

REPRINTED

3-16-95 Do Pass  
4-10-95 Referred to Labor  
& Ind. Rel.  
2/14/96 amend/Do Pass

MAR 8 1995

LABOR & INDUSTRIAL RELATIONS

HOUSE FILE 308

BY TYRRELL

Passed House, <sup>(P.849)</sup> Date 3/20/96 Passed Senate, Date 3/27/96 <sup>(P.1091)</sup>  
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 4, 1996

A BILL FOR

1 An Act relating to the election of workers' compensation coverage  
2 by a limited liability company member.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 308

1 Section 1. Section 85.1A, Code 1995, is amended to read as  
2 follows:

3 85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, AND  
4 PARTNERS.

5 A proprietor, limited liability company member, or partner  
6 who is actively engaged in the proprietor's, limited liability  
7 company member's, or partner's business on a substantially  
8 full-time basis, may elect to be covered by the workers'  
9 compensation law of this state by purchasing valid workers'  
10 compensation insurance specifically including the proprietor,  
11 limited liability company member, or partner. The election  
12 constitutes an assumption by the employer of workers'  
13 compensation liability for the proprietor, limited liability  
14 company member, or partner for the time period in which the  
15 insurance contract is in force. The proprietor, limited  
16 liability company member, or partner shall accept compensation  
17 in the manner provided by the workers' compensation law and  
18 the employer is relieved from any other liability for recovery  
19 of damages, or other compensation for injury.

20 Sec. 2. Section 85.36, subsection 11, Code 1995, is  
21 amended to read as follows:

22 11. If a wage, or method of calculating a wage, is used  
23 for the basis of the payment of a workers' compensation  
24 insurance premium for a proprietor, partner, limited liability  
25 company member, or officer of a corporation, the wage or the  
26 method of calculating the wage is determinative for purposes  
27 of computing the proprietor's, partner's, limited liability  
28 company member's, or officer's weekly workers' compensation  
29 benefit rate.

30 Sec. 3. Section 85.61, subsection 11, unnumbered paragraph  
31 1, Code 1995, is amended to read as follows:

32 "Worker" or "employee" means a person who has entered into  
33 the employment of, or works under contract of service, express  
34 or implied, or apprenticeship, for an employer; an executive  
35 officer elected or appointed and empowered under and in

1 accordance with the charter and bylaws of a corporation,  
 2 including a person holding an official position, or standing  
 3 in a representative capacity of the employer; an official  
 4 elected or appointed by the state, or a county, school  
 5 district, area education agency, municipal corporation, or  
 6 city under any form of government; a member of the Iowa  
 7 highway safety patrol; a conservation officer; and a  
 8 proprietor, limited liability company member, or partner who  
 9 elects to be covered pursuant to section 85.1A, except as  
 10 specified in this chapter.

11 Sec. 4. Section 85.61, subsection 13, paragraph e, Code  
 12 1995, is amended to read as follows:

13 e. Proprietors, limited liability company members, and  
 14 partners who have not elected to be covered by the workers'  
 15 compensation law of this state pursuant to section 85.1A.

16 EXPLANATION

17 This bill provides that a limited liability company member  
 18 who is actively engaged in that member's business may elect to  
 19 be covered by the workers' compensation law by purchasing  
 20 workers' compensation insurance. The bill provides that a  
 21 limited liability company member who elects not to be covered  
 22 by the workers' compensation law is not an employee or worker  
 23 for purposes of the workers' compensation law.

24  
 25  
 26  
 27  
 28  
 29  
 30  
 31  
 32  
 33  
 34  
 35

## HOUSE FILE 308

H-5246

1 Amend House File 308 as follows:

2 1. Page 1, by inserting after line 19 the  
3 following:

4 "Sec. \_\_\_\_ . Section 85.36, subsection 9, paragraph  
5 a, Code Supplement 1995, is amended to read as  
6 follows:

7 a. In computing the compensation to be allowed a  
8 volunteer fire fighter, emergency medical care  
9 provider, reserve peace officer, volunteer ambulance  
10 driver, volunteer emergency rescue technician as  
11 defined in section 147A.1, or emergency medical  
12 technician trainee, the earnings as a fire fighter,  
13 emergency medical care provider, reserve peace  
14 officer, volunteer ambulance driver, volunteer  
15 emergency rescue technician, or emergency medical  
16 technician trainee shall be disregarded and the  
17 volunteer fire fighter, emergency medical care  
18 provider, reserve peace officer, volunteer ambulance  
19 driver, volunteer emergency rescue technician, or  
20 emergency medical technician trainee shall be paid an  
21 amount equal to the compensation the volunteer fire  
22 fighter, emergency medical care provider, reserve  
23 peace officer, volunteer ambulance driver, volunteer  
24 emergency rescue technician, or emergency medical  
25 technician trainee would be paid if injured in the  
26 normal course of the volunteer fire fighter's,  
27 emergency medical care provider's, reserve peace  
28 officer's, volunteer ambulance driver's, volunteer  
29 emergency rescue technician's, or emergency medical  
30 technician trainee's regular employment or an amount  
31 equal to one hundred and forty percent of the  
32 statewide average weekly wage, whichever is greater."

33 2. Page 1, by inserting after line 29 the  
34 following:

35 "Sec. \_\_\_\_ . Section 85.61, subsection 2, Code  
36 Supplement 1995, is amended to read as follows:

37 2. "Employer" includes and applies to a person,  
38 firm, association, or corporation, state, county,  
39 municipal corporation, school corporation, area  
40 education agency, township as an employer of volunteer  
41 fire fighters, volunteer emergency rescue technicians,  
42 and emergency medical care providers only, benefited  
43 fire district, and the legal representatives of a  
44 deceased employer. "Employer" includes and applies to  
45 a rehabilitation facility approved for purchase-of-  
46 service contracts or for referrals by the department  
47 of human services or the department of education."

48 3. Page 2, by inserting after line 10 the  
49 following:

50 "Sec. \_\_\_\_ . Section 85.61, subsection 11,

H-5246

H-5246

Page 2

1 unnumbered paragraph 3, Code Supplement 1995, is  
2 amended to read as follows:

3 "Worker" or "employee" includes an emergency  
4 medical care provider as defined in section 147A.1, a  
5 volunteer emergency rescue technician as defined in  
6 section 147A.1, a volunteer ambulance driver, or an  
7 emergency medical technician trainee, only if an  
8 agreement is reached between such worker or employee  
9 and the employer for whom the volunteer services are  
10 provided that workers' compensation coverage under  
11 chapters 85, 85A, and 85B is to be provided by the  
12 employer. An emergency medical care provider or  
13 volunteer emergency rescue technician who is a worker  
14 or employee under this paragraph is not a casual  
15 employee. "Volunteer ambulance driver" means a person  
16 performing services as a volunteer ambulance driver at  
17 the request of the person in charge of a fire  
18 department or ambulance service of a municipality.  
19 "Emergency medical technician trainee" means a person  
20 enrolled in and training for emergency medical  
21 technician certification."

22 4. Title page, line 1, by striking the words "the  
23 election of".

24 5. Title page, line 1, by inserting after the  
25 word "compensation" the following: "benefits for  
26 volunteer emergency rescue technicians and election  
27 of".

28 6. By renumbering as necessary.

By O'BRIEN of Boone

H-5246 FILED MARCH 7, 1996

*Withdrawn*  
*3/20/96 (p. 849)*

## HOUSE FILE 308

H-5071

1 Amend House File 308 as follows:

2 1. Page 1, line 20, by striking the word and  
3 figure "11, Code" and inserting the following: "10,  
4 Code Supplement".

5 2. Page 1, line 22, by striking the figure "11"  
6 and inserting the following: "10".

7 3. Page 1, line 31, by inserting after the word  
8 "Code" the following: "Supplement".

9 4. Page 2, line 11, by inserting after the word  
10 "Code" the following: "Supplement".

By COMMITTEE ON LABOR AND  
INDUSTRIAL RELATIONS

TYRRELL of Iowa, Chairperson

H-5071 FILED FEBRUARY 14, 1996

*(p. 848)*  
*adopted*  
*3/20/96*

H-5303

1 Amend House File 308 as follows:

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

4 "Section 1. Section 85.1, subsection 3, paragraph  
5 b, subparagraph (3), Code 1995, is amended to read as  
6 follows:

7 (3) Officers of a family farm corporation or  
8 members of a limited liability company, spouses of the  
9 officers or members, the parents, brothers, sisters,  
10 children and stepchildren of either the officers or  
11 members, or the spouses of the officers or members,  
12 and the spouses of the brothers, sisters, children,  
13 and stepchildren of either the officers or members, or  
14 the spouses of the officers or members who are  
15 employed by the corporation or limited liability  
16 company, the primary purpose of which, although not  
17 necessarily the stated purpose, is farming or  
18 ownership of agricultural land, and who are actually  
19 engaged in agricultural pursuits or operations  
20 immediately connected with the agricultural pursuits  
21 either on or off the premises of the corporation or  
22 limited liability company."

23 2. By renumbering as necessary.

By METCALF of Polk

H-5303 FILED MARCH 12, 1996

*Adopted*

*3/20/96*

*(R 849)*

3/6  
5-3/21/96 Do Pass

HOUSE FILE 308  
BY TYRRELL

(As Amended and Passed by the House, March 20, 1996)

Passed House, Date <sup>p. 849</sup> 3/20/96 Passed Senate, Date 3/27/96 (p. 1091)  
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 0  
Approved April 4, 1996

**A BILL FOR**

1 An Act relating to the election of workers' compensation coverage  
2 by a limited liability company member.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

House Amendments \_\_\_\_\_

1 Section 1. Section 85.1, subsection 3, paragraph b,  
2 subparagraph (3), Code 1995, is amended to read as follows:

3 (3) Officers of a family farm corporation or members of a  
4 limited liability company, spouses of the officers or members,  
5 the parents, brothers, sisters, children and stepchildren of  
6 either the officers or members, or the spouses of the officers  
7 or members, and the spouses of the brothers, sisters,  
8 children, and stepchildren of either the officers or members,  
9 or the spouses of the officers or members who are employed by  
10 the corporation or limited liability company, the primary  
11 purpose of which, although not necessarily the stated purpose,  
12 is farming or ownership of agricultural land, and who are  
13 actually engaged in agricultural pursuits or operations  
14 immediately connected with the agricultural pursuits either on  
15 or off the premises of the corporation or limited liability  
16 company.

17 Sec. 2. Section 85.1A, Code 1995, is amended to read as  
18 follows:

19 85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, AND  
20 PARTNERS.

21 A proprietor, limited liability company member, or partner  
22 who is actively engaged in the proprietor's, limited liability  
23 company member's, or partner's business on a substantially  
24 full-time basis, may elect to be covered by the workers'  
25 compensation law of this state by purchasing valid workers'  
26 compensation insurance specifically including the proprietor,  
27 limited liability company member, or partner. The election  
28 constitutes an assumption by the employer of workers'  
29 compensation liability for the proprietor, limited liability  
30 company member, or partner for the time period in which the  
31 insurance contract is in force. The proprietor, limited  
32 liability company member, or partner shall accept compensation  
33 in the manner provided by the workers' compensation law and  
34 the employer is relieved from any other liability for recovery  
35 of damages, or other compensation for injury.



1     Sec. 3. Section 85.36, subsection 10, Code Supplement  
2 1995, is amended to read as follows:

3     10. If a wage, or method of calculating a wage, is used  
4 for the basis of the payment of a workers' compensation  
5 insurance premium for a proprietor, partner, limited liability  
6 company member, or officer of a corporation, the wage or the  
7 method of calculating the wage is determinative for purposes  
8 of computing the proprietor's, partner's, limited liability  
9 company member's, or officer's weekly workers' compensation  
10 benefit rate.

11     Sec. 4. Section 85.61, subsection 11, unnumbered paragraph  
12 1, Code Supplement 1995, is amended to read as follows:

13     "Worker" or "employee" means a person who has entered into  
14 the employment of, or works under contract of service, express  
15 or implied, or apprenticeship, for an employer; an executive  
16 officer elected or appointed and empowered under and in  
17 accordance with the charter and bylaws of a corporation,  
18 including a person holding an official position, or standing  
19 in a representative capacity of the employer; an official  
20 elected or appointed by the state, or a county, school  
21 district, area education agency, municipal corporation, or  
22 city under any form of government; a member of the Iowa  
23 highway safety patrol; a conservation officer; and a  
24 proprietor, limited liability company member, or partner who  
25 elects to be covered pursuant to section 85.1A, except as  
26 specified in this chapter.

27     Sec. 5. Section 85.61, subsection 13, paragraph e, Code  
28 Supplement 1995, is amended to read as follows:

29     e. Proprietors, limited liability company members, and  
30 partners who have not elected to be covered by the workers'  
31 compensation law of this state pursuant to section 85.1A.

32  
33  
34  
35

HOUSE FILE 308

AN ACT  
RELATING TO THE ELECTION OF WORKERS' COMPENSATION COVERAGE BY  
A LIMITED LIABILITY COMPANY MEMBER.

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

Section 1. Section 85.1, subsection 3, paragraph b, subparagraph (3), Code 1995, is amended to read as follows:

(3) Officers of a family farm corporation or members of a limited liability company, spouses of the officers or members, the parents, brothers, sisters, children and stepchildren of either the officers or members, or the spouses of the officers or members, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or members, or the spouses of the officers or members who are employed by the corporation or limited liability company, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and who are actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the corporation or limited liability company.

Sec. 2. Section 85.1A, Code 1995, is amended to read as follows:

85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, AND PARTNERS.

A proprietor, limited liability company member, or partner who is actively engaged in the proprietor's, limited liability company member's, or partner's business on a substantially full-time basis, may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor, limited liability company member, or partner. The election

constitutes an assumption by the employer of workers' compensation liability for the proprietor, limited liability company member, or partner for the time period in which the insurance contract is in force. The proprietor, limited liability company member, or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is relieved from any other liability for recovery of damages, or other compensation for injury.

Sec. 3. Section 85.36, subsection 10, Code Supplement 1995, is amended to read as follows:

10. If a wage, or method of calculating a wage, is used for the basis of the payment of a workers' compensation insurance premium for a proprietor, partner, limited liability company member, or officer of a corporation, the wage or the method of calculating the wage is determinative for purposes of computing the proprietor's, partner's, limited liability company member's, or officer's weekly workers' compensation benefit rate.

Sec. 4. Section 85.61, subsection 11, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

"Worker" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer; an executive officer elected or appointed and empowered under and in accordance with the charter and bylaws of a corporation, including a person holding an official position, or standing in a representative capacity of the employer; an official elected or appointed by the state, or a county, school district, area education agency, municipal corporation, or city under any form of government; a member of the Iowa highway safety patrol; a conservation officer; and a proprietor, limited liability company member, or partner who elects to be covered pursuant to section 85.1A, except as specified in this chapter.

Sec. 5. Section 85.61, subsection 13, paragraph e, Code Supplement 1995, is amended to read as follows:

e. Proprietors, limited liability company members, and partners who have not elected to be covered by the workers' compensation law of this state pursuant to section 85.1A.

---

RON J. CORBETT  
Speaker of the House

---

LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 308, Seventy-sixth General Assembly.

---

ELIZABETH ISAACSON  
Chief Clerk of the House

Approved April 4, 1996

---

TERRY E. BRANSTAD  
Governor