

FILED FEB 17 1988

SENATE FILE 2174  
BY COMMITTEE ON BUSINESS AND  
LABOR RELATIONS

(formerly SSB 2148)

Passed Senate, Date 3/7/88 (S. 1052) Passed House, Date 3/28/88 (H. 1121)

Vote: Ayes 41 Nays 1 Vote: Ayes 94 Nays 0

Approved April 11, 1988 (S. 1036)

A BILL FOR

1 An Act making changes in the state's labor laws relating to  
2 occupational safety and health, safety inspection of amusement  
3 rides, and elevator safety, and providing injunctive relief  
4 under certain of those laws.

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

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SF 2174

1 Section 1. Section 88.5, subsection 1, paragraph b, Code  
2 1987, is amended to read as follows:

3 b. Before adopting, modifying, or revoking any standard by  
4 rule pursuant to this section, the commissioner shall hold a  
5 public hearing on the subject matter of the proposed adoption,  
6 modification, or revocation. An interested person may appear  
7 and be heard at the hearing, in person or by agent or counsel.  
8 ~~The commissioner shall cause to be published a notice of each~~  
9 ~~hearing in one or more newspapers in the state having a~~  
10 ~~statewide circulation.~~ The provisions of this section are in  
11 addition to the requirements of chapter 17A.

12 Sec. 2. Section 88A.3, unnumbered paragraph 3, Code 1987,  
13 is amended by striking the unnumbered paragraph.

14 Sec. 3. NEW SECTION. 88A.14 INJUNCTION.

15 In addition to any and all other remedies, if an owner,  
16 operator, or person in charge of any amusement device or ride,  
17 concession booth, or related electrical equipment covered by  
18 this chapter, continues to operate any amusement device or  
19 ride, concession booth, or related electrical equipment  
20 covered by this chapter, after receiving a notice of defect as  
21 provided by this chapter, without first correcting the defects  
22 or making replacements, the commissioner may petition the  
23 district court in equity, in an action brought in the name of  
24 the state, for a writ of injunction to restrain the use of the  
25 alleged defective amusement device or ride, concession booth,  
26 or related electrical equipment.

27 Sec. 4. Section 89A.3, subsection 2, Code 1987, is amended  
28 to read as follows:

29 2. Insofar as applicable, rules adopted for facilities  
30 installed after January 1, 1975, shall be based on the  
31 American National Standard Safety Code for Elevators,  
32 Dumbwaiters, Escalators, and Moving Walks, and supplements  
33 ~~thereto~~ to the Code, A.17.1. The commissioner shall adopt  
34 rules for facilities installed prior to January 1, 1975,  
35 according to the applicable provisions of such American

1 National Standard Safety Code as the commissioner deems  
2 necessary. In adopting rules the commissioner may adopt the  
3 American National Standard Safety Code, or any part thereof of  
4 the Code, by reference. ~~Before adopting, amending, or~~  
5 ~~repealing any rule, the commissioner shall hold a public~~  
6 ~~hearing on the proposed rule, amendment or repeal. The~~  
7 ~~commissioner shall notify in writing each permit holder and~~  
8 ~~any other person requesting notification of each hearing at~~  
9 ~~least thirty days in advance of the hearing date. Any~~  
10 ~~interested person may appear and be heard at the hearing in~~  
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12 ~~the news media notice of each hearing at least thirty days in~~  
13 ~~advance of the hearing date and shall make available a copy of~~  
14 ~~the proposed rule or amendment to a rule to any person~~  
15 ~~requesting same.~~

16 Sec. 5. Section 89A.13, Code 1987, is amended to read as  
17 follows:

18 89A.13 FEES.

19 The commissioner, pursuant to chapter 17A, shall adopt  
20 rules to charge and collect fees for inspection, permits, and  
21 licenses. Fees may be set by rule not more than once each  
22 year, and shall be effective from the first day of January  
23 next following the date of adoption of the rule. Fees  
24 established by the commissioner shall be based upon the costs  
25 of administering ~~the provisions of~~ this chapter, and shall  
26 give due regard to the time spent by personnel of the division  
27 ~~of labor services~~ in performing duties, and to any travel  
28 expenses incurred. Before adopting any rule to establish or  
29 increase any fees for inspection, permits or licenses, the  
30 commissioner shall hold a public hearing on the proposed rule  
31 or amendment. ~~The commissioner shall notify in writing each~~  
32 ~~permit holder and any other person requesting notification of~~  
33 ~~each hearing at least thirty days in advance of the hearing~~  
34 ~~date. Any interested person may appear and be heard at the~~  
35 ~~hearing in person or by agent or counsel.~~

1 Sec. 6. Section 89B.8, subsections 3, 4, and 5, Code 1987,  
2 are amended to read as follows:

3 3. The federal occupational safety and health  
4 administration's hazard communication regulation, 29 C.F.R. §  
5 1910.1200 et seq., ~~as promulgated on November 25, 1983~~ in  
6 effect on January 1, 1988, is adopted as the basis for the  
7 division's regulatory responsibility under this division of  
8 this chapter. Except as specifically modified by this  
9 division of this chapter, all employers in this state shall  
10 comply with the regulation including but not limited to the  
11 requirements on labeling, training, hazardous chemical list,  
12 trade secrets, and material safety data sheets without regard  
13 to whether an employer is covered by the federal regulation.

14 4. In addition to the chemical information required to be  
15 reported under the federal hazard communication standard, 29  
16 C.F.R. § 1910.1200(d), the labor commissioner may adopt by  
17 rule additional hazardous chemical information to be  
18 regulated.

19 ~~5. This chapter does not apply to hazardous chemicals~~  
20 ~~which are consumer products as defined in and regulated by the~~  
21 ~~federal Consumer Product Safety Act, 15 U.S.C. §§ 2051 et~~  
22 ~~seq. in the possession of a person who is not regulated by~~  
23 ~~the federal occupational safety and health administration's~~  
24 ~~hazard communication regulation 29 C.F.R. §§ 1910.1200 et seq.~~  
25 ~~as promulgated on November 25, 1983.~~

26 Sec. 7. Section 89B.9, Code 1987, is amended to read as  
27 follows:

28 89B.9 EMPLOYEE RIGHTS.

29 An employer shall not discharge or in any other manner  
30 discriminate against an employee because the employee has  
31 filed a complaint or brought an action under this section or  
32 has cooperated in bringing an action against an employer. An  
33 employee may file a complaint with the labor commissioner  
34 alleging discharge or discrimination within thirty days after  
35 an alleged violation occurs. Upon receipt of the complaint,

1 the commissioner shall cause an investigation to be made to  
2 the extent the commissioner deems appropriate. If the  
3 commissioner determines from the investigation that this  
4 section has been violated, the commissioner shall bring an  
5 action in the appropriate district court against the person.  
6 The district court has jurisdiction, for cause shown, to  
7 restrain violations of this section and order appropriate  
8 relief including rehiring or reinstatement of the employee to  
9 the former position with back pay. ~~Notwithstanding-section~~  
10 ~~89B-47-this~~ This section applies to an employee of a person  
11 otherwise exempt from this chapter.

12 Sec. 8. REPEALS.

13 1. Section 89B.4, Code Supplement 1987, is repealed.

14 2. Sections 89B.5, 89B.7, 89B.10, and 89B.11, Code 1987,  
15 are repealed.

16 EXPLANATION

17 The bill eliminates redundant provisions and those  
18 provisions in conflict with chapter 17A, adopts the federal  
19 law and regulations relating to the state hazardous chemicals  
20 risks right to know law, and provides the labor commission  
21 with the power to seek injunctions under the state safety  
22 inspection of amusement rides law.

23 SIMILAR TO SSB 2148 (LSB 7422DS)

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LSB

SSB 2148  
Business + Labor Relations  
*New*

SENATE FILE 2174  
BY (PROPOSED DEPARTMENT OF  
EMPLOYMENT SERVICES BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act making changes in the state's labor laws relating to  
2 occupational safety and health, safety inspection of amusement  
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5 public hearing on the subject matter of the proposed adoption,  
6 modification, or revocation. An interested person may appear  
7 and be heard at the hearing, in person or by agent or counsel.  
8 ~~The commissioner shall cause to be published a notice of each~~  
9 ~~hearing in one or more newspapers in the state having a~~  
10 ~~statewide circulation.~~ The provisions of this section are in  
11 addition to the requirements of chapter 17A.

12 Sec. 2. Section 88A.3, unnumbered paragraph 3, Code 1987,  
13 is amended by striking the unnumbered paragraph.

14 Sec. 3. NEW SECTION. 88A.14 INJUNCTION.

15 In addition to any and all other remedies, if an owner,  
16 operator, or person in charge of any amusement device or ride,  
17 concession booth, or related electrical equipment covered by  
18 this chapter, continues to operate any amusement device or  
19 ride, concession booth, or related electrical equipment  
20 covered by this chapter, after receiving a notice of defect as  
21 provided by this chapter, without first correcting the defects  
22 or making replacements, the commissioner may petition the  
23 district court in equity, in an action brought in the name of  
24 the state, for a writ of injunction to restrain the use of the  
25 alleged defective amusement device or ride, concession booth,  
26 or related electrical equipment.

27 Sec. 4. Section 89A.3, subsection 2, Code 1987, is amended  
28 to read as follows:

29 2. Insofar as applicable, rules adopted for facilities  
30 installed after January 1, 1975, shall be based on the  
31 American National Standard Safety Code for Elevators,  
32 Dumbwaiters, Escalators, and Moving Walks, and supplements  
33 ~~thereto~~ to the Code, A.17.1. The commissioner shall adopt  
34 rules for facilities installed prior to January 1, 1975,  
35 according to the applicable provisions of such American

1 National Standard Safety Code as the commissioner deems  
2 necessary. In adopting rules the commissioner may adopt the  
3 American National Standard Safety Code, or any part thereof of  
4 the Code, by reference. ~~Before adopting, amending, or~~  
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17 follows:

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20 rules to charge and collect fees for inspection, permits, and  
21 licenses. Fees may be set by rule not more than once each  
22 year, and shall be effective from the first day of January  
23 next following the date of adoption of the rule. Fees  
24 established by the commissioner shall be based upon the costs  
25 of administering the provisions of this chapter, and shall  
26 give due regard to the time spent by personnel of the division  
27 ~~of labor services~~ in performing duties, and to any travel  
28 expenses incurred. Before adopting any rule to establish or  
29 increase any fees for inspection, permits or licenses, the  
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32 ~~permit holder and any other person requesting notification of~~  
33 ~~each hearing at least thirty days in advance of the hearing~~  
34 ~~date. Any interested person may appear and be heard at the~~  
35 ~~hearing in person or by agent or counsel.~~

1        Sec. 6. NEW SECTION. 89A.19 INJUNCTION.

2        In addition to any and all other remedies, if an owner or  
3 person in charge of a facility covered by this chapter  
4 continues to use or allow the use of the facility covered by  
5 this chapter, after receiving a notice of defect as provided  
6 by this chapter, without first correcting the defects or  
7 making replacements, the commissioner may petition the  
8 district court in equity, in an action brought in the name of  
9 the state, for a writ of injunction to restrain the use of the  
10 alleged defective facility.

11        Sec. 7. Section 89B.8, subsections 3, 4, and 5, Code 1987,  
12 are amended to read as follows:

13        3. The federal occupational safety and health  
14 administration's hazard communication regulation, 29 C.F.R. §  
15 1910.1200 et seq., ~~as promulgated on November 25, 1983 in~~  
16 effect on January 1, 1988, is adopted as the basis for the  
17 division's regulatory responsibility under this division of  
18 this chapter. Except as specifically modified by this  
19 division of this chapter, all employers in this state shall  
20 comply with the regulation including but not limited to the  
21 requirements on labeling, training, hazardous chemical list,  
22 trade secrets, and material safety data sheets without regard  
23 to whether an employer is covered by the federal regulation.

24        4. In addition to the chemical information required to be  
25 reported under the federal hazard communication standard, 29  
26 C.F.R. § 1910.1200(d), the labor commissioner may adopt by  
27 rule additional hazardous chemical information to be  
28 regulated.

29        ~~5. This chapter does not apply to hazardous chemicals~~  
30 ~~which are consumer products as defined in and regulated by the~~  
31 ~~federal Consumer Product Safety Act, 15 U.S.C. §§ 2051 et~~  
32 ~~seq., in the possession of a person who is not regulated by~~  
33 ~~the federal occupational safety and health administration's~~  
34 ~~hazard communication regulation 29 C.F.R. §§ 1910.1200 et seq.~~  
35 ~~as promulgated on November 25, 1983.~~

1 Sec. 8. Section 89B.9, Code 1987, is amended to read as  
2 follows:

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7 has cooperated in bringing an action against an employer. An  
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10 an alleged violation occurs. Upon receipt of the complaint,  
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13 commissioner determines from the investigation that this  
14 section has been violated, the commissioner shall bring an  
15 action in the appropriate district court against the person.  
16 The district court has jurisdiction, for cause shown, to  
17 restrain violations of this section and order appropriate  
18 relief including rehiring or reinstatement of the employee to  
19 the former position with back pay. Notwithstanding section  
20 89B-47-~~this~~ This section applies to an employee of a person  
21 otherwise exempt from this chapter.

22 Sec. 9. REPEALS.

- 23 1. Section 89B.4, Code Supplement 1987, is repealed.  
24 2. Sections 89B.5, 89B.7, 89B.10, and 89B.11, Code 1987,  
25 are repealed.

26 EXPLANATION

27 The bill eliminates redundant provisions and those  
28 provisions in conflict with chapter 17A, adopts the federal  
29 law and regulations relating to the state hazardous chemicals  
30 risks right to know law, and provides the labor commission  
31 with the power to seek injunctions under the state safety  
32 inspection of amusement rides law and the state elevator code.

33 BACKGROUND STATEMENT

34 SUBMITTED BY THE AGENCY

35 This bill is for substantive and nonsubstantive changes to

1 chapters 88, 88A, 89A, and 89B. The suggested changes in  
2 these chapters eliminate provisions of the Code that are  
3 redundant or in conflict with chapter 17A or in conflict with  
4 federal law and regulations. In addition, the labor services  
5 prefiled bill provides necessary changes in the hazardous  
6 chemicals risks right to know law requiring coverage of all  
7 employers as provided in federal law.

8 The purpose and intent of the requested bill is to revise  
9 the labor laws of Iowa in accordance with changes made in  
10 federal statutes and rules for the enforcement of the affected  
11 chapters.

12 COMPANION TO LSB 7421DH

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Sec. 2. Section 88A.1, unnumbered paragraph 3, Code 1987, is amended by striking the unnumbered paragraph.

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Sec. 4. Section 89A.3, subsection 2, Code 1987, is amended to read as follows:

2. Insofar as applicable, rules adopted for facilities installed after January 1, 1975, shall be based on the American National Standard Safety Code for Elevators, Handwalkers, Escalators, and Moving Walks, and supplements thereto to the Code, A.17.1. The commissioner shall adopt rules for facilities installed prior to January 1, 1975, according to the applicable provisions of such American National Standard Safety Code as the commissioner deems necessary. In adopting rules the commissioner may adopt the American National Standard Safety Code, or any part thereof of the Code, by reference. ~~Before adopting, amending, or repeating any rule, the commissioner shall hold a public hearing on the proposed rule, amendment or repeat. The commissioner shall notify in writing each permit holder and any other person requesting notification of each hearing at least thirty days in advance of the hearing date. Any interested person may appear and be heard at the hearing in person or by agent or counsel. The commissioner shall give~~

SENATE FILE 2174

AN ACT

MAKING CHANGES IN THE STATE'S LABOR LAWS RELATING TO OCCUPATIONAL SAFETY AND HEALTH, SAFETY INSPECTION OF AMUSEMENT RIDES, AND ELEVATOR SAFETY, AND PROVIDING INJUNCTIVE RELIEF UNDER CERTAIN OF THOSE LAWS.

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

Section 1. Section 88.5, subsection 1, paragraph b, Code 1987, is amended to read as follows:

b. Before adopting, modifying, or revoking any standard by rule pursuant to this section, the commissioner shall hold a public hearing on the subject matter of the proposed adoption, modification, or revocation. An interested person may appear and be heard at the hearing, in person or by agent or counsel. ~~The commissioner shall cause to be published a notice of each hearing in one or more newspapers in the state having a statewide circulation.~~ The provisions of this section are in addition to the requirements of chapter 17A.

~~the news media notice of each hearing at least thirty days in advance of the hearing date and shall make available a copy of the proposed rule or amendment to a rule to any person requesting same:~~

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89A.13 FEES.

The commissioner, pursuant to chapter 17A, shall adopt rules to charge and collect fees for inspection, permits, and licenses. Fees may be set by rule not more than once each year, and shall be effective from the first day of January next following the date of adoption of the rule. Fees established by the commissioner shall be based upon the costs of administering the provisions of this chapter, and shall give due regard to the time spent by personnel of the division of labor services in performing duties, and to any travel expenses incurred. Before adopting any rule to establish or increase any fees for inspection, permits or licenses, the commissioner shall hold a public hearing on the proposed rule or amendment. ~~The commissioner shall notify in writing each permit holder and any other person requesting notification at each hearing at least thirty days in advance of the hearing date. Any interested person may appear and be heard at the hearing in person or by agent or counsel.~~

Sec. 6. Section 89B.8, subsections 3, 4, and 5, Code 1987, are amended to read as follows:

3. The federal occupational safety and health administration's hazard communication regulation, 29 C.F.R. § 1910.1200 et seq., ~~as promulgated on November 25, 1983 in effect on January 1, 1988,~~ is adopted as the basis for the division's regulatory responsibility under this division of this chapter. Except as specifically modified by this division of this chapter, all employers in this state shall comply with the regulation including but not limited to the requirements on labeling, training, hazardous chemical list,

trade secrets, and material safety data sheets without regard to whether an employer is covered by the federal regulation.

4. In addition to the chemical information required to be reported under the federal hazard communication standard, 29 C.F.R. § 1910.1200(f), the labor commissioner may adopt by rule additional hazardous chemical information to be regulated.

~~5. This chapter does not apply to hazardous chemicals which are consumer products as defined in and regulated by the federal Consumer Product Safety Act, 15 U.S.C. §§ 2051 et seq. in the possession of a person who is not regulated by the federal occupational safety and health administration's hazard communication regulation 29 C.F.R. §§ 1910.1200 et seq. as promulgated on November 25, 1983.~~

Sec. 7. Section 89B.9, Code 1987, is amended to read as follows:

89B.9 EMPLOYEE RIGHTS.

An employer shall not discharge or in any other manner discriminate against an employee because the employee has filed a complaint or brought an action under this section or has cooperated in bringing an action against an employer. An employee may file a complaint with the labor commissioner alleging discharge or discrimination within thirty days after an alleged violation occurs. Upon receipt of the complaint, the commissioner shall cause an investigation to be made to the extent the commissioner deems appropriate. If the commissioner determines from the investigation that this section has been violated, the commissioner shall bring an action in the appropriate district court against the person. The district court has jurisdiction, for cause shown, to restrain violations of this section and order appropriate relief including rehiring or reinstatement of the employee to the former position with back pay. ~~Notwithstanding section 89B.4, this~~ This section applies to an employee of a person otherwise exempt from this chapter.

Sec. 8. REPEALS.

1. Section 89B.4, Code Supplement 1987, is repealed.
2. Sections 89B.5, 89B.7, 89B.10, and 89B.11, Code 1987, are repealed.

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JO ANN ZIMMERMAN  
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 2174, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved April 11, 1988

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TERRY E. BRANSTAD  
Governor

**SF 2174**