a seasonal license fee of one  
24 hundred dollars for a single farmers market stand and twenty-  
25 five dollars for each additional farmers market stand covered  
26 by the same license.

27 Sec. 7. Section 137F.8, Code 2001, is amended to read as  
28 follows:

29 137F.8 FARMERS MARKETS.

30 1. A vendor person who offers a product for sale at the  
31 premises of a farmers market, including a farmers market  
32 stand, shall have the sole responsibility to obtain and  
33 maintain any license required to sell or distribute the  
34 product.

35 2. A person shall not sell or distribute potentially

1 hazardous food at a farmers market stand unless the stand is  
2 covered by a farmers market stand license as issued by the  
3 appropriate regulatory authority. A farmers market stand  
4 license covers all farmers market stands operated by the  
5 licensee, regardless of whether the stands are located at one  
6 or more farmers markets.

7 Sec. 8. Section 137F.9, Code 2001, is amended to read as  
8 follows:

9 137F.9 OPERATION WITHOUT INSPECTION PROHIBITED.

10 1. A person shall not open or operate a food establishment  
11 or food processing plant until an inspection has been made and  
12 a license has been issued by the regulatory authority. A  
13 person shall not open or operate a farmers market stand  
14 required to be licensed under section 137F.8, if the  
15 department requires that the person be inspected. Inspections  
16 An inspection shall be conducted according to standards  
17 adopted by rule of the department pursuant to chapter 17A.

18 2. A person who opens or operates a food establishment, or  
19 food processing plant, or farmers market stand without  
20 obtaining a license is subject to a penalty of up to twice the  
21 amount of the annual license fee as provided in section  
22 137F.6.

23 Sec. 9. EFFECTIVE DATE. This Act, being deemed of  
24 immediate importance, takes effect upon enactment.

25 EXPLANATION

26 This bill amends Code chapter 137F which provides for the  
27 regulation, including the licensure, of food establishments  
28 and food processing plants. Under the chapter, regulation is  
29 carried out by a regulatory authority which is the department  
30 of inspections and appeals or a political subdivision  
31 (referred to as a "municipal corporation") that has entered  
32 into an agreement with the department for authority to enforce  
33 the chapter in its jurisdiction.

34 Pursuant to Code section 137F.1, a food establishment (a  
35 place where food is stored, prepared, packaged, or served for

1 human consumption), does not include a farmers market. This  
2 bill amends Code chapter 137F to specifically provide for the  
3 regulation of farmers market stands which include the premises  
4 that are part of a farmers market where a person operates as a  
5 vendor or concessionaire.

6 The bill amends several Code sections in the chapter to  
7 provide that a regulatory authority may regulate farmers  
8 market stands in the same manner as it does food  
9 establishments when the stand sells potentially hazardous food  
10 (food that is capable of supporting the rapid and progressive  
11 growth of toxins).

12 The bill establishes a farmers market stand license which  
13 covers all farmers market stands operated by a person,  
14 regardless of whether the stands are located at one or more  
15 than one farmers market. For a farmers market stand license,  
16 a seasonal license fee of \$100 is assessed for a single  
17 farmers market stand and \$25 for each additional farmers  
18 market stand covered by the same license.

19 According to Code section 137F.17, a person who violates  
20 the Code chapter or rules adopted pursuant to the chapter is  
21 subject to a civil penalty of \$100.

22 The bill takes effect upon enactment.

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HOUSE FILE 2236

H-8098

1 Amend House File 2236 as follows:

2 1. Page 1, line 18, by striking the word  
3 "stands," and inserting the following: "stands where  
4 potentially hazardous food is sold or distributed,".

5 2. Page 2, line 30, by striking the words "at  
6 the" and inserting the following: "at on the".

7 3. Page 3, by striking lines 3 through 6, and  
8 inserting the following: "appropriate regulatory  
9 authority. For purposes of this section, the  
10 appropriate regulatory authority is either the  
11 department or the county where the farmers market  
12 stand is located, if the county is authorized by the  
13 department to enforce the provisions of this chapter  
14 pursuant to section 137F.3. The appropriate  
15 regulatory authority shall issue a farmers market  
16 stand license on a county-by-county basis. A farmers  
17 market stand license covers all farmers market stands  
18 operated by the licensee in a county, regardless of  
19 whether the stands are located at one or more farmers  
20 markets within such county."

By COMMITTEE ON STATE GOVERNMENT  
METCALF of Polk, Chairperson

H-8098 FILED FEBRUARY 26, 2002