

CHAPTER 67

ACCOMMODATION OFFENSES — MARIJUANA

H.F. 705

AN ACT to change the penalties for the criminal offense of accommodation involving marijuana.

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

Section 1. Section 124.410, Code 1999, is amended to read as follows:
124.410 ACCOMMODATION OFFENSE.

In a prosecution for unlawful delivery or possession with intent to deliver marijuana, if the prosecution proves that the defendant violated the provisions of section 124.401, subsection 1, by proving that the defendant delivered or possessed with intent to deliver ~~one~~ one-half ounce or less of marijuana which was not offered for sale, the defendant is guilty of an accommodation offense and rather than being sentenced as if convicted for a violation of section 124.401, subsection 1, paragraph "d", shall be sentenced as if convicted of a violation of section 124.401, subsection 5. An accommodation offense may be proved as an included offense under a charge of delivering or possessing with the intent to deliver marijuana in violation of section 124.401, subsection 1. This section does not apply to hashish, hashish oil, or other derivatives of marijuana as defined in section 124.101, subsection 17.

Approved April 26, 1999

CHAPTER 68

REGULATION OF WORKER AND PUBLIC SAFETY AND PROTECTION

S.F. 146

AN ACT relating to worker and public safety and protection laws administered by the labor services division of Iowa workforce development.

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

Section 1. Section 84A.5, subsection 3, Code 1999, is amended to read as follows:

3. The division of labor services is responsible for the administration of the laws of this state ~~relating to occupational health and safety, the inspection of amusement rides, the removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and 85.68.~~ The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

Sec. 2. Section 88.3, subsection 2, Code 1999, is amended to read as follows:

2. "Commissioner" means the labor commissioner appointed pursuant to section 91.2, or the commissioner's designee.

Sec. 3. Section 88.8, subsections 1 and 2, Code 1999, are amended to read as follows:

1. POSTINSPECTION PENALTY NOTICE. If, after an inspection or an investigation, the commissioner issues a citation under section 88.7, the commissioner shall, within a

reasonable time after the termination of ~~such the~~ inspection or investigation, notify the employer by service in the same manner as an original notice or by certified mail of the penalty, if any, proposed to be assessed under section 88.14 and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalties. If, within fifteen working days from the receipt of the notice issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employees or authorized employee representative under subsection 3 of this section within ~~such the~~ time specified, the citation and the assessment, as proposed, shall be deemed a final order of the appeal board and not subject to review by any court or agency.

2. NONCOMPLIANCE NOTICE. If the commissioner has reason to believe that an employer has failed to correct the violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the appeal board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the commissioner shall notify the employer by service in the same manner as an original notice or by certified mail of the failure and of the penalty proposed to be assessed under section 88.14 by reason of the failure, and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the commissioner's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed the final order of the appeal board and not subject to review by any court or agency.

Sec. 4. Section 89A.1, subsections 5 and 11, Code 1999, are amended to read as follows:

5. "Dormant facility" means ~~an a facility whose power feed lines have been disconnected from the mainline disconnect switch and is one of the following:~~

a. ~~An electric elevator, material lift, or dumbwaiter whose cables suspension ropes have been removed, whose car and counterweight rest at the bottom of the shaftway hoistway, and whose shaftway hoistway doors are have been permanently boarded up or barricaded such that entry into the shaft through each door or other entryway is substantially precluded, or an or sealed in the closed position on the hoistway side.~~

b. ~~A hydraulic elevator, material lift, or dumbwaiter whose car rests at the bottom of the hoistway, whose pressure piping has been disassembled and a section removed from the premises; whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side; and, if provided, whose suspension ropes have been removed and the counterweights landed at the bottom of the hoistway.~~

c. ~~An escalator, or moving walk, or lift, the main power feed lines of which have been disconnected, and the top and bottom whose entrances of which have been permanently boarded up or barricaded.~~

d. ~~A rack and pinion or screw column facility, whose motor has been removed, platform lowered to the bottom, and entrances barricaded.~~

11. "Inclined or vertical wheelchair lift" means a lift used as part of an accessible route in or at a public building as specified in the American ~~national standard~~ society of mechanical engineers safety code codes for elevators and escalators, A17.1.

Sec. 5. Section 89A.3, subsection 2, Code 1999, is amended to read as follows:

2. ~~Insofar as applicable, rules adopted for facilities installed after January 1, 1975, shall be based on the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, and supplements to the Code, A17.1. The commissioner shall adopt rules for facilities installed prior to January 1, 1975, according to the applicable provisions of such the American National Standard Safety Code society of mechanical~~

~~engineers safety codes for elevators and escalators, A17.1 and A17.3, as the commissioner deems necessary. In adopting rules the commissioner may adopt the American National Standard Safety Code society of mechanical engineers safety codes, or any part of the Code codes, by reference.~~

The commissioner may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators.

Sec. 6. Section 89A.3, subsection 3, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

3. A rule adopted pursuant to this section which adopts standards by reference to another publication shall be exempt from the requirements of section 17A.6, subsection 4, if the following conditions exist:

- a. The cost of the publication is an unreasonable expense when compared to the anticipated usage of the publication.
- b. A copy of the publication is available from an entity located within the state capitol complex.
- c. The rule identifies the location where the publication is available.
- d. The administrative rules coordinator approves the exemption.

Sec. 7. Section 89A.5, Code 1999, is amended to read as follows:
89A.5 REGISTRATION OF FACILITIES.

~~Within three months after the date of adoption of rules under this chapter relating to registration of facilities, the~~ The owner of every existing facility, whether or not dormant, shall register ~~each such~~ the facility with the commissioner, giving type, contract load and speed, name of manufacturer, its location and the purpose for which it is used, and ~~such~~ other information as the commissioner may require. Registration shall be made ~~on a form to be furnished in a format required~~ by the division ~~upon request~~. ~~Facilities the construction of which is commenced subsequent to the date of adoption of those rules shall be registered in the manner prescribed by the commissioner.~~

Sec. 8. Section 89A.6, subsection 5, Code 1999, is amended to read as follows:

5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, ~~on in a form approved by and containing all information~~ format required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the ~~owner of the facility has complied~~ is in compliance with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the facility has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 9. Section 89A.7, Code 1999, is amended to read as follows:
89A.7 ALTERATION PERMITS.

~~On and after the effective date of rules relating to alterations,~~ The owner shall submit to the commissioner detailed plans, ~~of specifications, and other information the commissioner may require for~~ each facility to be altered shall be submitted to the commissioner, together with an application for an alteration permit, ~~on forms to be furnished or approved in a format required~~ by the commissioner. Repairs or replacements necessary for normal maintenance are not alterations, and may be made on existing installations with parts equivalent in material, strength and design to those replaced and no plans or specifications or application need be filed for ~~such~~ the repairs or replacements. However, ~~nothing in~~ this section shall does not authorize the use of any facility contrary to an order issued pursuant to section 89A.10, subsections 2 and 3.

Sec. 10. Section 89A.8, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~Plans~~ The owner shall be submitted submit plans in triplicate ~~and shall be accompanied by, together with~~ an application for the permit ~~on a form to be furnished, in a format required~~ by the commissioner. The plans shall include:

Sec. 11. Section 89A.10, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by service in the same manner as an original notice or by certified mail. An owner may appeal the commissioner's initial decision. The appeal shall be heard by an administrative law judge of the department of inspections and appeals. An owner who, after a hearing before an administrative law judge, is aggrieved by a suspension, revocation, or refusal to issue an operating permit may appeal to the employment appeal board created under section 10A.601. Notice of appeal shall be filed with the appeal board within thirty calendar days from receipt of the notice of the commissioner's action.

Sec. 12. Section 89A.12, Code 1999, is amended to read as follows:

89A.12 ACCESS TO FACILITIES.

Every owner of a facility subject to regulation by this chapter shall grant access to that facility to the commissioner and personnel of the division ~~of labor services administering the provisions of this chapter~~. Inspections shall be permitted at reasonable times, with or without prior notice.

Sec. 13. Section 90A.1, subsection 2, Code 1999, is amended to read as follows:

2. "Commissioner" means the state commissioner of athletics, who is also the labor commissioner appointed pursuant to section 91.2, or the labor commissioner's designee.

Sec. 14. Section 91.4, subsection 2, Code 1999, is amended to read as follows:

2. To collect, assort, and systematize statistical details relating to ~~all departments of labor in the state~~ programs of the division of labor services.

Sec. 15. Section 91.4, subsection 5, Code 1999, is amended to read as follows:

5. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of labor services for the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and 85.68, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

Sec. 16. Section 91.10, Code 1999, is amended to read as follows:

91.10 POWER TO SECURE EVIDENCE.

The labor commissioner ~~and the commissioner's deputy, or the commissioner's designee~~ may issue subpoenas, administer oaths, and take testimony in all matters relating to the duties required of them. Witnesses subpoenaed and testifying before the commissioner or the commissioner's ~~deputy designee~~ shall be paid the same fees as witnesses under section 622.69, payment to be made out of the funds appropriated to the division of labor services.

Sec. 17. Section 91.11, Code 1999, is amended to read as follows:

91.11 PROSECUTIONS FOR VIOLATIONS.

If the commissioner ~~or an inspector shall learn~~ learns of any violation of any law administered by the division, the commissioner, or neglect to comply with the law in respect to the employment of children, or in respect to fire escapes, or the safety of employees, or for the preservation of health, such officer may give the county attorney of the county in which ~~such factory or building is situated~~ the violation occurred, written notice of the facts, whereupon that officer shall institute the proper proceedings against the person guilty of such charged with the offense or neglect.

If the commissioner ~~or inspector~~ is of the opinion that ~~such the violation or neglect~~ is not willful, or is an oversight or of a trivial nature, the commissioner ~~or inspector~~ may ~~in at~~ the commissioner's ~~or inspector's~~ discretion fix a time within which the ~~defect or evil may violation shall~~ be corrected and notify the owner, operator, superintendent, or person in charge, and if corrected within the time fixed, then the commissioner ~~or inspector~~ shall not cause prosecution to be begun.

Sec. 18. Section 91A.3, subsection 7, Code 1999, is amended to read as follows:

7. ~~A~~ If a farm labor contractor ~~who~~ contracts with a person engaged in the production of seed or feed grains to remove unwanted or genetically deviant plants or corn tassels or to hand pollinate plants ~~shall file with the commissioner a bond of at least twenty thousand dollars on behalf of, and fails to pay all wages due the employees of the farm labor contractor,~~ the person engaged in the production of seed or feed grains, ~~with a corporate surety approved by the commissioner, securing the payment of all wages due the employees of the farm labor contractor. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond. If the bond is not filed as required or if the farm labor contractor fails to pay all wages due the employees of the farm labor contractor, the person engaged in the production of seed or feed grains shall also be liable to the employees for wages not paid by the farm labor contractor.~~

Sec. 19. Section 91C.8, subsection 4, Code 1999, is amended to read as follows:

4. If a citation is issued, the commissioner shall, within seven days, notify the contractor by service in the same manner as an original notice or by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalty.

Approved April 27, 1999

CHAPTER 69

MOTOR VEHICLE WARRANTY CLAIMS — SERVICE OR WARRANTY FACILITIES

S.F. 149

AN ACT establishing a time limit for disallowance or reduction of motor vehicle warranty claims, relating to establishment of motor vehicle service or warranty facilities, and making a penalty applicable.

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

Section 1. Section 322.3, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not reduce the amount of compensation for, or disallow a claim for, warranty parts, repairs, or service