

FILED MAR 29 1989
State Govt
DOPASS 4-5-89 (P-1201)

reprinted

SENATE FILE 512
BY HUTCHINS and HULTMAN

Passed Senate, Date 4-17-89 (P-158) Passed House, Date 5-3-89 P.2338
Vote: Ayes 46 Nays 0 Vote: Ayes 97 Nays 0
Approved May 22, 1989

A BILL FOR

1 An Act relating to chemical emergencies, providing for the
2 establishment of the Iowa emergency response commission and
3 specifying its powers and duties, providing for
4 intergovernmental agreements, providing for the designation of
5 local emergency planning districts and the appointment of
6 local emergency planning committees, providing for immunity
7 from liability, providing disclosure requirements, authorizing
8 civil actions by the commission, and providing properly
9 related matters.

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

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SF 512

1 Section 1. Section 29.1, Code 1989, is amended to read as
2 follows:

3 29.1 DEPARTMENT OF PUBLIC DEFENSE.

4 The department of public defense is composed of the
5 military division, the disaster services division, and the
6 veterans affairs division. The adjutant general is the
7 director of the department of public defense and the budget
8 and personnel of all of the divisions are subject to the
9 approval of the adjutant general. The Iowa emergency response
10 commission established by section 30.2 is attached to the
11 department of public defense for organizational purposes.

12 Sec. 2. NEW SECTION. 30.1 DEFINITIONS.

13 For the purposes of this chapter, unless the context
14 otherwise requires:

15 1. "Commission" means the Iowa emergency response
16 commission.

17 2. "Committee" means a local emergency planning committee
18 appointed by the commission.

19 3. "Emergency Planning and Community Right-to-know Act"
20 means Pub. L. No. 99-499, Title III, 42 U.S.C. § 11001 et
21 seq., as amended to January 1, 1989.

22 Sec. 3. NEW SECTION. 30.2 IOWA EMERGENCY RESPONSE
23 COMMISSION ESTABLISHED.

24 1. The Iowa emergency response commission is established.
25 The commission is responsible directly to the governor. The
26 commission is attached to the department of public defense for
27 routine administrative and support services only.

28 2. The commission is composed of twelve members appointed
29 by the governor. One member shall be appointed to represent
30 the department of agriculture and land stewardship, one to
31 represent the department of employment services, one to
32 represent the department of justice, one to represent the
33 department of natural resources, one to represent the
34 department of public defense, one to represent the Iowa
35 department of public health, one to represent the department

1 of public safety, one to represent the state department of
2 transportation, one to represent the fire service institute of
3 the Iowa state university of science and technology, and one
4 to represent the office of the governor. Two representatives
5 from private industry shall also be appointed by the governor,
6 subject to confirmation by the senate.

7 3. The commission members shall be appointed for staggered
8 terms of three years each, beginning and ending as provided in
9 section 69.19. Vacancies shall be filled in the same manner
10 as the original appointments were made.

11 Sec. 4. NEW SECTION. 30.3 OFFICERS AND MEETINGS.

12 The members of the commission shall select a chairperson
13 and a vice chairperson from their membership. The commission
14 shall meet at least twice per year but may meet as often as
15 necessary. Meetings shall be set by a majority of the
16 commission or upon the call of the chairperson, or in the
17 chairperson's absence, upon the call of the vice chairperson.

18 Sec. 5. NEW SECTION. 30.4 EXPENSES.

19 The members of the commission are entitled to reimbursement
20 for travel and other necessary expenses incurred in the
21 performance of official duties.

22 Sec. 6. NEW SECTION. 30.5 COMMISSION POWERS AND DUTIES.

23 1. The commission has the powers necessary to carry out
24 the functions and duties specified in state law and the
25 Emergency Planning and Community Right-to-know Act, including
26 the powers to solicit and accept gifts and grants, and to
27 adopt rules pursuant to chapter 17A. All federal funds,
28 grants, and gifts shall be deposited with the treasurer of
29 state and used only for the purposes agreed upon as conditions
30 for receipt of the funds, grants, or gifts.

31 2. The commission may enter into agreements pursuant to
32 chapter 28E to accomplish any duty imposed upon the commission
33 by the Emergency Planning and Community Right-to-know Act, but
34 the commission shall not compensate any governmental unit for
35 the performance of duties pursuant to such an agreement.

1 funding for administering the duties of the commission under
2 sections 30.7, 30.8, and 30.9 shall be included in the budgets
3 of the department of employment services, the department of
4 natural resources, and the department of public defense,
5 respectively.

6 3. The commission may request from any state agency or
7 official the information and assistance necessary to perform
8 the duties of the commission. All state departments,
9 divisions, agencies, and offices shall make available upon
10 request information which is requested and which is not by law
11 confidential.

12 Sec. 7. NEW SECTION. 30.6 COMMISSION DUTIES.

13 1. The commission shall designate local emergency planning
14 districts and appoint persons to serve on local emergency
15 planning committees. The commission may, upon request, revise
16 its designations of districts and appointments of committee
17 members.

18 2. The commission shall supervise and coordinate the
19 activities of the committees.

20 3. Upon request by a state or local official or any
21 person, the commission shall obtain from a facility owner or
22 operator the emergency and hazardous chemical inventory
23 information which the owner or operator is required to prepare
24 and submit pursuant to section 312 of the Emergency Planning
25 and Community Right-to-know Act, 42 U.S.C. § 11022, and
26 provide the information to the requesting party.

27 4. The commission shall make available to the public upon
28 request during normal working hours material safety data
29 sheets, lists of hazardous chemicals, inventory forms, toxic
30 chemical release forms, and follow-up emergency notices in its
31 possession pursuant to section 324 of the Emergency Planning
32 and Community Right-to-know Act, 42 U.S.C. § 11044.

33 5. The commission shall perform all other functions and
34 duties as specified in the Emergency Planning and Community
35 Right-to-know Act.

1 Sec. 8. NEW SECTION. 30.7 DUTIES TO BE ALLOCATED TO
2 DEPARTMENT OF EMPLOYMENT SERVICES.

3 Agreements negotiated by the commission and the department
4 of employment services shall provide for the allocation of
5 duties to the department of employment services as follows:

6 1. Material safety data sheets or a list for chemicals
7 required to be submitted to the commission under section 311
8 of the Emergency Planning and Community Right-to-know Act, 42
9 U.S.C. § 11021, shall be submitted to the department of
10 employment services. Submission to that department
11 constitutes compliance with the requirement for notification
12 to the commission.

13 2. Emergency and hazardous chemical inventory forms
14 required to be submitted to the commission under section 312
15 of the Emergency Planning and Community Right-to-know Act, 42
16 U.S.C. § 11022, shall be submitted to the department of
17 employment services. Submission to that department
18 constitutes compliance with the requirement for notification
19 to the commission.

20 3. The department of employment services shall advise the
21 commission of the failure of any facility owner or operator to
22 submit information as required under sections 311 and 312 of
23 the Emergency Planning and Community Right-to-know Act, 42
24 U.S.C. § 11021 and 11022.

25 4. The department of employment services shall make
26 available to the public upon request during normal working
27 hours the information forms in its possession pursuant to
28 section 312 and 324 of the Emergency Planning and Community
29 Right-to-know Act, 42 U.S.C. § 11022 and 11044.

30 Sec. 9. NEW SECTION. 30.8 DUTIES TO BE ALLOCATED TO
31 DEPARTMENT OF NATURAL RESOURCES.

32 Agreements negotiated by the commission and the department
33 of natural resources shall provide for the allocation of
34 duties to the department of natural resources as follows:

35 1. Emergency notifications of releases required to be

1 submitted to the commission under section 304 of the Emergency
2 Planning and Community Right-to-know Act, 42 U.S.C. § 11004,
3 shall be submitted to the department of natural resources.
4 Submission to that department constitutes compliance with the
5 requirement for notification to the commission.

6 2. The department of natural resources shall advise the
7 commission of the failure of any facility owner or operator to
8 submit a notification as required under section 304 of the
9 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
10 § 11004.

11 3. The department of natural resources shall make
12 available to the public upon request during normal working
13 hours the information in its possession pursuant to section
14 324 of the Emergency Planning and Community Right-to-know Act,
15 42 U.S.C. § 11044.

16 Sec. 10. NEW SECTION. 30.9 DUTIES TO BE ALLOCATED TO
17 DEPARTMENT OF PUBLIC DEFENSE.

18 Agreements negotiated by the commission and the department
19 of public defense shall provide for the allocation of duties
20 to the department of public defense as follows:

3125 21 1. Comprehensive emergency response plans required to be
22 developed under section 303 of the Emergency Planning and
23 Community Right-to-know Act, 42 U.S.C. § 11003, shall be
3125 24 submitted annually to the department of public defense.
25 Committee submission to that department constitutes compliance
26 with the requirement for reporting to the commission. The
27 department of public defense shall review the plan on behalf
28 of the commission and shall incorporate the provisions of the
29 plan into its responsibilities under chapter 29C.

3125 30 2. The department of public defense shall advise the
31 commission of the failure of any committee to submit an annual
32 comprehensive emergency response plan.

33 3. The department of public defense shall make available
34 to the public upon request during normal working hours the
35 information in its possession pursuant to section 324 of the

1 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
2 § 11044.

3 Sec. 11. NEW SECTION. 30.10 POWERS OF LOCAL EMERGENCY
4 PLANNING COMMITTEES.

5 The local emergency planning committee appointed by the
6 commission for each local emergency planning district has the
7 powers necessary to carry out the functions and duties
8 specified in state law and the Emergency Planning and
9 Community Right-to-know Act.

10 Sec. 12. NEW SECTION. 30.11 LIABILITY OF COMMITTEE
11 MEMBERS.

12 A person appointed as a member of a local emergency
13 planning committee is not personally liable for a claim based
14 upon an act or omission of the person performed in the
15 discharge of the functions and duties specified in the state
16 law and the Emergency Planning and Community Right-to-know
17 Act, except for acts and omissions which involve intentional
18 misconduct or knowing violation of the law, or for a
19 transaction from which the person derives an improper personal
20 benefit.

21 Sec. 13. NEW SECTION. 30.12 CIVIL ACTION.

22 1. The commission may commence a civil action against an
23 owner or operator of a facility who has violated federal
24 requirements to do any of the following:

25 a. Provide notification under section 302(c) of the
26 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
27 § 11002(c).

28 b. Submit a material safety data sheet or a list under
29 section 311(a) of the Emergency Planning and Community Right-
30 to-know Act, 42 U.S.C. § 11021(a).

31 c. Make available information requested under section
32 311(c) of the Emergency Planning and Community Right-to-know
33 Act, 42 U.S.C. § 11021(c).

34 d. Complete and submit an inventory form under section
35 312(a) of the Emergency Planning and Community Right-to-know

1 Act, 42 U.S.C. § 11022(a), containing tier I information
2 unless tier II information is submitted for the same period of
3 time.

4 e. Provide information under section 303(d) of the
5 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
6 § 11003(d).

7 f. Submit tier II information under section 312(e)(1) of
8 the Emergency Planning and Community Right-to-know Act, 42
9 U.S.C. § 11022(e)(1).

10 2. The Iowa district court shall have jurisdiction over
11 actions brought under this section and may grant any
12 appropriate relief.

13 EXPLANATION

14 This bill relates to the Iowa emergency response commission
15 and local emergency planning committees appointed pursuant to
16 the federal Emergency Planning and Community Right-to-know Act
17 of 1986 (Pub. L. No. 99-499, Title III) to deal with
18 emergencies involving hazardous chemicals.

19 The bill provides statutory authority for a twelve-member
20 Iowa emergency response commission appointed by the governor
21 and sets forth the powers and duties of the commission. The
22 commission would be responsible directly to the governor and
23 would be attached to the department of public defense for
24 routine administrative and support services only. The
25 commission would enter into intergovernmental agreements with
26 the department of employment services, department of natural
27 resources, and department of public defense whereby specified
28 commission duties would be allocated to those departments.
29 Funding would be through the budgets of the respective
30 departments.

31 The commission would designate local emergency planning
32 districts and appoint local emergency planning committees.
33 The bill includes a provision relating to immunity from
34 liability for members of local committees.

35 Under the bill, if an owner or operator of a facility

1 subject to the Emergency Planning and Community Right-to-know
2 Act violates certain federal disclosure and notification
3 requirements, the Iowa emergency response commission may sue
4 the violator in state court and the court may grant any
5 appropriate relief. The bill creates and refers to a new
6 chapter of the Code, tentatively numbered chapter 30.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 512

S-3723

1 Amend Senate File 512 as follows:

2 1. Page 5, line 24, by inserting after the word
3 "defense" the following: "if requested by the
4 department of public defense anytime after the initial
5 required filing".

By RICHARD F. DRAKE

S-3723 FILED APRIL 17, 1989

WITHDRAWN

SENATE FILE 512

S-3725

1 Amend Senate File 512 as follows:

2 1. Page 5, line 24, by striking the word
3 "annually".
4 2. Page 5, line 26, by inserting after the word
5 "commission." the following: "After initial
6 submission, a plan need not be resubmitted unless
7 revisions are requested by the commission."
8 3. Page 5, line 31, by striking the word "annual"
9 and inserting the following: "initial".
10 4. Page 5, line 32, by inserting after the word
11 "plan" the following: "or a revised plan requested by
12 the commission".

By RICHARD F. DRAKE

S-3725 FILED APRIL 17, 1989

ADOPTED

House State Court
DO pass 4-2-89 (p.2329)

SENATE FILE 512
BY HUTCHINS and HULTMAN

(AS AMENDED AND PASSED BY THE SENATE APRIL 17, 1989)

_____ - New Language by the Senate
* - Language Stricken by the Senate

Passed Senate, Date 4/17/89 (p.1488) Passed House, Date 5-3-89 (p.2338)
Vote: Ayes 46 Nays 0 Vote: Ayes 97 Nays 0
Approved May 22, 1989

A BILL FOR

1 An Act relating to chemical emergencies, providing for the
2 establishment of the Iowa emergency response commission and
3 specifying its powers and duties, providing for
4 intergovernmental agreements, providing for the designation of
5 local emergency planning districts and the appointment of
6 local emergency planning committees, providing for immunity
7 from liability, providing disclosure requirements, authorizing
8 civil actions by the commission, and providing properly
9 related matters.

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

11
12
13
14
15
16
17
18
19
20
21
22

1 Section 1. Section 29.1, Code 1989, is amended to read as
2 follows:

3 29.1 DEPARTMENT OF PUBLIC DEFENSE.

4 The department of public defense is composed of the
5 military division, the disaster services division, and the
6 veterans affairs division. The adjutant general is the
7 director of the department of public defense and the budget
8 and personnel of all of the divisions are subject to the
9 approval of the adjutant general. The Iowa emergency response
10 commission established by section 30.2 is attached to the
11 department of public defense for organizational purposes.

12 Sec. 2. NEW SECTION. 30.1 DEFINITIONS.

13 For the purposes of this chapter, unless the context
14 otherwise requires:

15 1. "Commission" means the Iowa emergency response
16 commission.

17 2. "Committee" means a local emergency planning committee
18 appointed by the commission.

19 3. "Emergency Planning and Community Right-to-know Act"
20 means Pub. L. No. 99-499, Title III, 42 U.S.C. § 11001 et
21 seq., as amended to January 1, 1989.

22 Sec. 3. NEW SECTION. 30.2 IOWA EMERGENCY RESPONSE
23 COMMISSION ESTABLISHED.

24 1. The Iowa emergency response commission is established.
25 The commission is responsible directly to the governor. The
26 commission is attached to the department of public defense for
27 routine administrative and support services only.

28 2. The commission is composed of twelve members appointed
29 by the governor. One member shall be appointed to represent
30 the department of agriculture and land stewardship, one to
31 represent the department of employment services, one to
32 represent the department of justice, one to represent the
33 department of natural resources, one to represent the
34 department of public defense, one to represent the Iowa
35 department of public health, one to represent the department

1 of public safety, one to represent the state department of
2 transportation, one to represent the fire service institute of
3 the Iowa state university of science and technology, and one
4 to represent the office of the governor. Two representatives
5 from private industry shall also be appointed by the governor,
6 subject to confirmation by the senate.

7 3. The commission members shall be appointed for staggered
8 terms of three years each, beginning and ending as provided in
9 section 69.19. Vacancies shall be filled in the same manner
10 as the original appointments were made.

11 Sec. 4. NEW SECTION. 30.3 OFFICERS AND MEETINGS.

12 The members of the commission shall select a chairperson
13 and a vice chairperson from their membership. The commission
14 shall meet at least twice per year but may meet as often as
15 necessary. Meetings shall be set by a majority of the
16 commission or upon the call of the chairperson, or in the
17 chairperson's absence, upon the call of the vice chairperson.

18 Sec. 5. NEW SECTION. 30.4 EXPENSES.

19 The members of the commission are entitled to reimbursement
20 for travel and other necessary expenses incurred in the
21 performance of official duties.

22 Sec. 6. NEW SECTION. 30.5 COMMISSION POWERS AND DUTIES.

23 1. The commission has the powers necessary to carry out
24 the functions and duties specified in state law and the
25 Emergency Planning and Community Right-to-know Act, including
26 the powers to solicit and accept gifts and grants, and to
27 adopt rules pursuant to chapter 17A. All federal funds,
28 grants, and gifts shall be deposited with the treasurer of
29 state and used only for the purposes agreed upon as conditions
30 for receipt of the funds, grants, or gifts.

31 2. The commission may enter into agreements pursuant to
32 chapter 26E to accomplish any duty imposed upon the commission
33 by the Emergency Planning and Community Right-to-know Act, but
34 the commission shall not compensate any governmental unit for
35 the performance of duties pursuant to such an agreement.

1 Funding for administering the duties of the commission under
2 sections 30.7, 30.8, and 30.9 shall be included in the budgets
3 of the department of employment services, the department of
4 natural resources, and the department of public defense,
5 respectively.

6 3. The commission may request from any state agency or
7 official the information and assistance necessary to perform
8 the duties of the commission. All state departments,
9 divisions, agencies, and offices shall make available upon
10 request information which is requested and which is not by law
11 confidential.

12 Sec. 7. NEW SECTION. 30.6 COMMISSION DUTIES.

13 1. The commission shall designate local emergency planning
14 districts and appoint persons to serve on local emergency
15 planning committees. The commission may, upon request, revise
16 its designations of districts and appointments of committee
17 members.

18 2. The commission shall supervise and coordinate the
19 activities of the committees.

20 3. Upon request by a state or local official or any
21 person, the commission shall obtain from a facility owner or
22 operator the emergency and hazardous chemical inventory
23 information which the owner or operator is required to prepare
24 and submit pursuant to section 312 of the Emergency Planning
25 and Community Right-to-know Act, 42 U.S.C. § 11022, and
26 provide the information to the requesting party.

27 4. The commission shall make available to the public upon
28 request during normal working hours material safety data
29 sheets, lists of hazardous chemicals, inventory forms, toxic
30 chemical release forms, and follow-up emergency notices in its
31 possession pursuant to section 324 of the Emergency Planning
32 and Community Right-to-know Act, 42 U.S.C. § 11044.

33 5. The commission shall perform all other functions and
34 duties as specified in the Emergency Planning and Community
35 Right-to-know Act.

1 Sec. 8. NEW SECTION. 30.7 DUTIES TO BE ALLOCATED TO
2 DEPARTMENT OF EMPLOYMENT SERVICES.

3 Agreements negotiated by the commission and the department
4 of employment services shall provide for the allocation of
5 duties to the department of employment services as follows:

6 1. Material safety data sheets or a list for chemicals
7 required to be submitted to the commission under section 311
8 of the Emergency Planning and Community Right-to-know Act, 42
9 U.S.C. § 11021, shall be submitted to the department of
10 employment services. Submission to that department
11 constitutes compliance with the requirement for notification
12 to the commission.

13 2. Emergency and hazardous chemical inventory forms
14 required to be submitted to the commission under section 312
15 of the Emergency Planning and Community Right-to-know Act, 42
16 U.S.C. § 11022, shall be submitted to the department of
17 employment services. Submission to that department
18 constitutes compliance with the requirement for notification
19 to the commission.

20 3. The department of employment services shall advise the
21 commission of the failure of any facility owner or operator to
22 submit information as required under sections 311 and 312 of
23 the Emergency Planning and Community Right-to-know Act, 42
24 U.S.C. § 11021 and 11022.

25 4. The department of employment services shall make
26 available to the public upon request during normal working
27 hours the information forms in its possession pursuant to
28 section 312 and 324 of the Emergency Planning and Community
29 Right-to-know Act, 42 U.S.C. § 11022 and 11044.

30 Sec. 9. NEW SECTION. 30.8 DUTIES TO BE ALLOCATED TO
31 DEPARTMENT OF NATURAL RESOURCES.

32 Agreements negotiated by the commission and the department
33 of natural resources shall provide for the allocation of
34 duties to the department of natural resources as follows:

35 1. Emergency notifications of releases required to be

1 submitted to the commission under section 304 of the Emergency
2 Planning and Community Right-to-know Act, 42 U.S.C. § 11004,
3 shall be submitted to the department of natural resources.
4 Submission to that department constitutes compliance with the
5 requirement for notification to the commission.

6 2. The department of natural resources shall advise the
7 commission of the failure of any facility owner or operator to
8 submit a notification as required under section 304 of the
9 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
10 § 11004.

11 3. The department of natural resources shall make
12 available to the public upon request during normal working
13 hours the information in its possession pursuant to section
14 324 of the Emergency Planning and Community Right-to-know Act,
15 42 U.S.C. § 11044.

16 Sec. 10. NEW SECTION. 30.9 DUTIES TO BE ALLOCATED TO
17 DEPARTMENT OF PUBLIC DEFENSE.

18 Agreements negotiated by the commission and the department
19 of public defense shall provide for the allocation of duties
20 to the department of public defense as follows:

21 1. Comprehensive emergency response plans required to be
22 developed under section 303 of the Emergency Planning and
23 Community Right-to-know Act, 42 U.S.C. § 11003, shall be
24 submitted to the department of public defense. Committee
25 submission to that department constitutes compliance with the
26 requirement for reporting to the commission. After initial
27 submission, a plan need not be resubmitted unless revisions
28 are requested by the commission. The department of public
29 defense shall review the plan on behalf of the commission and
30 shall incorporate the provisions of the plan into its
31 responsibilities under chapter 29C.

32 2. The department of public defense shall advise the
33 commission of the failure of any committee to submit an
34 initial comprehensive emergency response plan or a revised
35 plan requested by the commission.

1 3. The department of public defense shall make available
2 to the public upon request during normal working hours the
3 information in its possession pursuant to section 324 of the
4 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
5 § 11044.

6 Sec. 11. NEW SECTION. 30.10 POWERS OF LOCAL EMERGENCY
7 PLANNING COMMITTEES.

8 The local emergency planning committee appointed by the
9 commission for each local emergency planning district has the
10 powers necessary to carry out the functions and duties
11 specified in state law and the Emergency Planning and
12 Community Right-to-know Act.

13 Sec. 12. NEW SECTION. 30.11 LIABILITY OF COMMITTEE
14 MEMBERS.

15 A person appointed as a member of a local emergency
16 planning committee is not personally liable for a claim based
17 upon an act or omission of the person performed in the
18 discharge of the functions and duties specified in the state
19 law and the Emergency Planning and Community Right-to-know
20 Act, except for acts and omissions which involve intentional
21 misconduct or knowing violation of the law, or for a
22 transaction from which the person derives an improper personal
23 benefit.

24 Sec. 13. NEW SECTION. 30.12 CIVIL ACTION.

25 1. The commission may commence a civil action against an
26 owner or operator of a facility who has violated federal
27 requirements to do any of the following:

28 a. Provide notification under section 302(c) of the
29 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
30 § 11002(c).

31 b. Submit a material safety data sheet or a list under
32 section 311(a) of the Emergency Planning and Community Right-
33 to-know Act, 42 U.S.C. § 11021(a).

34 c. Make available information requested under section
35 311(c) of the Emergency Planning and Community Right-to-know

1 Act, 42 U.S.C. § 11021(c).
2 d. Complete and submit an inventory form under section
3 312(a) of the Emergency Planning and Community Right-to-know
4 Act, 42 U.S.C. § 11022(a), containing tier I information
5 unless tier II information is submitted for the same period of
6 time.
7 e. Provide information under section 303(d) of the
8 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
9 § 11003(d).
10 f. Submit tier II information under section 312(e)(1) of
11 the Emergency Planning and Community Right-to-know Act, 42
12 U.S.C. § 11022(e)(1).

13 2. The Iowa district court shall have jurisdiction over
14 actions brought under this section and may grant any
15 appropriate relief.

16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

FRAISE, CH.
DIELEMAN
NYSTROM

SSB 331
STATE GOVERNMENT

SENATE FILE 512
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL)

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

A BILL FOR

1 An Act relating to chemical emergencies, providing for the
2 establishment of the Iowa emergency response commission and
3 specifying its powers and duties, providing for
4 intergovernmental agreements, providing for the designation of
5 local emergency planning districts and the appointment of
6 local emergency planning committees, providing for immunity
7 from liability, providing disclosure requirements, authorizing
8 civil actions by the commission, and providing properly
9 related matters.

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

11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Section 1. Section 29.1, Code 1989, is amended to read as
2 follows:

3 29.1 DEPARTMENT OF PUBLIC DEFENSE.

4 The department of public defense is composed of the
5 military division, the disaster services division, and the
6 veterans affairs division. The adjutant general is the
7 director of the department of public defense and the budget
8 and personnel of all of the divisions are subject to the
9 approval of the adjutant general. The Iowa emergency response
10 commission established by section 30.2 is attached to the
11 department of public defense for organizational purposes.

12 Sec. 2. NEW SECTION. 30.1 DEFINITIONS.

13 For the purposes of this chapter, unless the context
14 otherwise requires:

15 1. "Commission" means the Iowa emergency response
16 commission.

17 2. "Committee" means a local emergency planning committee
18 appointed by the commission.

19 3. "Emergency Planning and Community Right-to-know Act"
20 means Pub. L. No. 99-499, Title III, 42 U.S.C. 11001 et seq.,
21 as amended to January 1, 1989.

22 Sec. 3. NEW SECTION. 30.2 IOWA EMERGENCY RESPONSE
23 COMMISSION ESTABLISHED.

24 1. The Iowa emergency response commission is established.
25 The commission is responsible directly to the governor. The
26 commission is attached to the department of public defense for
27 routine administrative and support services only.

28 2. The commission is composed of twelve members appointed
29 by the governor. One member shall be appointed to represent
30 the department of agriculture and land stewardship, one to
31 represent the department of employment services, one to
32 represent the department of justice, one to represent the
33 department of natural resources, one to represent the
34 department of public defense, one to represent the Iowa
35 department of public health, one to represent the department

1 of public safety, one to represent the state department of
2 transportation, one to represent the fire service institute of
3 the Iowa state university of science and technology, and one
4 to represent the office of the governor. Two representatives
5 from private industry shall also be appointed by the governor,
6 subject to confirmation by the senate.

7 3. The commission members shall be appointed for staggered
8 terms of three years each, beginning and ending as provided in
9 section 69.19. Vacancies shall be filled in the same manner
10 as the original appointments were made.

11 Sec. 4. NEW SECTION. 30.3 OFFICERS AND MEETINGS.

12 The members of the commission shall select a chairperson
13 and a vice chairperson from their membership. The commission
14 shall meet at least twice per year but may meet as often as
15 necessary. Meetings shall be set by a majority of the
16 commission or upon the call of the chairperson, or in the
17 chairperson's absence, upon the call of the vice chairperson.

18 Sec. 5. NEW SECTION. 30.4 EXPENSES.

19 The members of the commission are entitled to reimbursement
20 for travel and other necessary expenses incurred in the
21 performance of official duties.

22 Sec. 6. NEW SECTION. 30.5 COMMISSION POWERS AND DUTIES.

23 1. The commission has the powers necessary to carry out
24 the functions and duties specified in state law and the
25 Emergency Planning and Community Right-to-know Act, including
26 the powers to solicit and accept gifts and grants, and to
27 adopt rules pursuant to chapter 17A. All federal funds,
28 grants, and gifts shall be deposited with the treasurer of
29 state and used only for the purposes agreed upon as conditions
30 for receipt of the funds, grants, or gifts.

31 2. The commission may enter into agreements pursuant to
32 chapter 28E to accomplish any duty imposed upon the commission
33 by the Emergency Planning and Community Right-to-know Act, but
34 the commission shall not compensate any governmental unit for
35 the performance of duties pursuant to such an agreement.

1 Funding for administering the duties of the commission under
2 sections 30.7, 30.8, and 30.9 shall be included in the budgets
3 of the department of employment services, the department of
4 natural resources, and the department of public defense,
5 respectively.

6 3. The commission may request from any state agency or
7 official the information and assistance necessary to perform
8 the duties of the commission. All state departments,
9 divisions, agencies, and offices shall make available upon
10 request information which is requested and which is not by law
11 confidential.

12 Sec. 7. NEW SECTION. 30.6 COMMISSION DUTIES.

13 1. The commission shall designate local emergency planning
14 districts and appoint persons to serve on local emergency
15 planning committees. The commission may, upon request, revise
16 its designations of districts and appointments of committee
17 members.

18 2. The commission shall supervise and coordinate the
19 activities of the committees.

20 3. Upon request by a state or local official or any
21 person, the commission shall obtain from a facility owner or
22 operator the emergency and hazardous chemical inventory
23 information which the owner or operator is required to prepare
24 and submit pursuant to section 312 of the Emergency Planning
25 and Community Right-to-know Act, 42 U.S.C. 11022, and provide
26 the information to the requesting party.

27 4. The commission shall make available to the public upon
28 request during normal working hours material safety data
29 sheets, lists of hazardous chemicals, inventory forms, toxic
30 chemical release forms, and follow-up emergency notices in its
31 possession pursuant to section 324 of the Emergency Planning
32 and Community Right-to-know Act, 42 U.S.C. 11044.

33 5. The commission shall perform all other functions and
34 duties as specified in the Emergency Planning and Community
35 Right-to-know Act.

1 Sec. 8. NEW SECTION. 30.7 DUTIES TO BE ALLOCATED TO
2 DEPARTMENT OF EMPLOYMENT SERVICES.

3 Agreements negotiated by the commission and the department
4 of employment services shall provide for the allocation of
5 duties to the department of employment services as follows:

6 1. Material safety data sheets or a list for chemicals
7 required to be submitted to the commission under section 311
8 of the Emergency Planning and Community Right-to-know Act, 42
9 U.S.C. 11021, shall be submitted to the department of
10 employment services. Submission to that department
11 constitutes compliance with the requirement for notification
12 to the commission.

13 2. Emergency and hazardous chemical inventory forms
14 required to be submitted to the commission under section 312
15 of the Emergency Planning and Community Right-to-know Act, 42
16 U.S.C. 11022, shall be submitted to the department of
17 employment services. Submission to that department
18 constitutes compliance with the requirement for notification
19 to the commission.

20 3. The department of employment services shall advise the
21 commission of the failure of any facility owner or operator to
22 submit information as required under sections 311 and 312 of
23 the Emergency Planning and Community Right-to-know Act, 42
24 U.S.C. 11021 and 11022.

25 4. The department of employment services shall make
26 available to the public upon request during normal working
27 hours the information forms in its possession pursuant to
28 section 312 and 324 of the Emergency Planning and Community
29 Right-to-know Act, 42 U.S.C. 11022 and 11044.

30 Sec. 9. NEW SECTION. 30.8 DUTIES TO BE ALLOCATED TO
31 DEPARTMENT OF NATURAL RESOURCES.

32 Agreements negotiated by the commission and the department
33 of natural resources shall provide for the allocation of
34 duties to the department of natural resources as follows:

35 1. Emergency notifications of releases required to be

1 submitted to the commission under section 304 of the Emergency
2 Planning and Community Right-to-know Act, 42 U.S.C. 11004,
3 shall be submitted to the department of natural resources.
4 Submission to that department constitutes compliance with the
5 requirement for notification to the commission.

6 2. The department of natural resources shall advise the
7 commission of the failure of any facility owner or operator to
8 submit a notification as required under section 304 of the
9 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
10 11004.

11 3. The department of natural resources shall make
12 available to the public upon request during normal working
13 hours the information in its possession pursuant to section
14 324 of the Emergency Planning and Community Right-to-know Act,
15 42 U.S.C. 11044.

16 Sec. 10. NEW SECTION. 30.9 DUTIES TO BE ALLOCATED TO
17 DEPARTMENT OF PUBLIC DEFENSE.

18 Agreements negotiated by the commission and the department
19 of public defense shall provide for the allocation of duties
20 to the department of public defense as follows:

21 1. Comprehensive emergency response plans required to be
22 developed under section 303 of the Emergency Planning and
23 Community Right-to-know Act, 42 U.S.C. 11003, shall be
24 submitted annually to the department of public defense.
25 Committee submission to that department constitutes compliance
26 with the requirement for reporting to the commission. The
27 department of public defense shall review the plan on behalf
28 of the commission and shall incorporate the provisions of the
29 plan into its responsibilities under chapter 29C.

30 2. The department of public defense shall advise the
31 commission of the failure of any committee to submit an annual
32 comprehensive emergency response plan.

33 3. The department of public defense shall make available
34 to the public upon request during normal working hours the
35 information in its possession pursuant to section 324 of the

1 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
2 11044.

3 Sec. 11. NEW SECTION. 30.10 POWERS OF LOCAL EMERGENCY
4 PLANNING COMMITTEES.

5 The local emergency planning committee appointed by the
6 commission for each local emergency planning district has the
7 powers necessary to carry out the functions and duties
8 specified in state law and the Emergency Planning and
9 Community Right-to-know Act.

10 Sec. 12. NEW SECTION. 30.11 LIABILITY OF COMMITTEE
11 MEMBERS.

12 A person appointed as a member of a local emergency
13 planning committee is not personally liable for a claim based
14 upon an act or omission of the person performed in the
15 discharge of the functions and duties specified in the state
16 law and the Emergency Planning and Community Right-to-know
17 Act, except for acts and omissions which involve intentional
18 misconduct or knowing violation of the law, or for a
19 transaction from which the person derives an improper personal
20 benefit.

21 Sec. 13. NEW SECTION. 30.12 CIVIL ACTION.

22 1. The commission may commence a civil action against an
23 owner or operator of a facility who has violated federal
24 requirements to do any of the following:

25 a. Provide notification under section 302(c) of the
26 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
27 11002(c).

28 b. Submit a material safety data sheet or a list under
29 section 311(a) of the Emergency Planning and Community Right-
30 to-know Act, 42 U.S.C. 11021(a).

31 c. Make available information requested under section
32 311(c) of the Emergency Planning and Community Right-to-know
33 Act, 42 U.S.C. 11021(c).

34 d. Complete and submit an inventory form under section
35 312(a) of the Emergency Planning and Community Right-to-know

1 Act, 42 U.S.C. 11022(a), containing tier I information unless
2 tier II information is submitted for the same period of time.

3 e. Provide information under section 303(d) of the
4 Emergency Planning and Community Right-to-know Act, 42 U.S.C.
5 11003(d).

6 f. Submit tier II information under section 312(e)(1) of
7 the Emergency Planning and Community Right-to-know Act, 42
8 U.S.C. 11022(e)(1).

9 2. The Iowa district court shall have jurisdiction over
10 actions brought under this section and may grant any
11 appropriate relief.

12

EXPLANATION

13 This bill relates to the Iowa emergency response commission
14 and local emergency planning committees appointed pursuant to
15 the federal Emergency Planning and Community Right-to-know Act
16 of 1986 (Pub. L. No. 99-499, Title III) to deal with
17 emergencies involving hazardous chemicals.

18 The bill provides statutory authority for a twelve-member
19 Iowa emergency response commission appointed by the governor
20 and sets forth the powers and duties of the commission. The
21 commission would be responsible directly to the governor and
22 would be attached to the department of public defense for
23 routine administrative and support services only. The
24 commission would enter into intergovernmental agreements with
25 the department of employment services, department of natural
26 resources, and department of public defense whereby specified
27 commission duties would be allocated to those departments.
28 Funding would be through the budgets of the respective
29 departments.

30 The commission would designate local emergency planning
31 districts and appoint local emergency planning committees.
32 The bill includes a provision relating to immunity from
33 liability for members of local committees.

34 Under the bill, if an owner or operator of a facility
35 subject to the Emergency Planning and Community Right-to-know

1 Act violates certain federal disclosure and notification
2 requirements, the Iowa emergency response commission may sue
3 the violator in state court and the court may grant any
4 appropriate relief. The bill creates and refers to a new
5 chapter of the Code, tentatively numbered chapter 30.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 512

AN ACT

RELATING TO CHEMICAL EMERGENCIES, PROVIDING FOR THE ESTABLISHMENT OF THE IOWA EMERGENCY RESPONSE COMMISSION AND SPECIFYING ITS POWERS AND DUTIES, PROVIDING FOR INTERGOVERNMENTAL AGREEMENTS, PROVIDING FOR THE DESIGNATION OF LOCAL EMERGENCY PLANNING DISTRICTS AND THE APPOINTMENT OF LOCAL EMERGENCY PLANNING COMMITTEES, PROVIDING FOR IMMUNITY FROM LIABILITY, PROVIDING DISCLOSURE REQUIREMENTS, AUTHORIZING CIVIL ACTIONS BY THE COMMISSION, AND PROVIDING PROPERLY RELATED MATTERS.

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

Section 1. Section 29.1, Code 1989, is amended to read as follows:

29.1 DEPARTMENT OF PUBLIC DEFENSE.

The department of public defense is composed of the military division, the disaster services division, and the veterans affairs division. The adjutant general is the director of the department of public defense and the budget and personnel of all of the divisions are subject to the approval of the adjutant general. The Iowa emergency response commission established by section 30.2 is attached to the department of public defense for organizational purposes.

Sec. 2. NEW SECTION. 30.1 DEFINITIONS.

For the purposes of this chapter, unless the context otherwise requires:

1. "Commission" means the Iowa emergency response commission.
2. "Committee" means a local emergency planning committee appointed by the commission.
3. "Emergency Planning and Community Right-to-know Act" means Pub. L. No. 99-499, Title III, 42 U.S.C. § 11001 et seq., as amended to January 1, 1989.

Sec. 3. NEW SECTION. 30.2 IOWA EMERGENCY RESPONSE COMMISSION ESTABLISHED.

1. The Iowa emergency response commission is established. The commission is responsible directly to the governor. The commission is attached to the department of public defense for routine administrative and support services only.

2. The commission is composed of twelve members appointed by the governor. One member shall be appointed to represent the department of agriculture and land stewardship, one to represent the department of employment services, one to represent the department of justice, one to represent the department of natural resources, one to represent the department of public defense, one to represent the Iowa department of public health, one to represent the department of public safety, one to represent the state department of transportation, one to represent the fire service institute of the Iowa state university of science and technology, and one to represent the office of the governor. Two representatives from private industry shall also be appointed by the governor, subject to confirmation by the senate.

3. The commission members shall be appointed for staggered terms of three years each, beginning and ending as provided in section 69.19. Vacancies shall be filled in the same manner as the original appointments were made.

Sec. 4. NEW SECTION. 30.3 OFFICERS AND MEETINGS.

The members of the commission shall select a chairperson and a vice chairperson from their membership. The commission shall meet at least twice per year but may meet as often as necessary. Meetings shall be set by a majority of the commission or upon the call of the chairperson, or in the chairperson's absence, upon the call of the vice chairperson.

Sec. 5. NEW SECTION. 30.4 EXPENSES.

The members of the commission are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

Sec. 6. NEW SECTION. 30.5 COMMISSION POWERS AND DUTIES.

1. The commission has the powers necessary to carry out the functions and duties specified in state law and the Emergency Planning and Community Right-to-know Act, including the powers to solicit and accept gifts and grants, and to adopt rules pursuant to chapter 17A. All federal funds, grants, and gifts shall be deposited with the treasurer of state and used only for the purposes agreed upon as conditions for receipt of the funds, grants, or gifts.

2. The commission may enter into agreements pursuant to chapter 28E to accomplish any duty imposed upon the commission by the Emergency Planning and Community Right-to-know Act, but the commission shall not compensate any governmental unit for the performance of duties pursuant to such an agreement. Funding for administering the duties of the commission under sections 30.7, 30.8, and 30.9 shall be included in the budgets of the department of employment services, the department of natural resources, and the department of public defense, respectively.

3. The commission may request from any state agency or official the information and assistance necessary to perform the duties of the commission. All state departments, divisions, agencies, and offices shall make available upon request information which is requested and which is not by law confidential.

Sec. 7. NEW SECTION. 30.6 COMMISSION DUTIES.

1. The commission shall designate local emergency planning districts and appoint persons to serve on local emergency planning committees. The commission may, upon request, revise its designations of districts and appointments of committee members.

2. The commission shall supervise and coordinate the activities of the committees.

3. Upon request by a state or local official or any person, the commission shall obtain from a facility owner or operator the emergency and hazardous chemical inventory information which the owner or operator is required to prepare and submit pursuant to section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, and provide the information to the requesting party.

4. The commission shall make available to the public upon request during normal working hours material safety data sheets, lists of hazardous chemicals, inventory forms, toxic chemical release forms, and follow-up emergency notices in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

5. The commission shall perform all other functions and duties as specified in the Emergency Planning and Community Right-to-know Act.

Sec. 8. NEW SECTION. 30.7 DUTIES TO BE ALLOCATED TO DEPARTMENT OF EMPLOYMENT SERVICES.

Agreements negotiated by the commission and the department of employment services shall provide for the allocation of duties to the department of employment services as follows:

1. Material safety data sheets or a list for chemicals required to be submitted to the commission under section 311 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021, shall be submitted to the department of employment services. Submission to that department constitutes compliance with the requirement for notification to the commission.

2. Emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, shall be submitted to the department of employment services. Submission to that department constitutes compliance with the requirement for notification to the commission.

3. The department of employment services shall advise the commission of the failure of any facility owner or operator to submit information as required under sections 311 and 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021 and 11022.

4. The department of employment services shall make available to the public upon request during normal working hours the information forms in its possession pursuant to sections 312 and 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022 and 11044.

Sec. 9. NEW SECTION. 30.8 DUTIES TO BE ALLOCATED TO DEPARTMENT OF NATURAL RESOURCES.

Agreements negotiated by the commission and the department of natural resources shall provide for the allocation of duties to the department of natural resources as follows:

1. Emergency notifications of releases required to be submitted to the commission under section 304 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11004, shall be submitted to the department of natural resources. Submission to that department constitutes compliance with the requirement for notification to the commission.

2. The department of natural resources shall advise the commission of the failure of any facility owner or operator to submit a notification as required under section 304 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11004.

3. The department of natural resources shall make available to the public upon request during normal working

hours the information in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

Sec. 10. NEW SECTION. 30.9 DUTIES TO BE ALLOCATED TO DEPARTMENT OF PUBLIC DEFENSE.

Agreements negotiated by the commission and the department of public defense shall provide for the allocation of duties to the department of public defense as follows:

1. Comprehensive emergency response plans required to be developed under section 303 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11003, shall be submitted to the department of public defense. Committee submission to that department constitutes compliance with the requirement for reporting to the commission. After initial submission, a plan need not be resubmitted unless revisions are requested by the commission. The department of public defense shall review the plan on behalf of the commission and shall incorporate the provisions of the plan into its responsibilities under chapter 29C.

2. The department of public defense shall advise the commission of the failure of any committee to submit an initial comprehensive emergency response plan or a revised plan requested by the commission.

3. The department of public defense shall make available to the public upon request during normal working hours the information in its possession pursuant to section 324 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11044.

Sec. 11. NEW SECTION. 30.10 POWERS OF LOCAL EMERGENCY PLANNING COMMITTEES.

The local emergency planning committee appointed by the commission for each local emergency planning district has the powers necessary to carry out the functions and duties specified in state law and the Emergency Planning and Community Right-to-know Act.

Sec. 12. NEW SECTION. 30.11 LIABILITY OF COMMITTEE MEMBERS.

A person appointed as a member of a local emergency planning committee is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the functions and duties specified in the state law and the Emergency Planning and Community Right-to-know Act, except for acts and omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit.

Sec. 13. NEW SECTION. 30.12 CIVIL ACTION.

1. The commission may commence a civil action against an owner or operator of a facility who has violated federal requirements to do any of the following:

a. Provide notification under section 302(c) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11002(c).

b. Submit a material safety data sheet or a list under section 311(a) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021(a).

c. Make available information requested under section 311(c) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11021(c).

d. Complete and submit an inventory form under section 312(a) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022(a), containing tier I information unless tier II information is submitted for the same period of time.

e. Provide information under section 303(d) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11003(d).

f. Submit tier II information under section 312(e)(1) of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022(e)(1).

2. The Iowa district court shall have jurisdiction over actions brought under this section and may grant any appropriate relief.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 512, Seventy-third General Assembly.

JOHN P. DWYER
Secretary of the Senate
Approved May 22, 1989

TERRY E. BRANSTAD
Governor