

REPRINTED

SENATE FILE 501
BY COMMITTEE ON SMALL BUSINESS,
ECONOMIC DEVELOPMENT AND
TOURISM

(SUCCESSOR TO SSB 72)

Passed Senate, Date ^(p. 885) 4-1-97 Passed House, Date 4-10-97 ^(p. 1154)
Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0
Approved April 18, 1997

A BILL FOR

1 An Act relating to the department of workforce development and
2 the enforcement of employment laws concerning emergency and
3 hazardous materials inventories, construction contractors,
4 amusement rides, asbestos and employment agency licenses, wage
5 assignments, and boxing and wrestling.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7

SENATE FILE 501

S-3293

- 1 Amend Senate File 501 as follows:
- 2 1. Page 1, by striking lines 25 through 34.
- 3 2. Title page, line 3, by striking the words
- 4 "construction contractors,".
- 5 3. By renumbering as necessary.

By MARY LUNDBY

S-3293 FILED MARCH 31, 1997

Adopted 4-1-97
(p. 884)

S.F. 501

16
17
18
19
20
21

REPRINTED

1 Section 1. Section 30.7, subsection 5, Code 1997, is
2 amended to read as follows:

3 5. The department of workforce development shall compile
4 data or information from the emergency and hazardous chemical
5 inventory forms required to be submitted to the commission
6 under section 312 of the Emergency Planning and Community
7 Right-to-know Act, 42 U.S.C. § 11022~~7-by-county7-and-shall~~
8 ~~make-the-compiled-reports-available7-annually7-to-each-county~~
9 ~~in-the-state-by-providing-the-report-to-at-least-one-public~~
10 ~~library-in-the-named-county.~~

11 Sec. 2. Section 88A.11, subsection 3, Code 1997, is
12 amended to read as follows:

13 3. The commissioner may exempt amusement devices from the
14 provisions of this chapter that have self-contained wiring
15 installed by the manufacturer, that are operated manually by
16 the use of hands or feet, that operate on less than one
17 hundred twenty volts of electrical power, and that are
18 fixtures or appliances within or part of a structure subject
19 to the building code of this state or any political
20 subdivision of this state.

21 Sec. 3. Section 88B.6, subsection 2, paragraph a,
22 subparagraph (3), Code 1997, is amended to read as follows:

23 (3) An asbestos management planner for a school ~~or-a~~
24 ~~public-or-commercial~~ building.

25 Sec. 4. Section 91C.8, subsection 9, Code 1997, is amended
26 by adding the following new unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. Notwithstanding chapter 17A, the
28 Iowa administrative procedure Act, the commissioner may obtain
29 judicial review or enforcement of any final order or decision
30 of the appeal board by filing a petition in the district court
31 of the county in which the alleged violation occurred or in
32 which the employer has its principal office. The judicial
33 review provisions of chapter 17A shall govern such proceedings
34 to the extent applicable.

35 Sec. 5. Section 95.2, unnumbered paragraph 1, Code 1997,

1 is amended to read as follows:

2 Application for a license shall be made in writing to the
3 labor commissioner. The application must contain the name of
4 the applicant, and if the applicant is a firm, the names of
5 the members, and if it is a corporation, the names of the
6 officers; and the name, number, and address of the building
7 and place where the employment agency is to be conducted. The
8 application must be accompanied by ~~the affidavits of at least~~
9 ~~two reputable citizens of the state in no way connected with~~
10 ~~the applicant, certifying to the good moral character and~~
11 ~~reliability of the applicant, or, if a firm or corporation, of~~
12 ~~each of the members or officers, and that the applicant is a~~
13 ~~citizen of the United States, if a natural person, also a~~
14 surety company bond in the sum of twenty thousand dollars when
15 an employee is required to contribute to the payment of fees,
16 to be approved by the labor commissioner and conditioned to
17 pay any damages that may accrue to any person because of a
18 wrongful act, or violation of law, on the part of the
19 applicant in the conduct of the business. The application
20 must be accompanied by a schedule of fees to be charged for
21 services rendered to patrons, which schedule shall not be
22 changed during the term of license without consent being first
23 given by the labor commissioner.

24 Sec. 6. Sections 90A.3 and 91A.13, Code 1997, are
25 repealed.

26 EXPLANATION

27 The bill eliminates the requirement that the department of
28 workforce development compile data included in emergency and
29 hazardous chemical inventories by county and to provide the
30 compiled reports to at least one public library in each
31 county. The bill does not eliminate the duty to compile the
32 data.

33 The bill allows the labor commissioner to exempt an
34 amusement device that is an appliance and not a fixture from
35 the provisions of chapter 88A concerning the safety inspection

1 of amusement rides.

2 The bill eliminates the requirement that an asbestos
3 management planner of public and commercial buildings be
4 licensed.

5 The bill permits the labor commissioner to appeal any order
6 from the employment appeal board concerning construction
7 contractors.

8 The bill eliminates the requirement that employment
9 agencies produce affidavits certifying the good moral
10 character of the officers of the employment agency prior to
11 obtaining a license in this state.

12 The bill also repeals the section requiring the state
13 commissioner of athletics to appoint a secretary. The bill
14 also repeals the section prohibiting the labor commissioner
15 from taking claims for wages based on an act committed prior
16 to July 1, 1975, the effective date of chapter 91A.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

H. 4/2/97 Labor + Ind. Rel.
H-423/97 Do Pass

SENATE FILE 501
BY COMMITTEE ON SMALL BUSINESS,
ECONOMIC DEVELOPMENT AND
TOURISM

(SUCCESSOR TO SSB 72)

(AS AMENDED AND PASSED BY THE SENATE APRIL 1, 1997)

* - Language Stricken by the Senate

Passed Senate, Date _____ Passed House, Date 4-10-97
Vote: Ayes _____ Nays _____ Vote: Ayes 95 Nays 0
Approved April 18, 1997

(P.1154)

A BILL FOR

1 An Act relating to the department of workforce development and
2 the enforcement of employment laws concerning emergency and
* 3 hazardous materials inventories, amusement rides, asbestos and
4 employment agency licenses, wage assignments, and boxing and
5 wrestling.

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

1 Section 1. Section 30.7, subsection 5, Code 1997, is
2 amended to read as follows:

3 5. The department of workforce development shall compile
4 data or information from the emergency and hazardous chemical
5 inventory forms required to be submitted to the commission
6 under section 312 of the Emergency Planning and Community
7 Right-to-know Act, 42 U.S.C. § 11022, ~~by county, and shall~~
8 ~~make the compiled reports available annually to each county~~
9 ~~in the state by providing the report to at least one public~~
10 ~~library in the named county.~~

11 Sec. 2. Section 88A.11, subsection 3, Code 1997, is
12 amended to read as follows:

13 3. The commissioner may exempt amusement devices from the
14 provisions of this chapter that have self-contained wiring
15 installed by the manufacturer, that are operated manually by
16 the use of hands or feet, that operate on less than one
17 hundred twenty volts of electrical power, and that are
18 fixtures or appliances within or part of a structure subject
19 to the building code of this state or any political
20 subdivision of this state.

21 Sec. 3. Section 88B.6, subsection 2, paragraph a,
22 subparagraph (3), Code 1997, is amended to read as follows:

23 (3) An asbestos management planner for a school ~~or a~~
24 ~~public or commercial~~ building.

* 25 Sec. 4. Section 95.2, unnumbered paragraph 1, Code 1997,
26 is amended to read as follows:

27 Application for a license shall be made in writing to the
28 labor commissioner. The application must contain the name of
29 the applicant, and if the applicant is a firm, the names of
30 the members, and if it is a corporation, the names of the
31 officers; and the name, number, and address of the building
32 and place where the employment agency is to be conducted. The
33 application must be accompanied by ~~the affidavits of at least~~
34 ~~two reputable citizens of the state in no way connected with~~
35 ~~the applicant, certifying to the good moral character and~~

1 ~~reliability-of-the-applicant, or, if a firm or corporation, of~~
2 ~~each-of-the-members-or-officers, and that the applicant is a~~
3 ~~citizen-of-the-United-States, if a natural person, also a~~
4 surety company bond in the sum of twenty thousand dollars when
5 an employee is required to contribute to the payment of fees,
6 to be approved by the labor commissioner and conditioned to
7 pay any damages that may accrue to any person because of a
8 wrongful act, or violation of law, on the part of the
9 applicant in the conduct of the business. The application
10 must be accompanied by a schedule of fees to be charged for
11 services rendered to patrons, which schedule shall not be
12 changed during the term of license without consent being first
13 given by the labor commissioner.

14 Sec. 5. Sections 90A.3 and 91A.13, Code 1997, are
15 repealed.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Lundby, Chair
Hansen
King

SS.B 72
Small Business, Economic
Development & Tourism
Succeeded By
SENATE/HOUSE FILE FILE 501
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

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

A BILL FOR

1 An Act relating to the department of workforce development and
2 the enforcement of employment laws concerning emergency and
3 hazardous materials inventories, occupational safety and
4 health, construction contractors, amusement rides, asbestos
5 and employment agency licenses, wage assignments, and boxing
6 and wrestling.

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

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Section 1. Section 30.7, subsection 5, Code 1997, is
2 amended to read as follows:

3 5. The department of workforce development shall compile
4 data or information from the emergency and hazardous chemical
5 inventory forms required to be submitted to the commission
6 under section 312 of the Emergency Planning and Community
7 Right-to-know Act, 42 U.S.C. § 11022~~7-by-county7-and-shall~~
8 ~~make-the-compiled-reports-available7-annually7-to-each-county~~
9 ~~in-the-state-by-providing-the-report-to-at-least-one-public~~
10 ~~library-in-the-named-county.~~

11 Sec. 2. Section 88.6, subsection 5, Code 1997, is amended
12 to read as follows:

13 5. SPECIAL INSPECTIONS. Any employees or authorized
14 employee representative who believes that a violation of a
15 safety or health standard exists that threatens physical harm,
16 or that an imminent danger exists, may request an inspection
17 by giving notice to the commissioner or the commissioner's
18 authorized representative of such violation or danger. Any
19 such notice shall be reduced to writing, shall set forth with
20 reasonable particularity the grounds for the notice, and shall
21 be signed by the employees or authorized employee
22 representative, and a copy shall be provided the employer or
23 the employer's agent no later than at the time of inspection,
24 except that upon the request of the person giving such notice
25 the person's name and the names of individual employees
26 referred to therein shall not appear in such copy or on any
27 record published, released, or made available ~~pursuant-to-this~~
28 ~~section.~~ If, upon receipt of such notification, the
29 commissioner determines that there are reasonable grounds to
30 believe that such violation or danger exists, the commissioner
31 shall make a special inspection in accordance with the
32 provisions of this section as soon as practicable, to
33 determine if such violation or danger exists. If the
34 commissioner determines that there is no reasonable grounds to
35 believe that a violation or danger exists, the commissioner

1 shall notify the employees or authorized employee
2 representative in writing of such determination.

3 Sec. 3. Section 88.6, subsection 7, Code 1997, is amended
4 to read as follows:

5 7. GENERAL. Any information obtained by the commissioner
6 under this chapter shall be obtained with a minimum burden
7 upon employers. An investigative report made under this
8 chapter shall be treated as a peace officers' investigative
9 report for purposes of chapter 22. Except for the purpose of
10 administration of this chapter, no information received by the
11 commissioner or the commissioner's representative ~~from an~~
12 ~~employer~~, in compliance with and pursuant to this chapter,
13 shall be admissible in any action brought by or for the
14 benefit of any person. Unnecessary duplication of efforts in
15 obtaining information shall be reduced to the maximum extent
16 feasible.

17 Sec. 4. Section 88A.11, subsection 3, Code 1997, is
18 amended to read as follows:

19 3. The commissioner may exempt amusement devices from the
20 provisions of this chapter that have self-contained wiring
21 installed by the manufacturer, that are operated manually by
22 the use of hands or feet, that operate on less than one
23 hundred twenty volts of electrical power, and that are
24 fixtures or appliances within or part of a structure subject
25 to the building code of this state or any political
26 subdivision of this state.

27 Sec. 5. Section 88B.6, subsection 2, paragraph a,
28 subparagraph (3), Code 1997, is amended to read as follows:

29 (3) An asbestos management planner for a school ~~or a~~
30 ~~public or commercial~~ building.

31 Sec. 6. Section 91C.8, subsection 9, Code 1997, is amended
32 by adding the following new unnumbered paragraphs:

33 NEW UNNUMBERED PARAGRAPH. Notwithstanding chapter 17A, the
34 Iowa administrative procedure Act, the commissioner may obtain
35 judicial review or enforcement of any final order or decision

1 of the appeal board by filing a petition in the district court
2 of the county in which the alleged violation occurred or in
3 which the employer has its principal office. The judicial
4 review provisions of chapter 17A shall govern such proceedings
5 to the extent applicable.

6 NEW UNNUMBERED PARAGRAPH. Notwithstanding section 10A.601,
7 subsection 7, and chapter 17A, the Iowa administrative
8 procedure Act, the commissioner has the exclusive right to
9 represent the appeal board in any judicial review of an appeal
10 board decision under this chapter in which the commissioner
11 does not appeal the appeal board decision. However, upon
12 request of the commissioner, the attorney general shall
13 represent the commissioner.

14 Sec. 7. Section 95.2, unnumbered paragraph 1, Code 1997,
15 is amended to read as follows:

16 Application for a license shall be made in writing to the
17 labor commissioner. The application must contain the name of
18 the applicant, and if the applicant is a firm, the names of
19 the members, and if it is a corporation, the names of the
20 officers; and the name, number, and address of the building
21 and place where the employment agency is to be conducted. The
22 application must be accompanied by ~~the affidavits of at least~~
23 ~~two reputable citizens of the state in no way connected with~~
24 ~~the applicant, certifying to the good moral character and~~
25 ~~reliability of the applicant, or, if a firm or corporation, of~~
26 ~~each of the members or officers, and that the applicant is a~~
27 ~~citizen of the United States, if a natural person, also a~~
28 surety company bond in the sum of twenty thousand dollars when
29 an employee is required to contribute to the payment of fees,
30 to be approved by the labor commissioner and conditioned to
31 pay any damages that may accrue to any person because of a
32 wrongful act, or violation of law, on the part of the
33 applicant in the conduct of the business. The application
34 must be accompanied by a schedule of fees to be charged for
35 services rendered to patrons, which schedule shall not be

1 changed during the term of license without consent being first
2 given by the labor commissioner.

3 Sec. 8. REPEAL. Sections 90A.3 and 91A.13, Code 1997, are
4 repealed.

5 EXPLANATION

6 The bill eliminates the requirement that the department of
7 workforce development compile data included in emergency and
8 hazardous chemical inventories by county and to provide the
9 compiled reports to at least one public library in each
10 county. The bill does not eliminate the duty to compile the
11 data.

12 The bill also prohibits the release of the name of a person
13 who reports a possible occupational safety and health Act
14 (OSHA) violation under any circumstance.

15 The bill provides that an OSHA investigative report shall
16 be treated as a confidential record for purposes of the public
17 records law in the same manner as a peace officers'
18 investigative report. In addition, all information received
19 by the labor commissioner, or the commissioner's
20 representative, in compliance with the OSHA chapter shall not
21 be admissible in any action for the benefit of any person.
22 The information can still be used for the purpose of
23 administering the OSHA chapter. Currently, only information
24 received from an employer is deemed inadmissible.

25 The bill allows the labor commissioner to exempt an
26 amusement device that is an appliance and not a fixture from
27 the provisions of chapter 88A concerning the safety inspection
28 of amusement rides.

29 The bill eliminates the requirement that an asbestos
30 management planner of public and commercial buildings be
31 licensed.

32 The bill permits the labor commissioner to appeal any order
33 from the employment appeal board concerning construction
34 contractors and also allows the labor commissioner the
35 exclusive authority to represent the appeal board in cases

1 where the commissioner does not appeal.

2 The bill eliminates the requirement that employment
3 agencies produce affidavits certifying the good moral
4 character of the officers of the employment agency prior to
5 obtaining a license in this state.

6 The bill also repeals the section requiring the state
7 commissioner of athletics to appoint a secretary. The bill
8 also repeals the section prohibiting the labor commissioner
9 from taking claims for wages based on an act committed prior
10 to July 1, 1975, the effective date of chapter 91A.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

To: Members of the Iowa General Assembly

From: Pat Sampson, Legislative Liaison
Iowa Workforce Development

Subject: Background Statement on LABOR3

This proposal was developed for various reasons. I will provide information on each by section.

Section 1 deletes the requirement that the department provide emergency and hazardous chemical inventories to at least one public library in each county. The information is available from the department and any fire department in the state. With funding reductions, this is no longer possible.

Section 2 prohibits the release of the name of any individual who reports an OSHA violation to the department under any circumstance. This information can be requested under subpoena. This is current practice.

Section 3 removes OSHA inspectors' work notes and statements by employers, employees and consultants from being considered as public records and available under public records access and Fair Information Practices Act. The notes are similar to peace officer's investigative notes and should be treated as such.

Section 4 allows the commissioner to exempt an appliance or plug in device which is not a permanent part of the building, such as a rocket ship ride at the grocery store. Currently, the department exempts these plug in appliances.

Section 5 corrects an error in legislation passed in 1996. The federal regulations require management planners in the schools to obtain an asbestos license, but does not require management planners for public and commercial buildings to be licensed.

Section 6 deletes needless language which outlines procedures for the athletic commissioner to appoint a secretary.

Section 7 prohibits taking claims for wages based on an act committed prior to July 1, 1975, the effective date of Iowa Code Section 91A. It is no longer needed.

Section 8 allows the labor commissioner to appeal to the court system an

SSB72

unfavorable employment appeal board decision related to contractor registrations. Any other party to an action can appeal decisions by the EAB and the labor commissioner should have the same ability.

Section 9 deletes language requiring employment agencies to produce affidavits certifying the good moral character of the officers of the employment agency. Nationwide employment agencies with officers outside of Iowa have great difficulty in collecting these affidavits. No identifiable public benefit to the requirement has been identified.

SENATE FILE 501

AN ACT

RELATING TO THE DEPARTMENT OF WORKFORCE DEVELOPMENT AND
THE ENFORCEMENT OF EMPLOYMENT LAWS CONCERNING EMERGENCY
AND HAZARDOUS MATERIALS INVENTORIES, AMUSEMENT RIDES,
ASBESTOS AND EMPLOYMENT AGENCY LICENSES, WAGE ASSIGNMENTS,
AND BOXING AND WRESTLING.

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

Section 1. Section 30.7, subsection 5, Code 1997, is amended to read as follows:

5. The department of workforce development shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11022, by county, and shall make the compiled reports available, annually, to each county in the state by providing the report to at least one public library in the named county.

Sec. 2. Section 88A.11, subsection 3, Code 1997, is amended to read as follows:

3. The commissioner may exempt amusement devices from the provisions of this chapter that have self-contained wiring installed by the manufacturer, that are operated manually by the use of hands or feet, that operate on less than one hundred twenty volts of electrical power, and that are fixtures or appliances within or part of a structure subject to the building code of this state or any political subdivision of this state.

Sec. 3. Section 88B.6, subsection 2, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) An asbestos management planner for a school or a public or commercial building.

Sec. 4. Section 95.2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Application for a license shall be made in writing to the labor commissioner. The application must contain the name of the applicant, and if the applicant is a firm, the names of the members, and if it is a corporation, the names of the officers; and the name, number, and address of the building and place where the employment agency is to be conducted. The application must be accompanied by the affidavits of at least two reputable citizens of the state in no way connected with the applicant, certifying to the good moral character and reliability of the applicant, or, if a firm or corporation, of each of the members or officers, and that the applicant is a citizen of the United States, if a natural person; also a surety company bond in the sum of twenty thousand dollars when an employee is required to contribute to the payment of fees, to be approved by the labor commissioner and conditioned to pay any damages that may accrue to any person because of a wrongful act, or violation of law, on the part of the applicant in the conduct of the business. The application must be accompanied by a schedule of fees to be charged for

services rendered to patrons, which schedule shall not be changed during the term of license without consent being first given by the labor commissioner.

Sec. 5. Sections 90A.3 and 91A.13, Code 1997, are repealed.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 501, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 18, 1997

TERRY E. BRANSTAD
Governor