

CHAPTER 1135**FRAUDULENT PRACTICE IN PROCURING ECONOMIC DEVELOPMENT ASSISTANCE**
S.F. 2186

AN ACT relating to the receipt of assistance under certain economic development programs and providing criminal penalties for certain violations.

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

Section 1. NEW SECTION. 28.171 PUBLIC ECONOMIC DEVELOPMENT ASSISTANCE – VIOLATIONS – CRIMINAL PENALTIES.

A person who engages in deception and knowingly makes or causes to be made, directly or indirectly, a false statement in writing, for the purpose of procuring economic development assistance from a state agency or political subdivision, for the benefit of the person or for whom the person is acting, is guilty of a fraudulent practice in the first degree as defined in section 714.9. For purposes of this section, "deception" means deception as defined in section 702.9.

Approved April 3, 1990

CHAPTER 1136**LABOR LAWS**
S.F. 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.

Approved April 3, 1990

CHAPTER 1137

BRIDGE BEAM CONSTRUCTION CONTRACTS

S.F. 2245

AN ACT relating to bids for certain specialized bridge construction projects.

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

Section 1. NEW SECTION. 313.11 BIDS — SPECIALIZED CONSTRUCTION.

The department may contract for specialized construction work for beam straightening, beam replacement, and beam repair on bridges, without advertising for bids as required under section 313.10, if all of the following conditions are met:

1. The work is of a specialized type in which fewer than five contractors engage.