

April 2, 1957.
Passed on File.

Senate File 458
By COMMITTEE ON JUDICIARY 1.

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

A BILL FOR

An Act to amend chapter five hundred two (502), Code of Iowa 1954, relating to regulation of registration, issuance, and sale of securities and to the regulation of securities dealers.

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

- 1 Section 1. Section five hundred two point three (502.3),
- 2 Code 1954, is amended by striking all of the text of
- 3 subsection three (3.) thereof and by inserting in lieu
- 4 thereof the following: "The term "sale" or "sell"
- 5 includes every contract of sale of, contract to sell, or
- 6 disposition of, a security or interest in a security for
- 7 value. Any security given or delivered with, or as a
- 8 bonus on account of, any purchase of securities or any
- 9 other thing is considered to constitute part of the
- 10 subject of the purchase and to have been offered and sold
- 11 for value."
- 12 "The term "offer" or "offer to sell" includes every
- 13 attempt or offer to dispose of, or solicitation of any
- 14 offer to buy, a security or interest in a security for
- 15 value."
- 16 "Every sale or offer of a warrant or right to purchase
- 17 or subscribe to another security of the same or another
- 18 issuer, and every sale or offer of a security which gives
- 19 the holder a present or future right or privilege to
- 20 convert into another security of the same or another

21 issuer, is considered to include an offer of the other
22 security.”

1 Sec. 2. Section five hundred two point three (502.3),
2 Code 1954, is amended by striking all that part of
3 subsection four (4.) thereof which follows the word
4 “provided” in line sixteen (16) of said subsection four
5 (4.) and by inserting in lieu thereof, the following:
6 “that the purchase of securities from the issuer
7 thereof, or the offer to sell or sale of securities to
8 brokers or dealers actually engaged in buying and selling
9 securities as a business, by a person having no place of
10 business in this state shall not make such person a
11 ‘dealer’ within the meaning of that term as defined in
12 this section.”

1 Sec. 3. Section five hundred two point four (502.4),
2 Code 1954, is amended by adding after the comma following
3 the word “Columbia” in lines four (4) and five (5) of
4 subsection one (1.) thereof the following: “or Dominion
5 of Canada or any province thereof,”; and by adding after
6 the words “United States” in line ten (10) of subsection
7 one (1.) thereof the following: “or Canada”; and by
8 striking the words “or represented by subscription rights
9 which have been so listed” from lines nine (9) and ten
10 (10) of subsection five (5.) thereof, and inserting in
11 lieu thereof the following: “or subscription rights
12 representing such securities.”

1 Sec. 4 Section five hundred two point five (502.5),
2 Code 1954, is amended by striking all that part of
3 subsection four (4) thereof which follows the semi-colon

4 (:) in line fifteen (15) of said subsection and by
5 inserting in lieu thereof the following: "Any transaction
6 pursuant to an offer to existing security holders or
7 employees of the issuer, including persons who at the
8 time of the transaction are holders of convertible
9 securities, non-transferable warrants, or transferable
10 warrants exercisable within ninety days of their issuance,
11 if no commission or other remuneration (other than a
12 standby commission) is paid or given directly or indirectly
13 for soliciting any security holder in this state.

1 Sec. 5. Section five hundred two point five (502.5),
2 Code 1954, is amended by adding after the word "to" in
3 line two (2) of subsection six (6.) thereof the following:
4 "the security holders of".

1 Sec. 6. Section five hundred two point five (502.5),
2 Code 1954, as amended by section one (1) of chapter two
3 hundred thirty-three (233), Laws of the Fifty-sixth General
4 Assembly, is amended by striking from lines three (3),
5 four (4), five (5), six (6) and seven (7) of subsection
6 eleven (11.), thereof the following: "which is a part of
7 an issue which has theretofore been lawfully sold and
8 distributed to the public, in whole or in part, in this
9 state; including as within this exemption any security";
10 and by striking the word "such" in line eight (8) of said
11 subsection eleven (11.) and substituting therefore the
12 word "a"; and by striking from lines thirteen (13),
13 fourteen (14) and fifteen (15) of said subsection eleven
14 (11.) the following: "but excepting from this exemption
15 securities theretofore sold only in exempt transactions

16 under this section.”.

1 Sec. 7. Section five hundred two point five (502.5),
2 Code 1954, is amended by striking all of the text of
3 subsection twelve (12.) thereof and by inserting in lieu
4 thereof the following: “Any sale by a registered dealer
5 of an outstanding security if such sale is not directly or
6 indirectly for the benefit of the issuer; such sale is
7 at a price reasonably related to the current market price
8 of such securities at the time of sale; either such
9 securities have been previously registered but registration
10 has expired, or information as to the issuer of such
11 security is published in a recognized manual of securities;
12 such information to contain at least the names of the
13 issuer’s officers and directors, a balance sheet of the
14 issuer as of a date within eighteen (18) months and a
15 profit and loss statement for the fiscal year preceding
16 that date or the most recent year of operation; and the
17 issuer is a going concern. This exemption shall not apply
18 to any security whose resale is prohibited by specific
19 order of the commissioner of insurance.”

1 Sec. 8. Section five hundred two point five (502.5),
2 Code 1954, is amended by adding a new subsection thereto as
3 follows: “Any transaction by a registered broker-dealer,
4 not directly or indirectly for the benefit of the issuer,
5 pursuant to an unsolicited order or offer to buy; but the
6 commissioner of insurance may by rule require that the
7 customer acknowledge upon a specified form that the sale
8 was unsolicited, and that a signed copy of each such form
9 be preserved by the broker-dealer for a specified period.”

1 Sec. 9. Section five hundred two point five (502.5),
2 Code 1954, is amended by adding a new subsection thereto
3 as follows: "Any offer (but not a sale) of a security for
4 which a registration statement has been filed under the
5 Federal Securities Act of 1933 and a registration statement
6 or application has been filed under this act, if no stop
7 order or refusal order is in effect and no public proceeding
8 or examination looking toward such an order is pending
9 under either act."

1 Sec. 10. Section five hundred two point six (502.6),
2 Code 1954, is hereby repealed and the following enacted in
3 lieu thereof: "No securities, except securities exempt
4 under section five hundred two point four (502.4) or
5 unless sold in any transaction exempt under section five
6 hundred two point five (502.5), shall be sold within this
7 state unless such securities shall have been registered by
8 notification or by qualification as provided in section
9 five hundred two point seven (502.7).

1 Sec. 11. Section five hundred two point seven (502.7),
2 Code 1954, is hereby repealed and the following enacted in
3 lieu thereof: "Registration of Securities. 1. Registration
4 by Notification. Any security may be registered by
5 notification if the issuer thereof (together with any
6 predecessors) has been in continuous operation for at least
7 five (5) years, there has been no default during the
8 current fiscal year or within the three (3) preceding
9 fiscal years in the payment of principal, interest, or
10 dividends on any security of the issuer (or any predecessor)
11 with a fixed maturity or a fixed interest or dividend

12 provision, the issuer (together with any predecessors)
13 during the past three (3) fiscal years has had average net
14 earnings, determined in accordance with generally accepted
15 accounting practices, applicable to all securities without
16 a fixed maturity or a fixed interest or dividend provision
17 outstanding at the date the registration statement is
18 filed (a) aggregating at least five per cent of the
19 amount of such outstanding securities (as measured by the
20 maximum offering price or the market price on a day
21 selected by the registrant within thirty days of the date
22 of filing the registration statement, whichever is higher,
23 or book value on a day within ninety days of the date of
24 filing the registration statement to the extent that there
25 is neither a readily determinable market price nor a cash
26 offering price), or (b) if no such securities are outstanding,
27 then aggregating five per cent of the amount of such
28 securities then offered for sale based upon the maximum
29 public offering price at which such securities are to be
30 offered for sale.

31 "Securities entitled to registration by notification
32 shall be registered by the filing by the issuer or by any
33 registered dealer in the office of the commissioner of
34 insurance, of a statement with respect to such securities
35 containing the following:

- 36 a. Name of issuer. If incorporated, place of incorporation.
- 37 b. The location of the issuer's principal business office
38 and of its principal office in this state, if any.
- 39 c. A description of the security, including amount of
40 the issue.

41 d. Amount of securities to be offered in this state.

42 e. A statement of the facts which show that the security
43 falls within one of the classes in this section defined.

44 f. The price at which the securities are to be offered
45 for sale.

46 g. The rate of commission to be paid.

47 h. Financial statement of issuer as of current date.

48 i. Income statement of issuer for the last fiscal period.

49 j. Copy of the security to be issued.

50 k. If required under section five hundred two point nine
51 (502.9), a consent to service of process meeting the
52 requirements of that section.

53 "There shall be filed with such statement payment of the
54 registration fee prescribed in subsection (4.). A copy
55 of the circular to be used in the public offering of the
56 securities shall be filed in the office of the commissioner
57 of insurance with the statement or within such further
58 time as the commissioner of insurance may allow.

59 "2. Registration by Qualification. Any securities may
60 be registered by qualification as provided in this
61 subsection. An application for registration may be filed
62 by the issuer, the owner, or by any registered dealer.
63 The commissioner of insurance may require the applicant to
64 submit to him the following information respecting the
65 issuer and such other information as he may in his judgment
66 deem necessary to enable him to ascertain whether such
67 securities shall be registered pursuant to the provisions
68 of this section:

69 a. The names and addresses of the directors, trustees, and

70 officers, if the issuer be a corporation or association or
71 trust organized or existing under the common law (as
72 hereinbefore defined); of all partners, if the issuer be a
73 partnership; and of the issuer, if the issuer be an
74 individual.

75 b. The location of the issuer's principal business office
76 and of its principal office in this state, if any.

77 c. The purposes of incorporation (if incorporated) and
78 the general character of the business actually to be
79 transacted by the issuer, and the purpose of the proposed
80 issue.

81 d. A statement of the capitalization of the issuer; a
82 balance sheet showing the amount and general character of
83 its assets and liabilities on a day not more than ninety
84 days prior to the date of filing such balance sheet; a
85 detailed statement of the plan upon which the issuer
86 proposes to transact business; a copy of the security for
87 the registration of which application is made; and a copy
88 of all circulars, prospectuses, advertisements, or other
89 descriptions of such securities then prepared by or for
90 such issuer and/or by or for such applicant (if the
91 applicant shall not be the issuer) to be used for
92 distribution or publication in this state.

93 e. A statement of the amount of the issuer's income,
94 expenses, and fixed charges during the last fiscal year,
95 or if in actual business less than one year, then for such
96 time as the issuer has been in actual business.

97 f. A statement showing the price at which such security
98 is proposed to be sold, together with the maximum amount

99 of commission or other form of remuneration to be paid in
100 cash or otherwise, directly or indirectly, for or in
101 connection with the sale or offering for sale of such
102 securities.

103 g. A detailed statement showing the items of cash,
104 property, services, patents, good will, and any other
105 consideration for which such securities have been or are
106 to be issued in payment.

107 h. The amount of capital stock which is to be set aside
108 and disposed of as promotion stock, and a statement of all
109 stock issued from time to time as promotion stock.

110 i. If the issuer is a corporation, there shall be filed
111 with the application a certified copy of its articles of
112 incorporation with all amendments and of its existing bylaws.
113 If the issuer is a trustee there shall be filed with the
114 application a copy of all instruments by which the trust is
115 created or declared and in which it is accepted and
116 acknowledged. If the issuer is a partnership or an
117 unincorporated association, or joint-stock company, or any
118 other form of organization whatsoever, there shall be
119 filed with the application a copy of its articles of
120 partnership or association and all other papers pertaining
121 to its organization.

122 "If the securities are also being registered under the
123 Federal Securities Act of 1933, the commissioner of
124 insurance may accept, in lieu of the information required
125 under paragraphs (a) through (i) of this subsection, three
126 copies of the prospectus filed under the Federal Securities
127 Act of 1933 with all amendments to that prospectus as of

128 the date on which the registration statement is filed
129 under this act.

130 "If upon examination of an application for registration
131 of securities by notification or qualification the
132 commissioner of insurance does not find any ground for
133 denying or revoking the registration of such securities
134 under section five hundred two point ten (502.10), he shall
135 register such securities after which they may be sold by
136 the issuer, the owner, or by any registered dealer, subject
137 however, to the further order of the commissioner of
138 insurance as hereinafter provided.

139 "3. Provisions Applicable to all Registration of
140 Securities. When securities are registered by notification
141 or by qualification, they may be offered and sold by the
142 issuer, the owner, or by any registered dealer. The
143 commissioner of insurance shall keep a register showing the
144 issuer, date of registration, amount in number and dollars
145 of the securities registered and all orders with respect
146 thereto. Every registration shall remain effective until
147 revoked by the commissioner of insurance or until terminated
148 upon request of the registrant with the consent of the
149 commissioner of insurance. So long as a registration
150 statement remains effective all outstanding securities of
151 the class registered shall be considered to be registered
152 for the purpose of any transactions other than original
153 distributions of such securities, except that in the case
154 of securities issued by a face amount certificate company
155 or a redeemable security issued by an open-end management
156 company or unit investment trust, as those terms are

157 defined in the Federal Investment Company Act of 1940, only
158 the amount of securities specified to be offered for sale
159 in this state shall be registered by the registration
160 statement or application for such securities may be amended
161 at any time to increase the amount of securities proposed
162 to be offered in this state. So long as the registration
163 statement remains effective the commissioner of insurance
164 may require the registrant to file reports, not more often
165 than semi-annually, to keep reasonably current the
166 information contained in the registration statement.

167 "The commissioner of insurance shall have power to place
168 such conditions, limitations, and restrictions on any
169 registration as may be necessary to carry out the purpose
170 of this chapter and the conditions, limitations and
171 restrictions, if any, shall be entered in the register of
172 securities referring to a formal order of the commissioner
173 of insurance on file showing such conditions, limitations
174 and restrictions.

175 "For the filing of an application for the registration
176 of securities by notification or qualification there shall
177 be paid to the commissioner of insurance at the time of
178 filing the registration statement or application prescribed
179 in this section a fee of one-tenth of one per cent of the
180 maximum aggregate offering price of the securities
181 proposed to be offered in this state, but such fee shall
182 not be less than \$25.00 nor more than \$1,000.00.

183 "If the application for registration shall be made by a
184 registered dealer, the commissioner of insurance in his
185 discretion may by rule, regulation, or order waive the

186 filing or submission to him of all or any of the statements,
187 exhibits, and documents, including certified public
188 documents referred to in this section, and may require the
189 applicant to file with him a statement with respect to
190 such securities containing the following: Name of issuer;
191 a brief description of the security; the maximum amount of
192 the securities to be offered under the registration; the
193 maximum price at which the securities are to be offered for
194 sale; and to furnish to the commissioner of insurance such
195 other information and data concerning the issuer and the
196 securities as the commissioner of insurance may deem
197 necessary to enable him to ascertain whether such securities
198 shall be registered hereunder or such registration continued
199 in effect.

200 "The commissioner of insurance may permit the omission
201 of any item of information or document from any registration
202 statement. Any document filed under this act or a
203 predecessor act may be incorporated by reference in the
204 registration statement to the extent that the document is
205 currently accurate."

1 Sec. 12. Section five hundred two point ten (502.10),
2 Code 1954, is amended by striking the first seven (7) lines
3 of the text thereof and by inserting in lieu thereof the
4 following: "The commissioner of insurance may deny
5 effectiveness to, or suspend or revoke the effectiveness
6 of, the registration of any security if, after a reasonable
7 notice and a hearing or upon examination into the affairs
8 of the issuer of such securities, it shall appear that the
9 sale of such securities would work or tend to work a

10 fraud upon the purchasers thereof or that the issuer:"

1 Sec. 13. Section five hundred two point eleven (502.11),
2 Code 1954, is amended by striking all of the eighth (8th)
3 unnumbered paragraph thereof and by inserting in lieu
4 thereof the following: "The commissioner of insurance
5 shall have the power, in connection with any dealer's or
6 salesman's registration, to require the dealer or salesman
7 to furnish the commissioner of insurance, in such form as
8 he may designate, any information or reports deemed
9 necessary to assist the commissioner or insurance in
10 determining whether such registration should remain in
11 force, and to make an investigation of the books, records,
12 property, business and affairs of such dealer or salesman.
13 No dealer shall sell or offer for sale any security after
14 notice in writing given to it by the commissioner of
15 insurance. that, in his opinion, the sale thereof would be
16 unfair, unjust, or inequitable to the purchaser thereof,
17 unless the commissioner of insurance shall subsequently
18 in writing withdraw such objection to the sale thereof."

1 Sec. 14. Section five hundred two point eleven (502.11),
2 Code 1954, is amended by adding the words "or owner" after
3 the word "issuer" in the first (1st) line of the last
4 unnumbered paragraph of said section; and by adding the
5 words "or owner" after the word "issuer" in the seventh
6 (7th) line of the said last unnumbered paragraph of said
7 section; and by adding the words "the issuer" after the
8 word "and" in the eleventh (11th) line of the last said
9 unnumbered paragraph of said section.

1 Sec. 15. Section five hundred two point thirteen

- 2 (502.13). Code 1954, is amended by adding after the comma
- 3 (,) in line six (6) in said section the following: "which
- 4 funds shall not be invested or hypothecated."