

Withdrawn
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JAN 14 2004

COMMERCE, REGULATION & LABOR

HOUSE FILE 2027
BY HORBACH

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the provision of workers' compensation
2 benefits, to the release of information concerning such
3 benefits, and to workers' compensation liability insurance.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 2027

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1 Section 1. Section 22.7, Code Supplement 2003, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 48. Confidential information filed with
4 the workers' compensation commissioner as defined in section
5 86.45, subsection 1.

6 Sec. 2. Section 85.27, subsection 7, Code 2003, is amended
7 to read as follows:

8 7. If, after the third day of incapacity to work following
9 the date of sustaining a compensable injury which does not
10 result in permanent partial disability, or if, at any time
11 after sustaining a compensable injury which results in
12 permanent partial disability, an employee, who is not
13 receiving weekly benefits under section 85.33 or section
14 85.34, subsection 1, returns to work and is required to leave
15 work for one full day or less to receive services pursuant to
16 this section, the employee shall be paid an amount equivalent
17 to the wages lost at the employee's regular rate of pay for
18 the time the employee is required to leave work. For the
19 purposes of this subsection, "day of incapacity to work" means
20 eight hours of accumulated absence from work due to incapacity
21 to work or due to the receipt of services pursuant to this
22 subsection. The employer shall make the payments under this
23 subsection as wages to the employee after making such
24 deductions from the amount as legally required or customarily
25 made by the employer from wages. Payments made under this
26 subsection shall be required to be reimbursed pursuant to any
27 insurance policy covering workers' compensation. Payments
28 under this subsection shall not be construed to be payment of
29 weekly benefits.

30 Sec. 3. Section 85.38, subsection 2, unnumbered paragraph
31 2, Code 2003, is amended to read as follows:

32 If an employer denies liability under this chapter, chapter
33 85A, or chapter 85B, for payment for any medical services
34 received or weekly compensation requested by an employee with
35 a disability, and the employee is a beneficiary under either

1 an individual or group plan for nonoccupational illness,
2 injury, or disability, the nonoccupational plan shall not deny
3 ~~payment for the medical services received~~ of benefits under
4 the plan on the basis that the employer's liability ~~for the~~
5 ~~medical services~~ under this chapter, chapter 85A, or chapter
6 85B is unresolved.

7 Sec. 4. Section 86.24, subsection 4, Code 2003, is amended
8 to read as follows:

9 4. A transcript of a contested case proceeding shall be
10 provided by an appealing party at the party's cost ~~and an~~
11 ~~affidavit shall be filed by the appealing party or the party's~~
12 ~~attorney with the workers' compensation commissioner within~~
13 ~~ten days after the filing of the appeal to the workers'~~
14 ~~compensation commissioner stating that the transcript has been~~
15 ~~ordered and identifying the name and address of the reporter~~
16 ~~or reporting firm from which the transcript has been ordered.~~

17 Sec. 5. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

18 1. "Confidential information", for the purposes of this
19 section, means all information that is filed with the workers'
20 compensation commissioner as a result of an employee's injury
21 or death that would allow the identification of the employee
22 or the employee's dependents. Confidential information
23 includes first reports of injury and subsequent reports of
24 claim activity. Confidential information does not include
25 pleadings, motions, decisions, opinions, or applications for
26 settlement that are filed with the workers' compensation
27 commissioner.

28 2. The workers' compensation commissioner shall not
29 disclose confidential information except as follows:

30 a. Pursuant to the terms of a written waiver of
31 confidentiality executed by the employee or the dependents of
32 the employee whose information is filed with the workers'
33 compensation commissioner.

34 b. To another governmental agency, or to an advisory,
35 rating, or research organization, for the purpose of compiling

1 statistical data, evaluating the state's workers' compensation
2 system, or conducting scientific, medical, or public policy
3 research, where such disclosure will not allow the
4 identification of the employee or the employee's dependents.

5 c. To the employee or to the agent or attorney of the
6 employee whose information is filed with the workers'
7 compensation commissioner.

8 d. To the person or to the agent of the person who
9 submitted the information to the workers' compensation
10 commissioner.

11 e. To an agent, representative, attorney, investigator,
12 consultant, or adjuster of an employer, or insurance carrier
13 or third-party administrator of workers' compensation
14 benefits, who is involved in administering a claim for such
15 benefits related to the injury or death of the employee whose
16 information is filed with the workers' compensation
17 commissioner.

18 f. To all parties to a contested case proceeding before
19 the workers' compensation commissioner in which the employee
20 or a dependent of the employee, whose information is filed
21 with the workers' compensation commissioner, is a party.

22 g. In compliance with a subpoena.

23 h. To an agent, representative, attorney, investigator,
24 consultant, or adjuster of the employee, employer, or
25 insurance carrier or third-party administrator of insurance
26 benefits, who is involved in administering a claim for
27 insurance benefits related to the injury or death of the
28 employee whose information is filed with the workers'
29 compensation commissioner.

30 3. This section does not create a cause of action for a
31 violation of its provisions against the workers' compensation
32 commissioner or against the state or any governmental
33 subdivision of the state.

34 Sec. 6. Section 87.11, unnumbered paragraph 1, Code 2003,
35 is amended to read as follows:

1 When an employer coming under this chapter furnishes
2 satisfactory proofs to the insurance commissioner of such
3 employer's solvency and financial ability to pay the
4 compensation and benefits as by law provided and to make such
5 payments to the parties when entitled thereto, or when such
6 employer deposits with the insurance commissioner security
7 satisfactory to the insurance commissioner ~~and-the-workers'~~
8 ~~compensation-commissioner~~ as guaranty for the payment of such
9 compensation, such employer shall be relieved of the
10 provisions of this chapter requiring insurance; but such
11 employer shall, from time to time, furnish such additional
12 proof of solvency and financial ability to pay as may be
13 required by such insurance commissioner ~~or-workers'~~
14 ~~compensation-commissioner~~. Such security shall be held in
15 trust for the sole purpose of paying compensation and benefits
16 and is not subject to attachment, levy, execution,
17 garnishment, liens, or any other form of encumbrance. A
18 political subdivision, including a city, county, community
19 college, or school corporation, that is self-insured for
20 workers' compensation is not required to submit a plan or
21 program to the insurance commissioner for review and approval.

22 Sec. 7. Section 87.11, unnumbered paragraph 3, Code 2003,
23 is amended to read as follows:

24 If an employer becomes insolvent and a debtor under 11
25 U.S.C., on or after January 1, 1990, or ceases doing business,
26 this paragraph applies. The ~~commissioner-of~~ insurance
27 commissioner may request of the workers' compensation
28 commissioner that all future payments of workers' compensation
29 weekly benefits, medical expenses, or other payments pursuant
30 to chapter 85, 85A, 85B, 86, or 87 be commuted to a present
31 lump sum. The workers' compensation commissioner shall fix
32 the lump sum of probable future medical expenses and weekly
33 compensation benefits, or other benefits payable pursuant to
34 chapter 85, 85A, 85B, 86, or 87, capitalized at their present
35 value upon the basis of interest at the rate provided in

1 section 535.3 for court judgments and decrees. If an employer
2 ceases doing business without becoming insolvent, the
3 insurance commissioner shall publish notice of the time and
4 manner for filing claims against the employer in a newspaper
5 in general circulation in the county or counties within the
6 state where the employer is known to have maintained a place
7 of business. The notice shall be published once each week for
8 three consecutive weeks with the last publication not less
9 than thirty days before the time for filing claims expires.
10 Defects in the notice or publication shall not affect the
11 period for filing claims against the employer or give rise to
12 a claim against the insurance commissioner. All claims that
13 are not otherwise barred shall become barred if not filed
14 within five years after the date the employer ceased doing
15 business, as determined by the insurance commissioner,
16 including claims for review reopening, benefits under section
17 85.27, and latent injuries. The commissioner-of insurance
18 commissioner shall be discharged from all further liability
19 for the commuted workers' compensation claim upon payment of
20 the present lump sum to either the claimant, or a licensed
21 insurer for purchase of an annuity or other periodic payment
22 plan for the benefit of the claimant.

23 Sec. 8. Section 87.14A, Code 2003, is amended to read as
24 follows:

25 87.14A INSURANCE OR-BOND REQUIRED.

26 An employer subject to this chapter and chapters 85, 85A,
27 85B, and 86 shall not engage in business without first
28 obtaining insurance covering compensation benefits or
29 obtaining relief from insurance as provided in this chapter ~~or~~
30 ~~furnishing a bond pursuant to section 87.16.~~ A person who
31 willfully and knowingly violates this section is guilty of a
32 class "D" felony.

33 Sec. 9. Section 87.19, unnumbered paragraph 1, Code 2003,
34 is amended to read as follows:

35 Upon the receipt of information by the workers'

1 compensation commissioner of any employer failing to comply
2 with ~~sections-87-16-and-87-17~~ section 87.14A, the commissioner
3 shall at once notify such employer by certified mail that
4 unless such employer comply with the requirements of law,
5 legal proceedings will be instituted to enforce such
6 compliance.

7 Sec. 10. Section 87.20, Code 2003, is amended to read as
8 follows:

9 87.20 REVOCATION OF RELEASE FROM INSURANCE.

10 The insurance commissioner ~~with-the-concurrence-of-the~~
11 ~~workers'-compensation-commissioner~~ may, at any time, upon
12 reasonable notice to such employer and upon hearing, revoke
13 for cause any order theretofore made relieving any employer
14 from carrying insurance as provided by this chapter.

15 Sec. 11. Sections 87.16 and 87.17, Code 2003, are
16 repealed.

17 EXPLANATION

18 This bill amends Code section 22.7 to provide that
19 confidential information filed with the workers' compensation
20 commissioner as defined as Code section 86.45 is a
21 confidential public record for purposes of this state's public
22 records law.

23 The bill adds new Code section 86.45 that defines
24 "confidential information" to mean all information that is
25 filed with the workers' compensation commissioner as a result
26 of an employee's injury or death that would allow
27 identification of the employee or the employee's dependents.
28 "Confidential information" includes first reports of injury
29 and subsequent reports of claim activity but does not include
30 pleadings, motions, decisions, opinions, and applications for
31 settlement that are filed with the workers' compensation
32 commissioner.

33 The bill provides that the workers' compensation
34 commissioner shall not disclose such confidential information
35 except pursuant to the terms of a written waiver of

1 confidentiality executed by the employee or the dependents of
2 the employee whose information is filed with the workers'
3 compensation commissioner; to another governmental agency or
4 to an advisory, rating or research organization, for the
5 purpose of compiling statistical data, or conducting
6 scientific, medical, or public policy research, where such
7 disclosure will not allow identification of the employee or
8 the employee's dependents; to the employee or to the agent or
9 attorney of the employee whose information is filed with the
10 workers' compensation commissioner; to the person or agent of
11 the person who submitted the information to the workers'
12 compensation commissioner; to an agent, representative,
13 attorney, investigator, consultant, or adjuster of an
14 employer, or insurance carrier or third-party administrator of
15 workers' compensation benefits, who is involved in
16 administering a claim for such benefits related to the injury
17 or death of the employee whose information is filed with the
18 workers' compensation commissioner; to all parties to a
19 contested case proceeding before the workers' compensation
20 commissioner in which the employee or a dependent of the
21 employee, whose information is filed with the workers'
22 compensation commissioner, is a party; in compliance with a
23 subpoena; or to an agent, representative, attorney,
24 investigator, consultant, or adjuster of the employee,
25 employer, or insurance carrier or third-party administrator of
26 insurance benefits, who is involved in administering a claim
27 for insurance benefits related to the injury or death of the
28 employee whose information is filed with the workers'
29 compensation commissioner.

30 The bill also provides that new Code section 86.45 does not
31 create a cause of action for a violation of its provisions
32 against the workers' compensation commissioner or against the
33 state or any governmental subdivision of the state.

34 The bill amends Code section 85.27 to provide that for
35 purposes of the section, "day of incapacity to work" means

1 eight hours of accumulated absence from work due to incapacity
2 to work or due to the receipt of services pursuant to this
3 section.

4 The bill amends Code section 85.38 to provide that if an
5 employer denies liability under Code chapter 85, 85A, or 85B,
6 for payment for weekly compensation requested by an employee
7 and the employee is a beneficiary under either an individual
8 or group plan for nonoccupational illness, injury, or
9 disability, the nonoccupational plan shall not deny payment of
10 benefits under the plan on the basis that the employer's
11 liability under Code chapter 85, 85A, or 85B is unresolved.
12 Code section 85.38 already requires payment by a
13 nonoccupational plan for any medical services requested by an
14 injured employee under these circumstances.

15 Code section 86.24 is amended to remove the requirement
16 that a party appealing a contested case proceeding must file
17 an affidavit with the commissioner that the transcript of the
18 proceedings has been ordered.

19 Code section 87.11 is amended to provide that the amount of
20 security deposited by a self-insured employer shall be
21 determined by the insurance commissioner and not the workers'
22 compensation commissioner and that the security is held in
23 trust for the sole purpose of paying compensation and benefits
24 and is not subject to attachment, levy, execution,
25 garnishment, liens, or any other form of encumbrance. The
26 bill also provides that proof of solvency shall be given to
27 the insurance commissioner, not the workers' compensation
28 commissioner.

29 Code section 87.11 is also amended to provide that if a
30 self-insured employer ceases doing business without becoming
31 insolvent, the insurance commissioner shall publish notice of
32 the time and manner for filing claims against the employer in
33 a newspaper in general circulation in the counties where the
34 employer is known to have maintained a place of business, once
35 a week for three consecutive weeks with the last publication

1 not less than 30 days before the time for filing claims
2 expires. The bill also provides that defects in the notice or
3 publication do not affect the period for filing claims against
4 the employer or give rise to claims against the insurance
5 commissioner. The bill provides that claims not otherwise
6 barred become barred if not filed within five years after the
7 date the employer ceased doing business, as determined by the
8 insurance commissioner, including claims for review reopening,
9 benefits under Code section 85.27, and latent injuries.

10 The bill repeals Code section 87.16 which requires an
11 employer who has failed to carry workers' compensation
12 insurance or to obtain relief from carrying such insurance to
13 furnish a bond approved by the workers' compensation
14 commissioner. Code section 87.14A is amended to remove the
15 reference to the bonding requirements contained in Code
16 section 87.16. The bill also repeals Code section 86.17,
17 which requires an employer to post a notice stating the nature
18 of the security furnished in lieu of insurance to secure
19 workers' compensation payments.

20 Code section 87.19 is amended to provide that an employer
21 that fails to comply with the provisions of chapters 85, 85A,
22 85B, 86, and 87, as set forth in Code section 87.14A, may be
23 subject to enforcement proceedings. Previously, Code section
24 87.19 only applied to an employer's failure to comply with the
25 bonding requirements of Code section 87.16, which is repealed
26 by the bill, and with the notice requirements of Code section
27 87.17, which is also repealed by the bill.

28 The bill amends Code section 87.20 to provide that the
29 insurance commissioner may revoke, for cause, an order
30 relieving an employer from carrying insurance as required by
31 Code chapter 87 without the concurrence of the workers'
32 compensation commissioner.

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