

February 29, 1967⁵

Senate File 403

By INDUSTRIAL AND HUMAN
RELATIONS COMMITTEE.
(As amended and Passed by the Senate.)

Passed Senate, Date 3/24 Passed House, Date 3/31/41

Vote: Ayes 52 Nays 0 Vote: Ayes 111 Nays 72

Approved April 12, 1965

*Substituted for HF 149 - 3/31
motion to reconsider 3/31
motion to reconsider vote
tabled 4/1*

A BILL FOR

An Act relating to employment safety and providing for an employment safety commission.

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

1 Section 1. Public policy. It is the policy of this state
2 that every employer shall furnish and maintain a safe place
3 of employment for employees and shall cause all places of
4 employment to be in all respects constructed, equipped,
5 arranged, operated and maintained so as to provide reasonable
6 and adequate protection for the lives, health, and safety of
7 all persons employed or working therein or frequenting the
8 same, taking into consideration the nature of the employment
9 and work.

1 Sec. 2. Definitions. Wherever used in this Act, unless
2 the context clearly requires a different meaning:

3 1. "Commission" means the employment safety commission
4 created by this Act.

5 2. "Labor commissioner" means the labor commissioner of
6 the state of Iowa.

7 3. "Person" includes individual, partnership, corporation,
8 association, organization, fiduciary, or legal representative.

9 4. "Place of employment" means any place, permanent or tempo-
10 rary, where any individual is employed or works for compensation.

11 5. "Employment safety" means all matters relating to safety
12 and health within the scope of this Act, (including but not limit-
13 ed to all provisions of section one (1) of this Act) sections
14 eighty-eight point two (88.2) through eighty-eight point nine
15 (88.9), inclusive, of the Code, and chapter one hundred four
16 (104) of the Code.

17 6. "Employment safety laws" includes this Act, (including
18 but not limited to all provisions of section one (1) of this
19 Act) sections eighty-eight point two (88.2) through eighty-eight
20 point nine (88.9) of the Code, and chapter one hundred four (104)
21 of the Code.

22 7. "Rule" or rules" includes any rules, regulations, and
23 codes adopted by the commission in accordance with section
24 eleven (11) of this Act. Such words do not include rules of
25 procedure for the meetings and activities of the commission.

26 8. "Amend" includes alter and rescind, and "amendment" in-
27 cludes alteration and rescission.

28 9. The use of the singular includes the plural, and vice
29 versa. The use of any gender includes the appropriate gender.

1 Sec. 3. Employment safety commission. An employment safety
2 commission is hereby created. The commission shall consist of
3 eight (8) members. Four (4) members shall represent employers,
4 and four (4) members shall represent employees. Each members of
5 the commission shall have had substantial experience in employ-
6 ment safety before his appointment.

1 Sec. 4. Appointment by governor. The governor
2 with the approval of two-thirds ($\frac{2}{3}$) of the members of the
3 senate shall appoint the members of the commission without

4 regard to political affiliation. Any organization of employers
5 or employees, including but not limited to the Iowa Federation
6 of Labor and the Iowa Manufacturers Association, may submit
7 to the governor nomination for members of the commission,
8 together with information on the employment safety experience
9 of each nominee. The governor shall give due consideration to
10 such nominations when appointing members of the commission,
11 but shall not be bound by such nominations.

12 When appointing members of the commission, the governor
13 shall ascertain that each member has the qualifications stated
14 in the Act, that each employer member actually represents the
15 interests of employers, and that each employee member actually
16 represents the interests of employees.

1 Sec. 5. Terms. Each member of the commission shall serve
2 for a term of six (6) years and until his successor is appointed
3 and qualifies. However, the members first appointed shall be
4 appointed within thirty (30) days after the effective date of
5 this Act and shall serve for terms beginning when the members
6 have been approved by the senate and ending on the following
7 dates: one (1) employer member and one (1) employee member,
8 June 30, 1967; two (2) employer members and one (1) employee
9 member, June 30, 1969; and one (1) employer member and two (2)
10 employee members, June 30, 1971.

1 Sec. 6. Vacancies. Any vacancy in the commission occurring
2 during a session of the general assembly shall be filled in the
3 same manner as provided for original appointments and before
4 the end of the session, and for the unexpired part of the term.
5 Any vacancy occurring while the general assembly is not in

6 session shall be filled by appointment by the governor, which
7 appointment shall expire thirty (30) days after the general
8 assembly next convenes. Within said thirty (30) days the
9 governor shall transmit to the senate an appointment for the
10 unexpired part of the term. Vacancies shall not impair the
11 power of the remaining members to exercise all powers of the
12 commission, subject to the requirements of this Act on quorum
13 and number of votes required for certain actions.

1 Sec. 7. Compensation. Members of the commission shall serve
2 without compensation, but shall be paid their reasonable expenses in
3 traveling to and from meetings of the commission and during such
4 meetings, and any other actual and necessary expenses incurred in
5 the performance of official duties of the commission.

1 Sec. 8. Offices and meetings. The commission shall have
2 an office at the seat of government. The executive council
3 shall provide suitable office space and necessary furniture,
4 equipment, and supplies. The commission may hold meetings and
5 hearings anywhere in Iowa.

1 Sec. 9. Organization and procedure. The commission shall
2 adopt rules of procedure for its meetings and activities. The
3 commission shall elect one (1) of its members as chairman, who
4 shall serve for a term of two (2) years and until his successor
5 is elected. The labor commissioner shall serve as secretary of
6 the commission without vote, shall attend its meetings, shall
7 furnish information and clerical and other assistance requested
8 by the commission, and may submit recommendations to the com-
9 mission. Six (6) members of the commission shall constitute a
10 quorum. The affirmative vote of five (5) members of the com-

11 mission shall be required in order to adopt or amend any rule.

1 Sec. 10. Duties and powers. It shall be the duty of the
2 commission and it shall have power, jurisdiction, and authority
3 to:

4 1. Adopt and amend rules as hereinafter provided.

5 2. Hold hearings with respect to employment safety, pro-
6 posed rules, and proposed amendments.

7 3. Hear and decide appeals as hereinafter provided.

8 4. Administer oaths, subpoena witnesses, and take the testi-
9 mony of any person under oath, in connection with any hearing or
10 appeal.

11 5. Advise and consult with the labor commissioner on employ-
12 ment safety and safety education.

13 6. Appoint advisors who shall, without compensation, assist
14 the commission and the labor commissioner in the formulation of
15 rules. Upon request by the commission or the labor commis-
16 sioner, any state official or state agency shall furnish techni-
17 cal assistance and advice in the formulation of rules.

1 Sec. 11. Safety rules. The commission shall adopt reasonable
2 rules, regulations, and codes to carry out and give effect to the
3 policy and provisions of the employment safety laws, including
4 but not limited to section one (1) of this Act. The commission
5 may amend the rules from time to time.

6 The rules shall take into consideration and shall be based on
7 applicable and recognized safety codes, standards, and regula-
8 tions, including, without limiting the generality of the fore-
9 going, any such codes, standards, and regulations heretofore or
10 hereafter adopted by the American Standards Association, United

11 States Bureau of Standards, American Society of Mechanical
12 Engineers, National Fire Prevention Association, American In-
13 surance Association, and other safety organizations.

14 Rules shall be set forth in full; and incorporation of any
15 code, standard, or regulation by reference thereto shall not
16 be sufficient, except that other rules of the commission may be
17 incorporated by reference.

18 If any rule of the commission shall conflict with any appli-
19 cable rule or regulation adopted by any other state agency,
20 board, bureau, officer, or department, the rule or regulation
21 requiring the higher standard shall prevail if such rule or
22 regulation is applicable to employment safety and is authorized
23 by law.

24 All rules shall be enforced as provided in this Act.

1 Sec. 12. Public hearing and notice. Before adopting or
2 amending any rule pursuant to section eleven (11) of this Act,
3 the commission shall hold a public hearing on the subject matter
4 of the proposed rule or amendment. Any interested person may
5 appear and be heard at such hearing, in person or by agent or
6 counsel.

7 The labor commissioner shall maintain a mailing list for
8 hearings, and at least thirty (30) days before the hearing the
9 labor commissioner shall mail a notice of the hearing by ordi-
10 nary mail to each person on the mailing list. Such notice shall
11 include a copy of the proposed rule or amendment. When the labor
12 commissioner receives a written request from any person to be
13 placed on the mailing list for hearings, the labor commissioner
14 shall add such person to the mailing list. At the end of each

15 calendar year, the labor commissioner may remove any person
16 from the mailing list if the labor commissioner has not received
17 from such person during the last three (3) months of such
18 calendar year a written request to be placed on the mailing list
19 for the following year. The commissioner shall also make a
20 reasonable effort to give the news media of the state notice
21 of each hearing.

22 Failure to comply with the notice requirements of this
23 section shall not affect the validity of any rule unless such
24 failure shall have been willful.

25 The provisions of this section are in addition to the re-
26 quirements of chapter seventeen A (17A) of the Code.

1 Sec. 13. Copies of rules. The labor commissioner shall mail
2 a copy of any rule to any person requesting it, within ten (10)
3 days after receipt of such request. The labor commissioner
4 shall cause all rules to be published in a convenient form.

1 Sec. 14. Enforcement and inspections. It shall be the duty
2 of the labor commissioner to supervise the enforcement of the
3 provisions of the employment safety laws and all rules. The
4 labor commissioner and inspectors of the department of labor
5 shall have the right and power to enter and inspect any place
6 of employment at any reasonable time in order to determine com-
7 pliance with, and aid in the enforcement of, the employment
8 safety laws and the rules, but in doing so shall not unreason-
9 ably interfere with the operations, business, or work of any
10 employer or employee. The provisions of section ninety-one
11 point ten (91.10) of the Code shall be applicable to this Act.

12 The labor commissioner may accept, without cost to the state,

13 inspections performed by insurance company inspectors or other
14 qualified inspectors when evidence of their qualifications
15 satisfactory to the labor commissioner has been furnished.
16 No inspection of any place of employment made by insurance com-
17 pany inspectors or other inspector shall be on the basis for
18 the imposition of civil liability upon the inspector or upon
19 the insurance company or other person employing the inspector;
20 but this provision refers only to liability arising out of the
21 making of an inspection and shall not be construed to deny or
22 limit the liability of any employer to his employees or the
23 liability of any insurance carrier on its insurance policy.

1 Sec. 15. Violations. When the labor commissioner or his
2 inspector shall discover or have reason to believe that any pro-
3 vision of the employment safety laws or any rule is being vio-
4 lated, he shall cause to be served on the person or persons violat-
5 ing the same, in the manner provided in the rules of civil pro-
6 cedure, a written notice to comply with the same within a reason-
7 able time to be fixed in the notice, which time shall be not less
8 than seven (7) days nor more than thirty (30) days, except that
9 such time may be extended by the labor commissioner for good
10 cause shown. The notice shall specify the violation.

11 In fixing the time in such notice and any extension of time,
12 the labor commissioner shall take into consideration the nature
13 of the failure or defect constituting the violation, the probable
14 danger thereof, and the probable length of time and amount of
15 labor required to correct the violation.

16 If the violation continues after the expiration of the period
17 of time fixed in the notice, including any such extension of

18 time, the labor commissioner may give written notice of the
19 violation to the county attorney of the county in which the vio-
20 lation takes place. The county attorney shall promptly insti-
21 tute appropriate actions or proceedings, civil or criminal, to
22 enforce the applicable statute or rule. If the county attorney
23 does not do so promptly, the attorney general shall do so upon
24 written request of the labor commissioner. Neither the labor
25 commissioner nor the commission shall be required to post or
26 furnish any bond or security in connection with any such action
27 or proceedings.

28 Any person violating any provision of the employment safety
29 laws or any rule after service of such notice in writing and after
30 expiration of the period of time fixed in such notice, including
31 any such extension of time, shall be guilty of a misdemeanor and
32 upon conviction shall be punished by a fine of not less than
33 twenty-five (25) dollars and not more than one hundred (100) dollars.
34 If such violation continues after such conviction, each day of such
35 continuing violation shall be a new and separate offense.

36 Before proceeding under this section, the labor commissioner may
37 first attempt to obtain voluntary compliance whenever in his judg-
38 ment it is in the public interest to do so.

1 Sec. 16. Appeal. Any person aggrieved by any action of the labor
2 commissioner or his inspector in giving a written notice to comply
3 pursuant to the preceding section or any action of the labor com-
4 missioner with respect to any requested extension of time under
5 the preceding section, may appeal to the commission by causing a
6 written notice of appeal to be served on the labor commissioner in
7 the manner provided in the rules of civil procedure, within ten (10)

8 days after the action of the labor commissioner appealed from. The
9 notice of appeal shall state the action appealed from and the
10 reasons for and grounds of the appeal. The labor commissioner
11 shall promptly notify the chairman of the commission, who shall
12 set a time and place for a hearing on the appeal and shall cause
13 at least five (5) days written notice thereof to be given to all
14 interested parties. The commission shall affirm the action of
15 the labor commissioner unless the commission shall find, by the
16 affirmative vote of at least five (5) members of the commission,
17 that the action of the labor commissioner was not reasonable
18 under the circumstances or was not authorized by the employment
19 safety laws or rules. The commission shall immediately give
20 written notice of its decision to all parties. The enforcement
21 proceedings with respect to which the appeal is taken shall be
22 suspended until the decision of the commission.

23 The appellant or the labor commissioner may obtain judicial
24 review of the commission's decision by commencing an action in
25 the district court in the county in which the alleged violation
26 occurred, within thirty (30) days after the commission's decision.
27 The rules of civil procedure shall be applicable, and the district
28 court shall hear and decide the matter de novo.

29 An appeal may be taken to the supreme court as in other cases.

1 Sec. 17. Imminently dangerous machinery or equipment. When
2 the labor commissioner or his inspector shall discover or have
3 reason to believe that any provision of the employment safety
4 laws or any rule is being violated by a piece of machinery or
5 equipment which is so defective as to cause imminent danger to
6 life, health, or safety, this section shall apply rather than

7 section fifteen (15) of this Act. The labor commissioner or
8 his inspector shall cause to be served on the person or persons
9 violating the same, in the manner provided in the rules of civil
10 procedure, a written notice to comply with the same and to re-
11 frain from using such piece of machinery or equipment until such
12 defect is corrected. The notice shall specify the defect and
13 violating. Pending the service of the written notice, the labor
14 commissioner or his inspector may give oral notice to refrain
15 from using such piece of machinery or equipment until such de-
16 fect is corrected, but such oral notice shall not be effective
17 for more than two (2) hours.

18 If such piece of machinery or equipment violates any pro-
19 vision of the employment safety laws or any rule, any person using
20 such piece of machinery or equipment in violation of such notice
21 shall be guilty of a misdemeanor and upon conviction shall be
22 punished as provided in section fifteen (15) of this Act. Such
23 violation shall be prosecuted as provided in section fifteen (15)
24 of this Act.

25 Any person aggrieved by any action of the labor commissioner or
26 his inspector under this section may appeal to the commission as
27 provided in section sixteen (16) of this Act, or may commence an
28 action in the district court in the county in which the alleged
29 violation occurred. The written notice under this section shall
30 not be suspended during such proceedings unless an injunction is
31 granted by the court.

1 Sec. 18. Section eighty-eight point twelve (88.12), Code 1962,
2 is hereby amended by adding the following at the end thereof:
3 "The labor commissioner shall adopt and all persons shall use

4 standard methods and forms for the records and reports required
5 by this section and the preceding section. Such methods and
6 forms shall be subject to the approval of the employment safety
7 commission. The recommendations of recognized safety organi-
8 zations such as the American Standards Association shall be given
9 due consideration in adopting such methods and forms.”

1 Sec. 19. Section ninety-one point four (91.4), Code 1962, is
2 hereby amended by adding the following new subsection:

3 “To conduct and to cooperate with other interested persons and
4 organizations in conducting educational programs and projects on
5 employment safety.”

1 Sec. 20. Section eighty-eight point ten (88.10), Code 1962,
2 is hereby repealed.

1 Sec. 21. Section eighty-eight point thirteen (88.13), Code
2 1962, is hereby amended as follows:

3 1. Subsections one (1) and two (2) are hereby repealed.

4 2. Subsection three (3) is hereby amended by striking the
5 numbers “88.6, 88.7, 88.8, 88.9.”

1 Sec. 22. This Act may be cited as the Iowa Employment Safety
2 Act.

1 Sec. 23. This Act, being deemed of immediate importance, shall
2 take effect and be in full force from and after its passage and
3 publication in The Wilton Advocate, a newspaper published at
4 Wilton Junction, Iowa, and The Muscatine Journal, a newspaper
5 published at Muscatine, Iowa.

SENATE FILE 403

- 1 Amend Senate File 403 as follows:
2 1. Section three (3), by striking from line three (3) the
3 word and figure "eight (8)" and inserting in lieu thereof the
4 word and figure "nine (9)".
5 Further amend section three (3) by adding after the period in
6 line four (4) the following: "One member shall be a representat-
7 tive of neither an employee or a labor group and he shall serve
8 as chairman of the commission."
9 2. Section nine (9), by striking from lines two (2), three (3),
10 four (4) and five (5) the following: "The commission shall elect
11 one (1) of its members as chairman, who shall serve for a term of
12 two (2) years and until his successor is elected."
13 3. By striking all of section eighteen (18).

Filed and adopted
March 31, 1965.

withdrawn 4/1

RESNICK of Scott.

February 26, 1965.

Passed on File.

Special order of business for 3/17
March 3/17
Passed Senate, Date *3/21*

Vote: Ayes *53* Nays *0*

Senate File 403

By INDUSTRIAL AND HUMAN
RELATIONS COMMITTEE.

Passed House, Date.....

Vote: Ayes..... Nays.....

Approved.....

in order to substitute SF 23 for 3/17
SF 23 substituted for 3/21
passed on file 3/21

A BILL FOR

An Act relating to employment safety and providing for an
employment safety commission.

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

1 Section 1. Definitions. As used in this Act, unless the
2 context indicates otherwise;

3 1. "Employer" includes any person acting directly or in-
4 directly in the interest of the employer in relation to an
5 employee or to a place of employment;

6 2. "Employee" includes any person suffered or permitted to
7 work by an employer;

8 3. "Person" means an individual, partnership, association,
9 corporation, business trust, receiver, trustee, legal repre-
10 sentative, or successor to any of the foregoing;

11 4. "Place of employment" means any place in or about which
12 an employee is suffered or permitted to work.

1 Sec. 2. Employer's duty as to safety and health. Every
2 employer shall furnish and maintain employment and a place of
3 employment which shall be reasonably safe and healthful for
4 employees. Every employer shall install, maintain, and use such
5 methods, processes, devices and safeguards, including methods
6 of sanitation and hygiene, as are reasonably necessary to
7 protect the life, safety, and health of such employees, and

8 shall do every other thing reasonably necessary to render safe
9 such employment and place of employment.

1 Sec. 3. Safety programs.—It shall be the duty of the commis-
2 sioner of labor to aid and assist employers in carrying out their
3 responsibilities under section two (2) of this Act and to suggest
4 and recommend to employers or groups of employers methods and
5 procedures by which they may develop safety programs to carry
6 out such responsibilities.

1 Sec. 4. Occupational safety and health advisory board.—1.
2 There is hereby created with the bureau of labor an occupational
3 safety and health advisory board (hereinafter referred to as the
4 "board") consisting of five (5) members, of whom two (2) shall
5 represent industry, two (2) shall represent labor, and one (1),
6 who shall serve as chairman, shall represent the public. The
7 members of the board shall be appointed by the commissioner of
8 labor with the approval of the governor for a term of six (6)
9 years or until their successors are appointed and qualified and
10 such appointments are approved by the governor: Provided, that
11 in the initial appointment of members of the board one (1) member
12 representing industry and one (1) member representing labor shall
13 be appointed for a term of three (3) years. Vacancies shall
14 be filled by appointment for the unexpired term by the commis-
15 sioner of labor with the approval of the governor in the same
16 manner as the original appointments. The commissioner of labor
17 shall be an ex officio member of the board but shall have no
18 vote and receive no additional compensation for duties performed
19 in connection therewith.

20 2. Members of the board shall receive no salary but shall

21 receive compensation not exceeding twenty-five dollars (\$25.00)
22 for each day or part thereof necessarily spent in the discharge
23 of their official duties and shall in addition be reimbursed for
24 their reasonable and necessary travel and other expenses in amounts
25 approved by the commissioner of labor. The commissioner of labor
26 is hereby authorized and directed to provide the board with such
27 clerical, technical, legal, and other assistance as shall be
28 necessary to permit the board to perform its duties as provided
29 in this Act.

1 Sec. 5. Duties of the occupational safety and health advisory
2 board. Assistance to be given board.—1. In addition to such
3 other duties as may be conferred upon it by law, the board shall
4 formulate and propose to the commissioner of labor such reason-
5 able rules and regulations, or modifications, amendments, or
6 repeals of rules and regulations, for the prevention of accidents
7 and occupational diseases in every employment or place of employ-
8 ment, and for reporting of such accidents and diseases as the
9 board shall find, upon the basis of substantial evidence presented
10 at a public hearing held in accordance with the provisions of
11 section eight (8) to be necessary for the protection of the life,
12 safety, and health of employees.

13 The board shall refer the proposed rules or regulations, or
14 modifications, amendments, or repeals of existing rules and
15 regulations to the commissioner of labor for consideration. It
16 shall submit therewith a report, indicating the need for the
17 proposals and summarizing the testimony presented at the public
18 hearing and any other information or technical data available
19 to the board.

20 In the development of such proposed rules and regulations, or
21 of modifications, amendments, or repeals of rules and regulations,
22 the board may appoint special committees composed of employees,
23 employers, and experts to make recommendations as to proposed
24 rules and regulations or to assist the board in developing such
25 rules and regulations. It may call upon the commissioner of
26 labor for technical assistance and advice. On matters affecting
27 health, the board may also call upon the commissioner of public
28 health for technical assistance and advice. In addition, the
29 board may utilize the advice and assistance of individuals or
30 organizations, or of other agencies having special knowledge of
31 the proposals being considered by it.

32 2. The commissioner of labor, the commissioner of public
33 health, and the industrial commissioner shall make available to
34 the board any information or technical data that will aid the
35 board in determining the need for and in formulating rules and
36 regulations for the protection of the life, safety, and health of
37 employees.

1 Sec. 6. Duties of the commissioner of labor and the commission-
2 er of public health.—1. The commissioner of labor may make recom-
3 mendations to the board regarding rules and regulations for the
4 protection of the life, safety, and health of employees, or
5 modifications, amendments, or repeals of such existing rules and
6 regulations as he deems necessary to carry out the intent of this
7 Act. He shall also have authority to appoint special committees
8 of employees, employers, and experts to consider specific problems
9 arising under this Act and to make recommendations to the board.
10 2. The commissioner of public health may make recommendations

11 to the board regarding rules and regulations for the protection
12 of the health of employees or modifications, amendments, or repeals
13 of such existing rules and regulations affecting health as he deems
14 necessary to carry out the intent of this Act.

1 Sec. 7. Rulemaking power.—1. In addition to such other powers
2 and duties as may be conferred upon him by law, the commissioner
3 of labor shall within thirty (30) days after the receipt from the
4 board of proposed rules and regulations, or modifications, amend-
5 ments, or repeals of existing rules and regulations, either accept,
6 adopt, and issue such rules and regulations, modifications, amend-
7 ments, or repeals, or shall refer them back to the board for further
8 consideration and revision.

9 2. Rules and regulations, modifications, and amendments, and
10 repeals thereof, issued by the commissioner of labor under this
11 section shall be effective as provided in section nine (9) of this
12 Act and shall have the force and effect of law.

1 Sec. 8. Notice of public hearing.—Any public hearing provided
2 for under this Act shall be held at such time as the board shall
3 specify. Notice thereof shall be published at least once, not
4 less than ten (10) days prior to such hearing, in such newspaper
5 or newspapers of general circulation as the commissioner of labor
6 shall prescribe. Notice of such public hearing shall be furnished
7 by the commissioner of labor to any person filing a request therefor.

1 Sec. 9. Publication; effective date of rules.—1. Every rule
2 or regulation adopted, and every modification, amendment, or repeal
3 thereof, shall be published in such manner as the commissioner of
4 labor shall determine. The commissioner of labor shall deliver
5 a copy to every person making application therefor.

6 2. All rules and regulations, and all modifications, amend-
7 ments, and repeals thereof, shall, unless otherwise prescribed by
8 the commissioner of labor, take effect thirty (30) days after
9 their publication in accordance with subsection one (1) of this
10 section. Certified copies thereof shall be filed in the office
11 of the secretary of state.

1 Sec. 10. Variations.—If there shall be practical difficulties
2 or unnecessary hardship in carrying out the provisions of this Act
3 for a rule or regulation of the commissioner of labor thereunder, the
4 commissioner of labor may make a variation from such requirements
5 if the spirit of the provision, rule, or regulation will be observed
6 and the safety and health of the employee will remain protected.
7 Any person affected by such provision, rule or regulation, or his
8 agent, may request, in writing, the commissioner of labor to
9 authorize such variation, stating the grounds for his request.
10 Any authorization by the commissioner of labor of a variation
11 shall be in writing and shall describe the conditions under which
12 the variation shall be permitted. A properly indexed record of
13 all variations shall be kept in the office of the department and
14 open to public inspection.

1 Sec. 11. Hearings on reasonableness of safety regulations.—
2 1. Any employer or other person affected by any safety rule or
3 regulation, or by a modification, amendment, or repeal thereof,
4 may petition the commissioner of labor for a hearing on the reason-
5 ableness of such regulation.
6 2. Such petition for hearing shall be by verified petition
7 filed with the commissioner of labor, setting out specifically and
8 in full detail the regulation, modification, amendment, or repeal,

9 upon which a hearing is desired and the reasons why such rule,
10 regulation, modification, amendment, or repeal are unreasonable.
11 All hearings shall be open to the public.

12 3. Upon receipt of such petition, the commissioner of labor,
13 after consultation with the board may determine the same by
14 confirming without hearing his previous determination. If the
15 material issues presented by the petition have not been previously
16 considered at hearings, the commissioner of labor shall refer the
17 matter to the board for hearing for consideration of the issues
18 involved and for its recommendation. Notice of the time and place
19 of such hearing shall be given to the petitioner and to such other
20 persons as the commissioner of labor may find directly interested
21 in the issues involved in the petition.

22 4. If the board shall find that the rule, regulation, modi-
23 fication, amendment, or repeal complained of is unreasonable, it
24 shall in accordance with the procedure set forth in section five
25 (5) subsection one (1), formulate and propose to the commissioner
26 of labor such substitute rule or regulation as the board may
27 determine to be reasonable.

28 5. Whenever, at the termination of such hearing, it shall be
29 found that further time is reasonable necessary for the compliance
30 with the rule, regulation, modification, amendment, or repeal, the
31 commissioner of labor shall grant such time.

1 Sec. 12. Right of entry and investigation.—The commissioner
2 of labor or his authorized representative shall have the power
3 and authority to enter and inspect such places, question such
4 employees, and investigate such facts, conditions, practices,
5 or matters as he may deem appropriate to determine the cause of

6 any accident that has occurred, or whether any person has violated
7 any provisions of this Act, or any rule or regulation issued
8 thereunder. The commissioner of labor may further investigate
9 all matters which may aid in the enforcement of this Act.

1 Sec. 13. Enforcement.—The commissioner of labor shall have
2 the power to administer and enforce the provisions of this Act.

1 Sec. 14. Power as to witnesses.—The commissioner of labor
2 or his designated representative, in the performance of any duty
3 or the execution of any power prescribed by this Act, shall have
4 the power to administer oaths, certify as to official acts, take
5 and cause to be taken depositions of witnesses, issue subpoenas,
6 and compel the attendance of witnesses and production of papers,
7 books, documents, records, and testimony. In case of failure
8 of any person to comply with any evidence or to testify to any
9 matter regarding which he may be lawfully interrogated, it shall
10 be the duty of the district court or the judge thereof, upon
11 application of the commissioner of labor or his designated agent,
12 to compel obedience by proceedings for contempt, as in the case
13 of disobedience of the requirements of a subpoena issued by such
14 a court or a refusal to testify therein.

1 Sec. 15. Court review.—1. Any person aggrieved by a rule
2 or regulation of the commissioner of labor promulgated pursuant
3 to sections five (5) and seven (7) of this Act may commence an
4 action in the district court against the commissioner of labor
5 to set aside such rule or regulation but only on the ground that
6 it is unlawful or unreasonable. Such action and pleadings therein
7 shall be governed by the rules and laws applicable to equity
8 proceedings in such court, provided that no order granting any

9 character of injunctive relief shall be issued and no rule shall
10 be set aside except after due notice in writing to the commissioner
11 of labor and a full hearing and determination as to the lawfulness
12 and reasonableness of the rule or regulation. Either party to
13 such action shall have a right to appeal from any judgment or order
14 therein, as provided by law: Provided, that no order granting
15 any character or injunctive relief shall become effective until
16 the time for appeal has expired without appeal having been taken,
17 or until such order has been finally sustained.

18 2. In any proceeding under this section, rules and regulations
19 of the commissioner of labor shall be deemed prima facie lawful
20 and reasonable. No such rules and regulations shall be held
21 invalid because of technical defect, provided there is substantial
22 compliance with the provisions of this Act.

23 2. In any proceedings brought pursuant to section sixteen (16)
24 of this Act, involving a rule or regulation which is the subject
25 of a proceeding under this section, the court shall stay the pro-
26 ceeding under section sixteen (16) during the pendency of a pro-
27 ceeding under this section: Provided, that in the case of a
28 proceeding under section sixteen (16), subsection two (2), the
29 court granting a stay, shall, upon verified statement of the
30 commissioner of labor that serious danger to the safety or health
31 of employees is threatened by the continuing violation of a rule
32 or regulation involved in a proceeding under such subsection, issue
33 a temporary injunction or restraining order enjoining or restrain-
34 ing, during the period of the stay, any violation of such rule or
35 regulation.

1 Sec. 16. Penalties and injunctions.—1. Any person failing to

2 comply with any provisions of this Act or with any rule, regulation,
3 or order issued thereunder, or interfering with, impeding, or
4 obstructing in any manner the commissioner of labor or his author-
5 ized representatives or the board members in the performance of
6 their official duties under this Act, shall be guilty of a
7 violation of this Act, and upon conviction thereof shall be sub-
8 ject to a fine of not less than twenty-five dollars (\$25.00) nor
9 more than one hundred dollars (\$100.00), or to imprisonment for
10 not less than thirty (30) days nor more than sixty (60) days, or
11 both such fine and imprisonment, for each such offense.

12 2. The commissioner of labor may institute proceedings in the
13 court of the judicial district within which any person charged
14 with violating any provision of this Act resides or maintains a
15 place of business to enjoin such violation, and such court shall
16 have jurisdiction to issue temporary or permanent restraining
17 orders or grant other appropriate equitable relief to assure com-
18 pliance with the provisions of this Act and any applicable rule,
19 regulation, or order of the commissioner of labor.

1 Sec. 17. Separability. If any provision of this Act, or the
2 application of such provision to any person or circumstances, shall
3 be held invalid, the remainder of this Act, and the application of
4 such provision to other persons or circumstances, shall not be
5 affected thereby.

SENATE FILE 403

- 1 Amend Senate File 403 as follows:
- 2 By striking in lines nine (9) and ten (10) of section sixteen
- 3 (16) after the "comma (,)" the words "or imprisonment for not
- 4 less than thirty (30) days nor more than sixty (60) days," and
- 5 insert in lieu thereof the words "imprisonment up to thirty
- 6 (30) days."

Filed By INDUSTRIAL AND HUMAN RELATIONS COMMITTEE,
February 26, 1965. JAKE B. MINICKS, *Chairman*.

SENATE FILE 403

- 1 Amend Senate File 403 by striking all after the
- 2 enacting clause and inserting in lieu thereof all after the
- 3 enacting clause of Senate File 23.

Filed
March 12, 1965.

withdrawn 3/24

By STANLEY.

SENATE FILE 403

- 1 Amend Senate File 403 as follows:
- 2 1. Amend section 4, lines 7 and 8 by striking the following:
- 3 "commissioner of labor with the approval of".
- 4 2. Amend section 5 by adding the following paragraph after
- 5 line 12:
- 6 "The rules shall take into consideration and shall be based on
- 7 applicable and recognized safety codes, standards and regulations,
- 8 including, without limiting the generality of the foregoing, any
- 9 such codes, standards, and regulations heretofore or hereafter
- 10 adopted by the American Standards Association, United States
- 11 Bureau of Standards, American Society of Mechanical Engineers,
- 12 National Fire Prevention Association, National Board of Fire
- 13 Underwriters, and other safety organizations."
- 14 3. Amend section 7 by striking the "period (.)" at the end
- 15 of line 8 and adding the following "but no rule or regulation shall
- 16 be adopted by the commissioner of labor without first being considered
- 17 by the board."
- 18 4. Amend section 9, subsection 2, line 8 by striking the
- 19 following "thirty (30) days".
- 20 5. Further amend section 9, subsection 2, by striking the
- 21 "period (.)" in line 10 and adding the following "and after the
- 22 requirements of chapter seventeen A (17A) have been complied with."

Filed
March 16, 1965.

By MINCKS.

SENATE FILE 403

- 1 Amend the Stanley amendment filed March 12, 1965, to
- 2 Senate File 403 as follows: (references to sections
- 3 and links refer to the text of Senate File 23).
- 4 1. In section 9, line 9, strike everything after the
- 5 period and all of lines 10 and 11.

Filed
March 17, 1965.

withdrawn 3/24

By KLEFSTAD.

SENATE FILE 403

1 Amend the Stanley amendment filed March 12, 1965, to Senate
 2 File 403 as follows: (references to sections and lines refer to
 3 the text of Senate File 23):
 4 1. In section 1, line 2, insert the words "and maintain"
 5 after the word "furnish".
 6 2. In section 2, strike line 8 and insert the following
 7 in lieu thereof: "association, organization, fiduciary, or
 8 legal representative."
 9 3. In section 9, line 7, insert the following after the
 10 word "information": "and clerical and other assistance".
 11 4. In section 11, line 3, insert the following after the
 12 word "laws": ", including but not limited to section one (1)
 13 of this Act".
 14 5. In section 11, lines 11 and 12, strike the words
 15 "National Board of Fire Underwriters" and insert in lieu thereof
 16 the words "American Insurance Association".
 17 6. In section 13, strike the following sentence: "In
 18 addition, promptly after any rule becomes effective, the labor
 19 commissioner shall mail a copy to each person on the current
 20 mailing list for hearings."
 21 7. In section 14, insert the following after the period
 22 in line 15: "No inspection of any place of employment made by
 23 insurance company inspectors or other inspectors shall be the
 24 basis for the imposition of civil liability upon such insurance
 25 company inspectors, other inspectors, or their employer."
 26 8. In section 15, insert the following at the end of
 27 line 10: "The notice shall specify the violation."
 28 9. In section 16, line 2, insert the words "or his
 29 inspector" after the word "commissioner".
 30 10. Insert the following new section after section 16
 31 and renumber the remaining sections:
 32 "Sec. 17. Imminently dangerous machinery or equipment.
 33 When the labor commissioner or his inspector shall discover or
 34 have reason to believe that any provision of the employment safety
 35 laws or any rule is being violated by a piece of machinery or
 36 equipment which is so defective as to cause imminent danger
 37 to life, health, or safety, this section shall apply rather than
 38 section fifteen (15) of this Act. The labor commissioner or his
 39 inspector shall cause to be served on the person or persons
 40 violating the same, in the manner provided in the rules of
 41 civil procedure, a written notice to comply with the same and to
 42 refrain from using such piece of machinery or equipment until such
 43 defect is corrected. The notice shall specify the defect and
 44 violation. Pending the service of the written notice, the
 45 labor commissioner or his inspector may give oral notice to refrain
 46 from using such piece of machinery or equipment until such defect
 47 is corrected, but such oral notice shall not be effective for
 48 more than two (2) hours.
 49 "If such piece of machinery or equipment violates any
 50 provision of the employment safety laws or any rule, any person
 51 using such piece of machinery or equipment in violation of such
 52 notice shall be guilty of a misdemeanor and upon conviction shall
 53 be punished as provided in section fifteen (15) of this Act.
 54 Such violation shall be prosecuted as provided in section fifteen
 55 (15) of this Act.
 56 "Any person aggrieved by any action of the labor commissioner
 57 or his inspector under this section may appeal to the commission
 58 as provided in section sixteen (16) of this Act, or may commence
 59 an action in the district court in the county in which the alleged
 60 violation occurred. The written notice under this section shall
 61 not be suspended during such proceedings unless an injunction is
 62 granted by the court."

Filed
 March 16, 1965.

admitted 3/14
 By KRUCK, HEYING, RENO, TABOR and NURSE.