

CHAPTER 107

EMPLOYMENT SAFETY COMMISSION

S. F. 403

AN ACT relating to employment safety and providing for an employment safety commission.

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

1 **SECTION 1. Public policy.** It is the policy of this state that every
2 employer shall furnish and maintain a safe place of employment for
3 employees and shall cause all places of employment to be in all respects
4 constructed, equipped, arranged, operated and maintained so as to
5 provide reasonable and adequate protection for the lives, health, and
6 safety of all persons employed or working therein or frequenting the
7 same, taking into consideration the nature of the employment and
8 work.

1 **SEC. 2. Definitions.** Wherever used in this Act, unless the context
2 clearly requires a different meaning:

3 1. "Commission" means the employment safety commission created
4 by this Act.

5 2. "Labor commissioner" means the labor commissioner of the state
6 of Iowa.

7 3. "Person" includes individual, partnership, corporation, associa-
8 tion, organization, fiduciary, or legal representative.

9 4. "Place of employment" means any place, permanent or tempo-
10 rary, where any individual is employed or works for compensation.

11 5. "Employment safety" means all matters relating to safety and
12 health within the scope of this Act, (including but not limited to all
13 provisions of section one (1) of this Act) sections eighty-eight point
14 two (88.2) through eighty-eight point nine (88.9), inclusive, of the
15 Code, and chapter one hundred four (104) of the Code.

16 6. "Employment safety laws" includes this Act, (including but not
17 limited to all provisions of section one (1) of this Act) sections eighty-
18 eight point two (88.2) through eighty-eight point nine (88.9) of the
19 Code, and chapter one hundred four (104) of the Code.

20 7. "Rule" or "rules" includes any rules, regulations, and codes
21 adopted by the commission in accordance with section eleven (11) of
22 this Act. Such words do not include rules of procedure for the meet-
23 ings and activities of the commission.

24 8. "Amend" includes alter and rescind, and "amendment" includes
25 alteration and rescission.

26 9. The use of the singular includes the plural, and vice versa. The
27 use of any gender includes the appropriate gender.

1 **SEC. 3. Employment safety commission.** An employment safety
2 commission is hereby created. The commission shall consist of eight
3 (8) members. Four (4) members shall represent employers, and four
4 (4) members shall represent employees. Each member of the commis-
5 sion shall have had substantial experience in employment safety before
6 his appointment.

1 **SEC. 4. Appointment by governor.** The governor, with the ap-
2 proval of two-thirds ($\frac{2}{3}$) of the members of the senate, shall appoint
3 the members of the commission without regard to political affiliation.
4 Any organization of employers or employees, including but not limited
5 to the Iowa Federation of Labor and the Iowa Manufacturers Associ-
6 ation, may submit to the governor nominations for members of the
7 commission, together with information on the employment safety
8 experience of each nominee. The governor shall give due consideration
9 to such nominations when appointing members of the commission, but
10 shall not be bound by such nominations.

11 When appointing members of the commission, the governor shall
12 ascertain that each member has the qualifications stated in the Act,
13 that each employer member actually represents the interests of em-
14 ployers, and that each employee member actually represents the in-
15 terests of employees.

1 **SEC. 5. Terms.** Each member of the commission shall serve for
2 a term of six (6) years and until his successor is appointed and quali-
3 fies. However, the members first appointed shall be appointed within
4 thirty (30) days after the effective date of this Act and shall serve
5 for terms beginning when the members have been approved by the
6 senate and ending on the following dates: one (1) employer member
7 and one (1) employee member, June 30, 1967; two (2) employer mem-
8 bers and one (1) employee member, June 30, 1969; and one (1) em-
9 ployer member and two (2) employee members, June 30, 1971.

1 **SEC. 6. Vacancies.** Any vacancy in the commission occurring dur-
2 ing a session of the general assembly shall be filled in the same manner
3 as provided for original appointments and before the end of the ses-
4 sion, and for the unexpired part of the term. Any vacancy occurring
5 while the general assembly is not in session shall be filled by appoint-
6 ment by the governor, which appointment shall expire thirty (30)
7 days after the general assembly next convenes. Within said thirty
8 (30) days the governor shall transmit to the senate an appointment
9 for the unexpired part of the term. Vacancies shall not impair the
10 power of the remaining members to exercise all powers of the commis-
11 sion, subject to the requirements of this Act on quorum and number
12 of votes required for certain actions.

1 **SEC. 7. Compensation.** Members of the commission shall serve
2 without compensation, but shall be paid their reasonable expenses in
3 traveling to and from meetings of the commission and during such
4 meetings, and any other actual and necessary expenses incurred in the
5 performance of official duties of the commission.

1 **SEC. 8. Offices and meetings.** The commission shall have an office
2 at the seat of government. The executive council shall provide suitable
3 office space and necessary furniture, equipment, and supplies. The
4 commission may hold meetings and hearings anywhere in Iowa.

1 **SEC. 9. Organization and procedure.** The commission shall adopt
2 rules of procedure for its meetings and activities. The commission
3 shall elect one (1) of its members as chairman, who shall serve for a
4 term of two (2) years and until his successor is elected. The labor

5 commissioner shall serve as secretary of the commission without vote,
6 shall attend its meetings, shall furnish information and clerical and
7 other assistance requested by the commission, and may submit recom-
8 mendations to the commission. Six (6) members of the commission
9 shall constitute a quorum. The affirmative vote of five (5) members
10 of the commission shall be required in order to adopt or amend any
11 rule.

1 **SEC. 10. Duties and powers.** It shall be the duty of the commis-
2 sion and it shall have power, jurisdiction, and authority to:

- 3 1. Adopt and amend rules as hereinafter provided.
- 4 2. Hold hearings with respect to employment safety, proposed rules,
5 and proposed amendments.
- 6 3. Hear and decide appeals as hereinafter provided.
- 7 4. Administer oaths, subpoena witnesses, and take the testimony of
8 any person under oath, in connection with any hearing or appeal.
- 9 5. Advise and consult with the labor commissioner on employment
10 safety and safety education.
- 11 6. Appoint advisors who shall, without compensation, assist the
12 commission and the labor commissioner in the formulation of rules.
13 Upon request by the commission or the labor commissioner, any state
14 official or state agency shall furnish technical assistance and advice in
15 the formulation of rules.

1 **SEC. 11. Safety rules.** The commission shall adopt reasonable
2 rules, regulations, and codes to carry out and give effect to the policy
3 and provisions of the employment safety laws, including but not lim-
4 ited to section one (1) of this Act. The commission may amend the
5 rules from time to time.

6 The rules shall take into consideration and shall be based on appli-
7 cable and recognized safety codes, standards, and regulations, includ-
8 ing, without limiting the generality of the foregoing, any such codes,
9 standards, and regulations heretofore or hereafter adopted by the
10 American Standards Association, United States Bureau of Standards,
11 American Society of Mechanical Engineers, National Fire Prevention
12 Association, American Insurance Association, and other safety organi-
13 zations.

14 Rules shall be set forth in full; and incorporation of any code, stand-
15 ard, or regulation by reference thereto shall not be sufficient, except
16 that other rules of the commission may be incorporated by reference.

17 If any rule of the commission shall conflict with any applicable rule
18 or regulation adopted by any other state agency, board, bureau, officer,
19 or department, the rule or regulation requiring the higher standard
20 shall prevail if such rule or regulation is applicable to employment
21 safety and is authorized by law.

22 All rules shall be enforced as provided in this Act.

1 **SEC. 12. Public hearing and notice.** Before adopting or amending
2 any rule pursuant to section eleven (11) of this Act, the commission
3 shall hold a public hearing on the subject matter of the proposed rule
4 or amendment. Any interested person may appear and be heard at
5 such hearing, in person or by agent or counsel.

6 The labor commissioner shall maintain a mailing list for hearings,
7 and at least thirty (30) days before the hearing the labor commission-

8 er shall mail a notice of the hearing by ordinary mail to each person
9 on the mailing list. Such notice shall include a copy of the proposed
10 rule or amendment. When the labor commissioner receives a written
11 request from any person to be placed on the mailing list for hearings,
12 the labor commissioner shall add such person to the mailing list. At
13 the end of each calendar year, the labor commissioner may remove any
14 person from the mailing list if the labor commissioner has not received
15 from such person during the last three (3) months of such calendar
16 year a written request to be placed on the mailing list for the following
17 year. The commissioner shall also make a reasonable effort to give the
18 news media of the state notice of each hearing.

19 Failure to comply with the notice requirements of this section shall
20 not affect the validity of any rule unless such failure shall have been
21 willful.

22 The provisions of this section are in addition to the requirements of
23 chapter seventeen A (17A) of the Code.

1 **SEC. 13. Copies of rules.** The labor commissioner shall mail a
2 copy of any rule to any person requesting it, within ten (10) days
3 after receipt of such request. The labor commissioner shall cause all
4 rules to be published in a convenient form.

1 **SEC. 14. Enforcement and inspections.** It shall be the duty of the
2 labor commissioner to supervise the enforcement of the provisions of
3 the employment safety laws and all rules. The labor commissioner and
4 inspectors of the department of labor shall have the right and power
5 to enter and inspect any place of employment at any reasonable time
6 in order to determine compliance with, and aid in the enforcement of,
7 the employment safety laws and the rules, but in doing so shall not
8 unreasonably interfere with the operations, business, or work of any
9 employer or employee. The provisions of section ninety-one point ten
10 (91.10) of the Code shall be applicable to this Act.

11 The labor commissioner may accept, without cost to the state, in-
12 spections performed by insurance company inspectors or other quali-
13 fied inspectors when evidence of their qualifications satisfactory to the
14 labor commissioner has been furnished. No inspection of any place of
15 employment made by insurance company inspectors or other inspector
16 shall be the basis for the imposition of civil liability upon the inspector
17 or upon the insurance company or other person employing the inspec-
18 tor; but this provision refers only to liability arising out of the making
19 of an inspection and shall not be construed to deny or limit the liability
20 of any employer to his employees or the liability of any insurance car-
21 rier on its insurance policy.

1 **SEC. 15. Violations.** When the labor commissioner or his inspec-
2 tor shall discover or have reason to believe that any provision of the
3 employment safety laws or any rule is being violated, he shall cause
4 to be served on the person or persons violating the same, in the manner
5 provided in the rules of civil procedure, a written notice to comply with
6 the same within a reasonable time to be fixed in the notice, which time
7 shall be not less than seven (7) days nor more than thirty (30) days,
8 except that such time may be extended by the labor commissioner for
9 good cause shown. The notice shall specify the violation.

10 In fixing the time in such notice and any extension of time, the labor
11 commissioner shall take into consideration the nature of the failure or
12 defect constituting the violation, the probable danger thereof, and the
13 probable length of time and amount of labor required to correct the
14 violation.

15 If the violation continues after the expiration of the period of time
16 fixed in the notice, including any such extension of time, the labor
17 commissioner may give written notice of the violation to the county
18 attorney of the county in which the violation takes place. The county
19 attorney shall promptly institute appropriate actions or proceedings,
20 civil or criminal, to enforce the applicable statute or rule. If the county
21 attorney does not do so promptly, the attorney general shall do so upon
22 written request of the labor commissioner. Neither the labor commis-
23 sioner nor the commission shall be required to post or furnish any bond
24 or security in connection with any such action or proceedings.

25 Any person violating any provision of the employment safety laws
26 or any rule after service of such notice in writing and after expiration
27 of the period of time fixed in such notice, including any such extension
28 of time, shall be guilty of a misdemeanor and upon conviction shall be
29 punished by a fine of not less than twenty-five (25) dollars and not
30 more than one hundred (100) dollars. If such violation continues after
31 such conviction, each day of such continuing violation shall be a new
32 and separate offense.

33 Before proceeding under this section, the labor commissioner may
34 first attempt to obtain voluntary compliance whenever in his judgment
35 it is in the public interest to do so.

1 SEC. 16. **Appeal.** Any person aggrieved by any action of the labor
2 commissioner or his inspector in giving a written notice to comply pur-
3 suant to the preceding section or any action of the labor commissioner
4 with respect to any requested extension of time under the preceding
5 section, may appeal to the commission by causing a written notice of
6 appeal to be served on the labor commissioner in the manner provided
7 in the rules of civil procedure, within ten (10) days after the action of
8 the labor commissioner appealed from. The notice of appeal shall state
9 the action appealed from and the reasons for and grounds of the ap-
10 peal. The labor commissioner shall promptly notify the chairman of
11 the commission, who shall set a time and place for a hearing on the
12 appeal and shall cause at least five (5) days written notice thereof to
13 be given to all interested parties. The commission shall affirm the
14 action of the labor commissioner unless the commission shall find, by
15 the affirmative vote of at least five (5) members of the commission,
16 that the action of the labor commissioner was not reasonable under
17 the circumstances or was not authorized by the employment safety
18 laws or rules. The commission shall immediately give written notice
19 of its decision to all parties. The enforcement proceedings with respect
20 to which the appeal is taken shall be suspended until the decision of
21 the commission.

22 The appellant or the labor commissioner may obtain judicial review
23 of the commission's decision by commencing an action in the district
24 court in the county in which the alleged violation occurred, within
25 thirty (30) days after the commission's decision. The rules of civil

26 procedure shall be applicable, and the district court shall hear and
27 decide the matter de novo.

28 An appeal may be taken to the supreme court as in other cases.

1 SEC. 17. **Imminently dangerous machinery or equipment.** When
2 the labor commissioner or his inspector shall discover or have reason
3 to believe that any provision of the employment safety laws or any
4 rule is being violated by a piece of machinery or equipment which is
5 so defective as to cause imminent danger to life, health, or safety, this
6 section shall apply rather than section fifteen (15) of this Act. The
7 labor commissioner or his inspector shall cause to be served on the
8 person or persons violating the same, in the manner provided in the
9 rules of civil procedure, a written notice to comply with the same and
10 to refrain from using such piece of machinery or equipment until such
11 defect is corrected. The notice shall specify the defect and violating.*
12 Pending the service of the written notice, the labor commissioner or
13 his inspector may give oral notice to refrain from using such piece of
14 machinery or equipment until such defect is corrected, but such oral
15 notice shall not be effective for more than two (2) hours.

16 If such piece of machinery or equipment violates any provision of
17 the employment safety laws or any rule, any person using such piece
18 of machinery or equipment in violation of such notice shall be guilty
19 of a misdemeanor and upon conviction shall be punished as provided
20 in section fifteen (15) of this Act. Such violation shall be prosecuted
21 as provided in section fifteen (15) of this Act.

22 Any person aggrieved by any action of the labor commissioner or
23 his inspector under this section may appeal to the commission as pro-
24 vided in section sixteen (16) of this Act, or may commence an action
25 in the district court in the county in which the alleged violation oc-
26 curred. The written notice under this section shall not be suspended
27 during such proceedings unless an injunction is granted by the court.

1 SEC. 18. Section eighty-eight point twelve (88.12), Code 1962, is
2 hereby amended by adding the following at the end thereof: "The
3 labor commissioner shall adopt and all persons shall use standard
4 methods and forms for the records and reports required by this sec-
5 tion and the preceding section. Such methods and forms shall be
6 subject to the approval of the employment safety commission. The
7 recommendations of recognized safety organizations such as the
8 American Standards Association shall be given due consideration in
9 adopting such methods and forms."

1 SEC. 19. Section ninety-one point four (91.4), Code 1962, is hereby
2 amended by adding the following new subsection:

3 "To conduct and to cooperate with other interested persons and
4 organizations in conducting educational programs and projects on
5 employment safety."

1 SEC. 20. Section eighty-eight point ten (88.10), Code 1962, is
2 hereby repealed.

1 SEC. 21. Section eighty-eight point thirteen (88.13), Code 1962, is
2 hereby amended as follows:

*According to enrolled Act.

3 1. Subsections one (1) and two (2) are hereby repealed.
 4 2. Subsection three (3) is hereby amended by striking the numbers
 5 "88.6, 88.7, 88.8, 88.9,".

1 SEC. 22. This Act may be cited as the Iowa Employment Safety
 2 Act.

1 SEC. 23. This Act, being deemed of immediate importance, shall
 2 take effect and be in full force from and after its passage and publica-
 3 tion in The Wilton Advocate, a newspaper published at Wilton Junc-
 4 tion, Iowa, and The Muscatine Journal, a newspaper published at
 5 Muscatine, Iowa.

Approved April 12, 1965.

I hereby certify that the foregoing Act, Senate File 403, was published in The Wilton Advocate, Wilton Junction, Iowa, April 22, 1965, and in The Muscatine Journal, Muscatine, Iowa, April 16, 1965.

GARY L. CAMERON, *Secretary of State.*

CHAPTER 108

STATE BOILER INSPECTION

S. F. 87

AN ACT relating to state boiler inspection.

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

1 SECTION 1. Section eighty-nine point two (89.2), Code 1962, as
 2 amended by chapters ninety-two (92) and ninety-three (93), Acts of
 3 the Sixtieth General Assembly, is hereby amended by inserting in line
 4 nine (9) after the word "generators" the following: ", all steam
 5 boilers used for heating purposes carrying a pressure of not more than
 6 fifteen (15) pounds per square inch gauge and located in places of
 7 public assembly, all hot water heating boilers carrying a pressure of
 8 not more than thirty (30) pounds per square inch gauge located in
 9 places of public assembly".

1 SEC. 2. Section eighty-nine point three (89.3), Code 1962, is
 2 amended by inserting in line ten (10) after the word "buildings," the
 3 following:

4 "except buildings of public assembly as defined in section eighty-
 5 nine point twelve (89.12) of the Code as amended".

1 SEC. 3. Section eighty-nine point twelve (89.12), Code 1962, is
 2 amended by adding the following new subsections:

3 "3. Low-pressure heating boiler. The term 'low pressure heating
 4 boiler' shall mean a steam boiler operated at pressures not exceeding
 5 fifteen (15) psig, or a hot water heating boiler not exceeding thirty
 6 (30) pounds per square inch gauge.

7 "4. Place of public assembly. 'Place of public assembly' shall mean
 8 any building or portion thereof designed, intended and used for occu-
 9 pation by persons for purposes of entertainment, instruction or amuse-