

NATURAL RESOURCES: Hester, Chair; Tieden and Rodgers

MAR 8 1985

Place On Calendar

HOUSE FILE 540

BY COMMITTEE ON NATURAL RESOURCES
AND OUTDOOR RECREATION

(Formerly House Study Bill 308)

Passed House, Date 3-20-85 (p. 913) Passed Senate, Date 4-17-85 (p. 1461)
Vote: Ayes 94 Nays 0 Vote: Ayes 46 Nays 0

Approved May 16 1985

Repassed House 4-26-85 (p. 1955) 93-0 Motion to reconsider (p. 1472) w/d 4/24/85

A BILL FOR

- 1 An Act relating to the mining of ores and minerals other than
- 2 coal and authorizing a penalty.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S-3696 HOUSE FILE 540

- 1 Amend House File 540 as passed by the House as
- 2 follows:
- 3 1. Page 9, by striking line 16 and inserting the
- 4 following: "license. The committee shall notify the
- 5 attorney general who shall".
- 6 2. Page 9, by striking line 29 and inserting the
- 7 following: "committee shall notify the attorney
- 8 general who shall seek immediate".

S-3696 Filed April 10, 1985 By COM. ON NATURAL RESOURCES
Adopted 4/17/85 (p. 1461)

SENATE AMENDMENT TO HOUSE FILE 540

H-4023

- 1 Amend House File 540 as passed by the House as
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- 3 1. Page 9, by striking line 16 and inserting the
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- 7 following: "committee shall notify the attorney
- 8 general who shall seek immediate".

H-4023 FILED APRIL 24, 1985 RECEIVED FROM THE SENATE
House concurred 4/26/85 (p. 1954)

1 Section 1. Section 83A.1, Code 1985, is amended to read as
2 follows:

3 83A.1 POLICY.

4 It is ~~hereby-declared-to-be~~ the policy of this state to
5 provide for the ~~rehabilitation~~ reclamation and conservation of
6 land affected by surface mining and thereby to preserve
7 natural resources, protect and perpetuate the taxable value of
8 property, and protect and promote the health, safety and
9 general welfare of the people of this state.

10 Sec. 2. Section 83A.2, Code 1985, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. "Topsoil" means the natural medium located
13 at the land surface with favorable characteristics for growth
14 of vegetation.

15 Sec. 3. Section 83A.2, subsections 4 and 5, Code 1985, are
16 amended by striking the subsections and inserting in lieu
17 thereof the following:

18 4. "Mine site" means a site where surface mining is being
19 conducted or has been conducted in the past and the operator
20 anticipates further surface mining operations, or the surface
21 operation related to an underground mine.

22 Sec. 4. Section 83A.2, subsection 7, Code 1985, is amended
23 to read as follows:

24 7. "Affected land" means the area of land from which over-
25 burden has been removed or upon which overburden has been de-
26 posited or both, including crushing areas and stockpile areas
27 but not including roads.

28 Sec. 5. Section 83A.2, subsection 8, Code 1985, is amended
29 by striking the subsection.

30 Sec. 6. Section 83A.3, unnumbered paragraph 1, Code 1985,
31 is amended to read as follows:

32 There is ~~hereby~~ established within the department of soil
33 conservation a land ~~rehabilitation~~ reclamation advisory board
34 which shall consist of seven members appointed by the
35 governor, as follows:

1 Sec. 7. Section 83A.6, Code 1985, is amended to read as
2 follows:

3 83A.6 DUTIES OF BOARD.

4 The advisory board shall:

5 1. Advise the department on any matter relating to
6 administration and enforcement of this chapter and chapters 83
7 and 84.

8 2. Advise the department with respect to surface mined
9 land rehabilitation reclamation demonstration projects.

10 3. Advise the department on the gathering, preparation,
11 and dissemination of information on methods of rehabilitating
12 reclaiming land which has been surface mined and on any state,
13 federal, or other financial assistance which may be available
14 to assist in paying the cost of rehabilitation reclamation of
15 the land.

16 The department shall inform the advisory board of all
17 complaints received relating to mining and mining operations.

18 Sec. 8. Section 83A.8, Code 1985, is amended to read as
19 follows:

20 83A.8 SUSPENSION OR REVOCATION OF LICENSE.

21 The department may, with approval of the committee,
22 commence proceedings to suspend, revoke, or refuse to renew a
23 license of any licensee for repeated or willful violation of
24 any of the provisions of this chapter ~~or the federal Metal and~~
25 ~~Nonmetallic Mine Safety Act.~~ The department shall by
26 certified mail or personal service serve on the licensee
27 notice in writing of the charges and grounds upon which the
28 license is to be suspended, revoked, or will not be renewed.
29 The notice shall include the time and the place at which a
30 hearing shall be held before the committee to determine
31 whether to suspend, revoke, or refuse to renew the license.
32 The hearing shall be not less than fifteen nor more than
33 thirty days after the mailing or service of the notice.

34 Sec. 9. Section 83A.9, Code 1985, is amended to read as
35 follows:

1 83A.9 HEARING -- COUNSEL.

2 Any A licensee whose license the department proposes to
3 suspend, revoke, or refuse to renew ~~shall have~~ has the right
4 to counsel and may produce witnesses and present statements,
5 documents, and other information in ~~his~~ the licensee's behalf
6 at the hearing. If after full investigation and hearing the
7 licensee is found to have willfully or repeatedly violated any
8 of the provisions of this chapter ~~or the Federal-Metal and~~
9 ~~Nonmetallic-Mine-Safety-Act~~, the committee may affirm or
10 modify the proposed suspension, revocation, or refusal to
11 renew the license. When the committee finds that a license
12 should be suspended or revoked or should not be renewed, the
13 department shall so notify the licensee in writing by
14 certified mail or by personal service.

15 Sec. 10. Section 83A.13, Code 1985, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. A mine site registered pursuant to this
18 section or section 83A.21 shall have, at the primary entrance
19 to the mine site, a clearly visible sign which sets forth the
20 name, business address, registration number, and phone number
21 of the operator. Failure to post and maintain a sign as re-
22 quired by this subsection, within thirty days after notice
23 from the department, invalidates the registration.

24 Sec. 11. Section 83A.13, subsection 1, Code 1985, is
25 amended to read as follows:

26 1. ~~Within-fifteen-days-after~~ At least seven days before
27 beginning mining or removal of overburden at ~~any~~ a surface
28 mining site not previously registered, an operator engaging in
29 mining in this state shall register the mine site with the
30 department. Application for registration shall be made upon a
31 form provided by the department. A registration renewal shall
32 be filed not later than twelve months following the initial
33 registration and each subsequent renewal. Application for
34 renewal of registration shall be on a form provided by the
35 department. The registration renewal fee shall be established

1 by the department in an amount not exceeding the cost of
2 administration. The registration fee shall be established by
3 the department in an amount not exceeding the cost of
4 administering the registration provisions of this chapter, as
5 estimated by the department. The application shall include a
6 description of the tract or tracts of land where the site is
7 located and the estimated number of acres at the site to be
8 affected by the mine. The description shall include the
9 section, township, range, and county in which the land is
10 located and shall otherwise describe the land with sufficient
11 certainty to determine the location and to distinguish the
12 land to be registered from other lands. The application shall
13 include a statement explaining the authority of the
14 applicant's legal right to operate a mine on the land.

15 Sec. 12. Section 83A.13, subsection 2, Code 1985, is
16 amended by striking the subsection.

17 Sec. 13. Section 83A.14, Code 1985, is amended to read as
18 follows:

19 83A.14 BOND.

20 The application for registration shall be accompanied by a
21 bond or security as required under sections 83A.23 or 83A.24
22 ~~if overburden is removed.~~ After ascertaining that the
23 applicant is licensed under section 83A.7 and is not in
24 violation of this chapter with respect to any mine site
25 previously registered with the department, the department
26 shall register the mine site and shall issue the applicant
27 written authorization to ~~conduct surface mining on the site~~
28 operate a mine.

29 Sec. 14. Section 83A.17, Code 1985, is amended by striking
30 the section and inserting in lieu thereof the following:

31 83A.17 RECLAMATION REQUIREMENTS.

32 1. An operator authorized under this chapter to operate a
33 mine, after completion of mining operations and within the
34 time specified in section 83A.19, shall:

35 a. Grade affected lands except for impoundments, pit

1 floors, and highwalls, to slopes having a maximum of one foot
2 vertical rise for each four feet of horizontal distance.
3 Where the original topography of the affected land was steeper
4 than one foot of vertical rise for each four feet of
5 horizontal distance, the affected lands may be graded to blend
6 with the surrounding terrain.

7 b. Provide for the vegetation of the affected lands,
8 except for impoundments, pit floors, and highwalls, as
9 approved by the department before the release of the bond as
10 provided in section 83A.19.

11 2. Notwithstanding subsection 1, overburden piles where
12 deposition has not occurred for a period of twelve months
13 shall be stabilized.

14 3. Crushing areas and stockpile areas in place on the
15 effective date of this Act are not subject to this section
16 unless those areas continue to function as a part of the mine
17 site after July 1, 1988.

18 4. Topsoil that is a part of overburden shall not be
19 destroyed or buried in the process of mining.

20 5. The department, with concurrence of the advisory board,
21 may grant a variance from the requirements of subsections 1
22 and 2.

23 6. A bond or security posted under this chapter to assure
24 reclamation of affected lands shall not be released until all
25 the reclamation work required by this section has been
26 performed in accordance with this chapter and departmental
27 rules, except when a replacement bond or security is posted by
28 a new operator or responsibility is transferred under section
29 83A.16.

30 Sec. 15. Section 83A.18, Code 1985, is amended to read as
31 follows:

32 83A.18 PERIODIC REPORTS.

33 Every An operator shall file with the department a periodic
34 report for each mine site under registration indicating
35 ~~whether-the-site-is-presently-active-or-inactive.~~ Each The

1 report shall make reference to the most recent registration of
2 the mine site and shall show:

3 1. The location and extent of all surface land area on the
4 mine site affected by surface mining during the period covered
5 by the report.

6 2. The extent to which removal of mineral products from
7 all or any part of the affected land lands has been completed.

8 A ~~The~~ report ~~as-prescribed-by-this-section~~ shall be filed
9 not later than twelve months after original registration of
10 the site and prior to the expiration of each subsequent
11 twelve-month period thereafter. A report shall also be filed
12 within thirty days after completion of all surface mining
13 operations at the site regardless of the date of the last
14 preceding report. Forms ~~on-which~~ for the filing of periodic
15 reports required by this section ~~shall-be-filed~~ shall be
16 provided by the department.

17 Sec. 16. Section 83A.19, Code 1985, is amended to read as
18 follows:

19 83A.19 ~~REHABILITATION-OF-LAND~~ RECLAMATION SCHEDULE.

20 An operator of a surface mine shall ~~rehabilitate-land~~
21 ~~affected-by-surface-mining-within-twelve-months~~ reclaim
22 affected lands according to a schedule established by the
23 department, but within a period not to exceed three years,
24 after the filing of a report required under section 83A.18
25 indicating the mining of any part of a site has been
26 completed.

27 PARAGRAPH DIVIDED. For certain postmining land uses, such
28 as a sanitary land fill, the department, with the approval of
29 the land reclamation advisory board, may allow an extended
30 reclamation period.

31 PARAGRAPH DIVIDED. Each An operator, upon completion of
32 any rehabilitation reclamation work required by section
33 83A.17, shall apply to the department in writing for approval
34 of the work. The department shall within a reasonable time
35 determined by departmental rule inspect the completed

1 rehabilitation reclamation work. Upon determination by the
2 department that the operator has satisfactorily completed all
3 required rehabilitation reclamation work on the land included
4 in the application, the department shall release the bond or
5 security on the rehabilitated reclaimed land, shall remove the
6 land from registration, and shall terminate or amend as
7 necessary the operator's authorization to conduct surface
8 mining on the site.

9 Sec. 17. Section 83A.20, Code 1985, is amended to read as
10 follows:

11 83A.20 EXTENSION OF TIME.

12 The time for completion of rehabilitation reclamation work
13 may be extended upon presentation by the operator of evidence
14 satisfactory to the department that rehabilitation reclamation
15 of affected land cannot be completed within the time specified
16 by section 83A.19 without unreasonably impeding removal of
17 mineral products from other parts of an active site or future
18 removal of mineral products from an initiative site.

19 Sec. 18. Section 83A.23, Code 1985, is amended to read as
20 follows:

21 83A.23 FORM OF BOND.

22 Each A bond filed with the department by an operator
23 pursuant to this chapter shall be in a form prescribed by the
24 department, payable to the state of Iowa, and conditioned upon
25 faithful performance by the operator of all requirements of
26 this chapter and all rules adopted by the department pursuant
27 to this chapter. The bond shall be signed by the operator as
28 principal and by a corporate surety licensed to do business in
29 Iowa as surety. In lieu of a bond, the operator may deposit
30 cash, certificates of deposit or government securities with
31 the department on the same conditions as prescribed by this
32 section for filing of bonds. The amount of the bond or other
33 security required to be filed with an application for
34 registration of a surface mining site, or to increase the area
35 of a site previously registered, shall be equal to the

1 estimated cost of rehabilitating reclaiming the site as
2 required under section 83A.17. The estimated cost of
3 rehabilitation reclamation of each individual site shall be
4 determined by the department on the basis of relevant factors
5 including, but not limited to, topography of the site, mining
6 methods being employed, depth and composition of overburden,
7 and depth of the mineral deposit being mined. The department
8 may require an applicant for registration or amendment of
9 registration of a site to furnish information necessary to
10 estimate the cost of rehabilitating reclaiming the site. The
11 penalty of the bond or the amount of cash or securities on
12 deposit may be increased or reduced from time to time in
13 accordance with section 83A.15.

14 Sec. 19. Section 83A.24, Code 1985, is amended to read as
15 follows:

16 83A.24 SINGLE BOND FOR MULTIPLE SITES.

17 Any An operator who registers with the department two or
18 more surface mining sites may elect, at the time the second or
19 any a subsequent site is registered, to post a single bond in
20 lieu of separate bonds on each site. Any A single bond so
21 posted shall be in an amount equal to the estimated cost of
22 rehabilitating reclaiming all sites the operator has
23 registered, determined as provided in section 83A.23. The
24 penalty of a single bond on two or more surface mining sites
25 may be increased or decreased from time to time in accordance
26 with sections 83A.14, 83A.15, and 83A.19. When an operator
27 elects to post a single bond in lieu of separate bonds
28 previously posted on individual sites, the separate bonds
29 shall not be released until the new bond has been accepted by
30 the department.

31 Sec. 20. Section 83A.28, Code 1985, is amended to read as
32 follows:

33 83A.28 FORFEITURE OF BOND.

34 The attorney general, upon request of the committee, shall
35 institute proceedings for forfeiture of the bond posted by an

1 operator to guarantee rehabilitation reclamation of a site
2 where the operator is in violation of any of the provisions of
3 this chapter or any rule adopted by the department pursuant to
4 this chapter. Forfeiture of the operator's bond shall fully
5 satisfy all obligations of the operator to rehabilitate
6 reclaim affected land covered by the bond. The department
7 shall have the power to rehabilitate reclaim as required by
8 section 83A.17 any surface mined land with respect to which a
9 bond has been forfeited, using the proceeds of the forfeiture
10 to pay for the necessary rehabilitation reclamation work.

11 Sec. 21. Section 83A.29, Code 1985, is amended to read as
12 follows:

13 83A.29 PENALTY PENALTIES FOR OPERATING WITHOUT A LICENSE
14 AND FOR FAILURE TO REGISTER.

15 1. If a person engages in mining without obtaining a
16 license, the committee shall request the attorney general to
17 institute a civil action in the district court for injunctive
18 relief and for the assessment of a civil penalty as determined
19 by the court not to exceed five thousand dollars.

20 2. Any An operator who fails to make timely application
21 for registration of each mine site where-mining-is-being
22 conducted is guilty of a simple misdemeanor. Each day mining
23 activities are conducted at a mine site for which no
24 application for registration has been made as required under
25 section 83A.13 shall-constitute is a separate violation.

26 3. If an operator fails to register or re-register a site
27 and provide required bond within thirty days following receipt
28 of notice from the department by certified letter, the
29 committee shall request the attorney general to seek immediate
30 injunctive relief.

31 4. An operator who fails to renew the operator's mining
32 license within a time period set by the department, who has
33 been denied license renewal by the committee, or whose license
34 has been suspended or revoked by the committee shall also have
35 all registrations automatically invalidated.

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EXPLANATION

This bill revises several provisions regarding the mining of ores and minerals other than coal.

Sections 2 through 5 revise the definitions to define topsoil, replace the definitions of active site and inactive site with a definition of mine site, strike the definition of spoil bank and include crushing areas and stockpile areas and exclude roads in the definition of affected lands.

Sections 6 and 7 change the name of the advisory board and provide that it also advises on coal mining and oil and gas wells.

Sections 8 and 9 delete references to the federal Metal and Nonmetallic Mine Safety Act.

Sections 10, 11 and 12 eliminate the requirement of filing a rehabilitation plan, require the posting of a sign identifying the operator, require registration prior to mining and provide for registration renewal.

Sections 13 and 15 coordinate with the change in the definition of mine sites.

Section 14 revises a section on reclamation eliminating specific requirements on spoil banks and requiring grading and vegetation of affected lands. A limited exemption is provided existing crushing areas and stockpile areas and the granting of variances is authorized. The preservation of topsoil is required.

Section 16 requires that reclamation be effected according to a schedule established by the department of soil conservation within a period which is not to exceed three years.

Section 21 authorizes injunctive relief and civil penalties and provides for mine site registration invalidation when an operator's license is not renewed or is denied, suspended, or revoked.

Other sections change references of rehabilitation to reclamation.

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NSB 308

MWB

**NATURAL RESOURCES AND
OUTDOOR RECREATION**

SENATE/HOUSE FILE 540

BY (PREFILED DEPARTMENT OF SOIL
CONSERVATION BILL)

Study Bill 308

Natural Resources and Outdoor Recreation: Welden, Chair; Johnson and Stueland

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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30 department. Application for registration shall be made upon a
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32 be filed not later than twelve months following the initial
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S.F. _____ H.F. _____

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10 the site and prior to the expiration of each subsequent
11 twelve-month period thereafter. A report shall also be filed
12 within thirty days after completion of all surface mining
13 operations at the site regardless of the date of the last
14 preceding report. Forms ~~on-which~~ for the filing of periodic
15 reports required by this section ~~shall-be-filed~~ shall be
16 provided by the department.

17 Sec. 16. Section 83A.19, Code 1985, is amended to read as
18 follows:

19 83A.19 REHABILITATION-OF-LAND RECLAMATION SCHEDULE.

20 An operator of a surface mine shall ~~rehabilitate-land~~
21 ~~affected-by-surface-mining-within-twelve-months~~ reclaim
22 affected lands according to a schedule established by the
23 department, but within a period not to exceed three years,
24 after the filing of a report required under section 83A.18
25 indicating the mining of any part of a site has been
26 completed.

27 PARAGRAPH DIVIDED. For certain postmining land uses, such
28 as a sanitary land fill, the department, with the approval of
29 the land reclamation advisory board, may allow an extended
30 reclamation period.

31 PARAGRAPH DIVIDED. Each An operator, upon completion of
32 any rehabilitation reclamation work required by section
33 83A.17, shall apply to the department in writing for approval
34 of the work. The department shall within a reasonable time
35 determined by departmental rule inspect the completed

S.F. _____ H.F. _____

1 rehabilitation reclamation work. Upon determination by the
2 department that the operator has satisfactorily completed all
3 required rehabilitation reclamation work on the land included
4 in the application, the department shall release the bond or
5 security on the rehabilitated reclaimed land, shall remove the
6 land from registration, and shall terminate or amend as
7 necessary the operator's authorization to conduct surface
8 mining on the site.

9 Sec. 17. Section 83A.20, Code 1985, is amended to read as
10 follows:

11 83A.20 EXTENSION OF TIME.

12 The time for completion of rehabilitation reclamation work
13 may be extended upon presentation by the operator of evidence
14 satisfactory to the department that rehabilitation reclamation
15 of affected land cannot be completed within the time specified
16 by section 83A.19 without unreasonably impeding removal of
17 mineral products from other parts of an active site or future
18 removal of mineral products from an initiative site.

19 Sec. 18. Section 83A.23, Code 1985, is amended to read as
20 follows:

21 83A.23 FORM OF BOND.

22 Each A bond filed with the department by an operator
23 pursuant to this chapter shall be in a form prescribed by the
24 department, payable to the state of Iowa, and conditioned upon
25 faithful performance by the operator of all requirements of
26 this chapter and all rules adopted by the department pursuant
27 to this chapter. The bond shall be signed by the operator as
28 principal and by a corporate surety licensed to do business in
29 Iowa as surety. In lieu of a bond, the operator may deposit
30 cash, certificates of deposit or government securities with
31 the department on the same conditions as prescribed by this
32 section for filing of bonds. The amount of the bond or other
33 security required to be filed with an application for
34 registration of a surface mining site, or to increase the area
35 of a site previously registered, shall be equal to the

1 estimated cost of rehabilitating reclaiming the site as
2 required under section 83A.17. The estimated cost of
3 rehabilitation reclamation of each individual site shall be
4 determined by the department on the basis of relevant factors
5 including, but not limited to, topography of the site, mining
6 methods being employed, depth and composition of overburden,
7 and depth of the mineral deposit being mined. The department
8 may require an applicant for registration or amendment of
9 registration of a site to furnish information necessary to
10 estimate the cost of rehabilitating reclaiming the site. The
11 penalty of the bond or the amount of cash or securities on
12 deposit may be increased or reduced from time to time in
13 accordance with section 83A.15.

14 Sec. 19. Section 83A.24, Code 1985, is amended to read as
15 follows:

16 83A.24 SINGLE BOND FOR MULTIPLE SITES.

17 Any An operator who registers with the department two or
18 more surface mining sites may elect, at the time the second or
19 any a subsequent site is registered, to post a single bond in
20 lieu of separate bonds on each site. Any A single bond so
21 posted shall be in an amount equal to the estimated cost of
22 rehabilitating reclaiming all sites the operator has
23 registered, determined as provided in section 83A.23. The
24 penalty of a single bond on two or more surface mining sites
25 may be increased or decreased from time to time in accordance
26 with sections 83A.14, 83A.15, and 83A.19. When an operator
27 elects to post a single bond in lieu of separate bonds
28 previously posted on individual sites, the separate bonds
29 shall not be released until the new bond has been accepted by
30 the department.

31 Sec. 20. Section 83A.28, Code 1985, is amended to read as
32 follows:

33 83A.28 FORFEITURE OF BOND.

34 The attorney general, upon request of the committee, shall
35 institute proceedings for forfeiture of the bond posted by an

1 operator to guarantee rehabilitation reclamation of a site
2 where the operator is in violation of any of the provisions of
3 this chapter or any rule adopted by the department pursuant to
4 this chapter. Forfeiture of the operator's bond shall fully
5 satisfy all obligations of the operator to rehabilitate
6 reclaim affected land covered by the bond. The department
7 shall have the power to rehabilitate reclaim as required by
8 section 83A.17 any surface mined land with respect to which a
9 bond has been forfeited, using the proceeds of the forfeiture
10 to pay for the necessary rehabilitation reclamation work.

11 Sec. 21. Section 83A.29, Code 1985, is amended to read as
12 follows:

13 83A.29 ~~PENALTY~~ PENALTIES FOR OPERATING WITHOUT A LICENSE
14 AND FOR FAILURE TO REGISTER.

15 1. If a person engages in mining without obtaining a
16 license, the committee shall request the attorney general to
17 institute a civil action in the district court for injunctive
18 relief and for the assessment of a civil penalty as determined
19 by the court not to exceed five thousand dollars.

20 2. Any An operator who fails to make timely application
21 for registration of each mine site where-mining-is-being
22 conducted is guilty of a simple misdemeanor. Each day mining
23 activities are conducted at a mine site for which no
24 application for registration has been made as required under
25 section 83A.13 shall-constitute is a separate violation.

26 3. If an operator fails to register or re-register a site
27 and provide required bond within thirty days following receipt
28 of notice from the department by certified letter, the
29 committee shall request the attorney general to seek immediate
30 injunctive relief.

31 4. An operator who fails to renew the operator's mining
32 license within a time period set by the department, who has
33 been denied license renewal by the committee, or whose license
34 has been suspended or revoked by the committee shall also have
35 all registrations automatically invalidated.

1 EXPLANATION

2 This bill revises several provisions regarding the mining
3 of ores and minerals other than coal.

4 Sections 2 through 5 revise the definitions to define top-
5 soil, replace the definitions of active site and inactive site
6 with a definition of mine site, strike the definition of spoil
7 bank and include crushing areas and stockpile areas and ex-
8 clude roads in the definition of affected lands.

9 Sections 6 and 7 change the name of the advisory board and
10 provide that it also advises on coal mining and oil and gas
11 wells.

12 Sections 8 and 9 delete references to the federal Metal and
13 Nonmetallic Mine Safety Act.

14 Sections 10, 11 and 12 eliminate the requirement of filing
15 a rehabilitation plan, require the posting of a sign identify-
16 ing the operator, require registration prior to mining and
17 provide for registration renewal.

18 Sections 13 and 15 coordinate with the change in the defi-
19 nition of mine sites.

20 Section 14 revises a section on reclamation eliminating
21 specific requirements on spoil banks and requiring grading and
22 vegetation of affected lands. A limited exemption is provided
23 existing crushing areas and stockpile areas and the granting
24 of variances is authorized. The preservation of topsoil is
25 required.

26 Section 16 requires that reclamation be effected according
27 to a schedule established by the department of soil conserva-
28 tion within a period which is not to exceed three years.

29 Section 21 authorizes injunctive relief and civil penalties
30 and provides for mine site registration invalidation when an
31 operator's license is not renewed or is denied, suspended, or
32 revoked.

33 Other sections change references of rehabilitation to
34 reclamation.

35

HOUSE FILE 540

AN ACT

RELATING TO THE MINING OF ORES AND MINERALS OTHER THAN COAL
AND AUTHORIZING A PENALTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 83A.1, Code 1985, is amended to read as follows:

83A.1 POLICY.

It is hereby declared to be the policy of this state to provide for the ~~rehabilitation~~ reclamation and conservation of land affected by surface mining and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

Sec. 2. Section 83A.2, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation.

Sec. 3. Section 83A.2, subsections 4 and 5, Code 1985, are amended by striking the subsections and inserting in lieu thereof the following:

4. "Mine site" means a site where surface mining is being conducted or has been conducted in the past and the operator anticipates further surface mining operations, or the surface operation related to an underground mine.

Sec. 4. Section 83A.2, subsection 7, Code 1985, is amended to read as follows:

7. "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited or both, including crushing areas and stockpile areas but not including roads.

Sec. 5. Section 83A.2, subsection 8, Code 1985, is amended by striking the subsection.

Sec. 6. Section 83A.3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

There is hereby established within the department of soil conservation a land ~~rehabilitation~~ reclamation advisory board which shall consist of seven members appointed by the governor, as follows:

Sec. 7. Section 83A.6, Code 1985, is amended to read as follows:

83A.6 DUTIES OF BOARD.

The advisory board shall:

1. Advise the department on any matter relating to administration and enforcement of this chapter and chapters 83 and 84.

2. Advise the department with respect to surface mined land ~~rehabilitation~~ reclamation demonstration projects.

3. Advise the department on the gathering, preparation, and dissemination of information on methods of rehabilitating reclaiming land which has been surface mined and on any state, federal, or other financial assistance which may be available to assist in paying the cost of rehabilitation reclamation of the land.

The department shall inform the advisory board of all complaints received relating to mining and mining operations.

Sec. 8. Section 83A.8, Code 1985, is amended to read as follows:

83A.8 SUSPENSION OR REVOCATION OF LICENSE.

The department may, with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this chapter ~~or the federal Metal and Nonmetallic Mine Safety Act.~~ The department shall by certified mail or personal service serve on the licensee notice in writing of the charges and grounds upon which the

license is to be suspended, revoked, or will not be renewed. The notice shall include the time and the place at which a hearing shall be held before the committee to determine whether to suspend, revoke, or refuse to renew the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

Sec. 9. Section 83A.9, Code 1985, is amended to read as follows:

83A.9 HEARING -- COUNSEL.

Any A licensee whose license the department proposes to suspend, revoke, or refuse to renew shall have has the right to counsel and may produce witnesses and present statements, documents, and other information in his the licensee's behalf at the hearing. If after full investigation and hearing the licensee is found to have willfully or repeatedly violated any of the provisions of this chapter ~~or the federal Metal and Nonmetallic Mine Safety Act~~, the committee may affirm or modify the proposed suspension, revocation, or refusal to renew the license. When the committee finds that a license should be suspended or revoked or should not be renewed, the department shall so notify the licensee in writing by certified mail or by personal service.

Sec. 10. Section 83A.13, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. A mine site registered pursuant to this section or section 83A.21 shall have, at the primary entrance to the mine site, a clearly visible sign which sets forth the name, business address, registration number, and phone number of the operator. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the department, invalidates the registration.

Sec. 11. Section 83A.13, subsection 1, Code 1985, is amended to read as follows:

1. ~~Within fifteen days after~~ At least seven days before beginning mining or removal of overburden at any a surface

mining site not previously registered, an operator engaging in mining in this state shall register the mine site with the department. Application for registration shall be made upon a form provided by the department. A registration renewal shall be filed not later than twelve months following the initial registration and each subsequent renewal. Application for renewal of registration shall be on a form provided by the department. The registration renewal fee shall be established by the department in an amount not exceeding the cost of administration. The registration fee shall be established by the department in an amount not exceeding the cost of administering the registration provisions of this chapter, as estimated by the department. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

Sec. 12. Section 83A.13, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 13. Section 83A.14, Code 1985, is amended to read as follows:

83A.14 BOND.

The application for registration shall be accompanied by a bond or security as required under sections 83A.23 or 83A.24 ~~if overburden is removed~~. After ascertaining that the applicant is licensed under section 83A.7 and is not in violation of this chapter with respect to any mine site previously registered with the department, the department shall register the mine site and shall issue the applicant written authorization to ~~conduct surface mining on the site~~ operate a mine.

Sec. 14. Section 83A.17, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

83A.17 RECLAMATION REQUIREMENTS.

1. An operator authorized under this chapter to operate a mine, after completion of mining operations and within the time specified in section 83A.19, shall:

a. Grade affected lands except for impoundments, pit floors, and highwalls, to slopes having a maximum of one foot vertical rise for each four feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each four feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain.

b. Provide for the vegetation of the affected lands, except for impoundments, pit floors, and highwalls, as approved by the department before the release of the bond as provided in section 83A.19.

2. Notwithstanding subsection 1, overburden piles where deposition has not occurred for a period of twelve months shall be stabilized.

3. Crushing areas and stockpile areas in place on the effective date of this Act are not subject to this section unless those areas continue to function as a part of the mine site after July 1, 1988.

4. Topsoil that is a part of overburden shall not be destroyed or buried in the process of mining.

5. The department, with concurrence of the advisory board, may grant a variance from the requirements of subsections 1 and 2.

6. A bond or security posted under this chapter to assure reclamation of affected lands shall not be released until all the reclamation work required by this section has been performed in accordance with this chapter and departmental rules, except when a replacement bond or security is posted by a new operator or responsibility is transferred under section 83A.16.

Sec. 15. Section 83A.18, Code 1985, is amended to read as follows:

83A.18 PERIODIC REPORTS.

Every An operator shall file with the department a periodic report for each mine site under registration indicating ~~whether the site is presently active or inactive~~. Each The report shall make reference to the most recent registration of the mine site and shall show:

1. The location and extent of all surface land area on the mine site affected by surface mining during the period covered by the report.

2. The extent to which removal of mineral products from all or any part of the affected land lands has been completed.

A The report ~~as prescribed by this section~~ shall be filed not later than twelve months after original registration of the site and prior to the expiration of each subsequent twelve-month period thereafter. A report shall also be filed within thirty days after completion of all surface mining operations at the site regardless of the date of the last preceding report. ~~Forms on which for the filing of periodic reports required by this section shall be filed~~ shall be provided by the department.

Sec. 16. Section 83A.19, Code 1985, is amended to read as follows:

83A.19 ~~REHABILITATION-OR-BOND~~ RECLAMATION SCHEDULE.

An operator of a surface mine shall ~~rehabilitate and~~ affected-by-surface-mining-within-twelve-months reclaim affected lands according to a schedule established by the department, but within a period not to exceed three years, after the filing of a report required under section 83A.18 indicating the mining of any part of a site has been completed.

PARAGRAPH DIVIDED. For certain postmining land uses, such as a sanitary land fill, the department, with the approval of the land reclamation advisory board, may allow an extended reclamation period.

PARAGRAPH DIVIDED. Each An operator, upon completion of any rehabilitation reclamation work required by section 83A.17, shall apply to the department in writing for approval of the work. The department shall within a reasonable time determined by departmental rule inspect the completed rehabilitation reclamation work. Upon determination by the department that the operator has satisfactorily completed all required rehabilitation reclamation work on the land included in the application, the department shall release the bond or security on the rehabilitated reclaimed land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct surface mining on the site.

Sec. 17. Section 83A.20, Code 1985, is amended to read as follows:

83A.20 EXTENSION OF TIME.

The time for completion of rehabilitation reclamation work may be extended upon presentation by the operator of evidence satisfactory to the department that rehabilitation reclamation of affected land cannot be completed within the time specified by section 83A.19 without unreasonably impeding removal of mineral products from other parts of an active site or future removal of mineral products from an initiative site.

Sec. 18. Section 83A.23, Code 1985, is amended to read as follows:

83A.23 FORM OF BOND.

Each A bond filed with the department by an operator pursuant to this chapter shall be in a form prescribed by the department, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the department pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with

the department on the same conditions as prescribed by this section for filing of bonds. The amount of the bond or other security required to be filed with an application for registration of a surface mining site, or to increase the area of a site previously registered, shall be equal to the estimated cost of rehabilitating reclaiming the site as required under section 83A.17. The estimated cost of rehabilitation reclamation of each individual site shall be determined by the department on the basis of relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, and depth of the mineral deposit being mined. The department may require an applicant for registration or amendment of registration of a site to furnish information necessary to estimate the cost of rehabilitating reclaiming the site. The penalty of the bond or the amount of cash or securities on deposit may be increased or reduced from time to time in accordance with section 83A.15.

Sec. 19. Section 83A.24, Code 1985, is amended to read as follows:

83A.24 SINGLE BOND FOR MULTIPLE SITES.

Any An operator who registers with the department two or more surface mining sites may elect, at the time the second or any a subsequent site is registered, to post a single bond in lieu of separate bonds on each site. Any A single bond so posted shall be in an amount equal to the estimated cost of rehabilitating reclaiming all sites the operator has registered, determined as provided in section 83A.23. The penalty of a single bond on two or more surface mining sites may be increased or decreased from time to time in accordance with sections 83A.14, 83A.15, and 83A.19. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the department.

Sec. 20. Section 83A.28, Code 1985, is amended to read as follows:

83A.28 FORFEITURE OF BOND.

The attorney general, upon request of the committee, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee rehabilitation reclamation of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the department pursuant to this chapter. Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to rehabilitate reclaim affected land covered by the bond. The department shall have the power to rehabilitate reclaim as required by section 83A.17 any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary rehabilitation reclamation work.

Sec. 21. Section 83A.29, Code 1985, is amended to read as follows:

83A.29 PENALTY PENALTIES FOR OPERATING WITHOUT A LICENSE AND FOR FAILURE TO REGISTER.

1. If a person engages in mining without obtaining a license, the committee shall notify the attorney general who shall institute a civil action in the district court for injunctive relief and for the assessment of a civil penalty as determined by the court not to exceed five thousand dollars.

2. Any An operator who fails to make timely application for registration of each mine site where mining is being conducted is guilty of a simple misdemeanor. Each day mining activities are conducted at a mine site for which no application for registration has been made as required under section 83A.13 shall constitute is a separate violation.

3. If an operator fails to register or re-register a site and provide required bond within thirty days following receipt of notice from the department by certified letter, the committee shall notify the attorney general who shall seek immediate injunctive relief.

4. An operator who fails to renew the operator's mining license within a time period set by the department, who has been denied license renewal by the committee, or whose license has been suspended or revoked by the committee shall also have all registrations automatically invalidated.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 540, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved My 16, 1985

TERRY E. BRANSTAD
Governor