

H. 3/4/98 Labor and Fed
H. 3/23/98 Amend & Do Pass
FILED FEB 24 1998
H 3/2/98 UNFINISHED BUSINESS CALENDAR

SENATE FILE 2321
BY COMMITTEE ON BUSINESS AND
LABOR

(SUCCESSOR TO SSB 2139)

Passed Senate, Date 3/4/98
Vote: Ayes 49 Nays 0

Passed House, Date 3/26/98
Vote: Ayes 98 Nays 0

Passed 4-1-98
Vote 47-0

Approved April 16, 1998

Passed 4/8/98
Vote 99-0

A BILL FOR

1 An Act relating to the confidentiality of certain records and
2 reports held by the labor commissioner.

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

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S.F. 2321

1 Section 1. Section 88.6, subsection 5, Code 1997, is
2 amended to read as follows:

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

29 Sec. 2. Section 88.6, Code 1997, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 8. CONFIDENTIALITY. Notwithstanding
32 chapter 22, records prepared or obtained by the commissioner
33 relating to an enforcement action conducted pursuant to this
34 chapter shall be kept confidential until the enforcement
35 action is complete. For purposes of this subsection, an

1 enforcement action is complete when any of the following
2 occurs:

3 a. An inspection file is closed without the issuance of a
4 citation.

5 b. A citation or noncompliance notice resulting from an
6 inspection becomes a final order of the employment appeal
7 board and all applicable courts pursuant to sections 88.8 and
8 88.9, and abatement is verified.

9 c. A determination and any subsequent action is final in
10 an occupational safety and health discrimination case.

11 A citation or noncompliance notice shall remain a
12 confidential record until received by the appropriate
13 employer.

14 Sec. 3. Section 88.16, Code 1997, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 4. Notwithstanding chapter 22,
17 consultation records prepared or obtained by the commissioner
18 pursuant to this section and which relate to specific
19 employers or specific workplaces shall be kept confidential.
20 For purposes of this subsection, "consultation record" means a
21 record created when an employer requests and receives from the
22 labor commissioner direct assistance in the recognition and
23 correction of workplace hazards.

24 Sec. 4. Section 91.12, Code 1997, is amended to read as
25 follows:

26 91.12 REPORTS AND RECORDS TO DIVISION OF LABOR SERVICES.

27 1. It shall be the duty of every An owner, operator, or
28 manager of every factory, mill, workshop, mine, store,
29 railway, business house, public or private work, or any other
30 establishment where labor is employed, as herein provided, to
31 make shall submit to the division of labor services, upon
32 blanks-furnished reports in the form and manner prescribed by
33 the commissioner, such reports and returns as the commissioner
34 may require for the purpose of compiling such labor statistics
35 as are contemplated in this chapter, and the. The owner,

1 operator, or business manager shall ~~make-such~~ submit the
2 reports ~~or-returns~~ within sixty days from the receipt of
3 ~~blanks-furnished-by-the-commissioner~~ notice, and shall certify
4 under oath to the ~~correctness~~ accuracy of the ~~same~~ reports.

5 2. Notwithstanding chapter 22, records containing
6 identifiable financial institution or credit card account
7 numbers obtained by the commissioner shall be kept
8 confidential.

9 EXPLANATION

10 This bill makes confidential certain records and reports
11 held by the labor commissioner of the division of labor
12 services of the department of workforce development.

13 Currently, the Iowa Code provides that the names of persons
14 who request the commissioner to inspect possible safety or
15 health violations shall not appear in any record published,
16 released, or otherwise made available. The bill replaces the
17 word "name" with the phrase "identifying information".

18 The bill provides that records relating to an enforcement
19 action being conducted by the commissioner are confidential
20 until the enforcement action is complete, and any associated
21 records or citations and noncompliance notices remain
22 confidential until received by the appropriate employer. The
23 bill sets forth the conditions under which an enforcement
24 action may be considered complete.

25 Records pertaining to consultation services provided to
26 specific, identifiable employers or workplaces are made
27 confidential under the bill.

28 Records the commissioner holds that contain identifiable
29 financial institution or credit card account numbers are also
30 made confidential under the bill.

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SENATE FILE 2321.

H-8541

1 Amend Senate File 2321 as follows:
2 1. Page 1, line 28, by inserting after the word
3 "determination." the following: "For purposes of this
4 subsection, "identifying information" means specific
5 personal information including, but not limited to,
6 the person's name, home address, telephone number,
7 social security number, and handwriting and language
8 idiosyncrasies. In circumstances when the release of
9 any fact may be used to identify the person, that fact
10 shall not be released."

By COMMITTEE ON LABOR AND
INDUSTRIAL RELATIONS
TYRRELL of Iowa, Chairperson

H-8541 FILED MARCH 23, 1998

adopted
3/26/98 (P.969)

HOUSE AMENDMENT TO
SENATE FILE 2321

S-5391

1 Amend Senate File 2321 as follows:
2 1. Page 1, line 28, by inserting after the word
3 "determination." the following: "For purposes of this
4 subsection, "identifying information" means specific
5 personal information including, but not limited to,
6 the person's name, home address, telephone number,
7 social security number, and handwriting and language
8 idiosyncrasies. In circumstances when the release of
9 any fact may be used to identify the person, that fact
10 shall not be released."

RECEIVED FROM THE HOUSE

S-5391 FILED MARCH 26, 1998

Senate Concurred 4-1-98 (P.993)

SENATE AMENDMENT TO HOUSE AMENDMENT TO S. F. 2321
H-8842

- 1 Amend the House amendment, S-5391, to Senate File
- 2 2321, as follows:
- 3 1. Page 1, by inserting after line 10 the
- 4 following:
- 5 "____. Page 2, line 13, by inserting after the
- 6 word "employer." the following: "This subsection
- 7 shall not affect the discovery rights of any party to
- 8 a contested case.""
- 9 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-8842 FILED APRIL 1, 1998

House Concurred 4/8/98 (p.1395)

SENATE FILE 2321

S-5456

- 1 Amend the House amendment, S-5391, to Senate File
- 2 2321, as follows:
- 3 1. Page 1, by inserting after line 10 the
- 4 following:
- 5 "____. Page 2, line 13, by inserting after the
- 6 word "employer." the following: "This subsection
- 7 shall not affect the discovery rights of any party to
- 8 a contested case.""
- 9 2. By renumbering as necessary.

By JOHN W. JENSEN

S-5456 FILED APRIL 1, 1998

ADOPTED

(p.995)

Jensen
Schuerer
Horn

SSB. 2139
Business & Labor
Succeeded By
SENATE/HOUSE FILE SF/HF 2321
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

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

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10 reasonable particularity the grounds for the notice, and shall
11 be signed by the employees or authorized employee
12 representative, and a copy shall be provided the employer or
13 the employer's agent no later than at the time of inspection,
14 except that upon the request of the person giving such notice
15 the person's name identifying information and the names
16 identifying information of individual employees referred to
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18 record published, released, or made available pursuant-to-this
19 section. If, upon receipt of such notification, the
20 commissioner determines that there are reasonable grounds to
21 believe that such violation or danger exists, the commissioner
22 shall make a special inspection in accordance with the
23 provisions of this section as soon as practicable, to
24 determine if such violation or danger exists. If the
25 commissioner determines that there is are no reasonable
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27 commissioner shall notify the employees or authorized employee
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30 following new subsection:

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4 citation.

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29 railway, business house, public or private work, or any other
30 establishment where labor is employed, ~~as herein provided,~~ to
31 make shall submit to the division of labor services, ~~upon~~
32 blanks-furnished reports in the form and manner prescribed by
33 the commissioner, ~~such reports and returns as the commissioner~~
34 may require for the purpose of compiling such labor statistics
35 ~~as are contemplated in this chapter, and the.~~ The owner,

1 operator, or business manager shall ~~make-such~~ submit the
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SENATE FILE 2321

AN ACT

RELATING TO THE CONFIDENTIALITY OF CERTAIN RECORDS AND
REPORTS HELD BY THE LABOR COMMISSIONER.

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

Section 1. Section 88.6, subsection 5, Code 1997, is amended to read as follows:

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the employer's agent no later than at the time of inspection, except that upon the request of the person giving such notice the person's name identifying information and the names identifying information of individual employees referred to therein in the notice shall not appear in such copy or on any record published, released, or made available pursuant-to-this section. If, upon receipt of such notification, the commissioner determines that there are reasonable grounds to believe that such violation or danger exists, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the commissioner determines that there is are no reasonable grounds to believe that a violation or danger exists, the commissioner shall notify the employees or authorized employee representative in writing of such determination. For purposes of this subsection, "identifying information" means specific personal information including, but not limited to, the person's name, home address, telephone number, social security number, and handwriting and language idiosyncrasies. In circumstances when the release of any fact may be used to identify the person, that fact shall not be released.

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board and all applicable courts pursuant to sections 88.8 and 88.9, and abatement is verified.

c. A determination and any subsequent action is final in an occupational safety and health discrimination case.

A citation or noncompliance notice shall remain a confidential record until received by the appropriate employer. This subsection shall not affect the discovery rights of any party to a contested case.

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2. Notwithstanding chapter 22, records containing identifiable financial institution or credit card account numbers obtained by the commissioner shall be kept confidential.

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 2321, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 6, 1998

TERRY E. BRANSTAD
Governor