

LABOR AND INDUSTRIAL RELATIONS: Gettings, Chair; Holden and Deluhery

FILED FEB 4 1986

SENATE FILE **2104**  
BY GETTINGS and HOLDEN

Passed Senate, Date 3-10-86 (p. 626) Passed House, Date \_\_\_\_\_  
Vote: Ayes 44 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to coverage of proprietors, partners, and owner-  
2 operators of certain trucks under the workers' compensation  
3 law.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2104

SENATE FILE 2104

5234

- 1 Amend Senate File 2104 as follows:
- A 2 1. Page 2, by striking line 8 and inserting the
- 3 following:
- 4 "b. An independent contractor.
- 5 c. An owner-operator who as an".
- B 6 2. Page 2, line 35, by striking the words "with
- 7 the carrier" and inserting the following: "covering
- 8 the owner-operator's employees, if any".
- 9 3. By relettering as necessary.

5234 Filed March 3, 1986

BY COMM. ON LABOR AND INDUS. RELATIONS, GETTINGS, VICE-CHAIR

A-Adopted; B-w/d 2/10 (p. 626)

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1 Section 1. NEW SECTION. 85.1A PROPRIETORS AND PARTNERS.

2 A proprietor or partner who is actively engaged in the  
3 proprietor's or partner's business on a substantially full-  
4 time basis, may elect to be covered by the workers' compensa-  
5 tion law of this state by purchasing valid workers' compensa-  
6 tion insurance specifically including the proprietor or  
7 partner. The election constitutes an assumption by the em-  
8 ployer of workers' compensation liability for the proprietor  
9 or partner for the time period in which the insurance contract  
10 is in force. The proprietor or partner shall accept  
11 compensation in the manner provided by the workers' compen-  
12 sation law and the employer is relieved from any other li-  
13 ability for recovery of damages, or other compensation for  
14 injury.

15 Sec. 2. Section 85.36, Code 1985, is amended by adding the  
16 following new subsection:

17 NEW SUBSECTION. 11. If a wage, or method of calculating a  
18 wage, is used for the basis of the payment of a workers'  
19 compensation insurance premium for a proprietor, partner, or  
20 officer of a corporation, the wage or the method of cal-  
21 culating the wage is determinative for purposes of computing  
22 the proprietor's, partner's, or officer's weekly workers'  
23 compensation benefit rate.

24 Sec. 3. Section 85.61, subsection 2, unnumbered paragraph  
25 1, Code Supplement 1985, is amended to read as follows:

26 "Worker" or "employee" means ~~a~~ person who has entered into  
27 the employment of, or works under contract of service, express  
28 or implied, or apprenticeship, for an employer; ~~every~~ an  
29 executive officer elected or appointed and empowered under and  
30 in accordance with the charter and bylaws of a corporation,  
31 including a person holding an official position, or standing  
32 in a representative capacity of the employer; ~~and including~~  
33 ~~officials~~ an official elected or appointed by the state,  
34 ~~counties or a county, school districts~~ district, area  
35 ~~education agencies~~ agency, municipal corporations corporation,

1 or ~~cities~~ city under any form of government; ~~7-and-including~~  
2 ~~members~~ a member of the Iowa highway safety patrol; and a  
3 ~~conservation officers~~ officer, and a proprietor or partner who  
4 elects to be covered pursuant to section 85.1A, except as  
5 hereinafter specified in this chapter.

6 Sec. 4. Section 85.61, subsection 3, paragraphs b, and c,  
7 Code Supplement 1985, are amended to read as follows:

8 b. An independent contractor. An owner-operator who as an  
9 individual or partner owns a vehicle licensed and registered  
10 as a truck, road tractor, or truck tractor by a governmental  
11 agency, is an independent contractor while performing services  
12 in the operation of the owner-operator's vehicle if all of the  
13 following conditions are substantially present:

14 (1) The owner-operator is responsible for the maintenance  
15 of the vehicle.

16 (2) The owner-operator bears the principal burden of the  
17 vehicle's operating costs, including fuel, repairs, supplies,  
18 collision insurance, and personal expenses for the operator  
19 while on the road.

20 (3) The owner-operator is responsible for supplying the  
21 necessary personnel to operate the vehicle, and the personnel  
22 are considered the owner-operator's employees.

23 (4) The owner-operator's compensation is based on factors  
24 related to the work performed, including a percentage of any  
25 schedule of rates or lawfully published tariff, and not on the  
26 basis of the hours or time expended.

27 (5) The owner-operator determines the details and means of  
28 performing the services, in conformance with regulatory  
29 requirements, operating procedures of the carrier, and  
30 specifications of the shipper.

31 (6) The owner-operator enters into a contract which  
32 specifies the relationship to be that of an independent  
33 contractor and not that of an employee and requires the owner-  
34 operator to provide and maintain a certificate of workers'  
35 compensation insurance with the carrier.

1 c. ~~Partners;--directors~~ Directors of any a corporation who  
2 are not at the same time employees of ~~such the~~ corporation; or  
3 directors, trustees, officers, or other managing officials of  
4 any a nonprofit corporation or association who are not at the  
5 same time full-time employees of ~~such the~~ nonprofit  
6 corporation or association.

7 d. Proprietors and partners who have not elected to be  
8 covered by the workers' compensation law of this state  
9 pursuant to section 85.1A.

10 EXPLANATION

11 This bill specifically excludes proprietors and partners  
12 from the coverage of the workers' compensation law but allows  
13 them to elect to be covered through the purchase of a valid  
14 workers' compensation insurance contract specifically  
15 including them. The bill establishes a method for the cal-  
16 culation of proprietors', partners', and corporate officers'  
17 weekly workers' compensation benefit rates.

18 The bill also provides that owner-operators of trucks, road  
19 tractors, and truck tractors are considered independent  
20 contractors, and therefore excluded from workers' compensation  
21 coverage, if the owner-operators meet certain specific  
22 requirements for independent control of their vehicles and  
23 work.

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1 Section 1. NEW SECTION. 85.1A PROPRIETORS AND PARTNERS.

2 A proprietor or partner who is actively engaged in the  
3 proprietor's or partner's business on a substantially full-  
4 time basis, may elect to be covered by the workers' compensa-  
5 tion law of this state by purchasing valid workers' compensa-  
6 tion insurance specifically including the proprietor or  
7 partner. The election constitutes an assumption by the em-  
8 ployer of workers' compensation liability for the proprietor  
9 or partner for the time period in which the insurance contract  
10 is in force. The proprietor or partner shall accept  
11 compensation in the manner provided by the workers' compen-  
12 sation law and the employer is relieved from any other li-  
13 ability for recovery of damages, or other compensation for  
14 injury.

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16 following new subsection:

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18 wage, is used for the basis of the payment of a workers'  
19 compensation insurance premium for a proprietor, partner, or  
20 officer of a corporation, the wage or the method of cal-  
21 culating the wage is determinative for purposes of computing  
22 the proprietor's, partner's, or officer's weekly workers'  
23 compensation benefit rate.

24 Sec. 3. Section 85.61, subsection 2, unnumbered paragraph  
25 1, Code Supplement 1985, is amended to read as follows:

26 "Worker" or "employee" means a person who has entered into  
27 the employment of, or works under contract of service, express  
28 or implied, or apprenticeship, for an employer; ~~every~~ an  
29 executive officer elected or appointed and empowered under and  
30 in accordance with the charter and bylaws of a corporation,  
31 including a person holding an official position, or standing  
32 in a representative capacity of the employer; ~~and including~~  
33 officials an official elected or appointed by the state,  
34 counties or a county, school districts district, area  
35 education agencies agency, municipal corporations corporation,

1 or ~~cities~~ city under any form of government; ~~and including~~  
2 members a member of the Iowa highway safety patrol; and a  
3 conservation officers officer, and a proprietor or partner who  
4 elects to be covered pursuant to section 85.1A, except as  
5 hereinafter specified in this chapter.

6 Sec. 4. Section 85.61, subsection 3, paragraphs b, and c,  
7 Code Supplement 1985, are amended to read as follows:

8 b. An independent contractor.

9 c. An owner-operator who as an individual or partner owns  
10 a vehicle licensed and registered as a truck, road tractor, or  
11 truck tractor by a governmental agency, is an independent  
12 contractor while performing services in the operation of the  
13 owner-operator's vehicle if all of the following conditions  
14 are substantially present:

15 (1) The owner-operator is responsible for the maintenance  
16 of the vehicle.

17 (2) The owner-operator bears the principal burden of the  
18 vehicle's operating costs, including fuel, repairs, supplies,  
19 collision insurance, and personal expenses for the operator  
20 while on the road.

21 (3) The owner-operator is responsible for supplying the  
22 necessary personnel to operate the vehicle, and the personnel  
23 are considered the owner-operator's employees.

24 (4) The owner-operator's compensation is based on factors  
25 related to the work performed, including a percentage of any  
26 schedule of rates or lawfully published tariff, and not on the  
27 basis of the hours or time expended.

28 (5) The owner-operator determines the details and means of  
29 performing the services, in conformance with regulatory  
30 requirements, operating procedures of the carrier, and  
31 specifications of the shipper.

32 (6) The owner-operator enters into a contract which  
33 specifies the relationship to be that of an independent  
34 contractor and not that of an employee and requires the owner-  
35 operator to provide and maintain a certificate of workers'

1 compensation insurance with the carrier.

2 e d. Partners, -directors Directors of any a corporation  
3 who are not at the same time employees of such the  
4 corporation; or directors, trustees, officers, or other  
5 managing officials of any a nonprofit corporation or  
6 association who are not at the same time full-time employees  
7 of such the nonprofit corporation or association.

8 e. Proprietors and partners who have not elected to be  
9 covered by the workers' compensation law of this state  
10 pursuant to section 85.1A.

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SENATE FILE 2104

AN ACT

RELATING TO COVERAGE OF PROPRIETORS, PARTNERS, AND OWNER-  
OPERATORS OF CERTAIN TRUCKS UNDER THE WORKERS' COMPENSA-  
TION LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 85.1A PROPRIETORS AND PARTNERS.

A proprietor or partner who is actively engaged in the proprietor's or partner's business on a substantially full-time basis, may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor or partner. The election constitutes an assumption by the em-

ployer of workers' compensation liability for the proprietor or partner for the time period in which the insurance contract is in force. The proprietor or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is relieved from any other liability for recovery of damages, or other compensation for injury.

Sec. 2. Section 85.36, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 11. If a wage, or method of calculating a wage, is used for the basis of the payment of a workers' compensation insurance premium for a proprietor, partner, or officer of a corporation, the wage or the method of calculating the wage is determinative for purposes of computing the proprietor's, partner's, or officer's weekly workers' compensation benefit rate.

Sec. 3. Section 85.61, subsection 2, unnumbered paragraph 1, Code Supplement 1985, is amended to read as follows:

"Worker" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; ~~every~~ an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; ~~and including~~ officials an official elected or appointed by the state, counties or a county, school districts district, area education agencies agency, municipal corporations corporation, or cities city under any form of government; ~~and including~~ members a member of the Iowa highway safety patrol; and a conservation officers officer, and a proprietor or partner who elects to be covered pursuant to section 85.1A, except as hereinafter specified in this chapter.

Sec. 4. Section 85.61, subsection 3, paragraphs b and c, Code Supplement 1985, are amended to read as follows:

b. An independent contractor.

c. An owner-operator who as an individual or partner owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:

(1) The owner-operator is responsible for the maintenance of the vehicle.

(2) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs, supplies, collision insurance, and personal expenses for the operator while on the road.

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(5) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.

(6) The owner-operator enters into a contract which specifies the relationship to be that of an independent contractor and not that of an employee and requires the owner-operator to provide and maintain a certificate of workers' compensation insurance with the carrier.

c d. Partners, directors, Directors of any a corporation who are not at the same time employees of such the corporation; or directors, trustees, officers, or other managing officials of any a nonprofit corporation or association who are not at the same time full-time employees of such the nonprofit corporation or association.

e. Proprietors and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2104, Seventy-first General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved Aug. 14, 1986

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TERRY E. BRANSTAD  
Governor