

Reprinted

SENATE FILE 2159
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS
Approved 2/27/90
(SUCCESSOR TO SSB 2090)

Passed Senate, Date 2/27/90 (p. 152) Passed House, Date 3/14/90 (p. 1077)
Vote: Ayes 30 Nays 17 Vote: Ayes 53 Nays 39
Approved April 3, 1990

A BILL FOR

1 An Act relating to this state's labor laws administered by the
2 labor commissioner by amending provisions of the Code
3 regulating occupational safety and health, amusement ride and
4 boiler inspections, asbestos removal and encapsulation, the
5 division of labor services, wage payment collection, and
6 construction contractors, and providing a penalty.

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

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SC 2159

1 Section 1. Section 88.3, subsection 5, Code 1989, is
2 amended to read as follows:

3 5. "Employee" means an employee of an employer who is
4 employed in a business of the employer. "Employee" also means
5 an inmate as defined in section 85.59, when the inmate works
6 in connection with the maintenance of the institution, in an
7 industry maintained in the institution, or while otherwise on
8 detail to perform services for pay. "Employee" also means a
9 volunteer involved in responses to hazardous waste incidences.

10 Sec. 2. Section 88.6, subsection 7, Code 1989, is amended
11 to read as follows:

12 7. GENERAL. Any information obtained by the commissioner
13 under this chapter shall be obtained with a minimum burden
14 upon employers. Except for the purpose of administration of
15 this chapter, no information received by the commissioner or
16 the commissioner's representative from an employer, in
17 compliance with and pursuant to this chapter, shall not be
18 admissible in any action brought by or for the benefit of any
19 person. Unnecessary duplication of efforts in obtaining
20 information shall be reduced to the maximum extent feasible.
21 Neither the commissioner nor any employee of the department is
22 subject to subpoena for purposes of inquiry into any
23 occupational safety and health inspection except in
24 enforcement proceedings brought under this chapter.

25 Sec. 3. Section 88A.1, subsection 7, Code 1989, is amended
26 to read as follows:

27 7. "Concession booth" means a structure, or enclosure,
28 used at more than one fair or carnival, or at one fair or
29 carnival for more than seven consecutive days, from which
30 amusements are offered to the public.

31 Sec. 4. Section 88B.2, Code Supplement 1989, is amended to
32 read as follows:

33 88B.2 PERMIT REQUIRED -- EXCEPTIONS.

34 Except as otherwise provided in this chapter, a business
35 entity shall not engage in the removal or encapsulation of

1 asbestos unless the entity holds a permit for that purpose.
2 This chapter does not apply to a business entity, ~~other than a~~
3 ~~school~~, which uses its own employees in removing or
4 encapsulating asbestos for the purpose of renovating,
5 maintaining or repairing its own facilities, except that a
6 business entity exempted from this chapter which assigns an
7 employee to remove or encapsulate asbestos shall provide
8 training on the health and safety aspects of the removal or
9 encapsulation including the federal and state standards
10 applicable to the asbestos project. The training program
11 shall be available for review and approval upon inspection by
12 the division.

13 Sec. 5. Section 89.7, subsection 1, Code 1989, is amended
14 to read as follows:

15 1. The inspection required by this chapter shall not be
16 made by the commissioner if an owner or user of equipment
17 specified by this chapter obtains an inspection by a
18 representative of a reputable insurance company and obtains a
19 policy of insurance upon the equipment from that insurance
20 company. The representative conducting the inspection shall
21 be commissioned by the commissioner as a special inspector for
22 the year during which the inspection occurs and shall meet
23 such other requirements as the commissioner may by rule
24 establish. The commission shall be valid for one year and the
25 special inspector shall pay a fee for the issuance of the
26 commission. The commissioner shall establish the amount of
27 the fee by rule. The commissioner shall establish rules for
28 the issuance and revocation of special inspector commissions.
29 The rules are subject to the requirements of chapter 17A.

30 Sec. 6. Section 89.7, subsection 5, Code 1989, is amended
31 by striking the subsection.

32 Sec. 7. NEW SECTION. 89.13 CIVIL PENALTY ALLOWED.

33 If upon notice and hearing the commissioner determines that
34 an owner has operated a facility in violation of a safety
35 order, the commissioner may assess a civil penalty against the

1 owner in an amount not exceeding five hundred dollars, as
2 determined by the commissioner. An order assessing a civil
3 penalty is subject to appeal to the employment appeal board
4 and to judicial review. The commissioner may commence an
5 action in the district court to enforce payment of a civil
6 penalty. Revenue from the penalty provided in this section
7 shall be remitted to the treasurer of state for deposit in the
8 general fund of the state.

9 Sec. 8. Section 91A.5, subsection 2, paragraph c, Code
10 1989, is amended to read as follows:

11 c. ~~Losses due to breakage, lost-or-stolen-property, unless~~
12 ~~such-tools-and-equipment-are-specifically-assigned-to-and~~
13 ~~their-receipt-acknowledged-in-writing-by-the-employee-from~~
14 ~~whom-the-deduction-is-made,~~ damage to property, default of
15 customer credit, or nonpayment for goods or services rendered
16 so long as such losses are not attributable to the employee's
17 willful or intentional disregard of the employer's interests.

18 Sec. 9. Section 91A.5, subsection 2, Code 1989, is amended
19 by adding the following new paragraph and relettering the
20 subsequent paragraph:

21 NEW PARAGRAPH. d. Lost or stolen property, unless the
22 property is tools and equipment specifically assigned to, and
23 receipt acknowledged in writing by, the employee from whom the
24 deduction is made.

25 Sec. 10. Section 91A.10, subsection 2, Code 1989, is
26 amended to read as follows:

27 2. The commissioner, with the assistance of the office of
28 the attorney general if the commissioner requests such
29 assistance, shall, unless a settlement is reached under this
30 subsection, commence a civil action in any court of competent
31 jurisdiction to recover for the benefit of any employee any
32 wage, expenses, and liquidated damages' claims that have been
33 assigned to the commissioner for recovery. The commissioner
34 may also request reasonable and necessary attorneys' fees.
35 With the consent of the assigning employee, the commissioner

1 may also settle a claim on behalf of the assigning employee.
2 Proceedings under this subsection and subsection 1 that
3 precede commencement of a civil action shall be conducted
4 informally without any party having a right to be heard before
5 the commissioner. The commissioner may join various
6 assignments in one claim for the purpose of settling or
7 litigating their claims.

8 Sec. 11. Section 91C.2, subsection 1, Code 1989, is
9 amended to read as follows:

10 1. The contractor shall be in compliance with the laws of
11 this state relating to workers' compensation insurance and
12 shall provide evidence of workers' compensation insurance
13 coverage annually, of relief from the insurance requirement
14 pursuant to section 87.11, ~~or of compliance with the notice~~
15 ~~provision of section 87-2~~ or a statement that the contractor
16 is not required to carry workers' compensation coverage.

17 Notice of a policy's cancellation shall be provided to the
18 labor commissioner by the insurance company.

19 Sec. 12. Section 91C.3, subsection 1, Code 1989, is
20 amended to read as follows:

21 1. The name, principal place of business ~~in this state,~~
22 address, and telephone number of the contractor.

23 Sec. 13. Section 91C.4, Code 1989, is amended to read as
24 follows:

25 91C.4 FEES.

26 The labor commissioner shall prescribe the fee for
27 registration, which fee shall not exceed twelve dollars and
28 fifty cents annually. All fees collected shall be deposited
29 in the general fund of the state.

30 Sec. 14. Section 91C.5, Code 1989, is amended by adding
31 the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. The labor commissioner shall
33 revoke a registration number when the contractor fails to
34 maintain compliance with the conditions necessary to obtain a
35 registration. The labor commissioner shall provide a fact-

1 finding interview to assure that the contractor is not in
2 compliance before revoking any registration. Hearings on
3 revocation of registrations shall be held before the labor
4 commissioner with appeals to the district court. The
5 provisions of section 10A.601, subsection 1, shall not apply
6 to contractor registration revocations.

7 Sec. 15. Section 91.14, Code 1989, is repealed.

8 EXPLANATION

9 This bill amends several provisions of the Code relating to
10 occupational safety and health, safety inspections of
11 amusement rides, removal and encapsulation of asbestos,
12 inspection and certification of boilers, records of the
13 division of labor services, wage payment collection, and
14 registration of construction contractors.

15 Specifically, this bill provides for the following:

16 Section 1 includes, in the definition of "employee" in the
17 Iowa occupational safety and health Act, volunteers involved
18 in responses to hazardous waste incidences.

19 Section 2 provides an exemption for Iowa occupational
20 safety and health inspectors and the labor commissioner from
21 testifying in private lawsuits.

22 Section 3 expands the definition of "concession booth" for
23 safety inspection purposes to include a booth used at only one
24 fair or carnival for more than seven consecutive days.

25 Section 4 allows schools, along with business entities,
26 which use their own employees to remove or encapsulate
27 asbestos to be exempt from the permit requirements of chapter
28 88B. However, schools would not be exempted from the
29 requirements relating to training of school employees
30 regarding the health and safety aspects of asbestos removal
31 and encapsulation.

32 Section 5 requires the labor commissioner to establish
33 rules for issuance and revocation of special inspector
34 commissions for boilers and unfired steam pressure vessels.

35 Section 6 deletes a provision of the Code relating to

1 boilers used on tourist railroads and trains.

2 Section 7 allows the labor commissioner to assess a civil
3 penalty against an owner who operates a facility after a
4 safety order has been issued for violation of chapter 89
5 relating to boilers and unfired steam pressure vessels. The
6 penalty could not exceed \$500.

7 Sections 8 and 9 separate a related but distinct Code
8 provision from another Code provision allowing deductions to
9 be taken by employers from workers' wages for lost or stolen
10 property which is specifically assigned to and receipt
11 acknowledged in writing by the worker.

12 Section 10 authorizes the labor commissioner to recover
13 expenses for the benefit of an aggrieved worker under the wage
14 payment collection Act. This section also allows the
15 commissioner to request reasonable and necessary attorneys'
16 fees.

17 Section 11 allows contractors who are not required to carry
18 workers' compensation insurance to show compliance with the
19 workers' compensation statute by providing a statement that
20 they are not required to carry workers' compensation coverage.

21 Section 12 removes a requirement that a contractor must
22 state a principal place of business within the state on a
23 registration application, allowing the contractor to state his
24 or her principal place of business inside or outside the state
25 on the application.

26 Section 13 provides for an annual registration fee for
27 contractors, rather than a one-time fee.

28 Section 14 provides a procedure for revocation of a
29 contractor's registration by the labor commissioner.

30 Section 15 repeals a Code provision requiring the division
31 of labor to retain certain documents for a period of two
32 years.

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**SENATE FILE 2159
FISCAL NOTE**

A fiscal note for Senate File 2159 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2159 amends several provisions of the Code of Iowa relating to occupational safety and health, safety inspections of amusement rides, removal and encapsulation of asbestos, inspection and certification of boilers, records of the division of labor services, wage payment collection, and registration of construction contractors.

The bill changes the \$12.50 fee for contractor registration from a one-time fee to an annual registration fee.

ASSUMPTIONS:

1. Assume 1500 construction contractors will begin business in FY 1991.
2. Assume 700 construction contractors currently in business but not yet registered will become registered in FY 1991.
3. Assume that there are currently 3800 registered contractors.

FISCAL IMPACT:

	FY 1991	
	CURRENT LAW	PROPOSED LAW
REVENUE:		
Fees Collected	\$ 27,500	\$ 75,000
EXPENDITURES:		
Salaries	\$ 63,128	\$ 63,128
Support	\$ 11,108	\$ 11,108
Total Expenditures	\$ 74,236	\$ 74,236
Net Effect	\$ (46,736)	\$ 764

Source: (Department of Employment Services
Labor Services Division)

(LSB 7223sv, MAS)

FILED FEBRUARY 8, 1990

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2159

S-5190

- 1 Amend Senate File 2159 as follows:
2 1. Page 1, line 9, by inserting after the word
3 "incidences." the following: "The employer of a
4 volunteer is that entity which provides or which is
5 required to provide workers' compensation coverage for
6 the volunteer."

By RICHARD RUNNING

S-5190 FILED FEBRUARY 22, 1990

Adopted 2/27 (p. 750)

SENATE FILE 2159

S-5192

- 1 Amend Senate File 2159 as follows:
2 1. Page 3, line 22, by striking the words "tools
3 and".
4 2. Page 4, lines 27 and 28, by striking the words
5 "twelve dollars and fifty cents" and inserting the
6 following: "~~twelve-dollars-and-fifty-cents~~ twenty-
7 five dollars".
8 3. Page 5, by striking lines 3 through 6, and
9 inserting the following: "revocation of registrations
10 shall be held in accordance with section 91C.8."
11 4. Page 5, by inserting before line 7, the
12 following:
13 "Sec. ____ . Section 91C.6, Code 1989, is amended to
14 read as follows:
15 91C.6 RULES.
16 The labor commissioner shall adopt rules, pursuant
17 to chapter 17A, determined to be reasonably necessary
18 ~~for the administration and enforcement of phasing in,~~
19 administering, and enforcing the system of contractor
20 registration established by this chapter.
21 Sec. ____ . Section 103A.20, subsection 1, Code
22 1989, is amended by adding the following new
23 unnumbered paragraph:
24 However, a permit, certificate, authorization, or
25 other required document for the construction of a
26 building shall not be issued to a contractor who is
27 required and fails to obtain a contractor registration
28 number pursuant to chapter 91C."

By RICHARD RUNNING

S-5192 FILED FEBRUARY 22, 1990

B. Adopted 2/27 (p. 750), A. L. (p. 752)

SENATE FILE 2159

S-5193

- 1 Amend Senate File 2159 as follows:
2 1. Page 4, by striking lines 23 through 29.

By CALVIN O. HULTMAN

S-5193 FILED FEBRUARY 22, 1990

Adopted 2/27 (p. 752)

Am. Labor 2/28
Amend + Do Pass with H-5563

SENATE FILE 2159
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS

(SUCCESSOR TO SSB 2090)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 27, 1990)

_____ - New Language by the Senate

* - Language Stricken by the Senate

Re Passed Senate 42 to 7 3/26/90 (p. 1296)

Re Passed Senate, Date 3/14/90 (p. 1135) Passed House, Date 3/14/90 (p. 1077)

Vote: Ayes 33 Nays 10 Vote: Ayes 53 Nays 37

Approved April 3, 1990

A BILL FOR

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2 labor commissioner by amending provisions of the Code
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S.F. 2159

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5 an inmate as defined in section 85.59, when the inmate works
6 in connection with the maintenance of the institution, in an
7 industry maintained in the institution, or while otherwise on
8 detail to perform services for pay. "Employee" also means a
9 volunteer involved in responses to hazardous waste incidences.
10 The employer of a volunteer is that entity which provides or
11 which is required to provide workers' compensation coverage
12 for the volunteer.

13 Sec. 2. Section 88.6, subsection 7, Code 1989, is amended
14 to read as follows:

15 7. GENERAL. Any information obtained by the commissioner
16 under this chapter shall be obtained with a minimum burden
17 upon employers. Except for the purpose of administration of
18 this chapter, ~~no~~ information received by the commissioner or
19 the commissioner's representative from an employer, in
20 compliance with and pursuant to this chapter, shall not be
21 admissible in any action brought by or for the benefit of any
22 person. Unnecessary duplication of efforts in obtaining
23 information shall be reduced to the maximum extent feasible.
24 Neither the commissioner nor any employee of the department is
25 subject to subpoena for purposes of inquiry into any
26 occupational safety and health inspection except in
27 enforcement proceedings brought under this chapter.

28 Sec. 3. Section 88A.1, subsection 7, Code 1989, is amended
29 to read as follows:

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31 used at more than one fair or carnival, or at one fair or
32 carnival for more than seven consecutive days, from which
33 amusements are offered to the public.

34 Sec. 4. Section 88B.2, Code Supplement 1989, is amended to
35 read as follows:

1 88B.2 PERMIT REQUIRED -- EXCEPTIONS.

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3 entity shall not engage in the removal or encapsulation of
4 asbestos unless the entity holds a permit for that purpose.
5 This chapter does not apply to a business entity, ~~other than a~~
6 ~~school~~, which uses its own employees in removing or
7 encapsulating asbestos for the purpose of renovating,
8 maintaining or repairing its own facilities, except that a
9 business entity exempted from this chapter which assigns an
10 employee to remove or encapsulate asbestos shall provide
11 training on the health and safety aspects of the removal or
12 encapsulation including the federal and state standards
13 applicable to the asbestos project. The training program
14 shall be available for review and approval upon inspection by
15 the division.

16 Sec. 5. Section 89.7, subsection 1, Code 1989, is amended
17 to read as follows:

18 1. The inspection required by this chapter shall not be
19 made by the commissioner if an owner or user of equipment
20 specified by this chapter obtains an inspection by a
21 representative of a reputable insurance company and obtains a
22 policy of insurance upon the equipment from that insurance
23 company. The representative conducting the inspection shall
24 be commissioned by the commissioner as a special inspector for
25 the year during which the inspection occurs and shall meet
26 such other requirements as the commissioner may by rule
27 establish. The commission shall be valid for one year and the
28 special inspector shall pay a fee for the issuance of the
29 commission. The commissioner shall establish the amount of
30 the fee by rule. The commissioner shall establish rules for
31 the issuance and revocation of special inspector commissions.
32 The rules are subject to the requirements of chapter 17A.

33 Sec. 6. Section 89.7, subsection 5, Code 1989, is amended
34 by striking the subsection.

35 Sec. 7. NEW SECTION. 89.13 CIVIL PENALTY ALLOWED.

1 If upon notice and hearing the commissioner determines that
2 an owner has operated a facility in violation of a safety
3 order, the commissioner may assess a civil penalty against the
4 owner in an amount not exceeding five hundred dollars, as
5 determined by the commissioner. An order assessing a civil
6 penalty is subject to appeal to the employment appeal board
7 and to judicial review. The commissioner may commence an
8 action in the district court to enforce payment of a civil
9 penalty. Revenue from the penalty provided in this section
10 shall be remitted to the treasurer of state for deposit in the
11 general fund of the state.

12 Sec. 8. Section 91A.5, subsection 2, paragraph c, Code
13 1989, is amended to read as follows:

14 c. ~~Losses due to breakage, lost-or-stolen-property,-unless~~
15 ~~such-tools-and-equipment-are-specifically-assigned-to-and~~
16 ~~their-receipt-acknowledged-in-writing-by-the-employee-from~~
17 ~~whom-the-deduction-is-made,~~ damage to property, default of
18 customer credit, or nonpayment for goods or services rendered
19 so long as such losses are not attributable to the employee's
20 willful or intentional disregard of the employer's interests.

21 Sec. 9. Section 91A.5, subsection 2, Code 1989, is amended
22 by adding the following new paragraph and relettering the
23 subsequent paragraph:

24 NEW PARAGRAPH. d. Lost or stolen property, unless the
* 25 property is equipment specifically assigned to, and receipt
26 acknowledged in writing by, the employee from whom the
27 deduction is made.

28 Sec. 10. Section 91A.10, subsection 2, Code 1989, is
29 amended to read as follows:

30 2. The commissioner, with the assistance of the office of
31 the attorney general if the commissioner requests such
32 assistance, shall, unless a settlement is reached under this
33 subsection, commence a civil action in any court of competent
34 jurisdiction to recover for the benefit of any employee any
35 wage, expenses, and liquidated damages' claims that have been

1 assigned to the commissioner for recovery. The commissioner
2 may also request reasonable and necessary attorneys' fees.
3 With the consent of the assigning employee, the commissioner
4 may also settle a claim on behalf of the assigning employee.
5 Proceedings under this subsection and subsection 1 that
6 precede commencement of a civil action shall be conducted
7 informally without any party having a right to be heard before
8 the commissioner. The commissioner may join various
9 assignments in one claim for the purpose of settling or
10 litigating their claims.

11 Sec. 11. Section 91C.2, subsection 1, Code 1989, is
12 amended to read as follows:

13 1. The contractor shall be in compliance with the laws of
14 this state relating to workers' compensation insurance and
15 shall provide evidence of workers' compensation insurance
16 coverage annually, of relief from the insurance requirement
17 pursuant to section 87.11, ~~or-of-compliance-with-the-notice~~
18 ~~provision-of-section-87-2~~ or a statement that the contractor
19 is not required to carry workers' compensation coverage.

20 Notice of a policy's cancellation shall be provided to the
21 labor commissioner by the insurance company.

22 Sec. 12. Section 91C.3, subsection 1, Code 1989, is
23 amended to read as follows:

24 1. The name, principal place of business ~~in-this-state,~~
25 address, and telephone number of the contractor.

26 Sec. 13. Section 91C.4, Code 1989, is amended to read as
27 follows:

28 91C.4 FEES.

29 The labor commissioner shall prescribe the fee for
30 registration, which fee shall not exceed twelve dollars and
31 fifty cents annually. All fees collected shall be deposited
32 in the general fund of the state.

33 Sec. 14. Section 91C.5, Code 1989, is amended by adding
34 the following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. The labor commissioner shall

1 revoke a registration number when the contractor fails to
2 maintain compliance with the conditions necessary to obtain a
3 registration. The labor commissioner shall provide a fact-
4 finding interview to assure that the contractor is not in
5 compliance before revoking any registration. Hearings on
6 revocation of registrations shall be held in accordance with
7 section 91C.8.

8 Sec. 15. Section 91C.6, Code 1989, is amended to read as
9 follows:

10 91C.6 RULES.

11 The labor commissioner shall adopt rules, pursuant to
12 chapter 17A, determined to be reasonably necessary for the
13 administration-and-enforcement-of phasing in, administering,
14 and enforcing the system of contractor registration
15 established by this chapter.

16 Sec. 16. Section 103A.20, subsection 1, Code 1989, is
17 amended by adding the following new unnumbered paragraph:

18 However, a permit, certificate, authorization, or other
19 required document for the construction of a building shall not
20 be issued to a contractor who is required and fails to obtain
21 a contractor registration number pursuant to chapter 91C.

22 Sec. 17. Section 91.14, Code 1989, is repealed.

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SENATE FILE 2159

H-5563

- 1 Amend Senate File 2159, as amended, passed, and re-
- 2 printed by the Senate, as follows:
- 3 1. Page 4, by striking lines 30 and 31 and
- 4 inserting the following: "registration, which fee
- 5 shall not exceed twelve twenty-five dollars and-fifty
- 6 cents every two years. All fees collected shall be
- 7 deposited".

By COMMITTEE ON LABOR
AND INDUSTRIAL RELATIONS
SHERZAN of Polk, Chairperson

H-5563 FILED MARCH 8, 1990

Adopted 3/14 (p 1072)

SENATE FILE 2159

H-5564

- 1 Amend Senate File 2159 as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, by striking lines 13 through 27.
- 4 2. By renumbering as necessary.

By WISE of Lee
CHAPMAN of Linn
MCKINNEY of Dallas

H-5564 FILED MARCH 8, 1990

Adopted 3/14 (p 1076)

HOUSE FILE 2159

H-5606

- 1 Amend Senate File 2159, as amended, passed, and re-
- 2 printed by the Senate, as follows:
- 3 1. Page 4, by striking lines 22 through 32.
- 4 2. By renumbering as necessary.

By TYRRELL of Iowa

H-5606 FILED MARCH 12, 1990

Roll 3/14 (p 1077)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2159

H-5765

- 1 Amend the House amendment, S-5532, to Senate File
- 2 2159, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 1, by striking line 3.

RECEIVED FROM THE SENATE

H-5765 FILED MARCH 20, 1990

House refused to concur 3/21 (p 1285)

HOUSE AMENDMENT TO
SENATE FILE 2159

S-5532

- 1 Amend Senate File 2159, as amended, passed, and re-
 - 2 printed by the Senate, as follows:
 - 3 1. Page 1, by striking lines 13 through 27.
 - 4 2. Page 4, by striking lines 30 and 31 and
 - 5 inserting the following: "registration, which fee
 - 6 shall not exceed twelve twenty-five dollars and-fifty
 - 7 cents every two years. All fees collected shall be
 - 8 deposited".
 - 9 3. By renumbering, relettering, or redesignating
 - 10 and correcting internal references as necessary.
- RECEIVED FROM THE HOUSE

S-5532 FILED MARCH 16, 1990

As amended from S-5572, concurred 3/14 (p 115)

SENATE FILE 2159

S-5572

- 1 Amend the House amendment, S-5532, to Senate File
 - 2 2159, as amended, passed, and reprinted by the Senate,
 - 3 as follows:
 - 4 1. Page 1, by striking line 3.
- By RICHARD RUNNING

S-5572 FILED MARCH 19, 1990

ADOPTED (p 115)

RUNNING, CH.
COTTINGS
FURMAN

SSB 2090
BUSINESS & LABOR RELATIONS

SENATE FILE 2159
BY (PROPOSED DEPARTMENT OF
EMPLOYMENT SERVICES/LABOR
SERVICES DIVISION BILL)

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

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29 carnival for more than seven consecutive days, from which
30 amusements are offered to the public.

31 Sec. 4. Section 88B.2, Code Supplement 1989, is amended to
32 read as follows:

33 88B.2 PERMIT REQUIRED -- EXCEPTIONS.

34 Except as otherwise provided in this chapter, a business
35 entity shall not engage in the removal or encapsulation of

1 asbestos unless the entity holds a permit for that purpose.
2 This chapter does not apply to a business entity ~~other than a~~
3 ~~school~~ which uses its own employees in removing or
4 encapsulating asbestos for the purpose of renovating,
5 maintaining or repairing its own facilities, except that a
6 business entity exempted from this chapter which assigns an
7 employee to remove or encapsulate asbestos shall provide
8 training on the health and safety aspects of the removal or
9 encapsulation including the federal and state standards
10 applicable to the asbestos project. The training program
11 shall be available for review and approval upon inspection by
12 the division.

13 Sec. 5. Section 89.7, subsection 1, Code 1989, is amended
14 to read as follows:

15 1. The inspection required by this chapter shall not be
16 made by the commissioner if an owner or user of equipment
17 specified by this chapter obtains an inspection by a
18 representative of a reputable insurance company and obtains a
19 policy of insurance upon the equipment from that insurance
20 company. The representative conducting the inspection shall
21 be commissioned by the commissioner as a special inspector for
22 the year during which the inspection occurs and shall meet
23 such other requirements as the commissioner may by rule
24 establish. The commission shall be valid for one year and the
25 special inspector shall pay a fee for the issuance of the
26 commission. The commissioner shall establish the amount of
27 the fee by rule. The commissioner shall establish rules for
28 the issuance and revocation of special inspector commissions.
29 The rules are subject to the requirements of chapter 17A.

30 Sec. 6. Section 89.7, subsection 5, Code 1989, is amended
31 by striking the subsection.

32 Sec. 7. NEW SECTION. 89.13 CIVIL PENALTY ALLOWED.

33 If upon notice and hearing the commissioner determines that
34 an owner has operated a facility in violation of a safety
35 order, the commissioner may assess a civil penalty against the

1 owner in an amount not exceeding five hundred dollars, as
2 determined by the commissioner. An order assessing a civil
3 penalty is subject to appeal to the employment appeal board
4 and to judicial review. The commissioner may commence an
5 action in the district court to enforce payment of a civil
6 penalty. Revenue from the penalty provided in this section
7 shall be remitted to the treasurer of state for deposit in the
8 general fund of the state.

9 Sec. 8. Section 91A.5, subsection 2, paragraph c, Code
10 1989, is amended to read as follows:

11 c. ~~Losses due to breakage, lost-or-stolen-property, unless~~
12 ~~such-tools-and-equipment-are-specifically-assigned-to-and~~
13 ~~their-receipt-acknowledged-in-writing-by-the-employee-from~~
14 ~~whom-the-deduction-is-made,~~ damage to property, default of
15 customer credit, or nonpayment for goods or services rendered
16 so long as such losses are not attributable to the employee's
17 willful or intentional disregard of the employer's interests.

18 Sec. 9. Section 91A.5, subsection 2, Code 1989, is amended
19 by adding the following new paragraph and relettering the
20 subsequent paragraph:

21 NEW PARAGRAPH. d. Lost or stolen property, unless the
22 property is tools and equipment specifically assigned to, and
23 receipt acknowledged in writing by, the employee from whom the
24 deduction is made.

25 Sec. 10. Section 91A.10, subsection 2, Code 1989, is
26 amended to read as follows:

27 2. The commissioner, with the assistance of the office of
28 the attorney general if the commissioner requests such
29 assistance, shall, unless a settlement is reached under this
30 subsection, commence a civil action in any court of competent
31 jurisdiction to recover for the benefit of any employee any
32 wage, expenses, and liquidated damages' claims that have been
33 assigned to the commissioner for recovery. The commissioner
34 may also request reasonable and necessary attorneys' fees.
35 With the consent of the assigning employee, the commissioner

1 may also settle a claim on behalf of the assigning employee.
2 Proceedings under this subsection and subsection 1 that
3 precede commencement of a civil action shall be conducted
4 informally without any party having a right to be heard before
5 the commissioner. The commissioner may join various
6 assignments in one claim for the purpose of settling or
7 litigating their claims.

8 Sec. 11. Section 91C.2, subsection 1, Code 1989, is
9 amended to read as follows:

10 1. The contractor shall be in compliance with the laws of
11 this state relating to workers' compensation insurance and
12 shall provide evidence of workers' compensation insurance
13 coverage annually, of relief from the insurance requirement
14 pursuant to section 87.11, ~~or-of-compliance-with-the-notice~~
15 ~~provision-of-section-87-2~~ or a statement that the contractor
16 is not required to carry workers' compensation coverage.

17 Notice of a policy's cancellation shall be provided to the
18 labor commissioner by the insurance company.

19 Sec. 12. Section 91C.3, subsection 1, Code 1989, is
20 amended to read as follows:

21 1. The name, principal place of business ~~in-this-state~~,
22 address, and telephone number of the contractor.

23 Sec. 13. Section 91C.4, Code 1989, is amended to read as
24 follows:

25 91C.4 FEES.

26 The labor commissioner shall prescribe the fee for
27 registration, which fee shall not exceed twelve dollars and
28 fifty cents annually. All fees collected shall be deposited
29 in the general fund of the state.

30 Sec. 14. Section 91C.5, Code 1989, is amended by adding
31 the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. The labor commissioner shall
33 revoke a registration number when the contractor fails to
34 maintain compliance with the conditions necessary to obtain a
35 registration. The labor commissioner shall provide a fact-

1 finding interview to assure that the contractor is not in
2 compliance before revoking any registration. Hearings on
3 revocation of registrations shall be held before the labor
4 commissioner with appeals to the district court. The
5 provisions of section 10A.601, subsection 1, shall not apply
6 to contractor registration revocations.

7 Sec. 15.

8 Section 91.14, Code 1989, is repealed.

9 EXPLANATION

10 This bill amends several provisions of the Code relating to
11 occupational safety and health, safety inspections of
12 amusement rides, removal and encapsulation of asbestos,
13 inspection and certification of boilers, records of the
14 division of labor services, wage payment collection, and
15 registration of construction contractors.

16 Specifically, this bill provides for the following:

17 Section 1 includes, in the definition of "employee" in the
18 Iowa occupational safety and health Act, volunteers involved
19 in responses to hazardous waste incidences.

20 Section 2 provides an exemption for Iowa occupational
21 safety and health inspectors and the labor commissioner from
22 testifying in private lawsuits.

23 Section 3 expands the definition of "concession booth" for
24 safety inspection purposes to include a booth used at only one
25 fair or carnival for more than seven consecutive days.

26 Section 4 allows schools, along with business entities,
27 which use their own employees to remove or encapsulate
28 asbestos to be exempt from the permit requirements of chapter
29 88B. However, schools would not be exempted from the
30 requirements relating to training of school employees
31 regarding the health and safety aspects of asbestos removal
32 and encapsulation.

33 Section 5 requires the labor commissioner to establish
34 rules for issuance and revocation of special inspector
35 commissions for boilers and unfired steam pressure vessels.

1 Section 6 deletes a provision of the Code relating to
2 boilers used on tourist railroads and trains.

3 Section 7 allows the labor commissioner to assess a civil
4 penalty against an owner who operates a facility after a
5 safety order has been issued for violation of chapter 89
6 relating to boilers and unfired steam pressure vessels. The
7 penalty could not exceed \$500.

8 Sections 8 and 9 separate a related but distinct Code
9 provision from another Code provision allowing deductions to
10 be taken by employers from workers' wages for lost or stolen
11 property which is specifically assigned to and receipt
12 acknowledged in writing by the worker.

13 Section 10 authorizes the labor commissioner to recover
14 expenses for the benefit of an aggrieved worker under the wage
15 payment collection Act. This section also allows the
16 commissioner to request reasonable and necessary attorneys'
17 fees.

18 Section 11 allows contractors who are not required to carry
19 workers' compensation insurance to show compliance with the
20 workers' compensation statute by providing a statement that
21 they are not required to carry workers' compensation coverage.

22 Section 12 removes a requirement that a contractor must
23 state a principal place of business within the state on a
24 registration application, allowing the contractor to state his
25 or her principal place of business inside or outside the state
26 on the application.

27 Section 13 provides for an annual registration fee for
28 contractors, rather than a one-time fee.

29 Section 14 provides a procedure for revocation of a
30 contractor's registration by the labor commissioner.

31 Section 15 repeals a Code provision requiring the division
32 of labor to retain certain documents for a period of two
33 years.

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BACKGROUND STATEMENT
SUBMITTED BY THE AGENCY

1 Section 1: Federal OSHA regulations dealing with
2 responders to hazardous waste incidences require volunteers to
3 be protected under the law.

4 Section 2: IOSH (Iowa Occupational Safety and Health)
5 inspectors are involved in inspections of serious injuries and
6 fatalities in the work place. In many cases, IOSH inspectors
7 are subpoenaed to testify in litigation involving
8 investigations which they have done and to testify in regard
9 to IOSH regulations involving accidents which were not
10 investigated by the division of labor. This activity results
11 in lost inspection activity on the part of the inspectors.

12 Section 3: This section extends the coverage of
13 concessions to those at one fair or carnival for more than
14 seven consecutive days. Numerous carnivals and fairs are set
15 up for a long duration. People may be exposed to hazards that
16 develop over time and inspections should be made to assure
17 that concessions are operating in a safe manner.

18 Section 4: All employees engaged in asbestos removal are
19 required to be trained. The business entity exemption only
20 eliminates the need to get a license from the division of
21 labor for workers employed by a business for work on their own
22 property. This section gives the same exemption to schools.

23 Section 5: Currently, the labor commissioner has the
24 authority to issue commissions to special inspectors of
25 boilers and unfired steam pressure vessels who are employed by
26 an insurance company. The right to revoke the commissions
27 should be stated.

28 Section 6: The 73rd General Assembly exempted the
29 certification of boilers at entertainment activities, which
30 makes the requirements in section 89.7, subsection 5,
31 meaningless. This section of this bill strikes the
32 requirements of this subsection.

33 Section 7: Currently boiler inspectors may make numerous
34 inspections when an owner fails to correct safety violations.
35 This section provides a civil penalty for continued

1 noncompliance and repeated inspections.

2 Sections 8 and 9: These sections replace section 91A.5,
3 subsection 2, paragraph c of the Code and state clearly that a
4 deduction cannot be made for a lost or stolen tool unless the
5 employer has a written receipt for the tool.

6 Section 10: The current statute fails to clearly address
7 the labor commissioner's right to recover expenses which are
8 required to be paid under the wage payment collection Act.
9 Also, the current Code does not specifically state the labor
10 commissioner's right to recover attorneys' fees.

11 Section 11: The workers' compensation law does not require
12 owners of a business to carry workers' compensation insurance
13 on themselves. Sole proprietors with no employees are
14 currently required to either post a document saying that they
15 are not in compliance (which is a false statement), or to
16 purchase workers' compensation coverage on themselves.

17 Section 12: The Code requires a contractor's principal
18 place of business in the state of Iowa to be included on the
19 registration application. Contractors whose principal place
20 of business is not in Iowa find this provision difficult to
21 comply with and may be compelled to list a bogus or temporary
22 address within the state.

23 Section 13: The cost of generating a registration for
24 contractors is significant. An annual registration fee would
25 generate approximately \$75,000 annually.

26 Section 14: Currently, the Code provides that the labor
27 commissioner shall issue a registration number when the
28 contractor meets the conditions for registration. However,
29 there is no procedure for revocation when the contractor no
30 longer meets the requirements.

31 Section 15: Currently, the statute provides for the
32 destruction of division of labor documents after two years
33 from their receipt. The state has a procedure for
34 establishing document retention periods. Therefore, this
35 provision is no longer needed under current state law and

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SENATE FILE 2159

AN ACT

RELATING TO THIS STATE'S LABOR LAWS ADMINISTERED BY THE LABOR COMMISSIONER BY AMENDING PROVISIONS OF THE CODE REGULATING OCCUPATIONAL SAFETY AND HEALTH, AMUSEMENT RIDE AND BOILER INSPECTIONS, ASBESTOS REMOVAL AND ENCAPSULATION, THE DIVISION OF LABOR SERVICES, WAGE PAYMENT COLLECTION, AND CONSTRUCTION CONTRACTORS, AND PROVIDING A PENALTY.

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

Section 1. Section 88.3, subsection 5, Code 1989, is amended to read as follows:

5. "Employee" means an employee of an employer who is employed in a business of the employer. "Employee" also means an inmate as defined in section 85.59, when the inmate works in connection with the maintenance of the institution, in an industry maintained in the institution, or while otherwise on detail to perform services for pay. "Employee" also means a volunteer involved in responses to hazardous waste incidences. The employer of a volunteer is that entity which provides or which is required to provide workers' compensation coverage for the volunteer.

Sec. 2. Section 88A.1, subsection 7, Code 1989, is amended to read as follows:

7. "Concession booth" means a structure, or enclosure, used at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days, from which amusements are offered to the public.

Sec. 3. Section 88B.2, Code Supplement 1989, is amended to read as follows:

88B.2 PERMIT REQUIRED -- EXCEPTIONS.

Except as otherwise provided in this chapter, a business entity shall not engage in the removal or encapsulation of

asbestos unless the entity holds a permit for that purpose. This chapter does not apply to a business entity--other-than-a school, which uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities, except that a business entity exempted from this chapter which assigns an employee to remove or encapsulate asbestos shall provide training on the health and safety aspects of the removal or encapsulation including the federal and state standards applicable to the asbestos project. The training program shall be available for review and approval upon inspection by the division.

Sec. 4. Section 89.7, subsection 1, Code 1989, is amended to read as follows:

1. The inspection required by this chapter shall not be made by the commissioner if an owner or user of equipment specified by this chapter obtains an inspection by a representative of a reputable insurance company and obtains a policy of insurance upon the equipment from that insurance company. The representative conducting the inspection shall be commissioned by the commissioner as a special inspector for the year during which the inspection occurs and shall meet such other requirements as the commissioner may by rule establish. The commission shall be valid for one year and the special inspector shall pay a fee for the issuance of the commission. The commissioner shall establish the amount of the fee by rule. The commissioner shall establish rules for the issuance and revocation of special inspector commissions. The rules are subject to the requirements of chapter 17A.

Sec. 5. Section 89.7, subsection 5, Code 1989, is amended by striking the subsection.

Sec. 6. NEW SECTION. 89.13 CIVIL PENALTY ALLOWED.

If upon notice and hearing the commissioner determines that an owner has operated a facility in violation of a safety order, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil

penalty is subject to appeal to the employment appeal board and to judicial review. The commissioner may commence an action in the district court to enforce payment of a civil penalty. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the general fund of the state.

Sec. 7. Section 91A.5, subsection 2, paragraph c, Code 1989, is amended to read as follows:

c. ~~Losses due to breakage, lost or stolen property, unless such tools and equipment are specifically assigned to and their receipt acknowledged in writing by the employee from whom the deduction is made,~~ damage to property, default of customer credit, or nonpayment for goods or services rendered so long as such losses are not attributable to the employee's willful or intentional disregard of the employer's interests.

Sec. 8. Section 91A.5, subsection 2, Code 1989, is amended by adding the following new paragraph and relettering the subsequent paragraph:

NEW PARAGRAPH. d. Lost or stolen property, unless the property is equipment specifically assigned to, and receipt acknowledged in writing by, the employee from whom the deduction is made.

Sec. 9. Section 91A.10, subsection 2, Code 1989, is amended to read as follows:

2. The commissioner, with the assistance of the office of the attorney general if the commissioner requests such assistance, shall, unless a settlement is reached under this subsection, commence a civil action in any court of competent jurisdiction to recover for the benefit of any employee any wage, expenses, and liquidated damages' claims that have been assigned to the commissioner for recovery. The commissioner may also request reasonable and necessary attorneys' fees. With the consent of the assigning employee, the commissioner may also settle a claim on behalf of the assigning employee. Proceedings under this subsection and subsection 1 that precede commencement of a civil action shall be conducted informally without any party having a right to be heard before

the commissioner. The commissioner may join various assignments in one claim for the purpose of settling or litigating their claims.

Sec. 10. Section 91C.2, subsection 1, Code 1989, is amended to read as follows:

1. The contractor shall be in compliance with the laws of this state relating to workers' compensation insurance and shall provide evidence of workers' compensation insurance coverage annually, of relief from the insurance requirement pursuant to section 87.11, ~~or of compliance with the notice provision of section 87.2~~ or a statement that the contractor is not required to carry workers' compensation coverage. Notice of a policy's cancellation shall be provided to the labor commissioner by the insurance company.

Sec. 11. Section 91C.3, subsection 1, Code 1989, is amended to read as follows:

1. The name, principal place of business in this state, address, and telephone number of the contractor.

Sec. 12. Section 91C.4, Code 1989, is amended to read as follows:

91C.4 FEES.

The labor commissioner shall prescribe the fee for registration, which fee shall not exceed twelve twenty-five dollars and fifty cents every two years. All fees collected shall be deposited in the general fund of the state.

Sec. 13. Section 91C.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The labor commissioner shall revoke a registration number when the contractor fails to maintain compliance with the conditions necessary to obtain a registration. The labor commissioner shall provide a fact-finding interview to assure that the contractor is not in compliance before revoking any registration. Hearings on revocation of registrations shall be held in accordance with section 91C.8.

Sec. 14. Section 91C.6, Code 1989, is amended to read as follows:

91C.6 RULES.

The labor commissioner shall adopt rules, pursuant to chapter 17A, determined to be reasonably necessary for the ~~administration-and-enforcement-of~~ phasing in, administering, and enforcing the system of contractor registration established by this chapter.

Sec. 15. Section 103A.20, subsection 1, Code 1989, is amended by adding the following new unnumbered paragraph:

However, a permit, certificate, authorization, or other required document for the construction of a building shall not be issued to a contractor who is required and fails to obtain a contractor registration number pursuant to chapter 91C.

Sec. 16. Section 91.14, Code 1989, is repealed.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2159, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 3, 1990

TERRY E. BRANSTAD
Governor

SF 2159