

CHAPTER 1083

LAW ENFORCEMENT ACADEMY

S. F. 1192

AN ACT relating to and making an appropriation for the administration of the Iowa law enforcement academy.

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

1 SECTION 1. There is appropriated from the general fund of the state to the
2 Iowa law enforcement academy for the fiscal year beginning July 1, 1976 and
3 ending June 30, 1977, the following amounts, or so much thereof as is necessary,
4 for the purposes designated:

5		1976-1977
6		<u>Fiscal Year</u>
7	For salaries, support, maintenance, and miscellaneous purposes .....	\$ 464,000

1 SEC. 2. Chapter eighty B (80B), Code 1975, is amended by adding the
2 following new section:

3 NEW SECTION. The academy shall be the principal law enforcement library
4 and media resource center and shall coordinate the use of law enforcement media
5 resources with training centers and educational institutions offering a two-year
6 program in law enforcement to insure for the efficient use of state law
7 enforcement media resources.

8 The academy shall offer state media resource assistance to any law
9 enforcement training center certified by the Iowa law enforcement academy
10 council.

1 SEC. 3. All federal grants to and the receipts of the agency receiving funds
2 under this Act are appropriated for the purpose set forth in the federal grants or
3 receipts.

1 SEC. 4. Moneys appropriated by this Act shall not be used for capital
2 improvements.

Approved May 28, 1976

CHAPTER 1084

WORKMEN'S COMPENSATION

H. F. 863

AN ACT relating to workmen's compensation laws and providing a civil penalty.

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

1 SECTION 1. Section eighty-five point one (85.1), Code 1975, is amended by
2 striking subsection three (3) and inserting in lieu thereof the following and
3 subsection five (5) is amended to read as follows:

4 3. Persons engaged in agriculture, insofar as injuries incurred by employees
5 while engaged in agricultural pursuits or any operations immediately connected
6 therewith whether on or off the premises of the employer, except:

7 a. This chapter shall apply to such persons not specifically exempted by  
8 paragraph b of this subsection if at the time of injury such person is employed by  
9 an employer whose total cash payroll to one or more persons other than those  
10 exempted by paragraph b of this subsection amounted to one thousand dollars or  
11 more during the preceding calendar year.

12 b. The following persons or employees or groups of employees shall be  
13 specifically included within the terms of the exemption from coverage of this  
14 chapter provided by this subsection:

15 (1) The spouse of the employer and parents, brothers, sisters, children and  
16 stepchildren of either the employer or the spouse of the employer; and

17 (2) Any person engaged in agriculture as a farm operator or spouse of such  
18 farm operator or parents, brothers, sisters, children and stepchildren of either  
19 such farm operator or spouse while exchanging labor with another farm operator  
20 or spouse of such other farm operator or parents, brothers, sisters, children, and  
21 stepchildren of either such other farm operator or spouse for the mutual benefit  
22 of any or all such persons; and

23 (3) The president, vice president, secretary, treasurer, of a family farm  
24 corporation and their spouses and parents, brothers, sisters, children and  
25 stepchildren of such officers and their spouses who are employed by such  
26 corporation, the primary purpose of which, although not necessarily the stated  
27 purpose, is farming or ownership of agricultural land, and while such officer or  
28 person related to the officer is engaged in agricultural pursuits or any operation  
29 immediately connected therewith whether on or off the premises of the employer.

30 5. Employers, including employers of ~~household or domestic servants~~ *employees*  
31 *engaged in any type of service in or about a private dwelling*, employers of persons  
32 whose employment is of a casual nature and not for the purpose of the employer's  
33 trade or business, and employers of persons engaged in agriculture, and employers  
34 of persons not in the course of the employer's business, may assume with respect  
35 to any such employee or person or classification of employees not within the  
36 coverage of this chapter, as otherwise provided in exempt by subsections 1, 2, 3  
37 and 4 and subsection three (3), paragraph a of this section from coverage provided by  
38 this chapter, other than any such employee or classification of employees with  
39 respect to whom a rule of liability or a method of compensation has been or may  
40 be established by the Congress of the United States, assume a liability for  
41 compensation imposed upon employers by this chapter for the benefit of  
42 employees within the coverage of this chapter. *Employers of employees, persons or*  
43 *classifications of employees exempted by paragraph b of subsection three (3) of this*  
44 *section may also with respect to any such employee, person or classification of*  
45 *employees assume a liability for compensation imposed upon employers by this chapter*  
46 *by the purchase of valid workmen's compensation insurance specifically including*  
47 *separate classifications for (1) such persons who are the spouse and parents, brothers,*  
48 *sisters, children and stepchildren of either the employer or his spouse, (2) persons*  
49 *engaged in exchanging labor and (3) the president, vice president, treasurer and*  
50 *secretary of a family farm corporation, their spouses and parents, brothers, sisters,*  
51 *children or stepchildren of such officers and their spouses. The purchase of and*  
52 *acceptance by any such employer of valid workmen's compensation insurance*  
53 *applicable to such employee or person or classification of employees shall*  
54 *constitute as to such employer an assumption by such employer of such liability*  
55 *without any further act on the part of such employer, but only with respect to*  
56 *such employee or person or such classification of employees as are within the*  
57 *coverage of the said workmen's compensation insurance contract. Whenever*  
58 *under the provisions of this subsection an employer voluntarily elects to assume*  
59 *the liability for the payment of compensation to such employees or persons or*  
60 *such classification of employees by the purchase of valid workmen's*  
61 *compensation insurance, the liability of such employer shall take effect and*  
62 *continue from the effective date of such workmen's compensation insurance*  
63 *contract as long only as such insurance contract shall be in force. Upon such an*

64 election, such employee or person or classification of employees shall accept  
 65 compensation in the manner provided by the chapter and the employer shall be  
 66 relieved from any other liability for recovery of damage, or other compensation  
 67 for such injury. An employer, upon the election to assume liability by the  
 68 purchase of workmen's compensation insurance under the provisions of this  
 69 subsection, shall give notice thereof to the industrial commissioner by certified  
 70 United States mail.

1 SEC. 2. Section eighty-five point twenty-three (85.23), Code 1975, is amended  
 2 to read as follows:

3 **85.23 Notice of injury—failure to give.** Unless the employer or his  
 4 representative shall have actual knowledge of the occurrence of an injury received  
 5 within ninety days from the date of the occurrence of the injury, or unless the  
 6 employee or someone on his behalf or some of the dependents a dependent or  
 7 someone on their his behalf shall give notice thereof to the employer within  
 8 fifteen ninety days after from the date of the occurrence of the injury, then no  
 9 compensation shall be paid until and from the date such notice is given or  
 10 knowledge obtained; but if such notice is given or knowledge obtained within  
 11 thirty days from the occurrence of the injury, no want, failure, or inaccuracy of a  
 12 notice shall be a bar to obtaining compensation, unless the employer shall show  
 13 that he was prejudiced thereby, and then only to the extent of such prejudice; but  
 14 if the employee or beneficiary shall show that his failure to give prior notice was  
 15 due to mistake, inadvertence, ignorance of fact or law, or inability, or to the  
 16 fraud, misrepresentation, or deceit of another, or to any other reasonable cause or  
 17 excuse, then compensation may be allowed, unless and then to the extent only  
 18 that the employer shall show that he was prejudiced by failure to receive such  
 19 notice; but unless knowledge is obtained or notice given within ninety days after  
 20 the occurrence of the injury, no compensation shall be allowed.

1 SEC. 3. Section eighty-five point twenty-seven (85.27), Code 1975, is amended  
 2 to read as follows:

3 **85.27 Professional and hospital services—prosthetic devices.** The employer,  
 4 with notice or knowledge of injury for all injuries compensable under this chapter or  
 5 chapter eighty-five A (85A) of the Code, shall furnish reasonable surgical, medical,  
 6 dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing,  
 7 ambulance and hospital services and supplies therefor and shall allow reasonably  
 8 necessary transportation expenses incurred for such services. The employer shall also  
 9 furnish reasonable and necessary crutches, artificial members and appliances but  
 10 shall not be required to furnish more than one permanent prosthetic device.

11 Any employee, employer or insurance carrier making or defending a claim for  
 12 benefits agrees to the release of all information to which they have access concerning  
 13 the employee's physical or mental condition relative to the claim and further waives  
 14 any privilege for the release of such information. Such information shall be made  
 15 available to any party or their attorney upon request. Any institution or person  
 16 releasing such information to a party or their attorney shall not be liable criminally or  
 17 for civil damages by reason of the release of such information. If release of  
 18 information is refused the party requesting such information may apply to the  
 19 industrial commissioner for relief. The information requested shall be submitted to the  
 20 industrial commissioner who shall determine the relevance and materiality of the  
 21 information to the claim and enter an order accordingly.

22 Charges believed to be excessive or unnecessary may be referred to the  
 23 industrial commissioner for determination, and the commissioner may, in  
 24 connection therewith, utilize the procedures provided in sections 86.38 and 86.39  
 25 and conduct such inquiry as he shall deem necessary. Any institution or person  
 26 rendering treatment to an employee whose injury is compensable under this section  
 27 agrees to be bound by such charges as allowed by the industrial commissioner and  
 28 shall not recover in law or equity any amount in excess of that set by the  
 29 commissioner.

30 *For purposes of this section, the employer is obliged to furnish reasonable services*  
 31 *and supplies to treat an injured employee, and has the right to choose the care. The*  
 32 *treatment must be offered promptly and be reasonably suited to treat the injury*  
 33 *without undue inconvenience to the employee. If the employee has reason to be*  
 34 *dissatisfied with the care offered, he should communicate the basis of such*  
 35 *dissatisfaction to the employer, in writing if requested, following which the employer*  
 36 *and the employee may agree to alternate care reasonably suited to treat the injury. If*  
 37 *the employer and employee cannot agree on such alternate care, the commissioner*  
 38 *may, upon application and reasonable proofs of the necessity therefor, allow and order*  
 39 *other care. In an emergency, the employee may choose his care at the employer's*  
 40 *expense, provided the employer or his agent cannot be reached immediately.*

1 SEC. 4. Section eighty-five point thirty (85.30), Code 1975, is amended to read  
 2 as follows:

3 **85.30 Maturity date and interest.** Compensation payments shall be made  
 4 each week beginning on the ~~fifteenth~~ *eleventh* day after the injury, and each week  
 5 thereafter during the period for which compensation is payable, and if not paid  
 6 when due, there shall be added to such weekly compensation payments, interest  
 7 at six percent from date of maturity.

1 SEC. 5. Section eighty-five point thirty-one (85.31), subsection one (1),  
 2 unnumbered paragraph two (2), Code 1975, is amended to read as follows:

3 The weekly benefit amount shall not exceed a weekly benefit amount, rounded  
 4 to the nearest dollar, equal to sixty-six and two-thirds percent of the state average  
 5 weekly wage paid employees as determined by the Iowa employment security  
 6 commission under the provisions of section 96.3 and in effect at the time of the  
 7 injury, provided, that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1,  
 8 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be  
 9 increased so that it shall equal one hundred percent, one hundred thirty-three and  
 10 one-third percent, one hundred sixty-six and two-thirds percent and two hundred  
 11 percent, respectively, of the state average weekly wage as determined above;  
 12 provided further, that such weekly compensation shall not be less than ~~eighteen~~  
 13 *thirty-six* dollars per week, except if at the time of his injury his earnings are less  
 14 than ~~eighteen~~ *thirty-six* dollars per week, then the weekly compensation shall be a  
 15 sum equal to the full amount of his weekly earnings. Such compensation shall be  
 16 in addition to the benefits provided by sections 85.27 and 85.28.

1 SEC. 6. Section eighty-five point thirty-two (85.32), Code 1975, is amended by  
 2 striking the section and inserting in lieu thereof the following:

3 **85.32 When compensation begins.** Except as to injuries resulting in  
 4 permanent partial disability, compensation shall begin on the fourth day of  
 5 disability after the injury.

6 If the period of incapacity extends beyond the fourteenth day following the  
 7 date of injury, then the compensation due during the third week shall be  
 8 increased by adding thereto an amount equal to three days of compensation.

1 SEC. 7. Section eighty-five point thirty-three (85.33), Code 1975, is amended to  
 2 read as follows:

3 **85.33 Temporary disability.** The employer shall pay to the employee for  
 4 injury producing temporary disability and beginning upon the ~~eighth~~ *fourth* day  
 5 thereof, weekly compensation benefit payments for the period of his disability,  
 6 including the ~~periodical~~ increase in cases to which section 85.32 applies.

1 SEC. 8. Section eighty-five point thirty-four (85.34), unnumbered paragraph  
 2 one (1), Code 1975, is amended to read as follows:

3 Compensation for permanent disabilities and during a healing period for  
 4 ~~scheduled~~ permanent partial disabilities shall be payable to an employee as  
 5 provided in this section. In the event weekly compensation *under section eighty-*  
 6 *five point thirty-three (85.33) of the Code* had been paid to any person ~~under any~~

7 provision of this chapter or chapter 85A other than is required by subsections 1  
 8 and 2 hereof, for the same injury producing a permanent partial disability, any  
 9 such amounts so paid shall be deducted from the total amount of compensation  
 10 payable for such permanent partial disability *the healing period.*

1 SEC. 9. Section eighty-five point thirty-four (85.34), subsection two (2),  
 2 unnumbered paragraph one (1), Code 1975, is amended to read as follows:

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

1 SEC. 10. Section eighty-five point thirty-four (85.34), subsection two (2),  
 2 paragraphs l, m, o, and p, Code 1975, are amended to read as follows:

3 l. For the loss of a hand, weekly compensation during one hundred ~~seventy-five~~  
 4 *ninety* weeks.

5 m. The loss of two-thirds of that part of an arm between the shoulder joint and  
 6 the elbow joint shall equal the loss of an arm and the compensation therefor shall  
 7 be weekly compensation during two hundred ~~thirty~~ *fifty* weeks.

8 o. The loss of two-thirds of that part of a leg between the hip joint and the  
 9 knee joint shall equal the loss of a leg, and the compensation therefor shall be  
 10 weekly compensation during two hundred *twenty* weeks.

11 p. For the loss of an eye, weekly compensation during one hundred ~~twenty-five~~  
 12 *forty* weeks.

1 SEC. 11. Section eighty-five point thirty-four (85.34), subsection three (3),  
 2 unnumbered paragraph one (1), Code 1975, is amended to read as follows:

3 Compensation for an injury causing permanent total disability shall be upon  
 4 the basis of eighty percent per week of the employee's average weekly spendable  
 5 earnings, but not more than a weekly benefit amount, rounded to the nearest  
 6 dollar, equal to sixty-six and two-thirds percent of the state average weekly wage  
 7 paid employees as determined by the Iowa employment security commission  
 8 under the provisions of section 96.3 and in effect at the time of the injury  
 9 provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the  
 10 maximum weekly benefit amount rounded to the nearest dollar shall be increased  
 11 so that it shall equal one hundred percent, one hundred thirty-three and one-third  
 12 percent, one hundred sixty-six and two-thirds percent and two hundred percent,  
 13 respectively, of the state average weekly wage as determined above. No employee  
 14 shall receive as compensation less than ~~eighteen~~ *thirty-six* dollars per week, except  
 15 if at the time of his injury his earnings are less than ~~eighteen~~ *thirty-six* dollars per  
 16 week, then the weekly compensation shall be a sum equal to the full amount of  
 17 his weekly earnings; said weekly compensation shall be payable during the period  
 18 of his disability.

1 SEC. 12. Section eighty-five point thirty-four (85.34), subsection two (2), Code  
2 1975, is amended by striking the last two unnumbered paragraphs.

1 SEC. 13. Section eighty-five point thirty-five (85.35), subsection seven (7),  
2 Code 1975, is amended to read as follows:  
3 7. This chapter or chapter 85A applies to the ~~injured~~ party *making the claim*.

1 SEC. 14. Section eighty-five point thirty-six (85.36), subsection ten (10),  
2 unnumbered paragraph one (1), Code 1975, is amended to read as follows:  
3 In the case of an employee who earns either no wages or less than the usual  
4 weekly earnings of the regular full-time adult laborer in the line of industry in  
5 which he is injured in that locality, the weekly earnings shall be one-fiftieth of the  
6 total earnings which the employee has earned from all employment during the  
7 twelve calendar months immediately preceding the injury but shall be not less  
8 than ~~forty-five dollars per week an amount equal to thirty-five percent of the state~~  
9 ~~average weekly wage paid employees as determined by the Iowa employment security~~  
10 ~~commission under the provisions of section ninety-six point three (96.3) of the Code,~~  
11 ~~and in effect at the time of the injury.~~

1 SEC. 15. Section eighty-five point thirty-six (85.36), subsection ten (10),  
2 paragraph d, Code 1975, is amended to read as follows:  
3 ~~d. This Paragraph c of this subsection shall not apply to compensable injuries~~  
4 ~~arising under the second injury compensation Act.~~

1 SEC. 16. Section eighty-five point thirty-seven (85.37), Code 1975, is amended  
2 to read as follows:  
3 **85.37 Compensation schedule.** In all cases where an employee receives a  
4 personal injury causing temporary disability, or causing a permanent partial  
5 disability for which compensation is payable during a healing period,  
6 compensation for such temporary disability or for such healing period shall be  
7 upon the basis provided herein. The weekly benefit amount payable to any  
8 employee for any one week shall be upon the basis of eighty percent of the  
9 employee's weekly spendable earnings, but shall not exceed an amount, rounded  
10 to the nearest dollar, equal to sixty-six and two-thirds percent of the state average  
11 weekly wage paid employees as determined by the Iowa employment security  
12 commission under the provisions of section 96.3 and in effect at the time of the  
13 injury provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1,  
14 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be  
15 increased so that it shall equal one hundred percent, one hundred thirty-three and  
16 one-third percent, one hundred sixty-six and two-thirds percent, and two hundred  
17 percent, respectively, of the state average weekly wage as determined above. Total  
18 weekly compensation for any employee shall not exceed eighty percent per week  
19 of the employee's ~~average~~ weekly spendable earnings; provided further, that such  
20 compensation shall not be less than ~~eighteen~~ *thirty-six* dollars per week, except if  
21 at the time of his injury his earnings are less than ~~eighteen~~ *thirty-six* dollars per  
22 week, then he shall receive in weekly payments a sum equal to the full amount of  
23 his weekly earnings.  
24 Such compensation shall be in addition to the benefits provided by sections  
25 85.27 and 85.28.

1 SEC. 17. Section eighty-five point thirty-nine (85.39), Code 1975, is amended  
2 by adding the following new unlettered paragraph:

3 NEW UNLETTERED PARAGRAPH. Whenever an evaluation of permanent  
4 disability has been made by a physician retained by the employer, and the  
5 employee believes this evaluation to be too low, he shall, upon application to the  
6 commissioner and at the same time delivery of a copy to the employer and its  
7 insurance carrier, be reimbursed by the employer the reasonable fee for a  
8 subsequent examination by a physician of his own choice, and reasonably  
9 necessary transportation expenses incurred for such examination. The physician

10 chosen by the employee shall have the right to confer with and obtain from the  
 11 employer-retained physician sufficient history of the injury to make a proper  
 12 examination.

1 SEC. 18. Section eighty-five point forty-nine (85.49), Code 1975, is amended to  
 2 read as follows:

3 **85.49 Trustees for incompetent.** When a minor *or mentally incompetent*  
 4 dependent; ~~or one mentally incompetent~~, is entitled to ~~compensation~~ *weekly*  
 5 *benefits* under this chapter *or chapter eighty-five A (85A) of the Code*, payment shall  
 6 be made to the clerk of the district court for the county in which the injury  
 7 occurred, who shall act as trustee, and the money coming into his hands shall be  
 8 expended for the use and benefit of the person entitled thereto under the  
 9 direction and orders of a judge of the district court, in which such county is  
 10 located. The clerk of the district court, as such trustee, shall qualify and give bond  
 11 in such amount as the judge may direct, which may be increased or diminished  
 12 from time to time as the court may deem best. The cost of such bond shall be  
 13 paid by the county as the court may direct by written order directed to the  
 14 auditor of the county who shall issue a warrant therefor upon the treasurer of the  
 15 county. If the domicile or residence of such minor *or mentally incompetent*  
 16 dependent ~~or one mentally incompetent~~ be *within the state but* in a county other  
 17 than that in which the injury to the employee occurred the industrial  
 18 commissioner may order and direct that ~~compensation~~ *weekly benefits* to such  
 19 minors or incompetents be paid to the clerk of the district court of the county  
 20 wherein they shall be domiciled or reside.

21 *If the domicile or residence of such minor or mentally incompetent dependent be*  
 22 *outside the state of Iowa the industrial commissioner may order and direct that*  
 23 *benefits to such minors or incompetents be paid to a guardian, conservator, or legal*  
 24 *representative duly qualified under the laws of the jurisdiction wherein the minors or*  
 25 *incompetents shall be domiciled or reside. Proof of the identity and qualification of*  
 26 *such guardian, conservator, or other legal representative shall be furnished to the*  
 27 *industrial commissioner.*

1 SEC. 19. Section eighty-five point sixty-one (85.61), subsection ten (10), Code  
 2 1975, is amended to read as follows:

3 10. "Payroll taxes" means the following:

4 a. An amount equal to the amount which would be withheld *pursuant to*  
 5 *withholding tables in effect on July first preceding the injury* under the Internal  
 6 Revenue Code of 1954, and regulations pursuant thereto, as amended to July 1,  
 7 ~~1973~~ 1976, as though the employee had elected to claim the maximum number of  
 8 exemptions for actual dependency, blindness and old age to which the employee  
 9 is entitled on the date on which he was injured, and

10 b. An amount equal to the amount which would be withheld *pursuant to*  
 11 *withholding tables in effect on July first preceding the injury* under chapter 422, and  
 12 any ~~regulations~~ *rules* pursuant thereto, as though the employee had elected to  
 13 claim the maximum number of exemptions for actual dependency, blindness and  
 14 old age to which the employee is entitled on the date on which he was injured;  
 15 and

16 c. An amount equal to the amount required *on July first preceding the injury* by  
 17 the Social Security Act of 1935 as amended to July 1, ~~1973~~ 1976, to be deducted  
 18 or withheld from the amount of earnings of the employee at the time of the injury  
 19 as if the earnings were earned at the beginning of the calendar year in which he  
 20 was injured.

1 SEC. 20. Section eighty-six point eight (86.8), subsections one (1) and four (4),  
 2 Code 1975, are amended to read as follows:

3 1. To establish and enforce all necessary rules not in conflict with the  
 4 provisions of this chapter and chapters 85, *eighty-five A (85A) of the Code* and 87  
 5 for carrying out the purposes thereof.

6 4. To keep records of all proceedings and decisions of such boards, issue  
7 subpoenas for witnesses, *issue subpoenas duces tecum*, administer oaths, examine  
8 books and records of parties subject to such provisions.

1 SEC. 21. Section eighty-six point ten (86.10), unnumbered paragraph three (3),  
2 Code 1975, is amended to read as follows:

3 *A* Upon a refusal on the part of the employer to submit his books, records, or  
4 payrolls for the inspection of the commissioner or his authorized representatives  
5 presenting written authority from the commissioner, ~~shall subject the employer to~~  
6 ~~a penalty of one hundred dollars for each such offense, to be collected by civil~~  
7 ~~action in the name of the state, and paid into the state treasury the commissioner~~  
8 ~~may enter an order requiring the employer to do so.~~

1 SEC. 22. Section eighty-six point eleven (86.11), Code 1975, is amended to  
2 read as follows:

3 **86.11 Reports of injuries.** Every employer shall hereafter keep a record of all  
4 injuries, fatal or otherwise, ~~sustained by his employee in the course alleged by an~~  
5 ~~employee to have been sustained in the course of their his or her employment and~~  
6 ~~resulting in incapacity for a longer period than one day. If the injury results only~~  
7 ~~in temporary disability, causing incapacity for a longer period than seven three~~  
8 ~~days except as provided in section thirty-three (33) of this Act, then within forty-~~  
9 ~~eight hours four days thereafter, not counting Sundays and legal holidays, the~~  
10 ~~employer or insurance carrier having had notice or knowledge of the occurrence of~~  
11 ~~such injury and resulting disability, a report shall file a written report with be made~~  
12 ~~in writing, by the employer to the industrial commissioner on forms to be~~  
13 ~~procured from the commissioner for that purpose. If such injury to the employee~~  
14 ~~results in permanent total disability, permanent partial disability or death, then~~  
15 ~~the employer, or insurance carrier upon notice or knowledge of the occurrence of~~  
16 ~~the employment injury, shall file a report with the industrial commissioner within~~  
17 ~~forty-eight hours four days after having notice or knowledge of the permanent~~  
18 ~~injury to the employee or his death. The report to the industrial commissioner of~~  
19 ~~injury shall be without prejudice to the employer or insurance carrier and shall not be~~  
20 ~~admitted in evidence or used in any trial or hearing before any court, the industrial~~  
21 ~~commissioner or his deputy except as to the notice under section eighty-five point~~  
22 ~~twenty-three (85.23) of the Code.~~

1 SEC. 23. Section eighty-six point twelve (86.12), Code 1975, is amended by  
2 striking the section and inserting in lieu thereof the following:

3 **86.12 Failure to report.** The industrial commissioner may require any  
4 employer to supply the information required by section eighty-six point ten  
5 (86.10) of the Code or to file a report required by section eighty-six point eleven  
6 (86.11) of the Code, by written demand sent to the employer's last known address.  
7 Upon failure to supply such information or file such report within twenty days,  
8 the employer may be ordered to appear and show cause why he should not be  
9 subject to civil penalty of one hundred dollars for each occurrence. Upon such  
10 hearing, the industrial commissioner shall enter a finding of fact and may enter  
11 an order requiring such penalty to be paid into the second injury fund created by  
12 sections eighty-five point sixty-three (85.63) through eighty-five point sixty-nine  
13 (85.69) of the Code. In the event the civil penalty assessed is not voluntarily paid  
14 the industrial commissioner may file a certified copy of such finding and order  
15 with the clerk of the court for the district in which the employer maintains a place  
16 of business. If the employer maintains no place of business in this state service  
17 shall be made as provided in chapter eighty-five (85) of the Code for nonresident  
18 employers. In such case the finding and order may be filed in any court of  
19 competent jurisdiction within this state.

20 The industrial commissioner may thereafter petition the court for entry of  
21 judgment upon such order, serving notice of such petition on the employer and  
22 any other person in default. If the court finds the order valid, the court shall enter



23 judgment against the person or persons in default for the amount due under the  
 24 order. No fees shall be required for the filing of the order or for the petition for  
 25 judgment, or for the entry of judgment or for any enforcement procedure  
 26 thereupon. No supersedeas shall be granted by any court to a judgment entered  
 27 under this section.

28 When a report is required under section eighty-six point eleven (86.11) of the  
 29 Code and that report has been submitted to the employer's insurance carrier and  
 30 no report of injury has been filed with the industrial commissioner, the insurance  
 31 carrier shall be responsible for filing the report of injury in the same manner and  
 32 to the same extent as an employer under this section.

1 SEC. 24. Section eighty-six point thirteen (86.13), Code 1975, is amended by  
 2 striking unnumbered paragraph two (2).

1 SEC. 25. Section eighty-six point fourteen (86.14), Code 1975, is amended to  
 2 read as follows:

3 **86.14 Failure to reach agreement.** If the employer and injured employee or  
 4 his representatives or dependents fail to reach an agreement in regard to  
 5 compensation, either party may file with the industrial commissioner a petition  
 6 for arbitration together with two copies thereof, stating therein his or her claims  
 7 in general terms. Thereupon the commissioner or one of the deputies shall in  
 8 writing notify the parties that the ~~defendant~~ *opposing party* is given ~~at least ten~~  
 9 ~~twenty~~ days in which to ~~answer said petition or otherwise appear or plead~~. A  
 10 defense other than a general denial of ~~claimant's~~ *the* alleged facts must be pleaded  
 11 as a special defense.

1 SEC. 26. Sections eighty-six point fifteen (86.15), and eighty-six point sixteen  
 2 (86.16), Code 1975, are repealed.

1 SEC. 27. Section eighty-six point seventeen (86.17), Code 1975, is amended to  
 2 read as follows:

3 **86.17 Arbitration hearings.** *Petitions for arbitration shall be heard before a*  
 4 *deputy industrial commissioner. Such hearings shall be conducted pursuant to the*  
 5 *provisions of chapter seventeen A (17A) of the Code for contested cases.* The deputy  
 6 industrial commissioner ~~or the board of arbitration~~ shall make such inquiries and  
 7 investigations as it shall deem necessary. The hearings of the deputy industrial  
 8 commissioner ~~or the board of arbitration~~ shall be in ~~the~~ *a county in the judicial*  
 9 *district* where the injury occurred, but by written stipulation of the parties filed in  
 10 the case it may be held at any other place in the state. If the injury occurred  
 11 outside this state the hearings shall be held in ~~the~~ *a county seat in the judicial*  
 12 *district* of this state which is nearest to the place where the injury occurred unless  
 13 the ~~interested~~ parties and the industrial commissioner or one of his deputies  
 14 ~~mutually~~ agree by written stipulation that the same may be held at some other  
 15 place.

1 SEC. 28. Section eighty-six point eighteen (86.18), Code 1975, is amended to  
 2 read as follows:

3 **86.18 Liberal rules of evidence.** ~~While sitting as a board of arbitration, or~~  
 4 ~~when~~ *When* conducting a hearing on review, or in making any investigation or  
 5 inquiry, ~~neither the board of arbitration nor the commissioner or his deputies~~  
 6 shall ~~not~~ be bound by common law or statutory rules of evidence or by technical  
 7 or formal rules of procedure; but they shall hold such arbitrations, or conduct  
 8 such hearings and make such investigations and inquiries in such manner as is  
 9 best suited to ascertain and conserve the substantial rights of all parties thereto.  
 10 Process and procedure under this chapter shall be as summary as reasonably may  
 11 be.

1 SEC. 29. Section eighty-six point nineteen (86.19), Code 1975, is amended to  
 2 read as follows:

3 **86.19 Appointment of reporter.** The industrial commissioner, or one of his  
4 deputies, may appoint a shorthand reporter to report the proceedings of any  
5 hearing before the commissioner, or one of his deputies, ~~or board of arbitration,~~  
6 and fix the reasonable amount of compensation for such service, which amount  
7 shall be taxed as other costs. Any such reporter shall faithfully and accurately  
8 report any proceeding for which he or she shall be employed.

1 SEC. 30. Section eighty-six point twenty-one (86.21), unnumbered paragraph  
2 one (1), Code 1975, is amended to read as follows:

3 The deposition of any witness may be taken and used as evidence in any  
4 hearing pending before a ~~board of arbitration~~ or the industrial commissioner or  
5 one of his deputies in compensation proceedings.

1 SEC. 31. Section eighty-six point twenty-three (86.23), Code 1975, is amended  
2 to read as follows:

3 **86.23 Findings of ~~arbitration board~~ or deputy commissioner filed.** The  
4 decision of a deputy industrial commissioner ~~or board of arbitration,~~ together  
5 with a statement or certificate of evidence submitted at the hearing, the findings  
6 of fact, rulings of law, and any other matters pertinent to questions arising at such  
7 hearing, shall be filed in the office of the industrial commissioner.

1 SEC. 32. Section eighty-six point twenty-four (86.24), Code 1975, is amended  
2 to read as follows:

3 **86.24 Review.** Any party aggrieved by the decision or findings of a deputy  
4 industrial commissioner ~~or board of arbitration~~ may, within ~~ten~~ *twenty* days after  
5 such decision is filed with the industrial commissioner, file in the office of the  
6 commissioner a petition for review, and the commissioner shall thereupon fix a  
7 time for the hearing on such petition and notify the parties.

8 At such hearing, the commissioner shall hear the parties, consider all evidence  
9 taken before the deputy industrial commissioner ~~or board of arbitration~~ if it ~~has~~  
10 ~~been transcribed,~~ and may hear any additional evidence, and he may affirm,  
11 modify, or reverse the decision of ~~the deputy the board,~~ or may remand it to the  
12 ~~board~~ *deputy* for further findings of facts. *The transcript of the arbitration*  
13 *proceedings shall be provided by the party requesting review at his cost and shall be*  
14 *filed with the industrial commissioner within thirty days of the filing of the petition for*  
15 *review.*

16 ~~Additional evidence~~ *Evidence* ~~to other than~~ that presented and admitted in  
17 arbitration proceedings shall not be introduced by either party unless such party  
18 gives the opposite party, or his attorney, five days' notice ~~thereof~~ in writing,  
19 stating the particular phase of the controverted claim to which such additional  
20 evidence will apply.

1 SEC. 33. Section eighty-six point thirty-six (86.36), subsection two (2),  
2 paragraph b, Code 1975, is amended to read as follows:

3 b. By mailing to such employer within ten days after said filing with the  
4 secretary of state, by ~~restricted~~ certified mail *with return receipt requested*  
5 addressed to the nonresident employer at his last known residence or place of  
6 abode, a copy of said notice on which shall be noted the date of filing of the copy  
7 with the secretary of state.

1 SEC. 34. Section eighty-six point thirty-six (86.36), subsection four (4), Code  
2 1975, is amended to read as follows:

3 4. Proof of the filing of a copy of said notice with the secretary of state and  
4 proof of the mailing or personal delivery of the copy to said nonresident employer  
5 shall be made by affidavit of the party doing said acts. All affidavits of service  
6 shall be endorsed upon or attached to the original of the papers to which they  
7 relate and all such proofs of service, including the ~~restricted~~ certified mail return  
8 receipt shall be forthwith filed with the original of the papers.

1 SEC. 35. Section eighty-six point thirty-seven (86.37), Code 1975, is amended  
2 to read as follows:

3 **86.37 Place of hearing.** All petitions for review of the decision and findings  
4 of a deputy industrial commissioner ~~or board of arbitration~~ shall be held at the  
5 seat of the government, *or such other location as the industrial commissioner shall*  
6 *designate*, and all petitions for review of *an award for payments or an agreement*  
7 *for settlements* shall be heard in the ~~county judicial district~~ where the injury  
8 occurred, provided, however, with the approval of the industrial commissioner the  
9 parties ~~interested~~ may agree upon another place of hearing.

1 SEC. 36. Section eighty-six point thirty-eight (86.38), Code 1975, is amended to  
2 read as follows:

3 **86.38 Examination by physician—fee.** The industrial commissioner may  
4 appoint a duly qualified, impartial physician to examine the injured employee and  
5 make report. The fee for this service shall be five dollars, to be paid by the  
6 industrial commissioner, together with traveling expenses, but the commissioner  
7 may allow additional reasonable amounts in extraordinary cases. Any physician  
8 so examining any injured employee shall not be prohibited from testifying before  
9 the industrial commissioner, ~~board of arbitration~~, or any other person,  
10 commission, or court, as to the results of his examination or the condition of the  
11 injured employee.

1 SEC. 37. Section eighty-six point forty (86.40), Code 1975, is amended to read  
2 as follows:

3 **86.40 Compensation of arbitrators—costs** *Costs.* ~~The arbitrators except the~~  
4 ~~commissioner shall each receive five dollars as a fee for services, but the industrial~~  
5 ~~commissioner may allow additional reasonable amounts in extraordinary cases.~~  
6 ~~The fees shall be paid by the employer, who may deduct an amount equal to one-~~  
7 ~~half the sum from any compensation found due the employee. All other costs~~  
8 ~~incurred in the hearing before a board of arbitration or the commissioner shall be~~  
9 ~~taxed in the discretion of such board or the commissioner as the ease may be.~~

1 SEC. 38. Section eighty-six point forty-one (86.41), Code 1975, is amended to  
2 read as follows:

3 **86.41 Witness fees.** Witness fees and mileage on hearings before ~~an~~  
4 ~~arbitration board~~ or the industrial commissioner shall be the same as in the  
5 district court.

1 SEC. 39. Section eighty-six point forty-two (86.42), Code 1975, is amended to  
2 read as follows:

3 **86.42 Judgment by district court on award.** Any party in interest may present  
4 a certified copy of an order or decision of the commissioner, ~~or an award of a~~  
5 ~~board of arbitration~~ from which no petition for review has been filed within the  
6 time allowed therefor, or a memorandum of agreement approved by the  
7 commissioner, and all papers in connection therewith, to the district court of the  
8 county in which the injury occurred, whereupon said court shall render a decree  
9 or judgment in accordance therewith and cause the clerk to notify the parties.  
10 Such decree or judgment, in the absence of a petition for judicial review of the  
11 decision of the industrial commissioner, shall have the same effect and in all  
12 proceedings in relation thereto shall thereafter be the same as though rendered in  
13 a suit duly heard and determined by said court.

1 SEC. 40. Chapter eighty-six (86), Code 1975, is amended by adding the  
2 following new section:

3 **NEW SECTION.** To encourage payments to employees or dependents during the  
4 investigation of a claim for benefits nothing in this chapter shall prevent the  
5 employer or the insurance carrier from making voluntary payments prior to a  
6 determination as to liability under chapter eighty-five (85) or eighty-five A (85A)  
7 of the Code in an amount considered to be equal to the weekly compensation

8 benefits to which the employee or his dependents would be entitled in the event  
9 the employer were determined to be liable under chapter eighty-five (85) or  
10 eighty-five A (85A) of the Code. Such payments shall not be construed as an  
11 agreement for the payment of weekly compensation; payment of weekly  
12 compensation; payment in lieu of compensation; or an admission of liability.

13 When voluntary payments are made they shall commence within fifteen days  
14 from the date the report of injury is filed pursuant to section eighty-six point  
15 eleven (86.11) of the Code. Within thirty days after voluntary payments are  
16 begun, the employer or insurance carrier shall file a notice with the industrial  
17 commissioner on forms prescribed by the commissioner of the commencement,  
18 amount and duration of payments. The filing of notice shall be required for the  
19 payments to be deemed made pursuant to this section. Payments shall continue  
20 for ninety days or until the period of disability shall cease whichever shall occur  
21 first, unless prior to that time a memorandum of agreement or denial of liability is  
22 filed with the industrial commissioner. Upon application and for good cause  
23 shown, the period during which voluntary payments are made may be extended  
24 for an additional ninety days.

25 Within thirty days from the date of the last payment made under this section  
26 the employer or insurance carrier shall file with the industrial commissioner either  
27 a memorandum of agreement or a denial of liability stating the reasons therefor  
28 and a copy of the denial shall be mailed to the employee or his dependents by  
29 certified mail with return receipt requested at the last known address.

30 Any failure on the part of the employer or insurance carrier to file a  
31 memorandum of agreement or denial of liability with the industrial commissioner  
32 within thirty days after the last payment made under this section shall stop the  
33 running of time allowed under section eighty-five point twenty-six (85.26) of the  
34 Code as of the date of the last payment. When payments are made under this  
35 section and a denial of liability is filed, the time within which original proceedings  
36 for compensation must be maintained shall be two years from the date of the last  
37 payment.

38 If a memorandum of agreement is filed and approved pursuant to section  
39 eighty-six point thirteen (86.13) of the Code or an award for payments is granted  
40 pursuant to section eighty-six point twenty-three (86.23) of the Code the employer  
41 or insurance carrier shall be entitled to credit for amounts paid under this section.

1 SEC. 41. Section eighty-five point fifty-six (85.56), Code 1975, is repealed.

1 SEC. 42. Section one (1) of this Act, shall take effect January 1, 1977. Sections  
2 four (4), six (6), and seven (7), of this Act shall take effect on July 1, 1977.

3 The provisions of section twenty-two (22) of this Act, amending section eighty-  
4 six point eleven (86.11) of the Code and changing the incapacity period from  
5 seven to three days, shall take effect July 1, 1977.

6 Until that time the incapacity period shall be seven days.

1 SEC. 43. The Code editor is directed to strike the words "workmen's  
2 compensation" wherever they appear in the Code and insert in lieu thereof the  
3 words "workers' compensation".

Approved May 20, 1976