

upon hearing the board finds that the utility's rates are unlawful, the board shall order a refund, with interest, of amounts collected after the date of filing of the ~~complaint or~~ petition that are determined to be in excess of the amounts which would have been collected under the rates finally approved. However, the board shall not order a refund that is greater than the amount specified in the ~~complaint or~~ petition, plus interest, and ~~provided that~~ if the board fails to render a decision within ten months following the date of filing of the ~~complaint or~~ petition, the board shall not order a refund of any excess amounts that are collected after the expiration of that ten-month period and prior to the date the decision is rendered.

Sec. 2. Section 476.33, subsection 1, Code 1989, is amended to read as follows:

1. The board shall adopt rules pursuant to chapter 17A to provide for the completion of proceedings under section 476.3 within ten months after the date of the filing of a ~~complaint or~~ petition under section 476.3, subsection 2, and to provide for the completion of proceedings under section 476.6 within ten months after the date of filing of the new or changed rates, charges, schedules, or regulations under that section. These rules shall include reasonable time limitations for the submission or completion of comments and testimony, and exhibits, briefs, and hearings, and may provide for the granting of additional time upon the request of a party to the proceeding or division staff for good cause shown.

Approved May 2, 1989

CHAPTER 98

SECONDARY ROAD RIGHT-OF-WAY ANNEXATION

S.F. 300

AN ACT relating to the annexation of territory including secondary roads.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 368.1, subsection 10, Code 1989, is amended to read as follows:

10. "Territory" means the land area or areas proposed to be incorporated, annexed, or severed, whether or not contiguous to all other areas proposed to be incorporated, annexed, or severed. Except as provided for by an agreement pursuant to chapter 28E, "territory" having a common boundary with the right-of-way of a secondary road extends to the center line of the road.

Sec. 2. Section 368.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Territory within the road right-of-way owned by a county may be annexed, but the county attorney of that county must be served with notice of the hearing and a copy of the proposal.

Sec. 3. **APPLICABILITY.** This Act applies to actions taken pursuant to chapter 368 which commence after the effective date of this Act.

Approved May 2, 1989

CHAPTER 99

ACTION FOR RECOVERY OF MERCHANDISE OR DAMAGES

S.F. 343

AN ACT relating to recovery of merchandise or damages and providing for civil penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 645.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Merchandise" includes any object, ware, good, commodity, or other similar item displayed or offered for sale.

2. "Mercantile establishment" includes any place where merchandise is displayed, held, or offered for sale, either retail or wholesale.

3. "Owner" means an owner of a mercantile establishment and includes an owner's employee acting on behalf of the owner.

Sec. 2. **NEW SECTION. 645.2 ACTIONS FOR MERCHANDISE OR DAMAGES.**

An action for recovery of merchandise or the purchase price, damages, and costs may be brought by an owner pursuant to this chapter in any court of competent jurisdiction, including a court of small claims if the claim does not exceed jurisdictional limits.

A conviction under chapter 714 is not required as a condition precedent to the maintenance of an action pursuant to this chapter.

Sec. 3. **NEW SECTION. 645.3 LIABILITY.**

1. A person who knowingly and without claim of right wrongfully appropriates, takes possession of, or alters the price indicia of merchandise of a mercantile establishment without the consent of the owner and with the intent to convert the merchandise to the person's own use without having paid the full purchase price for it, is liable for:

a. The return of the merchandise or the purchase price of the merchandise, provided that the merchandise is not evidence in a criminal proceeding under chapter 714.

b. Actual damages for any decrease in value of the merchandise returned.

c. The greater of fifty dollars or actual costs, not to exceed two hundred dollars, incurred by the owner in recovering the merchandise or damages pursuant to this chapter.

2. Damages awarded under this section shall be reduced by any amount received by the owner pursuant to court ordered restitution under chapter 232A or 910.

3. The parent or parents of an unemancipated minor child under the age of eighteen years are liable for any judgment awarded against the child pursuant to subsection 1 in accordance with, and subject to the limits established in, section 613.16.

Approved May 2, 1989

CHAPTER 100

OCCUPATIONAL SAFETY AND HEALTH RULES

S.F. 346

AN ACT relating to the adoption by the division of labor services of the department of employment services of rules based on the most recent federal occupational safety and health administration's standards.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 89B.8, subsection 3, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following: