

Reprinted

2001

SENATE FILE 503
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 343)

Passed Senate, Date 4/2/91 (p. 972) Passed House, Date 4/18/91 (P 1365)
Vote: Ayes 50 Nays 0 Vote: Ayes 91 Nays 1
Approved May 8, 1991

A BILL FOR

3/80: An Act relating to this state's labor laws administered by the
2 labor commissioner by amending provisions of the Code
3 concerning occupational safety and health penalties, boiler
4 inspections, child labor laws, and out-of-state contractor
5 bonding requirements.

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

- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

SF 503

1 Section 1. Section 88.14, subsections 1 and 2, Code 1991,
2 are amended to read as follows:

3 1. WILLFUL VIOLATIONS. Any employer who willfully or
4 repeatedly violates the requirements of section 88.4, any
5 standard, rule, or order promulgated adopted or issued
6 pursuant to section 88.5, or regulations prescribed pursuant
7 to this chapter, may be assessed a civil penalty of not less
8 than five thousand dollars and not more than ten seventy
9 thousand dollars for each violation.

10 2. SERIOUS VIOLATIONS. Any employer who has received a
11 citation for a serious violation of the requirements of
12 section 88.4, of any standard, rule, or order promulgated
13 adopted or issued pursuant to section 88.5, or of any
14 regulations prescribed pursuant to this chapter, shall be
15 assessed a civil penalty of up to one seven thousand dollars
16 for each such violation.

17 Sec. 2. Section 89.7, subsection 4, Code 1991, is amended
18 to read as follows:

19 4. The special inspector shall notify the user and the
20 commissioner of any equipment or appurtenance found to be
21 unsafe or unfit for operation in writing, setting forth the
22 nature and extent of such defects and condition. The
23 commissioner shall indicate to the user whether or not the
24 equipment may be used without making repair or replacement of
25 defective parts, or whether or how the equipment may be used
26 in a limited capacity before repairs or replacements are made,
27 and the commissioner may permit the user a reasonable time to
28 make such repairs or replacements. The failure of a special
29 inspector to inform the commissioner of violations shall not
30 subject the commissioner to liability for any damages
31 incurred.

32 Sec. 3. Section 91C.7, Code 1991, is amended to read as
33 follows:

34 91C.7 CONTRACTS -- CONTRACTOR'S BOND.

35 1. A contractor who is not registered with the labor

1 commissioner as required by this chapter shall not be awarded
2 a contract to perform work for the state or an agency of the
3 state.

4 2. An out-of-state contractor, before commencing a
5 contract in excess of five thousand dollars in value in Iowa,
6 shall file a bond with the division of labor services of the
7 department of employment services. The surety bond shall be
8 executed by a surety company authorized to do business in this
9 state, and the bond shall be continuous in nature until
10 canceled by the surety with not less than thirty days' written
11 notice to the contractor and to the division of labor services
12 of the department of employment services indicating the
13 surety's desire to cancel the bond. The surety company shall
14 not be liable under the bond for any contract commenced after
15 the cancellation of the bond. The bond shall be in the sum of
16 the greater of the following:

- 17 a. One thousand dollars.
18 b. Five percent of the contract price.

19 An out-of-state contractor may file a blanket bond in an
20 amount at least equal to fifty thousand dollars for the regis-
21 tration period established under section 91C.4 in lieu of
22 filing an individual bond for each contract. The division of
23 labor services of the department of employment services may
24 increase the bond amount after a hearing.

25 3. Release of the bond shall be conditioned upon the
26 payment of all taxes, including contributions due under the
27 unemployment compensation insurance system, penalties,
28 interest, and related fees, which may accrue to the state of
29 ~~Iowa or its subdivisions on account of the execution and~~
30 ~~performance of the contract.~~ If at any time during the term
31 of the bond, the department of revenue and finance or the
32 department of employment services determines that the amount
33 of the bond is not sufficient to cover the tax liabilities
34 accruing to the state of Iowa ~~or its subdivisions~~, the
35 department labor commissioner shall require the bond to be

1 increased by an amount the department labor commissioner deems
2 sufficient to cover the tax liabilities accrued and ~~to accrue~~
3 ~~under the contract~~ accruing.

4 4. The department of revenue and finance and the division
5 of job service of the department of employment services shall
6 adopt rules for the collection of the forfeiture. Notice
7 shall be provided to the surety and to the contractor. Notice
8 to the contractor shall be mailed to the contractor's last
9 known address and to the contractor's registered agent for
10 service of process, if any, within the state. The contractor
11 or surety shall have the opportunity to apply to the director
12 of revenue and finance for a hearing within thirty days after
13 the giving of such notice. Upon the failure to timely request
14 a hearing, the bond shall be forfeited. If, after the hearing
15 upon timely request, the department of revenue and finance or
16 the division of job service of the department of employment
17 services finds that the contractor has failed to pay the total
18 of all taxes payable, the department of revenue and finance or
19 the department of employment services shall order the bond
20 forfeited. The amount of the forfeiture shall be the amount
21 of taxes payable or the amount of the bond, whichever is less.
22 For purposes of this section "taxes payable" means all tax,
23 penalties, interest, and fees that the department of revenue
24 and finance has previously determined to be due to the state
25 ~~or a subdivision of the state~~ by assessment or in an appeal of
26 an assessment, including contributions to the unemployment
27 compensation insurance system.

28 5. If it is determined that this ~~subsection~~ section may
29 cause denial of federal funds which would otherwise be
30 available, or would otherwise be inconsistent with
31 requirements of federal law, this subsection shall be
32 suspended, but only to the extent necessary to prevent denial
33 of the funds or to eliminate the inconsistency with federal
34 requirements.

35 Sec. 4. Section 92.2, Code 1991, is amended by striking

1 the section and inserting in lieu thereof the following:

2 92.2 OVER TEN AND UNDER SIXTEEN YEARS OF AGE.

3 A person over ten and under sixteen years of age cannot be
4 employed, with or without compensation, in street occupations
5 or migratory labor as defined in section 92.1, unless the
6 person holds a work permit issued pursuant to this chapter and
7 the school the person attends has certified that the person is
8 regularly attending school and the potential employment will
9 not interfere with the person's progress in school.

10 1. Notwithstanding section 92.7, a person with a permit to
11 engage in migratory labor shall only work between five a.m.
12 and seven-thirty p.m. from Labor Day through June 1, and
13 between five a.m. and nine p.m. for the remainder of the year.

14 2. Notwithstanding section 92.7, a person with a permit to
15 engage in street occupations shall only work between four a.m.
16 and seven-thirty p.m. when local public schools are in session
17 and between four a.m. and eight-thirty p.m. for the remainder
18 of the year.

19 The requirements of section 92.10 shall not apply to a
20 person, firm, or corporation employing a person engaged in
21 street occupations pursuant to this section.

22 Sec. 5. Section 92.7, Code 1991, is amended to read as
23 follows:

24 92.7 UNDER SIXTEEN -- HOURS PERMITTED.

25 No A person under sixteen years of age shall not be
26 employed with or without compensation, except as provided in
27 section sections 92.2 and 92.3, before the hour of seven
28 o'clock a.m. or after seven o'clock p.m., except during the
29 period from June 1 through Labor Day when the hours may be
30 extended to nine o'clock p.m. If such person is employed for
31 a period of five hours or more each day, an intermission of
32 not less than thirty minutes shall be given. ~~No-such~~ Such a
33 person shall not be employed for more than eight hours in one
34 day, exclusive of intermission, ~~nor~~ and shall ~~such-person~~ not
35 be employed for more than forty hours in one week. The hours

1 of work of persons under sixteen years of age employed outside
2 school hours shall not exceed four in one day or twenty-eight
3 in one week while school is in session.

4 Sec. 6. Section 92.10, unnumbered paragraph 1, Code 1991,
5 is amended to read as follows:

6 No Except as provided in section 92.2, a person under
7 sixteen years of age shall not be employed or permitted to
8 work with or without compensation unless the person, firm, or
9 corporation employing such persons person receives and keeps
10 on file accessible to any officer charged with the enforcement
11 of this chapter, a work permit issued as hereinafter provided
12 in this chapter, and keeps a complete list of the names and
13 ages of all such persons under sixteen years of age employed.

14 EXPLANATION

15 Section 1 of the bill increases the maximum occupational
16 safety and health Act (OSHA) penalties for serious and willful
17 violations and imposes a minimum penalty for willful
18 violations.

19 Section 2 limits the liability of the labor commissioner
20 when special boiler inspectors fail to inform the commissioner
21 of violations.

22 Section 3 allows out-of-state contractors to purchase a
23 blanket bond for all projects in Iowa. Currently, out-of-
24 state contractors are required to post a bond for each Iowa
25 contract.

26 Section 4 reorganizes child labor law concerning persons
27 over 10 and under 16 years of age. This section also
28 eliminates the distinction regarding employment of such
29 persons in street occupations between cities with a population
30 of less than 10,000 and cities with a population of more than
31 10,000. The section also eliminates the requirement that work
32 permits be printed on different color paper each year.

33 Sections 5 and 6 are corresponding amendments to section 4
34 of the bill.

35

SENATE FILE 503

S-3229

1 Amend Senate File 503 as follows:
2 1. Page 1, by inserting after line 31 the
3 following:
4 "Sec. ____ . Section 91.4, Code 1991, is amended by
5 adding the following new subsection:
6 NEW SUBSECTION. 6. The commissioner, with the
7 assistance of the office of the attorney general if
8 requested by the commissioner, may commence a civil
9 action in any court of competent jurisdiction to
10 enforce the statutes under the commissioner's
11 jurisdiction."
12 2. Page 3, by inserting after line 34 the
13 following:
14 "6. The bond required by this section may be
15 attached by the commissioner for collection of fees
16 and penalties due to the division."
By RICHARD RUNNING

S-3229 FILED MARCH 28, 1991
ADOPTED (p. 942)

SENATE FILE 503

S-3242

1 Amend Senate File 503 as follows:
2 1. Page 3, by inserting after line 34, the
3 following:
4 "Sec. ____ . Section 91D.1, subsection 1, paragraph
5 c, Code 1991, is amended to read as follows:
6 c. For purposes of determining whether an employee
7 of a restaurant, hotel, motel, inn, or cabin, who
8 customarily and regularly receives more than thirty
9 dollars a month in tips is receiving the minimum
10 hourly wage rate prescribed by this section, the
11 amount paid the employee by the employer shall be
12 deemed to be increased on account of the tips by an
13 amount determined by the employer, not to exceed forty
14 fifty percent of the applicable minimum wage. An
15 employee may file a written appeal with the labor
16 commissioner if the amount of tips received by the
17 employee is less than the amount determined by the
18 employer under this subsection."
19 2. By renumbering as necessary.
By JIM LIND

S-3242 FILED APRIL 1, 1991
Revised 4/2 (p. 977)

SENATE FILE 503

S-3180

1. Amend Senate File 503 as follows:
 1. Page 3, by inserting after line 34, the following:

"Sec. ____ . Section 91D.1, subsection 1, paragraph a, Code 1991, is amended to read as follows:
 - a. The hourly wage stated in the federal minimum wage law, pursuant to 29 U.S.C. § 206, shall be increased to \$3.85 on January 1 of 1990, \$4.25 on January 1 of 1991, and \$4.65 on January 1 of 1992."
 2. Page 3, by inserting before line 35, the following:

"Sec. ____ . Section 91D.1, subsection 2, Code 1991, is amended to read as follows:
 2. The exemptions from the minimum wage requirements stated in 29 U.S.C. § 213 shall apply, except that the exemption in 29 U.S.C. § 213(a)(2) shall only apply to an enterprise which is comprised of one or more retail or service establishments whose annual gross volume of sales made or business done is less than sixty percent of the amount stated in 29 U.S.C. § 203(a)(2), exclusive of excise taxes at the retail level that are separately stated."
 3. Title page, by striking lines 1 through 5, and inserting the following: "An Act relating to this state's labor laws administered by the labor commissioner."
 4. By renumbering as necessary.

By RAY TAYLOR

S-3180 FILED MARCH 26, 1991

o/o 3/28

SENATE FILE 503

S-3193

1. Amend the Taylor amendment, S-3180, to Senate File 503 as follows:
 1. Page 1, by inserting after line 9, the following:

"Sec. ____ . Section 91D.1, subsection 1, paragraph c, Code 1991, is amended to read as follows:
 - c. For purposes of determining whether an employee of a restaurant, hotel, motel, inn, or cabin, who customarily and regularly receives more than thirty dollars a month in tips is receiving the minimum hourly wage rate prescribed by this section, the amount paid the employee by the employer shall be deemed to be increased on account of the tips by an amount determined by the employer, not to exceed fifty percent of the applicable minimum wage. An employee may file a written appeal with the labor commissioner if the amount of tips received by the employee is less than the amount determined by the employer under this subsection."
 2. By renumbering as necessary.

By JIM LIND

S-3193 FILED MARCH 26, 1991

Adopted 3/20 (p 942)

1 Section 1. Section 88.14, subsections 1 and 2, Code 1991,
2 are amended to read as follows:

3 1. WILLFUL VIOLATIONS. Any employer who willfully or
4 repeatedly violates the requirements of section 88.4, any
5 standard, rule, or order promulgated adopted or issued
6 pursuant to section 88.5, or regulations prescribed pursuant
7 to this chapter, may be assessed a civil penalty of not less
8 than five thousand dollars and not more than ten seventy
9 thousand dollars for each violation.

10 2. SERIOUS VIOLATIONS. Any employer who has received a
11 citation for a serious violation of the requirements of
12 section 88.4, of any standard, rule, or order promulgated
13 adopted or issued pursuant to section 88.5, or of any
14 regulations prescribed pursuant to this chapter, shall be
15 assessed a civil penalty of up to one seven thousand dollars
16 for each such violation.

17 Sec. 2. Section 89.7, subsection 4, Code 1991, is amended
18 to read as follows:

19 4. The special inspector shall notify the user and the
20 commissioner of any equipment or appurtenance found to be
21 unsafe or unfit for operation in writing, setting forth the
22 nature and extent of such defects and condition. The
23 commissioner shall indicate to the user whether or not the
24 equipment may be used without making repair or replacement of
25 defective parts, or whether or how the equipment may be used
26 in a limited capacity before repairs or replacements are made,
27 and the commissioner may permit the user a reasonable time to
28 make such repairs or replacements. The failure of a special
29 inspector to inform the commissioner of violations shall not
30 subject the commissioner to liability for any damages
31 incurred.

32 Sec. 3. Section 91.4, Code 1991, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 6. The commissioner, with the assistance
35 of the office of the attorney general if requested by the

35713
36867

1 commissioner, may commence a civil action in any court of
2 competent jurisdiction to enforce the statutes under the
3 commissioner's jurisdiction.

4 Sec. 4. Section 91C.7, Code 1991, is amended to read as
5 follows:

6 91C.7 CONTRACTS -- CONTRACTOR'S BOND.

7 1. A contractor who is not registered with the labor
8 commissioner as required by this chapter shall not be awarded
9 a contract to perform work for the state or an agency of the
10 state.

11 2. An out-of-state contractor, before commencing a
12 contract in excess of five thousand dollars in value in Iowa,
13 shall file a bond with the division of labor services of the
14 department of employment services. The surety bond shall be
15 executed by a surety company authorized to do business in this
16 state, and the bond shall be continuous in nature until
17 canceled by the surety with not less than thirty days' written
18 notice to the contractor and to the division of labor services
19 of the department of employment services indicating the
20 surety's desire to cancel the bond. The surety company shall
21 not be liable under the bond for any contract commenced after
22 the cancellation of the bond. The bond shall be in the sum of
23 the greater of the following:

- 24 a. One thousand dollars.
- 25 b. Five percent of the contract price.

26 An out-of-state contractor may file a blanket bond in an
27 amount at least equal to fifty thousand dollars for the regis-
28 tration period established under section 91C.4 in lieu of
29 filing an individual bond for each contract. The division of
30 labor services of the department of employment services may
31 increase the bond amount after a hearing.

32 3. Release of the bond shall be conditioned upon the
33 payment of all taxes, including contributions due under the
34 unemployment compensation insurance system, penalties,
35 interest, and related fees, which may accrue to the state of

1 Iowa ~~or-its-subdivisions-on-account-of-the-execution-and~~
2 ~~performance-of-the-contract.~~ If at any time during the term
3 of the bond, the department of revenue and finance or the
4 department of employment services determines that the amount
5 of the bond is not sufficient to cover the tax liabilities
6 accruing to the state of Iowa ~~or-its-subdivisions,~~ the
7 department labor commissioner shall require the bond to be
8 increased by an amount the department labor commissioner deems
9 sufficient to cover the tax liabilities accrued and ~~to-accrue~~
10 ~~under-the-contract~~ accruing.

11 4. The department of revenue and finance and the division
12 of job service of the department of employment services shall
13 adopt rules for the collection of the forfeiture. Notice
14 shall be provided to the surety and to the contractor. Notice
15 to the contractor shall be mailed to the contractor's last
16 known address and to the contractor's registered agent for
17 service of process, if any, within the state. The contractor
18 or surety shall have the opportunity to apply to the director
19 of revenue and finance for a hearing within thirty days after
20 the giving of such notice. Upon the failure to timely request
21 a hearing, the bond shall be forfeited. If, after the hearing
22 upon timely request, the department of revenue and finance or
23 the division of job service of the department of employment
24 services finds that the contractor has failed to pay the total
25 of all taxes payable, the department of revenue and finance or
26 the department of employment services shall order the bond
27 forfeited. The amount of the forfeiture shall be the amount
28 of taxes payable or the amount of the bond, whichever is less.
29 For purposes of this section "taxes payable" means all tax,
30 penalties, interest, and fees that the department of revenue
31 and finance has previously determined to be due to the state
32 ~~or-a-subdivision-of-the-state~~ by assessment or in an appeal of
33 an assessment, including contributions to the unemployment
34 compensation insurance system.

35 5. If it is determined that this subsection section may

1 cause denial of federal funds which would otherwise be
2 available, or would otherwise be inconsistent with
3 requirements of federal law, this subsection shall be
4 suspended, but only to the extent necessary to prevent denial
5 of the funds or to eliminate the inconsistency with federal
6 requirements.

7 6. The bond required by this section may be attached by
8 the commissioner for collection of fees and penalties due to
9 the division.

10 Sec. 5. Section 92.2, Code 1991, is amended by striking
11 the section and inserting in lieu thereof the following:

12 92.2 OVER TEN AND UNDER SIXTEEN YEARS OF AGE.

13 A person over ten and under sixteen years of age cannot be
14 employed, with or without compensation, in street occupations
15 or migratory labor as defined in section 92.1, unless the
16 person holds a work permit issued pursuant to this chapter and
17 the school the person attends has certified that the person is
18 regularly attending school and the potential employment will
19 not interfere with the person's progress in school.

20 1. Notwithstanding section 92.7, a person with a permit to
21 engage in migratory labor shall only work between five a.m.
22 and seven-thirty p.m. from Labor Day through June 1, and
23 between five a.m. and nine p.m. for the remainder of the year.

24 2. Notwithstanding section 92.7, a person with a permit to
25 engage in street occupations shall only work between four a.m.
26 and seven-thirty p.m. when local public schools are in session
27 and between four a.m. and eight-thirty p.m. for the remainder
28 of the year.

29 The requirements of section 92.10 shall not apply to a
30 person, firm, or corporation employing a person engaged in
31 street occupations pursuant to this section.

32 Sec. 6. Section 92.7, Code 1991, is amended to read as
33 follows:

34 92.7 UNDER SIXTEEN -- HOURS PERMITTED.

35 No A person under sixteen years of age shall not be

1 employed with or without compensation, except as provided in
2 section sections 92.2 and 92.3, before the hour of seven
3 o'clock a.m. or after seven o'clock p.m., except during the
4 period from June 1 through Labor Day when the hours may be
5 extended to nine o'clock p.m. If such person is employed for
6 a period of five hours or more each day, an intermission of
7 not less than thirty minutes shall be given. ~~No-such~~ Such a
8 person shall not be employed for more than eight hours in one
9 day, exclusive of intermission, ~~nor and shall such-person not~~
10 be employed for more than forty hours in one week. The hours
11 of work of persons under sixteen years of age employed outside
12 school hours shall not exceed four in one day or twenty-eight
13 in one week while school is in session.

14 Sec. 7. Section 92.10, unnumbered paragraph 1, Code 1991,
15 is amended to read as follows:

16 ~~No~~ Except as provided in section 92.2, a person under
17 sixteen years of age shall not be employed or permitted to
18 work with or without compensation unless the person, firm, or
19 corporation employing such ~~persons~~ person receives and keeps
20 on file accessible to any officer charged with the enforcement
21 of this chapter, a work permit issued as ~~hereinafter~~ provided
22 in this chapter, and keeps a complete list of the names and
23 ages of all such persons under sixteen years of age employed.

24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 503

H-3571

1 Amend Senate File 503, as amended, passed, and
2 reprinted by the Senate, as follows:

A 3 1. Page 2, line 3, by inserting after the word
4 "jurisdiction" the following: "which relate to the
5 payment of fees or penalties".

B 6 2. Page 4, line 19, by inserting after the word
7 "school." the following: "A written agreement, as
8 defined in section 92.11, subsection 1, shall not be
9 required for the issuance of a work permit under this
10 section."

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

H-3571 FILED APRIL 10, 1991

B-Adopted, A-Loat 4/18/91 (p. 1364)

SENATE FILE 503

H-3686

1 Amend Senate File 503, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 3, the
4 following:

5 "Sec. ____ . Section 91C.1, subsection 1, Code 1991,
6 is amended to read as follows:

7 1. As used in this chapter, unless the context
8 otherwise requires, "contractor" means a person who
9 engages in the business of construction, as the term
10 "construction" is defined in section 345-3.82 (96),
11 Iowa Administrative Code, for purposes of the Iowa
12 employment security law. However, a person who earns
13 less than one thousand dollars annually or who
14 performs work or has work performed on the person's
15 own property is not a contractor for purposes of this
16 chapter. The state, its boards, commissions,
17 agencies, departments, and its political subdivisions
18 including school districts and other special purpose
19 districts, are not contractors for purposes of this
20 chapter."

21 2. Title page, line 4, by inserting after the
22 word "laws," the following: "the definition of a
23 contractor,".

24 3. By renumbering as necessary.

By WISSING of Scott

H-3686 FILED APRIL 17, 1991

Adopted 4/18/91 (p. 1365)

HOUSE AMENDMENT TO
SENATE FILE 503

S-3521

1 Amend Senate File 503, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 3, the
4 following:

5 "Sec. ____ . Section 91C.1, subsection 1, Code 1991,
6 is amended to read as follows:

7 1. As used in this chapter, unless the context
8 otherwise requires, "contractor" means a person who
9 engages in the business of construction, as the term
10 "construction" is defined in section 345-3.82 (96),
11 Iowa Administrative Code, for purposes of the Iowa
12 employment security law. However, a person who earns
13 less than one thousand dollars annually or who
14 performs work or has work performed on the person's
15 own property is not a contractor for purposes of this
16 chapter. The state, its boards, commissions,
17 agencies, departments, and its political subdivisions
18 including school districts and other special purpose
19 districts, are not contractors for purposes of this
20 chapter."

21 2. Page 4, line 19, by inserting after the word
22 "school." the following: "A written agreement, as
23 defined in section 92.11, subsection 1, shall not be
24 required for the issuance of a work permit under this
25 section."

26 3. Title page, line 4, by inserting after the
27 word "laws," the following: "the definition of a
28 contractor,".

29 4. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3521 FILED APRIL 22, 1991

Senate concurred 4/23/91 (p. 1414)

Running, Ch.
Fuhrman
Palmer

SSB 343
Business & Labor Relations

SENATE FILE 503
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CHAIRPERSON RUNNING)

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

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 concerning occupational safety and health penalties, boiler
4 inspections, child labor laws, and out-of-state contractor
5 bonding requirements.

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

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

1 Section 1. Section 88.14, subsections 1 and 2, Code 1991,
2 are amended to read as follows:

3 1. WILLFUL VIOLATIONS. Any employer who willfully or
4 repeatedly violates the requirements of section 88.4, any
5 standard, rule, or order promulgated adopted or issued
6 pursuant to section 88.5, or regulations prescribed pursuant
7 to this chapter, may be assessed a civil penalty of not less
8 than five thousand dollars and not more than ten seventy
9 thousand dollars for each violation.

10 2. SERIOUS VIOLATIONS. Any employer who has received a
11 citation for a serious violation of the requirements of
12 section 88.4, of any standard, rule, or order promulgated
13 adopted or issued pursuant to section 88.5, or of any
14 regulations prescribed pursuant to this chapter, shall be
15 assessed a civil penalty of up to one seven thousand dollars
16 for each such violation.

17 Sec. 2. Section 89.7, subsection 4, Code 1991, is amended
18 to read as follows:

19 4. The special inspector shall notify the user and the
20 commissioner of any equipment or appurtenance found to be
21 unsafe or unfit for operation in writing, setting forth the
22 nature and extent of such defects and condition. The
23 commissioner shall indicate to the user whether or not the
24 equipment may be used without making repair or replacement of
25 defective parts, or whether or how the equipment may be used
26 in a limited capacity before repairs or replacements are made,
27 and the commissioner may permit the user a reasonable time to
28 make such repairs or replacements. The failure of a special
29 inspector to inform the commissioner of violations shall not
30 subject the commissioner to liability for any damages
31 incurred.

32 Sec. 3. Section 91C.7, Code 1991, is amended to read as
33 follows:

34 91C.7 CONTRACTS -- CONTRACTOR'S BOND.

35 1. A contractor who is not registered with the labor

1 commissioner as required by this chapter shall not be awarded
2 a contract to perform work for the state or an agency of the
3 state.

4 2. An out-of-state contractor, before commencing a
5 contract in excess of five thousand dollars in value in Iowa,
6 shall file a bond with the division of labor services of the
7 department of employment services. The surety bond shall be
8 executed by a surety company authorized to do business in this
9 state, and the bond shall be continuous in nature until
10 canceled by the surety with not less than thirty days' written
11 notice to the contractor and to the division of labor services
12 of the department of employment services indicating the
13 surety's desire to cancel the bond. The surety company shall
14 not be liable under the bond for any contract commenced after
15 the cancellation of the bond. The bond shall be in the sum of
16 the greater of the following:

- 17 a. One thousand dollars.
18 b. Five percent of the contract price.

19 An out-of-state contractor may file a blanket bond in an
20 amount at least equal to fifty thousand dollars for the regis-
21 tration period established under section 91C.4 in lieu of
22 filing an individual bond for each contract. The division of
23 labor services of the department of employment services may
24 increase the bond amount after a hearing.

25 3. Release of the bond shall be conditioned upon the
26 payment of all taxes, including contributions due under the
27 unemployment compensation insurance system, penalties,
28 interest, and related fees, which may accrue to the state of
29 Iowa ~~or-its-subdivisions-on-account-of-the-execution-and~~
30 ~~performance-of-the-contract.~~ If at any time during the term
31 of the bond, the department of revenue and finance or the
32 department of employment services determines that the amount
33 of the bond is not sufficient to cover the tax liabilities
34 accruing to the state of Iowa ~~or-its-subdivisions,~~ the
35 department labor commissioner shall require the bond to be

1 increased by an amount the department labor commissioner deems
2 sufficient to cover the tax liabilities accrued and ~~to-accrue~~
3 ~~under-the-contract~~ accruing.

4 4. The department of revenue and finance and the division
5 of job service of the department of employment services shall
6 adopt rules for the collection of the forfeiture. Notice
7 shall be provided to the surety and to the contractor. Notice
8 to the contractor shall be mailed to the contractor's last
9 known address and to the contractor's registered agent for
10 service of process, if any, within the state. The contractor
11 or surety shall have the opportunity to apply to the director
12 of revenue and finance for a hearing within thirty days after
13 the giving of such notice. Upon the failure to timely request
14 a hearing, the bond shall be forfeited. If, after the hearing
15 upon timely request, the department of revenue and finance or
16 the division of job service of the department of employment
17 services finds that the contractor has failed to pay the total
18 of all taxes payable, the department of revenue and finance or
19 the department of employment services shall order the bond
20 forfeited. The amount of the forfeiture shall be the amount
21 of taxes payable or the amount of the bond, whichever is less.
22 For purposes of this section "taxes payable" means all tax,
23 penalties, interest, and fees that the department of revenue
24 and finance has previously determined to be due to the state
25 ~~or-a-subdivision-of-the-state~~ by assessment or in an appeal of
26 an assessment, including contributions to the unemployment
27 compensation insurance system.

28 5. If it is determined that this subsection section may
29 cause denial of federal funds which would otherwise be
30 available, or would otherwise be inconsistent with
31 requirements of federal law, this subsection shall be
32 suspended, but only to the extent necessary to prevent denial
33 of the funds or to eliminate the inconsistency with federal
34 requirements.

35 Sec. 4. Section 92.2, Code 1991, is amended by striking

1 the section and inserting in lieu thereof the following:

2 92.2 OVER TEN AND UNDER SIXTEEN YEARS OF AGE.

3 A person over ten and under sixteen years of age cannot be
4 employed, with or without compensation, in street occupations
5 or migratory labor as defined in section 92.1, unless the
6 person holds a work permit issued pursuant to this chapter and
7 the school the person attends has certified that the person is
8 regularly attending school and the potential employment will
9 not interfere with the person's progress in school.

10 1. Notwithstanding section 92.7, a person with a permit to
11 engage in migratory labor shall only work between five a.m.
12 and seven-thirty p.m. from Labor Day through June 1, and
13 between five a.m. and nine p.m. for the remainder of the year.

14 2. Notwithstanding section 92.7, a person with a permit to
15 engage in street occupations shall only work between four a.m.
16 and seven-thirty p.m. when local public schools are in session
17 and between four a.m. and eight-thirty p.m. for the remainder
18 of the year.

19 The requirements of section 92.10 shall not apply to a
20 person, firm, or corporation employing a person engaged in
21 street occupations pursuant to this section.

22 Sec. 5. Section 92.7, Code 1991, is amended to read as
23 follows:

24 92.7 UNDER SIXTEEN -- HOURS PERMITTED.

25 No A person under sixteen years of age shall not be
26 employed with or without compensation, except as provided in
27 section sections 92.2 and 92.3, before the hour of seven
28 o'clock a.m. or after seven o'clock p.m., except during the
29 period from June 1 through Labor Day when the hours may be
30 extended to nine o'clock p.m. If such person is employed for
31 a period of five hours or more each day, an intermission of
32 not less than thirty minutes shall be given. ~~No-such~~ Such a
33 person shall not be employed for more than eight hours in one
34 day, exclusive of intermission, ~~nor~~ and shall such-person not
35 be employed for more than forty hours in one week. The hours

1 of work of persons under sixteen years of age employed outside
2 school hours shall not exceed four in one day or twenty-eight
3 in one week while school is in session.

4 Sec. 6. Section 92.10, unnumbered paragraph 1, Code 1991,
5 is amended to read as follows:

6 No Except as provided in section 92.2, a person under
7 sixteen years of age shall not be employed or permitted to
8 work with or without compensation unless the person, firm, or
9 corporation employing such persons person receives and keeps
10 on file accessible to any officer charged with the enforcement
11 of this chapter, a work permit issued as hereinafter provided
12 in this chapter, and keeps a complete list of the names and
13 ages of all such persons under sixteen years of age employed.

14 EXPLANATION

15 Section 1 of the bill increases the maximum occupational
16 safety and health Act (OSHA) penalties for serious and willful
17 violations and imposes a minimum penalty for willful
18 violations.

19 Section 2 limits the liability of the labor commissioner
20 when special boiler inspectors fail to inform the commissioner
21 of violations.

22 Section 3 allows out-of-state contractors to purchase a
23 blanket bond for all projects in Iowa. Currently, out-of-
24 state contractors are required to post a bond for each Iowa
25 contract.

26 Section 4 reorganizes child labor law concerning persons
27 over 10 and under 16 years of age. This section also
28 eliminates the distinction regarding employment of such
29 persons in street occupations between cities with a population
30 of less than 10,000 and cities with a population of more than
31 10,000. The section also eliminates the requirement that work
32 permits be printed on different color paper each year.

33 Sections 5 and 6 are corresponding amendments to section 4
34 of the bill.

35

SENATE FILE 503

AN ACT

RELATING TO THIS STATE'S LABOR LAWS ADMINISTERED BY THE LABOR COMMISSIONER BY AMENDING PROVISIONS OF THE CODE CONCERNING OCCUPATIONAL SAFETY AND HEALTH PENALTIES, BOILER INSPECTIONS, CHILD LABOR LAWS, THE DEFINITION OF A CONTRACTOR, AND OUT-OF-STATE CONTRACTOR BONDING REQUIREMENTS.

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

Section 1. Section 88.14, subsections 1 and 2, Code 1991, are amended to read as follows:

1. WILLFUL VIOLATIONS. Any employer who willfully or repeatedly violates the requirements of section 88.4, any standard, rule, or order promulgated adopted or issued pursuant to section 88.5, or regulations prescribed pursuant to this chapter, may be assessed a civil penalty of not less than five thousand dollars and not more than ten seventy thousand dollars for each violation.

2. SERIOUS VIOLATIONS. Any employer who has received a citation for a serious violation of the requirements of section 88.4, of any standard, rule, or order promulgated adopted or issued pursuant to section 88.5, or of any regulations prescribed pursuant to this chapter, shall be assessed a civil penalty of up to one seven thousand dollars for each such violation.

Sec. 2. Section 89.7, subsection 4, Code 1991, is amended to read as follows:

4. The special inspector shall notify the user and the commissioner of any equipment or appurtenance found to be unsafe or unfit for operation in writing, setting forth the nature and extent of such defects and condition. The commissioner shall indicate to the user whether or not the equipment may be used without making repair or replacement of

defective parts, or whether or how the equipment may be used in a limited capacity before repairs or replacements are made, and the commissioner may permit the user a reasonable time to make such repairs or replacements. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 3. Section 91.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The commissioner, with the assistance of the office of the attorney general if requested by the commissioner, may commence a civil action in any court of competent jurisdiction to enforce the statutes under the commissioner's jurisdiction.

Sec. 4. Section 91C.1, subsection 1, Code 1991, is amended to read as follows:

1. As used in this chapter, unless the context otherwise requires, "contractor" means a person who engages in the business of construction, as the term "construction" is defined in section 345-3.02 (96), Iowa Administrative Code, for purposes of the Iowa employment security law. However, a person who earns less than one thousand dollars annually or who performs work or has work performed on the person's own property is not a contractor for purposes of this chapter. The state, its boards, commissions, agencies, departments, and its political subdivisions including school districts and other special purpose districts, are not contractors for purposes of this chapter.

Sec. 5. Section 91C.7, Code 1991, is amended to read as follows:

91C.7 CONTRACTS -- CONTRACTOR'S BOND.

1. A contractor who is not registered with the labor commissioner as required by this chapter shall not be awarded a contract to perform work for the state or an agency of the state.

2. An out-of-state contractor, before commencing a contract in excess of five thousand dollars in value in Iowa,

shall file a bond with the division of labor services of the department of employment services. The surety bond shall be executed by a surety company authorized to do business in this state, and the bond shall be continuous in nature until canceled by the surety with not less than thirty days' written notice to the contractor and to the division of labor services of the department of employment services indicating the surety's desire to cancel the bond. The surety company shall not be liable under the bond for any contract commenced after the cancellation of the bond. The bond shall be in the sum of the greater of the following:

- a. One thousand dollars.
- b. Five percent of the contract price.

An out-of-state contractor may file a blanket bond in an amount at least equal to fifty thousand dollars for the registration period established under section 91C.4 in lieu of filing an individual bond for each contract. The division of labor services of the department of employment services may increase the bond amount after a hearing.

3. Release of the bond shall be conditioned upon the payment of all taxes, including contributions due under the unemployment compensation insurance system, penalties, interest, and related fees, which may accrue to the state of Iowa ~~or its subdivisions on account of the execution and performance of the contract.~~ If at any time during the term of the bond, the department of revenue and finance ~~or the~~ department of employment services determines that the amount of the bond is not sufficient to cover the tax liabilities accruing to the state of Iowa ~~or its subdivisions~~, the department labor commissioner shall require the bond to be increased by an amount the department labor commissioner deems sufficient to cover the tax liabilities accrued and ~~to accrue~~ under the contract accruing.

4. The department of revenue and finance and the division of job service of the department of employment services shall adopt rules for the collection of the forfeiture. Notice shall be provided to the surety and to the contractor. Notice

to the contractor shall be mailed to the contractor's last known address and to the contractor's registered agent for service of process, if any, within the state. The contractor or surety shall have the opportunity to apply to the director of revenue and finance for a hearing within thirty days after the giving of such notice. Upon the failure to timely request a hearing, the bond shall be forfeited. If, after the hearing upon timely request, the department of revenue and finance ~~or the division of job service of the department of employment services~~ finds that the contractor has failed to pay the total of all taxes payable, the department of revenue and finance or the department of employment services shall order the bond forfeited. The amount of the forfeiture shall be the amount of taxes payable or the amount of the bond, whichever is less. For purposes of this section "taxes payable" means all tax, penalties, interest, and fees that the department of revenue and finance has previously determined to be due to the state ~~or a subdivision of the state~~ by assessment or in an appeal of an assessment, including contributions to the unemployment compensation insurance system.

5. If it is determined that this ~~subsection~~ section may cause denial of federal funds which would otherwise be available, or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the funds or to eliminate the inconsistency with federal requirements.

6. The bond required by this section may be attached by the commissioner for collection of fees and penalties due to the division.

Sec. 6. Section 92.2, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

92.2 OVER TEN AND UNDER SIXTEEN YEARS OF AGE.

A person over ten and under sixteen years of age cannot be employed, with or without compensation, in street occupations or migratory labor as defined in section 92.1, unless the person holds a work permit issued pursuant to this chapter and

the school the person attends has certified that the person is regularly attending school and the potential employment will not interfere with the person's progress in school. A written agreement, as defined in section 92.11, subsection 1, shall not be required for the issuance of a work permit under this section.

1. Notwithstanding section 92.7, a person with a permit to engage in migratory labor shall only work between five a.m. and seven-thirty p.m. from Labor Day through June 1, and between five a.m. and nine p.m. for the remainder of the year.

2. Notwithstanding section 92.7, a person with a permit to engage in street occupations shall only work between four a.m. and seven-thirty p.m. when local public schools are in session and between four a.m. and eight-thirty p.m. for the remainder of the year.

The requirements of section 92.10 shall not apply to a person, firm, or corporation employing a person engaged in street occupations pursuant to this section.

Sec. 7. Section 92.7, Code 1991, is amended to read as follows:

92.7 UNDER SIXTEEN -- HOURS PERMITTED.

No A person under sixteen years of age shall not be employed with or without compensation, except as provided in section sections 92.2 and 92.3, before the hour of seven o'clock a.m. or after seven o'clock p.m., except during the period from June 1 through Labor Day when the hours may be extended to nine o'clock p.m. If such person is employed for a period of five hours or more each day, an intermission of not less than thirty minutes shall be given. ~~No such~~ Such a person shall not be employed for more than eight hours in one day, exclusive of intermission, ~~nor and shall such person not~~ be employed for more than forty hours in one week. The hours of work of persons under sixteen years of age employed outside school hours shall not exceed four in one day or twenty-eight in one week while school is in session.

Sec. 8. Section 92.10, unnumbered paragraph 1, Code 1991, is amended to read as follows:

No Except as provided in section 92.2, a person under sixteen years of age shall not be employed or permitted to work with or without compensation unless the person, firm, or corporation employing such persons person receives and keeps on file accessible to any officer charged with the enforcement of this chapter, a work permit issued as hereinafter provided in this chapter, and keeps a complete list of the names and ages of all such persons under sixteen years of age employed.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 503, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 8, 1991

TERRY E. BRANSTAD
Governor