

Reprinted 3/88

FEB 25 1988

Place On Calendar

HOUSE FILE 2338
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(Formerly House File 2001)

Passed House, Date 3/6/88 (p. 637) Passed Senate, Date _____
Vote: Ayes 40 Nays 37 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to environmental quality by creating an emergency
2 response fund and by establishing and increasing fines and
3 penalties.

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

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HF 2338

1 Section 1. Section 29C.8, subsection 3, Code 1987, is
2 amended by adding the following new lettered paragraph:

3 NEW LETTERED PARAGRAPH. d. Implement planning and
4 training for emergency response teams as mandated by the
5 federal government under the Comprehensive Environmental
6 Response, Compensation, and Liability Act of 1980 as amended
7 by the Superfund Amendments and Reauthorization Act of 1986,
8 42 U.S.C. § 9601 et seq.

9 Sec. 2. NEW SECTION. 29C.8A EMERGENCY RESPONSE FUND
10 CREATED.

11 1. An emergency response fund is created in the state
12 treasury. The first one hundred thousand dollars received
13 annually by the treasurer of state from the civil penalties
14 and fines imposed by the court pursuant to sections 455B.146,
15 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and 455B.477
16 shall be deposited in the fund.

17 2. The emergency response fund shall be administered by
18 the disaster services division to carry out planning and
19 training for the emergency response teams.

20 Sec. 3. Section 455B.146, Code 1987, is amended to read as
21 follows:

22 455B.146 CIVIL ACTION FOR COMPLIANCE.

23 If any an order, permit, or rule of the department is being
24 violated, the attorney general shall, at the request of the
25 ~~department-or-the~~ director, institute a civil action in any
26 district court for injunctive relief to prevent any further
27 violation of the order, permit, or rule, or for the assessment
28 of a civil penalty as determined by the court, not to exceed
29 five twenty-five thousand dollars per day for each day such
30 the violation continues, or both such injunctive relief and
31 civil penalty.

32 Sec. 4. Section 455B.191, subsection 1, Code 1987, is
33 amended to read as follows:

34 1. Any person who violates any provision of part 1 of
35 division III of this chapter or any permit, rule, standard, or

1 order issued under part 1 of division III of this chapter
2 shall be subject to a civil penalty not to exceed five
3 thousand dollars for each day of such violation. ~~The civil~~
4 ~~penalty shall be an alternative to any criminal penalty~~
5 ~~provided under part 1 of division III of this chapter.~~

6 Sec. 5. Section 455B.191, subsection 2, Code 1987, is
7 amended by striking the subsection and inserting in lieu
8 thereof the following:

9 2. Any person who negligently or knowingly violates
10 section 455B.183 or section 455B.186 or any condition or
11 limitation included in any permit issued under section
12 455B.183, or who negligently or knowingly introduces into a
13 sewer system or into a publicly owned treatment works any
14 pollutant or hazardous substance which the person knew or
15 reasonably should have known could cause personal injury or
16 property damage or, other than in compliance with all
17 applicable federal and state requirements or permits,
18 negligently or knowingly causes a treatment works to violate
19 any water quality standard, effluent standard, pretreatment
20 standard or condition of a permit issued to the treatment
21 works pursuant to section 455B.183 is guilty of a serious
22 misdemeanor for a negligent violation and is guilty of an
23 aggravated misdemeanor for a knowing violation. A conviction
24 for a negligent violation is punishable by a fine of not more
25 than twenty-five thousand dollars or by imprisonment for not
26 more than one year, or both, for each day of violation;
27 however, if the conviction is for a second or subsequent
28 violation committed by a person under this section, the
29 conviction is punishable by a fine of not more than fifty
30 thousand dollars or by imprisonment for not more than two
31 years, or both, for each day of violation. A conviction for a
32 knowing violation is punishable by a fine of not more than
33 fifty thousand dollars or by imprisonment for not more than
34 two years, or both, for each day of violation; however, if the
35 conviction is for a second or subsequent violation committed

1 by a person under this section, the conviction is punishable
2 by a fine of not more than one hundred thousand dollars or by
3 imprisonment for not more than five years, or both, for each
4 day of violation. As used in this section, "hazardous
5 substance" means hazardous substance as defined in section
6 455B.381 or section 455B.411.

7 Sec. 6. Section 455B.191, subsection 3, Code 1987, is
8 amended to read as follows:

9 3. Any A person who knowingly makes any a false statement,
10 representation, or certification in any an application,
11 record, report, plan, or other document filed or required to
12 be maintained under part 1 of division III of this chapter, or
13 who falsifies, tampers with or knowingly renders inaccurate
14 any a monitoring device or method required to be maintained
15 under part 1 of division III of this chapter or by-any under a
16 permit, rule, regulation, or order issued under part 1 of
17 division III of this chapter, shall upon conviction be
18 punished by a fine of not more than ~~ten~~ twenty-five thousand
19 dollars or by imprisonment in the county jail for not more
20 than six months or by both ~~such~~ fine and imprisonment.

21 Sec. 7. Section 455B.386, Code 1987, is amended to read as
22 follows:

23 455B.386 NOTIFICATION OF SPILLS -- PENALTY.

24 A person manufacturing, storing, handling, transporting, or
25 disposing of a hazardous substance shall notify the
26 department, the local police department, or the office of the
27 sheriff of the affected county, as upon the occurrence of a
28 hazardous condition. The notice shall be given as soon as
29 possible but not later than six hours after the onset or
30 discovery of the hazardous condition ~~or-discovery-of-the~~
31 ~~hazardous-condition~~. A sheriff or police chief who has been
32 notified of a hazardous condition shall immediately notify the
33 department. If requested by the department, a person shall
34 submit within thirty days of the ~~department's~~ request a
35 written report of particulars of the incident. A person

1 violating this section is subject to a civil penalty of not
2 more than one twenty-five thousand dollars.

3 Sec. 8. Section 455B.417, subsection 3, Code 1987, is
4 amended to read as follows:

5 3. A person who violates a provision of this part or a
6 rule, permit, or order adopted or issued under this part is
7 subject to a civil penalty not to exceed ten twenty-five
8 thousand dollars for each violation. Each day of violation
9 constitutes a separate violation.

10 Sec. 9. Section 455B.454, Code 1987, is amended to read as
11 follows:

12 455B.454 PENALTIES.

13 A person required to obtain a site license under this part
14 6 of division IV who constructs a facility without having
15 first obtained the license is subject to a civil penalty of
16 not more than ten twenty-five thousand dollars for each
17 violation or and for each day of continuing violation. Civil
18 penalties collected pursuant to this subsection shall be
19 forwarded by the clerk of court to the treasurer of state for
20 who shall deposit the civil penalty imposed in the general
21 household hazardous waste account of the groundwater
22 protection fund of-the-state.

23 Sec. 10. Section 455B.466, Code 1987, is amended to read
24 as follows:

25 455B.466 CIVIL PENALTIES.

26 A person who violates a provision of this part is subject
27 to a civil penalty of not more than ten twenty-five thousand
28 dollars for each violation and for each day of continuing
29 violation. Civil penalties collected pursuant to this section
30 shall be forwarded by the clerk of the district court to the
31 treasurer of state for who shall deposit the civil penalty
32 imposed in the general household hazardous waste account of
33 the groundwater protection fund of-the-state.

34 Sec. 11. Section 455B.477, subsection 1, Code 1987, is
35 amended to read as follows:

1 1. A person who violates a provision of this part or a
2 rule or order issued under this part is subject to a civil
3 penalty not to exceed five twenty-five thousand dollars for
4 each day during which the violation continues. The civil
5 penalty is an alternative to a criminal penalty provided under
6 this part.

7 Sec. 12. Section 455E.11, subsection 2, paragraph c, Code
8 Supplement 1987, is amended to read as follows:

9 c. A household hazardous waste account. The moneys
10 collected pursuant to section 455F.7 shall be deposited in the
11 household hazardous waste account. Except for the first one
12 hundred thousand dollars received annually, the treasurer of
13 state shall deposit moneys received from civil penalties and
14 finances imposed by the court pursuant to sections 455B.146,
15 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and
16 455B.477, in the household hazardous waste account. Two
17 thousand dollars is appropriated annually to the Iowa
18 department of public health to carry out departmental duties
19 under section 135.11, subsections 20 and 21, and section
20 139.35, eighty thousand dollars is appropriated to the
21 department of natural resources for city, county, or service
22 organization project grants relative to recycling and
23 reclamation events, and eight thousand dollars is appropriated
24 to the department of transportation for the period of October
25 1, 1987 through June 30, 1989 for the purpose of conducting
26 the used oil collection pilot project. The remainder of the
27 account shall be used to fund Toxic Cleanup Days programs,
28 education programs, and other activities pursuant to chapter
29 455F, including the administration of the household hazardous
30 materials permit program by the department of revenue and
31 finance.

32 The department shall submit to the general assembly,
33 annually on or before January 1, an itemized report which
34 includes but is not limited to the total amount of moneys
35 collected and the sources of the moneys collected, the amount

1 of moneys expended for administration of the programs funded
2 within the account, and an itemization of any other
3 expenditures made within the previous fiscal year.

4 Sec. 13. NEW SECTION. 716B.1 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Person" means an agency of the state or federal
8 government, a municipality, governmental subdivisions,
9 interstate body, public or private corporation, individual,
10 partnership, or other entity, and includes an officer, or
11 governing or managing body of a municipality, governmental
12 subdivision, interstate body, or public or private
13 corporation.

14 2. "Department" means the department of natural resources.

15 3. "Disposal" or "dispose" means disposal as defined in
16 section 455B.411, subsection 2.

17 4. "Hazardous waste" means a hazardous waste as defined in
18 section 455B.411, subsection 4, or a hazardous substance as
19 defined in 42 U.S.C. § 9601, or a hazardous substance as
20 designated by regulations adopted by the administrator of the
21 United States environmental protection agency pursuant to 42
22 U.S.C. § 9602.

23 5. "Storage" or "store" means storage as defined in
24 section 455B.411, subsection 9.

25 6. "Treatment" or "treat" means treatment as defined in
26 section 455B.411, subsection 10.

27 Sec. 14. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF
28 HAZARDOUS WASTE -- PENALTIES.

29 A person who knowingly or with reason to know, disposes of
30 hazardous waste or arranges for or allows the disposal of
31 hazardous waste at any location other than one authorized by
32 the department or the United States environmental protection
33 agency, or in violation of any material term or condition of a
34 hazardous waste facility permit, is guilty of an aggravated
35 misdemeanor and upon conviction shall be punished by a fine of

1 not more than twenty-five thousand dollars or imprisonment for
2 not more than two years, or both, for each day of violation.
3 If the conviction is for a violation committed after a first
4 conviction under this section, the person is guilty of a class
5 "D" felony and shall be punished by a fine of not more than
6 fifty thousand dollars or imprisonment for not more than five
7 years, or both, for each day of violation.

8 Sec. 15. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF
9 HAZARDOUS WASTE -- PENALTIES.

10 A person who knowingly or with reason to know, transports
11 or causes to be transported any hazardous waste to any
12 location other than a facility that is authorized to receive,
13 treat, store, or dispose of the hazardous waste under rules
14 adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an
15 aggravated misdemeanor and upon conviction shall be punished
16 by a fine of not more than twenty-five thousand dollars or
17 imprisonment for not more than two years, or both, for each
18 day of violation. If the conviction is for a violation
19 committed after a first conviction under this section, the
20 person is guilty of a class "D" felony and shall be punished
21 by a fine of not more than fifty thousand dollars or
22 imprisonment for not more than five years, or both, for each
23 day of violation.

24 Sec. 16. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR
25 TREATMENT OF HAZARDOUS WASTE -- PENALTIES.

26 A person who knowingly or with reason to know, treats or
27 stores hazardous waste without a permit issued pursuant to 42
28 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor
29 and upon conviction shall be punished by a fine of not more
30 than twenty-five thousand dollars or imprisonment for not more
31 than two years, or both, for each day of violation. If the
32 conviction is for a violation committed after a first
33 conviction under this section, the person is guilty of a class
34 "D" felony and shall be punished by a fine of not more than
35 fifty thousand dollars or imprisonment for not more than five

1 years, or both, for each day of violation.

2 EXPLANATION

3 This bill creates an emergency response fund in the state
4 treasury, the proceeds of which are to be used to fund
5 planning and training for the emergency response teams.

6 The bill also increases the maximum fine or civil penalty
7 for most violations of chapter 455B and also establishes
8 criminal penalties dealing with hazardous waste,
9 transportation, treatment, storage, or disposal at the state
10 level.

11 SIMILAR TO HF 2001 (LSB 7152H)

HOUSE FILE 2338
AMENDMENT H-5325
FISCAL NOTE

REQUESTED BY REPRESENTATIVE ADAMS

In compliance with a written request received March 8, 1988, a fiscal note for HOUSE FILE 2338 - H-5325 AMENDMENT is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment H-5325 to House File 2338 requires that the first \$100,000 in fines collected for violation of current environmental laws be deposited in the general fund. The next \$100,000 above the general fund contribution from current and proposed fines will be deposited in the Emergency Response Fund. Any monies above the first \$200,000 in fines will go to the Household Hazardous Waste Account.

Fiscal Effect:

This amendment reduces the fiscal impact of the bill by \$100,000 by allowing the first \$100,000 in fines to be deposited in the general fund. This is the amount that the current fine structure brings into the general fund. Given the assumption in the original fiscal note that raising current fines does not generate added revenue, the new fines would have to raise \$100,000 for the Emergency Response Fund to be fully financed.

Source: Department of Natural Resources

(LSB 7152H.4, JWR)

FILED MARCH 8, 1988

BY DENNIS PROUTY, FISCAL DIRECTOR

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LSB 7152HV 72
pf/sc/14

In compliance with a written request received March 2, 1988, a fiscal note for HOUSE FILE 2338 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2338 increases the fines for violation of environmental laws and provides for the deposit of those fines into a newly-created Emergency Response Fund. This Fund would provide money for the planning and training of emergency response teams.

Assumptions:

1. Under the current fine structure, \$100,000 in fines are collected annually.
2. Since the present maximum fine is rarely levied, the Department of Natural Resources believes that raising the fines would not result in added revenue.
3. \$100,000 in additional money is available in the form of a training grant from the federal government. This money is acquired by using \$20,000 in fine collections as State matching funds.
4. 3.00 new FTE positions would be needed. 2 Trainers and 1 planner.
5. Salary increase is figured at 5 percent per year with a larger support cost needed for the initial year of the program.
6. 45 courses would be offered per year.
7. Approximately 2,500 persons would be trained each year.

Fiscal Effect:

Currently, the fines collected for violations of environmental laws go into the general fund. This bill would therefore decrease the general fund by \$100,000 per year. If fines collected total more than \$100,000, the bill provides that those funds would go to the Household Hazardous Waste Account.

	(dollars in thousands)					
	Fiscal Year 1989			Fiscal Year 1990		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
REVENUE						
General Fund \$	100	0	(100)	100	0	(100)
Federal Funds	0	100	100	0	100	100
Fines	0	100	100	0	100	100
Total	\$ 100	\$ 200	\$ 100	\$ 100	\$ 200	\$ 100
EXPENDITURES						
Salaries	\$ 0	\$ 70.6	\$ 70.6	\$ 0	\$ 74.8	\$ 74.8
(FTE's)	(0.0)	(3.0)	(3.0)	(0.0)	(3.0)	(3.0)
Support	0	9.4	9.4	0	6.2	6.2
Course Costs	0	120.0	120.0	0	120.0	120.0
Total	\$ 0	\$ 200	\$ 200	\$ 0	\$ 200	\$ 200
NET EFFECT	\$ 100	\$ 0	\$ (100)	\$ 100	\$ 0	\$ (100)

Sources: Department of Natural Resources
Department of Public Defense

(LSB 7152H.2, JWR)

HOUSE FILE 2338

H-5280

1 Amend House File 2338 as follows:

2 1. Page 4, line 2, by striking the word "twenty-
3 five" and inserting the following: "five".

H-5280 FILED MARCH 3, 1988 BY PAULIN of Plymouth

Case 315 (p. 232)

HOUSE FILE 2338

H-5325

1 Amend House File 2338 as follows:

2 1. Page 1, by striking lines 12 through 15 and
3 inserting the following: "treasury. Following the
4 deposit of the first one hundred thousand dollars
5 received annually by the treasurer of state for the
6 civil penalties and fines imposed by the court
7 pursuant to sections 455B.146, 455B.191, 455B.386,
8 455B.417, 455B.454, 455B.466, and 455B.477 in the
9 general fund of the state, the next hundred thousand
10 dollars shall be deposited in the fund and any surplus
11 moneys shall be deposited in the household hazardous
12 waste account. All moneys received annually by the
13 treasurer of the state for the fines imposed by
14 sections 716B.2, 716B.3, and 716B.4 shall also be
15 deposited in the fund.

16 2. Page 4, by striking lines 20 through 22 and
17 inserting the following: "who shall deposit the
18 initial one hundred thousand dollars collected in the
19 general fund of the state, the next one hundred
20 thousand dollars collected in the emergency response
21 fund created under section 29C.8A, and the remainder
22 of the moneys collected in the household hazardous
23 waste account of the groundwater protection fund".

24 3. Page 4, by striking lines 31 through 33 and
25 inserting the following: "treasurer of state for who
26 shall deposit the initial one hundred thousand dollars
27 collected in the general fund of the state, the next
28 one hundred thousand dollars collected in the
29 emergency response fund created under section 29C.8A,
30 and the remainder of the moneys collected in the
31 household hazardous waste account of the groundwater
32 protection fund".

33 4. Page 5, by striking lines 11 and 12 and
34 inserting the following: "household hazardous waste
35 account. Except for the first one hundred thousand
36 dollars received annually for deposit in the general
37 fund, and the next one hundred thousand dollars
38 received annually for deposit in the emergency
39 response fund, the treasurer of".

BY ADAMS of Hamilton

H-5325 FILED MARCH 7, 1988

HOLVECK of Polk

*w/a Special note on last page of bill
3/8 (p. 654)*

HOUSE FILE 2338

H-5213

1 Amend House File 2338 as follows:

2 1. Page 8, by inserting after line 1 the
3 following:

4 "Sec. ____ . NEW SECTION. 716B.5 ENFORCEMENT
5 POWERS.

6 The attorney general or the county attorney for the
7 county in which a violation occurs is responsible for
8 enforcement of the provisions of this chapter."

H-5213 FILED FEBRUARY 29, 1988 BY ADAMS of Hamilton

Adopted 3/9 (p. 68)

HOUSE FILE 2338

H-5217

1 Amend House File 2338 as follows:

2 1. Page 2, line 2, by striking the word "five"
3 and inserting the following: "five twenty-five".

H-5217 FILED MARCH 1, 1988 BY ADAMS of Hamilton

Adopted 3/9 (p. 63)

HOUSE FILE 2338

H-5279

1 Amend House File 2338 as follows:

2 1. Page 2, line 17, by inserting after the word
3 "permits," the following: "or who".

4 2. Page 2, line 25, by inserting after the word
5 "dollars" the following: "for each day of violation".

6 3. Page 2, line 26, by striking the words ", for
7 each day of violation".

8 4. Page 2, line 28, by striking the word
9 "section" and inserting the following: "subsection".

10 5. Page 2, line 30, by inserting after the word
11 "dollars" the following: "for each day of violation".

12 6. Page 2, line 31, by striking the words ", for
13 each day of violation".

14 7. Page 2, line 33, by inserting after the word
15 "dollars" the following: "for each day of violation".

16 8. Page 2, line 34, by striking the words ", for
17 each day of violation".

18 9. Page 3, line 1, by striking the word "section"
19 and inserting the word "subsection".

20 10. Page 3, line 2, by inserting after the word
21 "dollars" the following: "for each day of violation".

22 11. Page 3, lines 3 and 4, by striking the words
23 ", for each day of violation".

BY ADAMS of Hamilton

H-5279 FILED MARCH 3, 1988

MULLINS of Kossuth

Adopted 3/2/88 (p. 62)

H-5347

1 Amend House File 2338 as follows:

2 1. Page 1, by striking lines 12 through 16 and
3 inserting the following: "treasury. Following the
4 deposit of the first one hundred thousand dollars
5 received annually by the treasurer of state for the
6 civil penalties and fines imposed by the court
7 pursuant to sections 455B.146, 455B.191, 455B.386,
8 455B.417, 455B.454, 455B.466, and 455B.477 in the
9 general fund of the state. The next hundred thousand
10 dollars shall be deposited in the emergency response
11 fund and any additional moneys shall be deposited in
12 the household hazardous waste account. All moneys
13 received annually by the treasurer of the state for
14 the fines imposed by sections 716B.2, 716B.3, and
15 716B.4 shall also be deposited in the emergency
16 response fund."

17 2. Page 4, by striking lines 20 through 22 and
18 inserting the following: "who shall deposit the
19 initial one hundred thousand dollars collected in the
20 general fund of the state, the next one hundred
21 thousand dollars collected in the emergency response
22 fund created under section 29C.8A, and the remainder
23 of the moneys collected in the household hazardous
24 waste account of the groundwater protection fund."

25 3. Page 4, by striking lines 31 through 33 and
26 inserting the following: "treasurer of state for who
27 shall deposit the initial one hundred thousand dollars
28 collected in the general fund of the state, the next
29 one hundred thousand dollars collected in the
30 emergency response fund created under section 29C.8A,
31 and the remainder of the moneys collected in the
32 household hazardous waste account of the groundwater
33 protection fund."

34 4. Page 5, by striking lines 11 and 12 and
35 inserting the following: "household hazardous waste
36 account. Except for the first one hundred thousand
37 dollars received annually for deposit in the general
38 fund, and the next one hundred thousand dollars
39 received annually for deposit in the emergency
40 response fund, the treasurer of".

BY ADAMS of Hamilton
HOLVECK of Polk

H-5347 FILED MARCH 7, 1988

Adopted 3/7/88 (p. 635)

Amendment 3/10
passed 5/5/84 by 55-45. Passed 3/24 (p. 1019)

HOUSE FILE 2338
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(As Amended and Passed by the House March 8, 1988)

Passed House, Date 4/4/88 (p. 1352) Passed Senate, Date 5/29/88 (p. 1134)
Vote: Ayes 84 Nays 12 Vote: Ayes 47 Nays 0
Approved May 9, 1988

A BILL FOR

1 An Act relating to environmental quality by creating an emergency
2 response fund and by establishing and increasing fines and
3 penalties.

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

House Amendments _____
Deleted Language *

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1 Section 1. Section 29C.8, subsection 3, Code 1987, is
2 amended by adding the following new lettered paragraph:

3 NEW LETTERED PARAGRAPH. d. Implement planning and
4 training for emergency response teams as mandated by the
5 federal government under the Comprehensive Environmental
6 Response, Compensation, and Liability Act of 1980 as amended
7 by the Superfund Amendments and Reauthorization Act of 1986,
8 42 U.S.C. § 9601 et seq.

9 Sec. 2. NEW SECTION. 29C.8A EMERGENCY RESPONSE FUND
10 CREATED.

11 1. An emergency response fund is created in the state
12 treasury. Following the deposit of the first one hundred
13 thousand dollars received annually by the treasurer of state
14 for the civil penalties and fines imposed by the court
15 pursuant to sections 455B.146, 455B.191, 455B.386, 455B.417,
16 455B.454, 455B.466, and 455B.477 in the general fund of the
17 state. The next hundred thousand dollars shall be deposited
18 in the emergency response fund and any additional moneys shall
19 be deposited in the household hazardous waste account. All
20 moneys received annually by the treasurer of the state for the
21 fines imposed by sections 716B.2, 716B.3, and 716B.4 shall
22 also be deposited in the emergency response fund.

23 2. The emergency response fund shall be administered by
24 the disaster services division to carry out planning and
25 training for the emergency response teams.

26 Sec. 3. Section 455B.146, Code 1987, is amended to read as
27 follows:

28 455B.146 CIVIL ACTION FOR COMPLIANCE.

29 If any an order, permit, or rule of the department is being
30 violated, the attorney general shall, at the request of the
31 ~~department-or-the~~ director, institute a civil action in any
32 district court for injunctive relief to prevent any further
33 violation of the order, permit, or rule, or for the assessment
34 of a civil penalty as determined by the court, not to exceed
35 five twenty-five thousand dollars per day for each day such

1 the violation continues, or both such injunctive relief and
2 civil penalty.

3 Sec. 4. Section 455B.191, subsection 1, Code 1987, is
4 amended to read as follows:

5 1. Any person who violates any provision of part 1 of
6 division III of this chapter or any permit, rule, standard, or
7 order issued under part 1 of division III of this chapter
8 shall be subject to a civil penalty not to exceed five twenty-
9 five thousand dollars for each day of such violation. The
10 ~~civil penalty shall be an alternative to any criminal penalty~~
11 ~~provided under part 1 of division III of this chapter.~~

12 Sec. 5. Section 455B.191, subsection 2, Code 1987, is
13 amended by striking the subsection and inserting in lieu
14 thereof the following:

15 2. Any person who negligently or knowingly violates
16 section 455B.183 or section 455B.186 or any condition or
17 limitation included in any permit issued under section
18 455B.183, or who negligently or knowingly introduces into a
19 sewer system or into a publicly owned treatment works any
20 pollutant or hazardous substance which the person knew or
21 reasonably should have known could cause personal injury or
22 property damage or, other than in compliance with all
23 applicable federal and state requirements or permits, or who
24 negligently or knowingly causes a treatment works to violate
25 any water quality standard, effluent standard, pretreatment
26 standard or condition of a permit issued to the treatment
27 works pursuant to section 455B.183 is guilty of a serious
28 misdemeanor for a negligent violation and is guilty of an
29 aggravated misdemeanor for a knowing violation. A conviction
30 for a negligent violation is punishable by a fine of not more
31 than twenty-five thousand dollars for each day of violation or
*32 by imprisonment for not more than one year, or both; however,
33 if the conviction is for a second or subsequent violation
34 committed by a person under this subsection, the conviction is
35 punishable by a fine of not more than fifty thousand dollars

1 for each day of violation or by imprisonment for not more than
* 2 two years, or both. A conviction for a knowing violation is
3 punishable by a fine of not more than fifty thousand dollars
4 for each day of violation or by imprisonment for not more than
* 5 two years, or both; however, if the conviction is for a second
6 or subsequent violation committed by a person under this
7 subsection, the conviction is punishable by a fine of not more
8 than one hundred thousand dollars for each day of violation or
* 9 by imprisonment for not more than five years, or both. As
10 used in this section, "hazardous substance" means hazardous
11 substance as defined in section 455B.381 or section 455B.411.

12 Sec. 6. Section 455B.191, subsection 3, Code 1987, is
13 amended to read as follows:

14 3. Any A person who knowingly makes any a false statement,
15 representation, or certification in any an application,
16 record, report, plan, or other document filed or required to
17 be maintained under part 1 of division III of this chapter, or
18 who falsifies, tampers with or knowingly renders inaccurate
19 any a monitoring device or method required to be maintained
20 under part 1 of division III of this chapter or by-any under a
21 permit, rule, regulation, or order issued under part 1 of
22 division III of this chapter, shall upon conviction be
23 punished by a fine of not more than ten twenty-five thousand
24 dollars or by imprisonment in the county jail for not more
25 than six months or by both such fine and imprisonment.

26 Sec. 7. Section 455B.386, Code 1987, is amended to read as
27 follows:

28 455B.386 NOTIFICATION OF SPILLS -- PENALTY.

29 A person manufacturing, storing, handling, transporting, or
30 disposing of a hazardous substance shall notify the
31 department, the local police department, or the office of the
32 sheriff of the affected county, ef upon the occurrence of a
33 hazardous condition. The notice shall be given as soon as
34 possible but not later than six hours after the onset or
35 discovery of the hazardous condition or-discevery-of-the

1 hazardous-condition. A sheriff or police chief who has been
2 notified of a hazardous condition shall immediately notify the
3 department. If requested by the department, a person shall
4 submit within thirty days of the department's request a
5 written report of particulars of the incident. A person
6 violating this section is subject to a civil penalty of not
7 more than one twenty-five thousand dollars.

8 Sec. 8. Section 455B.417, subsection 3, Code 1987, is
9 amended to read as follows:

10 3. A person who violates a provision of this part or a
11 rule, permit, or order adopted or issued under this part is
12 subject to a civil penalty not to exceed ten twenty-five
13 thousand dollars for each violation. Each day of violation
14 constitutes a separate violation.

15 Sec. 9. Section 455B.454, Code 1987, is amended to read as
16 follows:

17 455B.454 PENALTIES.

18 A person required to obtain a site license under this part
19 6 of division IV who constructs a facility without having
20 first obtained the license is subject to a civil penalty of
21 not more than ten twenty-five thousand dollars for each
22 violation or and for each day of continuing violation. Civil
23 penalties collected pursuant to this subsection shall be
24 forwarded by the clerk of court to the treasurer of state for
25 who shall deposit the initial one hundred thousand dollars
26 collected in the general fund of the state, the next one
27 hundred thousand dollars collected in the emergency response
28 fund created under section 29C.8A, and the remainder of the
29 moneys collected in the household hazardous waste account of
30 the groundwater protection fund.

31 Sec. 10. Section 455B.466, Code 1987, is amended to read
32 as follows:

33 455B.466 CIVIL PENALTIES.

34 A person who violates a provision of this part is subject
35 to a civil penalty of not more than ten twenty-five thousand

1 dollars for each violation and for each day of continuing
2 violation. Civil penalties collected pursuant to this section
3 shall be forwarded by the clerk of the district court to the
4 treasurer of state for who shall deposit the initial one
5 hundred thousand dollars collected in the general fund of the
6 state, the next one hundred thousand dollars collected in the
7 emergency response fund created under section 29C.8A, and the
8 remainder of the moneys collected in the household hazardous
9 waste account of the groundwater protection fund.

10 Sec. 11. Section 455B.477, subsection 1, Code 1987, is
11 amended to read as follows:

12 1. A person who violates a provision of this part or a
13 rule or order issued under this part is subject to a civil
14 penalty not to exceed five twenty-five thousand dollars for
15 each day during which the violation continues. The civil
16 penalty is an alternative to a criminal penalty provided under
17 this part.

18 Sec. 12. Section 455E.11, subsection 2, paragraph c, Code
19 Supplement 1987, is amended to read as follows:

20 c. A household hazardous waste account. The moneys
21 collected pursuant to section 455F.7 shall be deposited in the
22 household hazardous waste account. Except for the first one
23 hundred thousand dollars received annually for deposit in the
24 general fund, and the next one hundred thousand dollars
25 received annually for deposit in the emergency response fund,
26 the treasurer of state shall deposit moneys received from
27 civil penalties and fines imposed by the court pursuant to
28 sections 455B.146, 455B.191, 455B.386, 455B.417, 455B.454,
29 455B.466, and 455B.477, in the household hazardous waste
30 account. Two thousand dollars is appropriated annually to the
31 Iowa department of public health to carry out departmental
32 duties under section 135.11, subsections 20 and 21, and
33 section 139.35, eighty thousand dollars is appropriated to the
34 department of natural resources for city, county, or service
35 organization project grants relative to recycling and

1 reclamation events, and eight thousand dollars is appropriated
2 to the department of transportation for the period of October
3 1, 1987 through June 30, 1989 for the purpose of conducting
4 the used oil collection pilot project. The remainder of the
5 account shall be used to fund Toxic Cleanup Days programs,
6 education programs, and other activities pursuant to chapter
7 455F, including the administration of the household hazardous
8 materials permit program by the department of revenue and
9 finance.

10 The department shall submit to the general assembly,
11 annually on or before January 1, an itemized report which
12 includes but is not limited to the total amount of moneys
13 collected and the sources of the moneys collected, the amount
14 of moneys expended for administration of the programs funded
15 within the account, and an itemization of any other
16 expenditures made within the previous fiscal year.

17 Sec. 13. NEW SECTION. 716B.1 DEFINITIONS.

18 As used in this chapter, unless the context otherwise
19 requires:

20 1. "Person" means an agency of the state or federal
21 government, a municipality, governmental subdivisions,
22 interstate body, public or private corporation, individual,
23 partnership, or other entity, and includes an officer, or
24 governing or managing body of a municipality, governmental
25 subdivision, interstate body, or public or private
26 corporation.

27 2. "Department" means the department of natural resources.

28 3. "Disposal" or "dispose" means disposal as defined in
29 section 455B.411, subsection 2.

30 4. "Hazardous waste" means a hazardous waste as defined in
31 section 455B.411, subsection 4, or a hazardous substance as
32 defined in 42 U.S.C. § 9601, or a hazardous substance as
33 designated by regulations adopted by the administrator of the
34 United States environmental protection agency pursuant to 42
35 U.S.C. § 9602.

1 5. "Storage" or "store" means storage as defined in
2 section 455B.411, subsection 9.

3 6. "Treatment" or "treat" means treatment as defined in
4 section 455B.411, subsection 10.

5 Sec. 14. NEW SECTION. 716B.2 UNLAWFUL DISPOSAL OF
6 HAZARDOUS WASTE -- PENALTIES.

7 A person who knowingly or with reason to know, disposes of
8 hazardous waste or arranges for or allows the disposal of
9 hazardous waste at any location other than one authorized by
10 the department or the United States environmental protection
11 agency, or in violation of any material term or condition of a
12 hazardous waste facility permit, is guilty of an aggravated
13 misdemeanor and upon conviction shall be punished by a fine of
14 not more than twenty-five thousand dollars or imprisonment for
15 not more than two years, or both, for each day of violation.
16 If the conviction is for a violation committed after a first
17 conviction under this section, the person is guilty of a class
18 "D" felony and shall be punished by a fine of not more than
19 fifty thousand dollars or imprisonment for not more than five
20 years, or both, for each day of violation.

21 Sec. 15. NEW SECTION. 716B.3 UNLAWFUL TRANSPORTATION OF
22 HAZARDOUS WASTE -- PENALTIES.

23 A person who knowingly or with reason to know, transports
24 or causes to be transported any hazardous waste to any
25 location other than a facility that is authorized to receive,
26 treat, store, or dispose of the hazardous waste under rules
27 adopted pursuant to 42 U.S.C. § 9601-9675 is guilty of an
28 aggravated misdemeanor and upon conviction shall be punished
29 by a fine of not more than twenty-five thousand dollars or
30 imprisonment for not more than two years, or both, for each
31 day of violation. If the conviction is for a violation
32 committed after a first conviction under this section, the
33 person is guilty of a class "D" felony and shall be punished
34 by a fine of not more than fifty thousand dollars or
35 imprisonment for not more than five years, or both, for each

1 day of violation.

2 Sec. 16. NEW SECTION. 716B.4 UNLAWFUL STORAGE OR
3 TREATMENT OF HAZARDOUS WASTE -- PENALTIES.

4 A person who knowingly or with reason to know, treats or
5 stores hazardous waste without a permit issued pursuant to 42
6 U.S.C. § 6925 or § 6926 is guilty of an aggravated misdemeanor
7 and upon conviction shall be punished by a fine of not more
8 than twenty-five thousand dollars or imprisonment for not more
9 than two years, or both, for each day of violation. If the
10 conviction is for a violation committed after a first
11 conviction under this section, the person is guilty of a class
12 "D" felony and shall be punished by a fine of not more than
13 fifty thousand dollars or imprisonment for not more than five
14 years, or both, for each day of violation.

15 Sec. 17. NEW SECTION. 716B.5 ENFORCEMENT POWERS.

16 The attorney general or the county attorney for the county
17 in which a violation occurs is responsible for enforcement of
18 the provisions of this chapter.

19 SIMILAR TO HF 2001 (LSB 7152H)

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HOUSE FILE 2338

S-5556

- 1 Amend House File 2338 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. By striking page 1, line 26 through page 3,
- 4 line 11.
- 5 2. By striking page 3, line 26 through page 4,
- 6 line 14.
- 7 3. By striking page 6, line 17 through page 8,
- 8 line 18.
- 9 4. By renumbering as required.

S-5556

Filed March 24, 1988

Adopted 3/29 (p. 1134)

BY COMMITTEE ON ENVIRONMENT AND
ENERGY UTILITIES
PATRICK DELUHERY, Chairperson

HOUSE FILE 2338

S-5624

- 1 Amend House File 2338, as amended, passed, and re-
- 2 printed by the House, as follows:
- 3 1. Page 1, line 12, by striking the words
- 4 "Following the deposit of the" and inserting the
- 5 following: "The".
- 6 2. Page 1, line 16, by inserting before the word
- 7 "in" the following: "shall be deposited".
- 8 3. Page 3, by striking lines 12 through 25.
- 9 4. By striking page 4, line 15 through page 5,
- 10 line 17.
- 11 5. By renumbering as necessary.

S-5624

Filed March 29, 1988

ADOPTED
(p. 1134)

BY RICHARD VARN

SENATE AMENDMENT TO HOUSE FILE 2338

H-6138

1 Amend House File 2338 as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 1, line 12, by striking the words
4 "Following the deposit of the" and inserting the
5 following: "The".

6 2. Page 1, line 16, by inserting before the word
7 "in" the following: "shall be deposited".

8 3. By striking page 1, line 26 through page 3,
9 line 11.

10 4. Page 3, by striking lines 12 through 25.

11 5. By striking page 3, line 26 through page 4,
12 line 14.

13 6. By striking page 4, line 15 through page 5,
14 line 17.

15 7. By striking page 6, line 17 through page 8,
16 line 18.

17 8. By renumbering, relettering, or redesignating
18 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6138 FILED MARCH 31, 1988

House concurred 4/4 (p. 1351)

HOUSE FILE 2338

AN ACT

RELATING TO ENVIRONMENTAL QUALITY BY CREATING AN EMERGENCY
RESPONSE FUND AND BY ESTABLISHING AND INCREASING FINES
AND PENALTIES.

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

Section 1. Section 29C.8, subsection 3, Code 1987, is amended by adding the following new lettered paragraph:
NEW LETTERED PARAGRAPH. d. Implement planning and training for emergency response teams as mandated by the federal government under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq.

Sec. 2. NEW SECTION. 29C.8A EMERGENCY RESPONSE FUND CREATED.

1. An emergency response fund is created in the state treasury. The first one hundred thousand dollars received annually by the treasurer of state for the civil penalties and fines imposed by the court pursuant to sections 455B.146, 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and 455B.477 shall be deposited in the general fund of the state. The next hundred thousand dollars shall be deposited in the emergency response fund and any additional moneys shall be deposited in the household hazardous waste account. All moneys received annually by the treasurer of the state for the fines imposed by sections 716B.2, 716B.3, and 716B.4 shall also be deposited in the emergency response fund.

2. The emergency response fund shall be administered by the disaster services division to carry out planning and training for the emergency response teams.

Sec. 3. Section 455E.11, subsection 2, paragraph c, Code Supplement 1987, is amended to read as follows:

c. A household hazardous waste account. The moneys collected pursuant to section 455E.7 shall be deposited in the household hazardous waste account. Except for the first one hundred thousand dollars received annually for deposit in the general fund, and the next one hundred thousand dollars received annually for deposit in the emergency response fund, the treasurer of state shall deposit moneys received from civil penalties and fines imposed by the court pursuant to sections 455B.146, 455B.191, 455B.386, 455B.417, 455B.454, 455B.466, and 455B.477, in the household hazardous waste account. Two thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section 139.35, eighty thousand dollars is appropriated to the department of natural resources for city, county, or service organization project grants relative to recycling and reclamation events, and eight thousand dollars is appropriated to the department of transportation for the period of October 1, 1987 through June 30, 1989 for the purpose of conducting the used oil collection pilot project. The remainder of the account shall be used to fund Toxic Cleanup Days programs, education programs, and other activities pursuant to chapter 455E, including the administration of the household hazardous materials permit program by the department of revenue and finance.

The department shall submit to the general assembly, annually on or before January 1, an itemized report which includes but is not limited to the total amount of moneys collected and the sources of the moneys collected, the amount of moneys expended for administration of the programs funded

within the account, and an itemization of any other
expenditures made within the previous fiscal year.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 2338, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved _____, 1988

TERRY E. BRANSTAD
Governor