

MAR 10 1995

LABOR & INDUSTRIAL RELATIONS

HOUSE FILE
BY KREMER

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

A BILL FOR

1 An Act relating to an exception from workers' compensation
 2 coverage for employees seeking relief under the federal
 3 Americans with Disabilities Act.

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

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1 Section 1. Section 85.1, Code 1995, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 7. Employees who elect to pursue a remedy
4 under the federal Americans with Disabilities Act for personal
5 injuries arising out of and in the course of employment.

6 Sec. 2. Section 85.34, subsection 5, Code 1995, is amended
7 to read as follows:

8 5. RECOVERY OF EMPLOYEE OVERPAYMENT. If an employee is
9 paid any weekly benefits in excess of that required by this
10 chapter and chapters 85A, 85B, and 86, the excess paid by the
11 employer shall be credited against the liability of the
12 employer for any future weekly benefits due pursuant to
13 subsection 2, for a subsequent injury to the same employee.
14 An overpayment can be established only when the overpayment is
15 recognized in a settlement agreement approved under section
16 86.13, pursuant to final agency action in a contested case
17 which was commenced within three years from the date that
18 weekly benefits were last paid for the claim for which the
19 benefits were overpaid, or pursuant to final agency action in
20 a contested case for a prior injury to the same employee. An
21 overpayment can also be established if an employee is granted
22 relief under the federal American with Disabilities Act for
23 injuries for which weekly benefits under this chapter, or
24 chapter 85A, 85B, or 86 have been paid. The credit shall
25 remain available for eight years after the date the
26 overpayment was established. If an overpayment is established
27 pursuant to this subsection, the employee and employer may
28 enter into a written settlement agreement providing for the
29 repayment by the employee of the overpayment. The agreement
30 is subject to the approval of the industrial commissioner.
31 The employer shall not take any adverse action against the
32 employee for failing to agree to such a written settlement
33 agreement.

34 EXPLANATION

35 This bill provides that workers' compensation coverage does

1 not apply to an employee who pursues relief under the federal
2 Americans with Disabilities Act (ADA) for injuries arising out
3 of and in the course of employment.

4 This bill also provides that an employer has the ability to
5 recover weekly workers' compensation benefits paid to an
6 employee if the employee is granted relief under the ADA for
7 the same injuries.

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