

House File 2551

H-8131

1 Amend House File 2551 as follows:

2 1. Page 3, by striking lines 32 through 35 and inserting:

3 <Sec. \_\_\_\_\_. NEW SECTION. 510D.5 Summary enforcement.

4 1. Upon a determination by the commissioner that a  
5 manufacturer or a manufacturer's agent has violated a provision  
6 of this chapter, a rule adopted by the commissioner, or an  
7 order issued by the commissioner under this chapter, the  
8 commissioner may do any of the following:

9 a. Issue a summary order, including a brief statement  
10 of findings of fact and conclusions of law, and direct the  
11 manufacturer or the manufacturer's agent to cease and desist  
12 engaging in the act or practice that is in violation of the  
13 provisions of this chapter.

14 b. Take other affirmative action that in the judgment of the  
15 commissioner is necessary to ensure that the manufacturer or  
16 the manufacturer's agent complies with the requirements of this  
17 chapter.

18 2. a. A manufacturer or a manufacturer's agent that has  
19 been issued a summary order under this section may contest  
20 the summary order by filing a request for a contested case  
21 proceeding and hearing pursuant to chapter 17A, and in  
22 accordance with rules adopted by the commissioner. The  
23 manufacturer or the manufacturer's agent shall have at least  
24 thirty calendar days from the date that the summary order  
25 is issued to file a request for a contested case proceeding  
26 and hearing. If a contested case proceeding and hearing is  
27 not timely requested the summary order shall become final by  
28 operation of law.

29 b. Section 17A.18A shall not apply to a summary order issued  
30 under this section.

31 c. A summary order issued pursuant to this section shall  
32 remain effective from the date of issuance unless overturned  
33 by a presiding officer of a contested case hearing, or by  
34 a court following the manufacturer's or the manufacturer's  
35 agent's request for judicial review of a final action by the

1 commissioner.

2 3. A manufacturer or a manufacturer's agent violating  
3 a summary order issued under this section shall be deemed  
4 in contempt of the summary order. Upon request of the  
5 commissioner, the attorney general shall petition the  
6 district court to enforce the summary order as certified  
7 by the commissioner. The district court shall adjudge the  
8 manufacturer or the manufacturer's agent in contempt of  
9 the summary order if the court finds after hearing that the  
10 manufacturer or the manufacturer's agent is not in compliance  
11 with the summary order. The court may assess a civil penalty  
12 of not more than one thousand dollars for each day that the  
13 manufacturer or the manufacturer's agent is in violation of the  
14 summary order and may issue further orders as the court deems  
15 appropriate.

16 Sec. \_\_\_\_ . NEW SECTION. 510D.6 Enforcement after hearing.

17 1. If, after a hearing pursuant to section 510D.5, the  
18 commissioner determines that a manufacturer or a manufacturer's  
19 agent has violated a provision of this chapter, a rule adopted  
20 by the commissioner, or an order issued by the commissioner  
21 under this chapter, the commissioner shall reduce the findings  
22 to writing and shall issue and cause to be served upon the  
23 manufacturer or the manufacturer's agent all of the following:

24 a. A copy of the commissioner's findings.

25 b. An order requiring the manufacturer or the manufacturer's  
26 agent to cease and desist from violating the provisions of this  
27 chapter.

28 2. The commissioner may take other affirmative action that  
29 in the judgment of the commissioner is necessary to ensure that  
30 the manufacturer or the manufacturer's agent complies with  
31 the requirements of this chapter. The commissioner may also,  
32 at the commissioner's discretion, order payment of a civil  
33 penalty of not more than five thousand dollars for each of the  
34 manufacturer's or the manufacturer's agent's violations of this  
35 chapter.

1 3. A manufacturer or a manufacturer's agent that violates  
2 an order of the commissioner, and while such order is in  
3 effect, may, after notice and hearing and upon order of the  
4 commissioner, be subject to a civil penalty of not more than  
5 ten thousand dollars for each violation of the commissioner's  
6 order. A manufacturer or a manufacturer's agent violating an  
7 order issued by the commissioner under this subsection shall  
8 be deemed in contempt of the order. A civil penalty collected  
9 pursuant to this section shall be deposited as provided in  
10 section 505.7.

11 4. Judicial review of an action of the commissioner may be  
12 sought by a manufacturer or a manufacturer's agent pursuant to  
13 chapter 17A. To the extent that a decision or order of the  
14 commissioner is affirmed in a judicial review proceeding, the  
15 court shall issue an order directing that the manufacturer  
16 or the manufacturer's agent comply with the terms of the  
17 commissioner's decision or order.

18 5. After the period for judicial review of an order of the  
19 commissioner has expired and no petition for judicial review  
20 has been filed, upon request of the commissioner, the attorney  
21 general shall proceed in the district court to enforce the  
22 order of the commissioner. The court shall issue an order  
23 directing that the manufacturer or the manufacturer's agent  
24 comply with the terms of the commissioner's order.

25 6. Upon request of the commissioner, the attorney general  
26 shall petition the district court to enforce an order as  
27 certified by the commissioner. The district court shall  
28 adjudge the manufacturer or the manufacturer's agent in  
29 contempt of the commissioner's order if the court finds after  
30 hearing that the manufacturer or the manufacturer's agent is  
31 not in compliance with the commissioner's order. The court may  
32 order a civil penalty of not more than one thousand dollars per  
33 day for each day of noncompliance against the manufacturer or  
34 the manufacturer's agent and may issue further orders as the  
35 court deems appropriate.>

1 2. Page 6, by striking lines 15 through 18 and inserting:

2 <Sec. \_\_\_\_\_. NEW SECTION. 510E.4 Summary enforcement.

3 1. Upon a determination by the commissioner that a health  
4 carrier or a health carrier's agent has violated a provision of  
5 this chapter, a rule adopted by the commissioner, or an order  
6 issued by the commissioner under this chapter, the commissioner  
7 may do any of the following:

8 a. Issue a summary order, including a brief statement of  
9 findings of fact and conclusions of law, and direct the health  
10 carrier or the health carrier's agent to cease and desist  
11 engaging in the act or practice that is in violation of the  
12 provisions of this chapter.

13 b. Take other affirmative action that in the judgment of the  
14 commissioner is necessary to ensure that the health carrier or  
15 the health carrier's agent complies with the requirements of  
16 this chapter.

17 2. a. A health carrier or a health carrier's agent  
18 that has been issued a summary order under this section may  
19 contest the summary order by filing a request for a contested  
20 case proceeding and hearing pursuant to chapter 17A, and in  
21 accordance with rules adopted by the commissioner. The health  
22 carrier or the health carrier's agent shall have at least  
23 thirty calendar days from the date that the summary order  
24 is issued to file a request for a contested case proceeding  
25 and hearing. If a contested case proceeding and hearing is  
26 not timely requested the summary order shall become final by  
27 operation of law.

28 b. Section 17A.18A shall not apply to a summary order issued  
29 under this section.

30 c. A summary order issued pursuant to this section shall  
31 remain effective from the date of issuance unless overturned  
32 by a presiding officer of a contested case hearing, or by a  
33 court following the health carrier's or the health carrier's  
34 agent's request for a judicial review of a final action by the  
35 commissioner.

1 3. A health carrier or a health carrier's agent violating  
2 a summary order issued under this section shall be deemed  
3 in contempt of the summary order. Upon request of the  
4 commissioner, the attorney general shall petition the district  
5 court to enforce the summary order as certified by the  
6 commissioner. The district court shall adjudge the health  
7 carrier or the health carrier's agent in contempt of the  
8 summary order if the court finds after hearing that the health  
9 carrier or the health carrier's agent is not in compliance with  
10 the summary order. The court may assess a civil penalty of  
11 not more than one thousand dollars per day against the health  
12 carrier or the health carrier's agent for each day that the  
13 health carrier or the health carrier's agent is in violation of  
14 the summary order, and may issue further orders as the court  
15 deems appropriate.

16 Sec. \_\_\_\_ . NEW SECTION. 510E.5 Enforcement after hearing.

17 1. If, after a hearing pursuant to section 510E.4, the  
18 commissioner determines that a health carrier or a health  
19 carrier's agent has violated a provision of this chapter, a  
20 rule adopted by the commissioner, or an order issued by the  
21 commissioner under this chapter, the commissioner shall reduce  
22 the findings to writing and shall issue and cause to be served  
23 upon the health carrier or the health carrier's agent all of  
24 the following:

25 a. A copy of the commissioner's findings.

26 b. An order requiring the health carrier or the health  
27 carrier's agent to cease and desist from violating the  
28 provisions of this chapter.

29 2. The commissioner may take other affirmative action that  
30 in the judgment of the commissioner is necessary to ensure that  
31 the health carrier or the health carrier's agent complies with  
32 the requirements of this chapter. The commissioner may also,  
33 at the commissioner's discretion, order payment of a civil  
34 penalty of not more than five thousand dollars for each of the  
35 health carrier's or the health carrier's agent's violations of

1 this chapter.

2 3. A health carrier or a health carrier's agent that  
3 violates an order of the commissioner, and while such order is  
4 in effect, may, after notice and hearing and upon order of the  
5 commissioner, be subject to a civil penalty of not more than  
6 ten thousand dollars for each violation of the commissioner's  
7 order. A health carrier or a health carrier's agent violating  
8 an order issued by the commissioner under this section shall  
9 be deemed in contempt of the order. A civil penalty collected  
10 pursuant to this subsection shall be deposited as provided in  
11 section 505.7.

12 4. Judicial review of an action of the commissioner may be  
13 sought by a health carrier or a health carrier's agent pursuant  
14 to chapter 17A. To the extent that a decision or order of the  
15 commissioner is affirmed in a judicial review proceeding, the  
16 court shall issue an order directing that the health carrier  
17 or the health carrier's agent comply with the terms of the  
18 commissioner's decision or order.

19 5. After the period for judicial review of an order of the  
20 commissioner has expired and no petition for judicial review  
21 has been filed, upon request of the commissioner, the attorney  
22 general shall proceed in the district court to enforce the  
23 order of the commissioner. The court shall issue an order  
24 directing that the health carrier or the health carrier's agent  
25 comply with the terms of the commissioner's order.

26 6. Upon request of the commissioner, the attorney general  
27 shall petition the district court to enforce an order as  
28 certified by the commissioner. The district court shall  
29 adjudge the health carrier or the health carrier's agent in  
30 contempt of the commissioner's order if the court finds after  
31 hearing that the health carrier or the health carrier's agent  
32 is not in compliance with the commissioner's order. The court  
33 may order a civil penalty of not more than one thousand dollars  
34 per day for each day of noncompliance against the health  
35 carrier or the health carrier's agent and may issue further

1 orders as the court deems appropriate.>

2 3. By renumbering as necessary.

---

LUNDGREN of Dubuque