

## CHAPTER 143

## VACATIONS FOR STATE EMPLOYEES

H. F. 503

AN ACT relating to vacations for state employees.

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

1 SECTION 1. Section seventy-nine point one (79.1), unnumbered  
 2 paragraph one (1), Code 1973, is amended to read as follows:  
 3 Salaries specifically provided for in an appropriation Act of the  
 4 general assembly shall be in lieu of existing statutory salaries, for the  
 5 positions provided for in any such Act, and all salaries shall be paid  
 6 in equal monthly, semimonthly or biweekly installments and shall be  
 7 in full compensation of all services, except as otherwise expressly  
 8 provided. All employees of the state including highway maintenance  
 9 employees of the state highway commission shall earn ~~one week~~ *two*  
 10 *weeks* vacation *per year* during the first year of employment and ~~two~~  
 11 ~~weeks' vacation per year during the second and through the fourth~~  
 12 ~~year of employment, and three weeks' vacation per year during the~~  
 13 ~~fifth and through the eleventh year of employment, and four weeks'~~  
 14 ~~vacation per year during the twelfth year and all subsequent years of~~  
 15 ~~employment, with pay. One week vacation shall be equal to the num-~~  
 16 ~~ber of hours in the employee's normal workweek. Vacation allowances~~  
 17 ~~shall be accrued on a pay period, monthly, or quarterly basis as pro-~~  
 18 ~~vided by the rules of the Iowa merit employment department. Said~~  
 19 ~~vacations shall be granted at the discretion and convenience of the~~  
 20 ~~head of the department, agency or commission, except that in no case~~  
 21 ~~may an employee be granted vacation in excess of the amount earned~~  
 22 ~~by him. In the event that the employment of an employee of the state~~  
 23 ~~who has been in such employ for more than one year shall be termi-~~  
 24 ~~nated for any reason other than a discharge for good cause, he shall~~  
 25 ~~be paid a vacation allowance for any vacation which he may have~~  
 26 ~~earned prior to such termination, and which he has not yet taken. For~~  
 27 ~~the purposes of this section, death of an employee shall be considered~~  
 28 ~~a termination of employment which shall require payment of such~~  
 29 ~~vacation allowances as might be payable for any other termination.~~

Approved June 13, 1973.

## CHAPTER 144

## WORKMEN'S COMPENSATION

S. F. 495

AN ACT relating to workmen's compensation.

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

1 SECTION 1. Section eighty-five point one (85.1), subsection one  
 2 (1), Code 1973, is amended to read as follows:  
 3 1. Any ~~household or domestic servant~~ *employee engaged in any type*  
 4 *of service in or about a private dwelling except that after July 1, 1974,*  
 5 *this chapter shall apply to such persons who earn two hundred dollars*  
 6 *or more from such employer for whom employed at the time of the*

7 *injury in any calendar quarter, provided said employee is not a regular*  
8 *member of the household.*

1 SEC. 2. Section eighty-five point one (85.1), subsection two (2),  
2 Code 1973, is amended to read as follows:

3 2. Persons whose employment is purely casual and not for the pur-  
4 pose of the employer's trade or business, *except that after July 1, 1974,*  
5 *this chapter shall apply to such employees who earn two hundred dol-*  
6 *lars or more from such employer for whom employed at the time of the*  
7 *injury in any calendar quarter.*

1 SEC. 3. Section eighty-five point one (85.1), subsection three (3),  
2 Code 1973, is amended to read as follows:

3 3. Persons engaged in agriculture, insofar as injuries shall be in-  
4 curred by employees while engaged in agricultural pursuits or any  
5 operations immediately connected therewith, whether on or off the  
6 premises of the employer, *except that commencing January 1, 1974,*  
7 *this chapter shall apply to such persons if at the time of injury such*  
8 *person is employed by an employer:*

9 a. *Whose total cash payments to one or more such persons amounted*  
10 *to two thousand five hundred dollars or more during the preceding*  
11 *calendar year, or*

12 b. *Who employs at least one person regularly. An employer shall be*  
13 *deemed to employ a person regularly if he employs at least one person*  
14 *for forty hours or more per week for thirteen consecutive weeks dur-*  
15 *ing any part of the preceding twelve months.*

1 SEC. 4. Section eighty-five point twenty-six (85.26), Code 1973, is  
2 amended to read as follows:

3 **85.26 Limitation of actions.** No original proceedings for compen-  
4 sation shall be maintained in any case unless such proceedings shall be  
5 commenced within two years from the date of the injury causing such  
6 death or disability for which ~~compensation~~ *benefits* are claimed.

7 No claim or proceedings for benefits shall be maintained by any  
8 person other than the injured employee, his dependent or his legal  
9 representative, if entitled to benefits.

1 SEC. 5. Section eighty-five point twenty-seven (85.27), unnum-  
2 bered paragraph one (1), Code 1973, is amended to read as follows:

3 The employer, with notice or knowledge of injury, shall furnish  
4 reasonable surgical, medical, osteopathic, chiropractic, podiatric,  
5 *physical rehabilitation*, nursing, *ambulance*, and hospital services and  
6 supplies therefor. The employer shall also furnish reasonable and  
7 necessary crutches, artificial members and appliances but shall not be  
8 required to furnish more than one permanent prosthetic device. The  
9 ~~total amount which may be allowed for medical, surgical, and hospital~~  
10 ~~services and supplies, services of special nurses, one set of prosthetic~~  
11 ~~devices, and ambulance charges, shall be unlimited. However, if the~~  
12 ~~aggregate thereof exceeds seventy-five hundred dollars, application for~~  
13 ~~the allowance of such additional amounts shall be made to the commis-~~  
14 ~~sioner by the claimant, and the commissioner may, upon reasonable~~  
15 ~~proof being furnished of real necessity therefor, allow and order pay-~~  
16 ~~ment for additional surgical, medical, osteopathic, chiropractic, podia-~~  
17 ~~tricial, nursing and hospital services and supplies, and no statutory~~  
18 ~~period of limitation shall be applicable thereto.~~

1 SEC. 6. Section eighty-five point thirty-one (85.31), subsection one  
2 (1), Code 1973, is amended to read as follows:

3 1. When death results from the injury, the employer shall pay the  
4 dependents who were wholly dependent on the earnings of the em-  
5 ployee for support at the time of his injury, during their lifetime,  
6 compensation upon the basis of ~~sixty-six and two-thirds~~ *eighty* percent  
7 per week of the employee's average weekly *spendable* earnings, ~~payable~~  
8 ~~in three hundred equal weekly installments~~ commencing from the date  
9 of his injury, ~~but not to death~~ *as follows*:

10 *a. To the widow or widower for life or until remarriage, provided*  
11 *that upon remarriage two years' benefits shall be paid to the widow or*  
12 *widower in a lump sum, if there are no children entitled to benefits.*

13 *b. To any child of the deceased until the child shall reach the age of*  
14 *eighteen, provided that a child beyond eighteen years of age shall*  
15 *receive benefits to the age of twenty-five if actually dependent, and the*  
16 *fact that a child is under twenty-five years of age and is enrolled as a*  
17 *full-time student in any accredited educational institution shall be a*  
18 *prima facie showing of actual dependency.*

19 *c. To any child who was physically or mentally incapacitated from*  
20 *earning at the time of the injury causing death for the duration of the*  
21 *incapacity from earning.*

22 *d. To all other dependents as defined in section eighty-five point*  
23 *forty-four (85.44) of the Code for the duration of the incapacity from*  
24 *earning.*

25 *The weekly benefit amount shall not exceed a weekly benefit amount,*  
26 *rounded to the nearest dollar, equal to ~~forty-six~~ *sixty-six and two-**  
27 *thirds percent of the state average weekly wage paid employees as*  
28 *determined by the Iowa employment security commission under the*  
29 *provisions of section 96.3 and in effect at the time of the injury;*  
30 *provided, that as of July 1, 1975; July 1, 1977; July 1, 1979; and July*  
31 *1, 1981, the maximum weekly benefit amount rounded to the nearest*  
32 *dollar shall be increased so that it shall equal one hundred percent,*  
33 *one hundred thirty-three and one-third percent, one hundred sixty-six*  
34 *and two-thirds percent and two hundred percent, respectively, of the*  
35 *state average weekly wage as determined above; provided further,*  
36 *that such weekly compensation shall not be less than eighteen dollars*  
37 *per week, except if at the time of his injury his earnings are less than*  
38 *eighteen dollars per week, then the weekly compensation shall be a*  
39 *sum equal to the full amount of his weekly earnings. Such compen-*  
40 *sation shall be in addition to the benefits provided by sections 85.27*  
41 *and 85.28.*

1 SEC. 7. Section eighty-five point thirty-three (85.33), Code 1973,  
2 is amended to read as follows:

3 **85.33 Temporary disability.** The employer shall pay to the em-  
4 ployee for injury producing temporary disability and beginning upon  
5 the eighth day thereof, weekly compensation benefit payments for a  
6 ~~period not exceeding three hundred weeks~~ *the period of his disability,*  
7 including the periodical increase in cases to which section 85.32  
8 applies.

1 SEC. 8. Section eighty-five point thirty-four (85.34), subsection  
2 one (1), Code 1973, is amended to read as follows:

3 1. Healing period. If an employee has suffered a personal injury

4 causing permanent partial disability for which compensation is pay-  
 5 able as provided in subsection 2 of this section, the employer shall pay  
 6 to the employee compensation for a healing period, as provided in  
 7 section 85.37, beginning on the date of the injury, which shall be not  
 8 more than thirty percent of the period during which weekly compen-  
 9 sation is required to be paid for the permanent partial disability under  
 10 the provisions of this section. In the unusual case where it appears,  
 11 upon competent medical evidence, that the actual healing period will  
 12 substantially exceed the maximum established above, the commissioner  
 13 may, upon application of the claimant, extend the healing period for  
 14 such time as is necessary but not beyond a total of sixty percent for  
 15 both the original healing period and such extended period. However,  
 16 in no event shall such payments for a healing period be made for a  
 17 period longer than the actual time the employee is incapacitated from  
 18 work because of such injury and until he has returned to work or  
 19 competent medical evidence indicates that recuperation from said  
 20 injury has been accomplished, whichever comes first.

1 SEC. 9. Section eighty-five point thirty-four (85.34), subsection  
 2 two (2), unnumbered paragraph one (1), Code 1973, is amended to  
 3 read as follows:

4 Compensation for permanent partial disability shall begin at the  
 5 termination of the healing period provided in subsection 1 hereof.  
 6 Such compensation shall be in addition to the benefits provided by  
 7 sections 85.27 and 85.28. Such compensation shall be based upon the  
 8 extent of such disability and upon the basis of ~~sixty-six and two-thirds~~  
 9 *eighty* percent per week of the employee's average weekly *spendable*  
 10 earnings, but not more than a weekly benefit amount, rounded to the  
 11 nearest dollar, equal to ~~forty-six~~ *sixty-one and one-third* percent of the  
 12 state average weekly wage paid employees as determined by the Iowa  
 13 employment security commission under the provisions of section 96.3  
 14 and in effect at the time of the injury, *provided that as of July 1, 1975;*  
 15 *July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly*  
 16 *benefit amount rounded to the nearest dollar shall be increased so that*  
 17 *it shall equal ninety-two percent, one hundred and twenty-two and*  
 18 *two-thirds percent, one hundred fifty-three and one-third percent, and*  
 19 *one hundred eighty-four percent, respectively, of the state average*  
 20 *weekly wage as determined above; provided that no employee shall*  
 21 *receive as compensation less than eighteen dollars per week, except if*  
 22 *at the time of his injury his earnings are less than eighteen dollars per*  
 23 *week, then the weekly compensation shall be a sum equal to the full*  
 24 *amount of his weekly earnings; and for all cases of permanent partial*  
 25 *disability such compensation shall be paid as follows:*

1 SEC. 10. Section eighty-five point thirty-four (85.34), subsection  
 2 three (3), unnumbered paragraph one (1), Code 1973, is amended to  
 3 read as follows:

4 Compensation for an injury causing permanent total disability shall  
 5 be upon the basis of ~~sixty-six and two-thirds~~ *eighty* percent per week  
 6 of the employee's average weekly *spendable* earnings, but not more  
 7 than a weekly benefit amount, rounded to the nearest dollar, equal to  
 8 ~~forty-six~~ *sixty-six and two-thirds* percent of the state average weekly  
 9 wage paid employees as determined by the Iowa employment security  
 10 commission under the provisions of section 96.3 and in effect at the

11 time of the injury provided that ~~no~~ *as of July 1, 1975; July 1, 1977;*  
 12 *July 1, 1979; and July 1, 1981, the maximum weekly benefit amount*  
 13 *rounded to the nearest dollar shall be increased so that it shall equal*  
 14 *one hundred percent, one hundred thirty-three and one-third percent,*  
 15 *one hundred sixty-six and two-thirds percent and two hundred percent,*  
 16 *respectively, of the state average weekly wage as determined above.*  
 17 No employee shall receive as compensation less than eighteen dollars  
 18 per week, except if at the time of his injury his earnings are less than  
 19 eighteen dollars per week, then the weekly compensation shall be a  
 20 sum equal to the full amount of his weekly earnings; said weekly com-  
 21 pensation shall be payable during the period of his disability ~~for a~~  
 22 ~~period of time not to exceed five hundred weeks.~~

1 SEC. 11. Section eighty-five point thirty-four (85.34), subsec-  
 2 tion three (3), unnumbered paragraph two (2), Code 1973, is amended  
 3 to read as follows:

4 ~~In no case shall the weekly compensation payments exceed the~~  
 5 ~~amount determined by dividing the total number of weeks into the~~  
 6 ~~maximum total compensation stated herein.~~ Such compensation shall  
 7 be in addition to the benefits provided in sections 85.27 and 85.28. No  
 8 compensation shall be payable under this subsection for any injury  
 9 for which compensation is payable under subsection 2 of this section.  
 10 In the event compensation has been paid to any person under any pro-  
 11 vision of this chapter or chapter 85A for the same injury producing a  
 12 total permanent disability, any such amounts so paid shall be deducted  
 13 from the total amount of compensation payable for such permanent  
 14 total disability.

1 SEC. 12. Section eighty-five point thirty-six (85.36), Code 1973, is  
 2 amended by striking the section and inserting in lieu thereof the  
 3 following:

4 **85.36 Basis of compensation.** The basis of compensation shall be  
 5 the weekly earnings of the injured employee at the time of the injury.  
 6 Weekly earnings means gross salary, wages, or earnings of an em-  
 7 ployee to which such employee would have been entitled had he worked  
 8 the customary hours for the full pay period in which he was injured, as  
 9 regularly required by his employer for the work or employment for  
 10 which he was employed, computed or determined as follows and then  
 11 rounded to the nearest dollar:

12 1. In the case of an employee who is paid on a weekly pay period  
 13 basis, the weekly gross earnings.

14 2. In the case of an employee who is paid on a biweekly pay period  
 15 basis, one-half of the biweekly gross earnings.

16 3. In the case of an employee who is paid on a semimonthly pay  
 17 period basis, the semimonthly gross earnings multiplied by twenty-  
 18 four and subsequently divided by fifty-two.

19 4. In the case of an employee who is paid on a monthly pay period  
 20 basis, the monthly gross earnings multiplied by twelve and subse-  
 21 quently divided by fifty-two.

22 5. In the case of an employee who is paid on a yearly pay period  
 23 basis, the weekly earnings shall be the yearly earnings divided by  
 24 fifty-two.

25 6. In the case of an employee who is paid on a daily, or hourly basis,  
 26 or by the output of the employee, the weekly earnings shall be com-

27 puted by dividing by thirteen the earnings, not including overtime or  
28 premium pay, of said employee earned in the employ of the employer  
29 in the last completed period of thirteen consecutive calendar weeks  
30 immediately preceding the injury.

31 7. In the case of an employee who has been in the employ of the  
32 employer less than thirteen calendar weeks immediately preceding the  
33 injury, his weekly earnings shall be computed under subsection six (6)  
34 of this section, taking the earnings, not including overtime or premium  
35 pay, for such purpose to be the amount he would have earned had he  
36 been so employed by the employer the full thirteen calendar weeks  
37 immediately preceding the injury and had worked, when work was  
38 available to other employees in a similar occupation.

39 8. If at the time of the injury the hourly earnings have not been  
40 fixed or cannot be ascertained, the earnings for the purpose of calcu-  
41 lating compensation shall be taken to be the usual earnings for similar  
42 services where such services are rendered by paid employees.

43 9. In occupations which are exclusively seasonal and therefore can-  
44 not be carried on throughout the year, the weekly earnings shall be  
45 taken to be one-fiftieth of the total earnings which the employee has  
46 earned from all occupations during the twelve calendar months im-  
47 mediately preceding the injury.

48 10. In the case of an employee who earns either no wages or less  
49 than the usual weekly earnings of the regular full-time adult laborer  
50 in the line of industry in that locality, the earnings shall be taken to  
51 be the average weekly wages of the average wage earner in that  
52 particular kind or class of work. If information of that kind is not  
53 obtainable, then the class most kindred or similar in the same general  
54 employment in the same neighborhood shall be used.

55 a. In computing the compensation to be allowed a volunteer fireman,  
56 his earnings as a fireman shall be disregarded and he shall be paid the  
57 maximum compensation allowable under the workmen's compensation  
58 law.

59 b. If the employee was an apprentice or trainee when injured, and  
60 it is established under normal conditions his earnings should be ex-  
61 pected to increase during the period of disability, that fact may be  
62 considered in computing his weekly earnings.

63 c. In computing the compensation to be paid to any employee who,  
64 before the accident for which he claims compensation, was disabled  
65 and drawing compensation under the provisions of this chapter, the  
66 compensation for each subsequent injury shall be apportioned accord-  
67 ing to the proportion of disability caused by the respective injuries  
68 which he shall have suffered.

69 d. This subsection shall not apply to compensable injuries arising  
70 under the second injury compensation Act.

1 SEC. 13. Section eighty-five point thirty-seven (85.37), Code 1973,  
2 is amended to read as follows:

3 **85.37 Compensation schedule.** In all cases where an employee re-  
4 ceives a personal injury causing temporary disability, or causing a  
5 permanent partial disability for which compensation is payable during  
6 a healing period, compensation for such temporary disability or for  
7 such healing period shall be upon the basis provided herein. The  
8 weekly benefit amount payable to any employee for any one week shall  
9 be *upon the basis of eighty percent of the employee's weekly spendable*

10 *earnings*, but shall not exceed an amount, rounded to the nearest dollar,  
 11 equal to ~~forty-six and two-thirds~~ *fifty-six and two-thirds* percent of the state average  
 12 weekly wage paid employees as determined by the Iowa employment  
 13 security commission under the provisions of section 96.3, ~~subsection 4,~~  
 14 and in effect at the time of the injury *provided that as of July 1, 1975;*  
 15 *July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly*  
 16 *benefit amount rounded to the nearest dollar shall be increased so that*  
 17 *it shall equal one hundred percent, one hundred thirty-three and one-*  
 18 *third percent, one hundred sixty-six and two-thirds percent, and two*  
 19 *hundred percent, respectively, of the state average weekly wage as*  
 20 *determined above.* Total weekly compensation for any employee shall  
 21 not exceed ~~sixty-six and two-thirds~~ *eighty* percent per week of the  
 22 employee's average weekly *spendable* earnings; provided further, that  
 23 such compensation shall not be less than eighteen dollars per week,  
 24 except if at the time of his injury his earnings are less than eighteen  
 25 dollars per week, then he shall receive in weekly payments a sum equal  
 26 to the full amount of his weekly earnings.

27 Such compensation shall be in addition to the benefits provided by  
 28 sections 85.27 and 85.28.

29 The words "child" or "children" as used herein shall mean and be  
 30 defined as in ~~subsection 2 of section 85.42.~~

1 SEC. 14. Section eighty-five point forty-two (85.42), subsection  
 2 one (1), paragraph c, Code 1973, is amended by striking the para-  
 3 graph.

1 SEC. 15. Section eighty-five point forty-two (85.42), subsection  
 2 two (2), Code 1973, is amended to read as follows:

3 2. A child or children under ~~sixteen~~ *eighteen* years of age, and over  
 4 said age if physically or mentally incapacitated from earning, whether  
 5 actually dependent for support or not upon the parent at the time of  
 6 his or her death. An adopted child or children shall be regarded the  
 7 same as issue of the body. A child or children, as used herein, shall  
 8 also include any child or children conceived but not born at the time  
 9 of the employee's injury, and any compensation payable on account  
 10 of any such child or children shall be paid from the date of their birth.  
 11 A stepchild or stepchildren shall be regarded the same as issue of the  
 12 body only when the stepparent has actually provided the principal  
 13 support for such child or children.

1 SEC. 16. Section eighty-five point forty-three (85.43), Code 1973,  
 2 is amended to read as follows:

3 **85.43 Payment to spouse.** If the deceased employee leaves a sur-  
 4 viving spouse, *qualified under the provisions of section eighty-five*  
 5 *point forty-two (85.42) of the Code*, the full compensation shall be  
 6 paid to her or him, ~~subject to the exceptions in section 85.42 as pro-~~  
 7 *vided in section eighty-five point thirty-one (85.31) of the Code; pro-*  
 8 *vided that where a deceased employee leave a surviving spouse and a*  
 9 *dependent child or children under sixteen years of age, or over said*  
 10 *age if physically or mentally incapacitated\* from earning*, the indus-  
 11 trial commissioner may make an order of record for an equitable  
 12 apportionment of the compensation payments.

\*According to enrolled Act.

13 If the spouse dies before full payment, the balance benefits shall be  
 14 paid to the person or persons wholly dependent on deceased, if any,  
 15 share and share alike. If there are none wholly dependent, then such  
 16 balance benefits shall be paid to partial dependents, if any, in propor-  
 17 tion to their dependency for the periods provided in section eighty-five  
 18 point thirty-one (85.31) of the Code.

19 If the deceased leaves dependent child or children who was or were  
 20 such at the time of the injury, and the surviving spouse remarries,  
 21 then and in such case, the unpaid portion of the compensation pay-  
 22 ments shall be paid to the proper compensation trustee for the use  
 23 and benefit of such dependent child or children for the period provided  
 24 in section eighty-five point thirty-one (85.31) of the Code.

1 SEC. 17. Section eighty-five point forty-four (85.44), Code 1973, is  
 2 amended to read as follows:

3 **85.44 Payment to actual dependents.** In all other cases, questions  
 4 of dependency in whole or in part a dependent shall be one actually  
 5 dependent or mentally or physically incapacitated from earning. Such  
 6 status shall be determined in accordance with the facts as of the date  
 7 of the injury; and in such other cases. In such cases if there is more  
 8 than one person wholly dependent, the death compensation benefit shall  
 9 be equally divided among them. If there is no one wholly dependent  
 10 and more than one person partially dependent, the death compensation  
 11 benefit shall be divided among them in the proportion each dependency  
 12 bears to their aggregate dependency.

1 SEC. 18. Section eighty-five point forty-five (85.45), Code 1973, is  
 2 amended by adding the following new subsection:

3 **NEW SUBSECTION.** When a person seeking a commutation is a  
 4 widow or widower, a permanently and totally disabled employee, or a  
 5 dependent who is entitled to benefits as provided in section eighty-five  
 6 point thirty-one (85.31), subsection one (1), paragraphs c and d of the  
 7 Code, the future payments which may be commuted shall not exceed  
 8 the number of weeks which shall be indicated by probability tables  
 9 designated by the industrial commissioner for death and remarriage,  
 10 subject to the provisions of chapter seventeen A (17A) of the Code.

1 SEC. 19. Section eighty-five point sixty-one (85.61), Code 1973, is  
 2 amended by adding the following new subsections:

3 **NEW SUBSECTION.** "Pay period" means that period of employment  
 4 for which the employer customarily or regularly makes payments to  
 5 his employees for work performed or services rendered.

6 **NEW SUBSECTION.** "Payroll taxes" means the following:

7 a. An amount equal to the amount which would be withheld under  
 8 the Internal Revenue Code of 1954, and regulations pursuant thereto,  
 9 as amended to July 1, 1973, as though the employee had elected to  
 10 claim the maximum number of exemptions for actual dependency,  
 11 blindness and old age to which the employee is entitled on the date on  
 12 which he was injured, and

13 b. An amount equal to the amount which would be withheld under  
 14 chapter four hundred twenty-two (422) of the Code, and any regula-  
 15 tions pursuant thereto, as though the employee had elected to claim  
 16 the maximum number of exemptions for actual dependency, blindness  
 17 and old age to which the employee is entitled on the date on which he  
 18 was injured; and



19 c. An amount equal to the amount required by the Social Security  
20 Act of 1935 as amended to July 1, 1973, to be deducted or withheld  
21 from the amount of earnings of the employee at the time of the injury  
22 as if the earnings were earned at the beginning of the calendar year  
23 in which he was injured.

24 NEW SUBSECTION. "Spendable weekly earnings" is that amount  
25 remaining after payroll taxes are deducted from gross weekly earn-  
26 ings.

1 SEC. 20. Section eighty-five point sixty-one (85.61), subsection  
2 three (3), paragraph a, Code 1973, is amended to read as follows:

3 a. A person whose employment is purely casual and not for the pur-  
4 pose of the employer's trade or business *except as otherwise provided*  
5 *in section eighty-five point one (85.1) of the Code.*

1 SEC. 21. Section eighty-five point sixty-one (85.61), subsection  
2 five (5), paragraph b, Code 1973, is amended to read as follows:

3 b. They shall not include a disease unless it shall result from the  
4 injury *and they shall not include an occupational disease as defined in*  
5 *section eighty-five A point eight (85A.8) of the Code.*

1 SEC. 22. Section eighty-five A point four (85A.4), Code 1973, is  
2 amended to read as follows:

3 **85A.4 Disablement defined.** Disablement as that term is used in  
4 this chapter is the event or condition where an employee becomes actu-  
5 ally incapacitated from performing his work or from earning equal  
6 wages in other suitable employment because of an occupational dis-  
7 ease as ~~designated and~~ defined in this chapter in the last occupation  
8 in which such employee is injuriously exposed to the hazards of such  
9 disease.

1 SEC. 23. Section eighty-five A point five (85A.5), Code 1973, is  
2 amended to read as follows:

3 **85A.5 Compensation payable.** All employees subject to the pro-  
4 visions of this chapter who shall become disabled from injurious  
5 exposure to an occupational disease herein designated and defined  
6 within the conditions, limitations and requirements provided herein,  
7 shall receive compensation, reasonable surgical, medical, osteopathic,  
8 chiropractic, *physical rehabilitation*, nursing and hospital services and  
9 supplies therefor, and burial expenses as provided in the workmen's  
10 compensation law of Iowa except as otherwise provided in this chapter.

11 If, however, an employee incurs an occupational disease for which  
12 he would be entitled to receive compensation if he were disabled as  
13 provided herein, but is able to continue in employment and requires  
14 medical treatment for said disease, then he shall receive reasonable  
15 medical services therefor, ~~but not in excess of the amount provided in~~  
16 ~~section 85.27.~~

1 SEC. 24. Section eighty-five A point eight (85A.8), Code 1973, is  
2 amended to read as follows:

3 **85A.8 Occupational disease defined.** Occupational diseases shall be  
4 only those diseases ~~hereinafter designated and defined and~~ which arise  
5 out of and in the course of the *employee's* employment ~~hereinafter~~  
6 ~~designated and described.~~ Such diseases shall have a direct causal  
7 connection with the ~~designated occupations or processes hereinafter~~

8 set out opposite such named diseases respectively *employment* and  
9 must have followed as a natural incident thereto from injurious  
10 exposure occasioned by the nature of the ~~occupation or process~~  
11 *employment*. Such disease must be incidental to the character of the  
12 business, occupation or process in which the employee was employed  
13 and not independent of the employment. Such disease need not have  
14 been foreseen or expected but after its contraction it must appear to  
15 have had its origin in a risk connected with the employment and to  
16 have resulted from that source as an incident and rational consequence.  
17 A disease which follows from a hazard to which an employee has or  
18 would have been equally exposed outside of said occupation is not  
19 compensable as an occupational disease.

1 SEC. 25. Section eighty-five A point ten (85A.10), Code 1973, is  
2 amended to read as follows:

3 85A.10 Last exposure—employer liable. Where compensation is  
4 payable for an occupational disease, the employer in whose employ-  
5 ment the employee was last injuriously exposed to the hazards of such  
6 disease, shall be liable therefor. The notice of injury and claim for  
7 compensation as hereinafter required shall be given and made to such  
8 employer, provided, that in case of ~~silicosis~~ *pneumoconiosis*, the only  
9 employer liable shall be the last employer in whose employment the  
10 employee was last injuriously exposed to the hazards of the disease  
11 during a period of not less than sixty days ~~which period shall be after~~  
12 ~~October 1, 1947.~~

1 SEC. 26. Section eighty-five A point twelve (85A.12), unnumbered  
2 paragraph one (1), Code 1973, is amended to read as follows:

3 An employer shall not be liable for any compensation for an occu-  
4 pational disease unless such disease shall be due to the nature of an  
5 employment in which the hazards of such disease actually exist, and  
6 which hazards are characteristic thereof and peculiar to the trade,  
7 occupation, process, or employment, and such disease actually arises  
8 out of the employment, and unless disablement or death results within  
9 three years in case of ~~silicosis~~ *pneumoconiosis*, or within one year in  
10 case of any other occupational disease, after the last injurious exposure  
11 to such disease in such employment, or in case of death, unless death  
12 follows continuous disability from such disease commencing within the  
13 period above limited for which compensation has been paid or awarded  
14 or timely claim made as provided by this chapter and results within  
15 seven years after such exposure.

1 SEC. 27. Section eighty-five A point thirteen (85A.13), Code 1973,  
2 is amended to read as follows:

3 85A.13 Provisions relating to ~~silicosis~~ *pneumoconiosis*.  
4 1. *Silicosis Pneumoconiosis* defined. Whenever used in this chapter,  
5 "~~silicosis~~" "*pneumoconiosis*" shall mean the characteristic fibrotic  
6 condition of the lungs caused by the inhalation of ~~silica~~ dust *particles*.  
7 2. Presumptions. In the absence of conclusive evidence in favor of  
8 the claim, disability or death from ~~silicosis~~ *pneumoconiosis* shall be  
9 presumed not to be due to the nature of any occupation within the  
10 provisions of this chapter unless during the ten years immediately

11 preceding the disablement of the employee who has been exposed to  
 12 the inhalation of silica dust *particles* over a period of not less than five  
 13 years, two years of which shall have been in employment in this state.

14 3. Compensation payable. Except as in this chapter otherwise pro-  
 15 vided, compensation for disability from uncomplicated silicosis *pneu-*  
 16 *moconiosis* shall be payable in accordance with the provisions hereof;  
 17 provided, however, that no compensation shall be payable for disability  
 18 from silicosis *pneumoconiosis* of less than thirty-three and one-third  
 19 percent of total, and provided further that, during the transitory  
 20 period, the aggregate compensation payable to employees and their  
 21 dependents for disability and death for uncomplicated silicosis *pneu-*  
 22 *moconiosis* shall be limited as follows: If disablement occurs or in  
 23 case of no claim for prior disablement, if death occurs in the third  
 24 calendar month after October 1, 1947, the total compensation and  
 25 death benefits payable shall not exceed the sum of five hundred dollars.  
 26 If disablement occurs or in case of no claim for prior disablement, if  
 27 death occurs during the next calendar month, the total compensation  
 28 and death benefits payable shall not exceed five hundred fifty dollars.  
 29 Thereafter, the total amount or limit of the compensation and death  
 30 benefits payable for disability and death shall be increased at the rate  
 31 of fifty dollars per month, the aggregate payable in each case to be  
 32 limited according to the foregoing formula for the month in which  
 33 disability occurs, or, in case of no claim for prior disablement, in  
 34 which death occurs. Such progressive increase in the limits of the  
 35 aggregate compensation and benefits for disability and death shall  
 36 continue until the limit upon such benefits fixed in the workmen's  
 37 compensation law is reached, and thereafter the total aggregate of  
 38 such compensation and benefits shall be the total compensation and  
 39 benefits otherwise provided in the workmen's compensation law.

40 4. Silicosis *Pneumoconiosis* complicated with other diseases. In case  
 41 of disability or death from silicosis *pneumoconiosis* complicated with  
 42 tuberculosis of the lungs, compensation shall be payable as for uncom-  
 43 plicated silicosis *pneumoconiosis*, provided, however, that the silicosis  
 44 *pneumoconiosis* was an essential factor in causing such disability or  
 45 death. In case of disability or death from silicosis *pneumoconiosis*  
 46 complicated with any other disease, or from any other disease compli-  
 47 cated with silicosis *pneumoconiosis*, the compensation shall be reduced  
 48 as herein provided.

1 SEC. 28. Section eighty-six point thirty-four (86.34), Code 1973,  
 2 is amended to read as follows:

3 86.34 **Review of award or settlement.** Any award for payments or  
 4 agreement for settlement made under this chapter where the amount  
 5 has not been commuted, may be reviewed by the industrial commis-  
 6 sioner or a deputy commissioner at the request of the employer or of  
 7 the employee at any time within three years from the date of the last  
 8 payment of compensation made under such award or agreement, and  
 9 if on such review the commissioner finds the condition of the em-  
 10 ployee warrants such action, he may end, diminish, or increase the  
 11 compensation so awarded or agreed upon. *Once an award for pay-*  
 12 *ments or agreement for settlement under this chapter has been made*  
 13 *where the amount has not been commuted, the commissioner may at*  
 14 *any time upon proper application make a determination and appro-*

15 *priate order concerning the entitlement of an employee to benefits*  
 16 *provided for in section eighty-five point twenty-seven (85.27) of the*  
 17 *Code. Any party aggrieved by any decision or order of the industrial*  
 18 *commissioner or a deputy commissioner on a review of award or settle-*  
 19 *ment as provided in this section, may appeal to the district court of*  
 20 *the county in which the injury occurred and in the same manner as is*  
 21 *provided in section 86.26.*

1 SEC. 29. Chapter eighty-five (85), Code 1973, is amended by add-  
 2 ing the following new section:

3 NEW SECTION. If an employee, while working outside the terri-  
 4 torial limits of this state, suffers an injury on account of which he,  
 5 or in the event of his death, his dependents, would have been entitled  
 6 to the benefits provided by this chapter had such injury occurred  
 7 within this state, such employee, or in the event of his death resulting  
 8 from such injury, his dependents, shall be entitled to the benefits  
 9 provided by this chapter, provided that at the time of such injury:

10 1. His employment is principally localized in this state, that is, his  
 11 employer has a place of business in this or some other state and he  
 12 regularly works in this state, or if he is domiciled in this state, or

13 2. He is working under a contract of hire made in this state in  
 14 employment not principally localized in any state, or

15 3. He is working under a contract of hire made in this state in  
 16 employment principally localized in another state, whose workmen's  
 17 compensation law is not applicable to his employer, or

18 4. He is working under a contract of hire made in this state for  
 19 employment outside the United States.

1 SEC. 30. Section eighty-five A point nine (85A.9), Code 1973, is  
 2 repealed.

Approved June 13, 1973.

## CHAPTER 145

### STATE EMPLOYEES IN AGRICULTURAL WORK

S. F. 175

AN ACT relating to workmen's compensation for employees engaged in agricultural work.

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

1 SECTION 1. Section eighty-five point one (85.1), subsection three  
 2 (3), Code 1973, is amended to read as follows:

3 3. Persons engaged in agriculture, insofar as injuries shall be in-  
 4 curred by employees while engaged in agricultural pursuits or any  
 5 operations immediately connected therewith, whether on or off the  
 6 premises of the employer, *however, this subsection does not apply to*  
 7 *employees of the state of Iowa engaged in agricultural work.*

Approved April 26, 1973.