

Hansen
Freeman
Hedge

SSB-1067
Business & Labor
Subcommittee on

SENATE/HOUSE FILE SE 16
BY (PROPOSED DEPARTMENT OF
WORKFORCE DEVELOPMENT BILL)

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

A BILL FOR

1 An Act relating to worker and public safety and protection laws
2 administered by the labor services division of Iowa workforce
3 development.

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

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1 Section 1. Section 84A.5, subsection 3, Code 1999, is
2 amended to read as follows:

3 3. The division of labor services is responsible for the
4 administration of the laws of this state relating to
5 ~~occupational health and safety, the inspection of amusement~~
6 ~~rides, the removal and encapsulation of asbestos, the~~
7 ~~inspection of boilers, wage payment collection, registration~~
8 ~~of construction contractors, the minimum wage, non-English~~
9 ~~speaking employees, child labor, employment agency licensing,~~
10 ~~boxing and wrestling, inspection of elevators, and hazardous~~
11 ~~chemical risks~~ under chapters 88, 88A, 88B, 89, 89A, 89B, 90A,
12 91, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and
13 85.68. The executive head of the division is the labor
14 commissioner, appointed pursuant to section 91.2.

15 Sec. 2. Section 88.3, subsection 2, Code 1999, is amended
16 to read as follows:

17 2. "Commissioner" means the labor commissioner appointed
18 pursuant to section 91.2, or the commissioner's designee.

19 Sec. 3. Section 88.8, subsections 1 and 2, Code 1999, are
20 amended to read as follows:

21 1. POSTINSPECTION PENALTY NOTICE. If, after an inspection
22 or an investigation, the commissioner issues a citation under
23 section 88.7, the commissioner shall, within a reasonable time
24 after the termination of ~~such~~ the inspection or investigation,
25 notify the employer by service in the same manner as an
26 original notice or by certified mail of the penalty, if any,
27 proposed to be assessed under section 88.14 and that the
28 employer has fifteen working days within which to notify the
29 commissioner that the employer wishes to contest the citation
30 or proposed assessment of penalties. If, within fifteen
31 working days from the receipt of the notice issued by the
32 commissioner, the employer fails to notify the commissioner
33 that the employer intends to contest the citation or proposed
34 assessment of penalty, and no notice is filed by any employees
35 or authorized employee representative under subsection 3 of

1 this section within such the time specified, the citation and
2 the assessment, as proposed, shall be deemed a final order of
3 the appeal board and not subject to review by any court or
4 agency.

5 2. NONCOMPLIANCE NOTICE. If the commissioner has reason
6 to believe that an employer has failed to correct the
7 violation for which a citation has been issued within the
8 period permitted for its correction (which period shall not
9 begin to run until the entry of a final order by the appeal
10 board in the case of any review proceedings under this section
11 initiated by the employer in good faith and not solely for
12 delay or avoidance of penalties), the commissioner shall
13 notify the employer by service in the same manner as an
14 original notice or by certified mail of the failure and of the
15 penalty proposed to be assessed under section 88.14 by reason
16 of the failure, and that the employer has fifteen working days
17 within which to notify the commissioner that the employer
18 wishes to contest the commissioner's notification or the
19 proposed assessment of penalty. If, within fifteen working
20 days from the receipt of notification issued by the
21 commissioner, the employer fails to notify the commissioner
22 that the employer intends to contest the notification or
23 proposed assessment of penalty, the notification and
24 assessment, as proposed, shall be deemed the final order of
25 the appeal board and not subject to review by any court or
26 agency.

27 Sec. 4. Section 89A.1, subsections 5 and 11, Code 1999,
28 are amended to read as follows:

29 5. "Dormant facility" means an a facility whose power feed
30 lines have been disconnected from the mainline disconnect
31 switch and is one of the following:

32 a. An electric elevator, material lift, or dumbwaiter
33 whose cables suspension ropes have been removed, whose car and
34 counterweight rest at the bottom of the shaftway hoistway, and
35 whose shaftway hoistway doors are have been permanently

1 boarded-up-or barricaded such-that-entry-into-the-shaft
2 through-each-door-or-other-entryway-is-substantially
3 precluded,-or-an or sealed in the closed position on the
4 hoistway side.

5 b. A hydraulic elevator, material lift, or dumbwaiter
6 whose car rests at the bottom of the hoistway, whose pressure
7 pipng has been disassembled and a section removed from the
8 premises; whose hoistway doors have been permanently
9 barricaded or sealed in the closed position on the hoistway
10 side; and, if provided, whose suspension ropes have been
11 removed and the counterweights landed at the bottom of the
12 hoistway.

13 c. An escalator, or moving walk,-or-lift,-the-main-power
14 feed-lines-of-which-have-been-disconnected,-and-the-top-and
15 bottom whose entrances of-which have been permanently boarded
16 up-or barricaded.

17 d. A rack and pinion or screw column facilities, whose
18 motor has been removed, platform lowered to the bottom, and
19 entrances barricaded.

20 11. "Inclined or vertical wheelchair lift" means a lift
21 used as part of an accessible route in or at a public building
22 as specified in the American national-standard society of
23 mechanical engineers safety code codes for elevators and
24 escalators, A17.1.

25 Sec. 5. Section 89A.3, subsection 2, Code 1999, is amended
26 to read as follows:

27 2. Insofar-as-applicable,-rules-adopted-for-facilities
28 installed-after-January-17-1975,-shall-be-based-on-the
29 American-National-Standard-Safety-Code-for-Elevators,
30 Dumbwaiters,-Escalators,-and-Moving-Walks,-and-supplements-to
31 the-Code,-A17.1. The commissioner shall adopt rules for
32 facilities installed-prior-to-January-17-1975, according to
33 the applicable provisions of such the American National
34 Standard-Safety-Code society of mechanical engineers safety
35 codes for elevators and escalators, A17.1 and A17.3, as the

1 commissioner deems necessary. In adopting rules the
2 commissioner may adopt the American National-Standard-Safety
3 Code society of mechanical engineers safety codes, or any part
4 of the Code codes, by reference.

5 The commissioner may adopt rules permitting existing
6 passenger and freight elevators to be modified into material
7 lift elevators.

8 Sec. 6. Section 89A.3, subsection 3, Code 1999, is amended
9 by striking the subsection and inserting in lieu thereof the
10 following:

11 3. A rule adopted pursuant to this section which adopts
12 standards by reference to another publication shall be exempt
13 from the requirements of section 17A.6, subsection 4, if the
14 following conditions exist:

15 a. The cost of the publication is an unreasonable expense
16 when compared to the anticipated usage of the publication.

17 b. A copy of the publication is available from an entity
18 located within the state capitol complex.

19 c. The rule identifies the location where the publication
20 is available.

21 d. The administrative rules coordinator approves the
22 exemption.

23 Sec. 7. Section 89A.5, Code 1999, is amended to read as
24 follows:

25 89A.5 REGISTRATION OF FACILITIES.

26 ~~Within-three-months-after-the-date-of-adoption-of-rules~~
27 ~~under-this-chapter-relating-to-registration-of-facilities, the~~

28 The owner of every existing facility, whether or not dormant,
29 shall register ~~each-such~~ the facility with the commissioner,
30 giving type, contract load and speed, name of manufacturer,
31 its location and the purpose for which it is used, and such
32 other information as the commissioner may require.

33 Registration shall be made ~~on-a-form-to-be-furnished in a~~
34 format required by the division ~~upon-request~~. ~~Facilities-the~~
35 ~~construction-of-which-is-commenced-subsequent-to-the-date-of~~

1 ~~adoption-of-those-rules-shall-be-registered-in-the-manner~~
2 ~~prescribed-by-the-commissioner.~~

3 Sec. 8. Section 89A.6, subsection 5, Code 1999, is amended
4 to read as follows:

5 5. A report of every inspection shall be filed with the
6 commissioner by the inspector or special inspector, on in a
7 ~~form-approved-by-and-containing-all-information~~ format
8 required by the commissioner, after the inspection has been
9 completed and within the time provided by rule, but not to
10 exceed thirty days. The report shall include all information
11 required by the commissioner to determine whether the ~~owner-of~~
12 ~~the facility has-complied~~ is in compliance with applicable
13 rules. For the inspection required by subsection 1, the
14 report shall indicate whether the facility has been installed
15 in accordance with the detailed plans and specifications
16 approved by the commissioner, and meets the requirements of
17 the applicable rules. The failure of a special inspector to
18 inform the commissioner of violations shall not subject the
19 commissioner to liability for any damages incurred.

20 Sec. 9. Section 89A.7, Code 1999, is amended to read as
21 follows:

22 89A.7 ALTERATION PERMITS.

23 ~~On-and-after-the-effective-date-of-rules-relating-to~~
24 ~~alterations,~~ The owner shall submit to the commissioner
25 detailed plans, of specifications, and other information the
26 commissioner may require for each facility to be altered shall
27 ~~be-submitted-to-the-commissioner,~~ together with an application
28 for an alteration permit, ~~on-forms-to-be-furnished-or-approved~~
29 in a format required by the commissioner. Repairs or
30 replacements necessary for normal maintenance are not
31 alterations, and may be made on existing installations with
32 parts equivalent in material, strength and design to those
33 replaced and no plans or specifications or application need be
34 filed for ~~such~~ the repairs or replacements. However, ~~nothing~~
35 ~~in this section shall~~ does not authorize the use of any

1 facility contrary to an order issued pursuant to section
2 89A.10, subsections 2 and 3.

3 Sec. 10. Section 89A.8, unnumbered paragraph 3, Code 1999,
4 is amended to read as follows:

5 ~~Plans~~ The owner shall be-submitted submit plans in
6 triplicate and-shall-be-accompanied-by, together with an
7 application for the permit on-a-form-to-be-furnished, in a
8 format required by the commissioner. The plans shall include:

9 Sec. 11. Section 89A.10, subsection 2, unnumbered
10 paragraph 1, Code 1999, is amended to read as follows:

11 If the owner does not make the changes necessary for
12 compliance as required in subsection 1 within the period
13 specified by the commissioner, the commissioner, upon notice,
14 may suspend or revoke the operating permit, or may refuse to
15 issue the operating permit for the facility. The commissioner
16 shall notify the owner of any action to suspend, revoke, or
17 refuse to issue an operating permit and the reason for the
18 action by service in the same manner as an original notice or
19 by certified mail. An owner may appeal the commissioner's
20 initial decision. The appeal shall be heard by an
21 administrative law judge of the department of inspections and
22 appeals. An owner who, after a hearing before an
23 administrative law judge, is aggrieved by a suspension,
24 revocation, or refusal to issue an operating permit may appeal
25 to the employment appeal board created under section 10A.601.
26 Notice of appeal shall be filed with the appeal board within
27 thirty calendar days from receipt of the notice of the
28 commissioner's action.

29 Sec. 12. Section 89A.12, Code 1999, is amended to read as
30 follows:

31 89A.12 ACCESS TO FACILITIES.

32 Every owner of a facility subject to regulation by this
33 chapter shall grant access to that facility to the
34 commissioner and personnel of the division ~~of-labor-services~~
35 ~~administering-the-provisions-of-this-chapter.~~ Inspections

1 shall be permitted at reasonable times, with or without prior
2 notice.

3 Sec. 13. Section 90A.1, subsection 2, Code 1999, is
4 amended to read as follows:

5 2. "Commissioner" means the state commissioner of
6 athletics, who is also the labor commissioner appointed
7 pursuant to section 91.2, or the labor commissioner's
8 designee.

9 Sec. 14. Section 91.4, subsection 2, Code 1999, is amended
10 to read as follows:

11 2. To collect, assort, and systematize statistical details
12 relating to ~~all-departments-of-labor-in-the-state~~ programs of
13 the division of labor services.

14 Sec. 15. Section 91.4, subsection 5, Code 1999, is amended
15 to read as follows:

16 5. The director of the department of workforce
17 development, in consultation with the labor commissioner,
18 shall, at the time provided by law, make an annual report to
19 the governor setting forth in appropriate form the business
20 and expense of the division of labor services for the
21 preceding year, the number of disputes or violations processed
22 by the division and the disposition of the disputes or
23 violations, and other matters pertaining to the division which
24 are of public interest, together with recommendations for
25 change or amendment of the laws in this chapter and chapters
26 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94,
27 and 95, and sections 30.7 and 85.68, and the recommendations,
28 if any, shall be transmitted by the governor to the first
29 general assembly in session after the report is filed.

30 Sec. 16. Section 91.10, Code 1999, is amended to read as
31 follows:

32 91.10 POWER TO SECURE EVIDENCE.

33 The labor commissioner ~~and-the-commissioner's-deputy~~, or
34 the commissioner's designee, may issue subpoenas, administer
35 oaths, and take testimony in all matters relating to the

1 duties required of them. Witnesses subpoenaed and testifying
2 before the commissioner or the commissioner's deputy designee
3 shall be paid the same fees as witnesses under section 622.69,
4 payment to be made out of the funds appropriated to the
5 division of labor services.

6 Sec. 17. Section 91.11, Code 1999, is amended to read as
7 follows:

8 91.11 PROSECUTIONS FOR VIOLATIONS.

9 If the commissioner ~~or-an-inspector-shall-learn~~ learns of
10 any violation of any law administered by the division, the
11 commissioner, or-neglect-to-comply-with-the-law-in-respect-to
12 the-employment-of-children,-or-in-respect-to-fire-escapes,-or
13 the-safety-of-employees,-or-for-the-preservation-of-health,-
14 such-officer may give the county attorney of the county in
15 which such-factory-or-building-is-situated the violation
16 occurred, written notice of the facts, whereupon that officer
17 shall institute the proper proceedings against the person
18 guilty-of-such charged with the offense ~~or-neglect~~.

19 If the commissioner ~~or-inspector~~ is of the opinion that
20 such the violation ~~or-neglect~~ is not willful, or is an
21 oversight or of a trivial nature, the commissioner ~~or~~
22 inspector may in at the commissioner's ~~or-inspector's~~
23 discretion fix a time within which the ~~defect-or-evil-may~~
24 violation shall be corrected and notify the owner, operator,
25 superintendent, or person in charge, and if corrected within
26 the time fixed, then the commissioner ~~or-inspector~~ shall not
27 cause prosecution to be begun.

28 Sec. 18. Section 91A.3, subsection 7, Code 1999, is
29 amended to read as follows:

30 7. A If a farm labor contractor ~~who~~ contracts with a
31 person engaged in the production of seed or feed grains to
32 remove unwanted or genetically deviant plants or corn tassels
33 or to hand pollinate plants ~~shall-file-with-the-commissioner-a~~
34 bond-of-at-least-twenty-thousand-dollars-on-behalf-of, and
35 fails to pay all wages due the employees of the farm labor

1 contractor, the person engaged in the production of seed or
2 feed grains, ~~with a corporate surety approved by the~~
3 ~~commissioner, securing the payment of all wages due the~~
4 ~~employees of the farm labor contractor. The total and~~
5 ~~aggregate liability of the surety on the bond is limited to~~
6 ~~the amount specified in the bond. If the bond is not filed as~~
7 ~~required or if the farm labor contractor fails to pay all~~
8 ~~wages due the employees of the farm labor contractor, the~~
9 person engaged in the production of seed or feed grains shall
10 also be liable to the employees for wages not paid by the farm
11 labor contractor.

12 Sec. 19. Section 91C.8, subsection 4, Code 1999, is
13 amended to read as follows:

14 4. If a citation is issued, the commissioner shall, within
15 seven days, notify the contractor by service in the same
16 manner as an original notice or by certified mail of the
17 administrative penalty, if any, proposed to be assessed and
18 that the contractor has fifteen working days within which to
19 notify the commissioner that the employer wishes to contest
20 the citation or proposed assessment of penalty.

21 EXPLANATION

22 This bill makes a number of changes to Code sections
23 administered by the labor services division.

24 Code section 84A.5, subsection 3: Strikes, under the
25 section of the Code that identifies the responsibilities of
26 the department of workforce development, the descriptions of
27 areas of responsibility of the labor services division, and
28 adds references to two Code sections administered by the labor
29 services division: Code section 30.7, relating to duties the
30 Iowa emergency response commission by agreement may allocate
31 to the department of workforce development; and Code section
32 85.68, relating to cause of action authority by the labor
33 commissioner when acting on behalf of the second injury fund.

34 Code section 88.3, subsection 2; Code section 90A.1,
35 subsection 2; and Code section 91.10: Allow the labor

1 commissioner's designee to perform tasks related to
2 occupational safety and health in Code chapter 88, boxing and
3 wrestling in Code chapter 90A and the division in Code chapter
4 91.

5 Code section 88.8, subsections 1 and 2; Code section
6 89A.10, subsection 2, unnumbered paragraph 1; and Code section
7 91C.8, subsection 4: Allow the commissioner of labor to
8 provide notice of penalty or action, under OSHA, elevator or
9 contractor registration laws, in the same manner as an
10 original notice or by certified mail. The Code currently
11 permits only notice by certified mail.

12 Code section 89A.1, subsection 5: Includes hydraulic
13 elevators and wheelchair lifts in the definition of dormant
14 facilities.

15 Code section 89A.3, subsection 2; and Code section 89A.1,
16 subsection 11: Update the name change from the American
17 national standard safety code to the American society of
18 mechanical engineers safety code. The bill also inserts
19 language that allows the commissioner to adopt rules related
20 to material lift elevators, which was deleted in section
21 89A.3, subsection 3, by this bill.

22 Code section 89A.3, subsection 3: Exempts, if certain
23 conditions are met, the commissioner from a Code requirement
24 providing that the commissioner must buy for the state law
25 library a copy of elevator codes referenced in the
26 administrative rules.

27 Code section 89A.5; Code section 89A.6, subsection 5; Code
28 section 89A.7; and Code section 89A.8: Strike outdated
29 language in the elevator law and allows the commissioner to
30 collect electronically information relating to facility
31 registrations, inspection reports, and other information
32 required by the commissioner.

33 Code section 89A.12: Removes redundant language in the
34 elevator law.

35 Code section 91.4, subsection 2; and Code section 91.11:

1 Strike outdated and unnecessary language in the labor services
2 division chapter.

3 Code section 91.4, subsection 5: Requires the director of
4 the department of workforce development to include in an
5 annual report to the governor information regarding Code
6 section 30.7, relating to duties transferred by agreement from
7 the Iowa emergency response commission to the department of
8 workforce development; and Code section 85.68, which relates
9 to cause of action authority by the labor commissioner when
10 acting on behalf of the second injury fund.

11 Code section 91A.3, subsection 7: Eliminates a requirement
12 that farm labor contractors who contract with persons engaged
13 in the production of seed or feed grains obtain a minimum bond
14 of \$20,000 on the person's behalf. The bill preserves the
15 provision making both the producer and the farm labor
16 contractor liable for the wages to employees.

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1067



January 1999

TO: Iowa General Assembly
State Capitol

FROM: Pat Sampson, Legislative Liaison *Pat*
Iowa Workforce Development

SUBJECT: Background Statement on legislation relating to labor laws
LSB # 1231

Terry E. Branstad
Governor

Cynthia P. Eisenhauer
Director

This bill includes technical corrections to various laws administered by the Division of Labor Services. It addresses Code Chapters 84A.5 - IWD administration, 88 - OSHA, 89A - elevators, 90A - boxing and wrestling, 91 - labor division administration, 91A - wage payment collection, and 91C - contractor registration. These changes were generated in a periodic review of the laws administered by the division.

Section 1 adds all the chapters and sections and strikes the names of the chapters administered by the labor services division. The list will now include all the chapters and sections administered by the division.

Sections 2, 13 and 16 allow the labor commissioner's designee to perform tasks related to occupational safety and health in chapter 88, boxing and wrestling in chapter 90A and the division in chapter 91.

Sections 3, 11 and 19 allow additional methods of service of notices under the OSHA, elevator or contractor registration laws. Currently, certified mail is the only legal option for service of notices. Other methods may be more convenient for our customers or necessary when service by certified mail is not an option.

Section 4 includes hydraulic elevators and wheelchair lifts in the definition of dormant elevators. These types of elevators were not in existence when the statute was passed. The definition for a hydraulic elevator comes directly from the ASME code A17.1.

Section 5 updates the name change from American National Standard Safety Code to the American Society of Mechanical Engineers Safety Code. Replaces language in Chapter 89A.3, subsection 3 that allows the commissioner to adopt rules related to material lift elevators and that was deleted in section 6 of this bill.

Section 6 removes the requirement to buy a copy of elevator codes referenced in the rules for the state law library. The elevator codes are lengthy and expensive. They continue to be available for review in the labor division offices across the street from the state library.

Sections 7, 8, 9 and 10 delete outdated language in the elevator law and allow information to be submitted electronically. Many elevator owners are expressing an interest in submitting registration documentation, plans and applications electronically and this option should be available.

Section 12 removes unnecessary language in the elevator law, which is defined in another section.

Sections 14 and 17 remove outdated and unnecessary language in chapter 91, the labor services division's administration chapter.

Section 15 identifies Code sections administered by the labor commissioner, which are to be added in the annual report.

Section 18 eliminates a requirement that farm labor contractors who contract with persons engaged in the production of seed or feed grains obtain a minimum bond of \$20,000 on the person's behalf. It retains the requirement that the producer is liable for the wages to employees. No bonds have been filed since this provision was adopted in the late 1970's.

Work

With

Us.

1000 East Grand Avenue

Des Moines, IA 50319-0209

281-5387

800-JOB-IOWA

H. 3/1/99 Labor & Ind. Rel.
H. 3/30/99 Do Pass

FILED FEB 15 1999

SENATE FILE 146
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS

(SUCCESSOR TO SSB 1067)

Passed Senate, Date 2/24/99 ^(P.387) Passed House, Date 4/12/99 ^(P.1198)
Vote: Ayes 50 Nays 0 Vote: Ayes 98 Nays 0
Approved April 27, 1999

A BILL FOR

1 An Act relating to worker and public safety and protection laws
2 administered by the labor services division of Iowa workforce
3 development.

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

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SI 146

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7 ~~inspection of boilers, wage payment collection, registration~~
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24 after the termination of ~~such~~ the inspection or investigation,
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27 proposed to be assessed under section 88.14 and that the
28 employer has fifteen working days within which to notify the
29 commissioner that the employer wishes to contest the citation
30 or proposed assessment of penalties. If, within fifteen
31 working days from the receipt of the notice issued by the
32 commissioner, the employer fails to notify the commissioner
33 that the employer intends to contest the citation or proposed
34 assessment of penalty, and no notice is filed by any employees
35 or authorized employee representative under subsection 3 of

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2 the assessment, as proposed, shall be deemed a final order of
3 the appeal board and not subject to review by any court or
4 agency.

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6 to believe that an employer has failed to correct the
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8 period permitted for its correction (which period shall not
9 begin to run until the entry of a final order by the appeal
10 board in the case of any review proceedings under this section
11 initiated by the employer in good faith and not solely for
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15 penalty proposed to be assessed under section 88.14 by reason
16 of the failure, and that the employer has fifteen working days
17 within which to notify the commissioner that the employer
18 wishes to contest the commissioner's notification or the
19 proposed assessment of penalty. If, within fifteen working
20 days from the receipt of notification issued by the
21 commissioner, the employer fails to notify the commissioner
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27 Sec. 4. Section 89A.1, subsections 5 and 11, Code 1999,
28 are amended to read as follows:

29 5. "Dormant facility" means an a facility whose power feed
30 lines have been disconnected from the mainline disconnect
31 switch and is one of the following:

32 a. An electric elevator, material lift, or dumbwaiter
33 whose cables suspension ropes have been removed, whose car and
34 counterweight rest at the bottom of the shaftway hoistway, and
35 whose shaftway hoistway doors are have been permanently

1 ~~boarded-up-or~~ ~~barricaded~~ ~~such-that-entry-into-the-shaft~~
 2 ~~through-each-door-or-other-entryway-is-substantially~~
 3 ~~precluded,-or-an~~ or sealed in the closed position on the
 4 hoistway side.

5 b. A hydraulic elevator, material lift, or dumbwaiter
 6 whose car rests at the bottom of the hoistway, whose pressure
 7 pipng has been disassembled and a section removed from the
 8 premises; whose hoistway doors have been permanently
 9 barricaded or sealed in the closed position on the hoistway
 10 side; and, if provided, whose suspension ropes have been
 11 removed and the counterweights landed at the bottom of the
 12 hoistway.

13 c. An escalator, or moving walk, or lift, the main power
 14 feed-lines-of-which-have-been-disconnected,-and-the-top-and
 15 bottom whose entrances of-which have been permanently boarded
 16 up-or barricaded.

17 d. A rack and pinion or screw column facility, whose motor
 18 has been removed, platform lowered to the bottom, and
 19 entrances barricaded.

20 11. "Inclined or vertical wheelchair lift" means a lift
 21 used as part of an accessible route in or at a public building
 22 as specified in the American national standard society of
 23 mechanical engineers safety code codes for elevators and
 24 escalators, A17.1.

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27 ~~2. Insofar-as-applicable,-rules-adopted-for-facilities~~
 28 ~~installed-after-January-17-1975,-shall-be-based-on-the~~
 29 ~~American-National-Standard-Safety-Code-for-Elevators,~~
 30 ~~Dumbwaiters,-Escalators,-and-Moving-Walks,-and-supplements-to~~
 31 ~~the-Code,-A17.1.~~ The commissioner shall adopt rules for
 32 facilities ~~installed-prior-to-January-17-1975,~~ according to
 33 the applicable provisions of such the American National
 34 Standard-Safety-Code society of mechanical engineers safety
 35 codes for elevators and escalators, A17.1 and A17.3, as the

1 commissioner deems necessary. In adopting rules the
2 commissioner may adopt the American National-Standard-Safety
3 Code society of mechanical engineers safety codes, or any part
4 of the Code codes, by reference.

5 The commissioner may adopt rules permitting existing
6 passenger and freight elevators to be modified into material
7 lift elevators.

8 Sec. 6. Section 89A.3, subsection 3, Code 1999, is amended
9 by striking the subsection and inserting in lieu thereof the
10 following:

11 3. A rule adopted pursuant to this section which adopts
12 standards by reference to another publication shall be exempt
13 from the requirements of section 17A.6, subsection 4, if the
14 following conditions exist:

15 a. The cost of the publication is an unreasonable expense
16 when compared to the anticipated usage of the publication.

17 b. A copy of the publication is available from an entity
18 located within the state capitol complex.

19 c. The rule identifies the location where the publication
20 is available.

21 d. The administrative rules coordinator approves the
22 exemption.

23 Sec. 7. Section 89A.5, Code 1999, is amended to read as
24 follows:

25 89A.5 REGISTRATION OF FACILITIES.

26 ~~Within-three-months-after-the-date-of-adoption-of-rules~~
27 ~~under-this-chapter-relating-to-registration-of-facilities,-the~~
28 The owner of every existing facility, whether or not dormant,
29 shall register ~~each-such~~ the facility with the commissioner,
30 giving type, contract load and speed, name of manufacturer,
31 its location and the purpose for which it is used, and ~~such~~
32 other information ~~as~~ the commissioner may require.

33 Registration shall be made ~~on-a-form-to-be-furnished~~ in a
34 format required by the division ~~upon-request~~. ~~Facilities-the~~
35 ~~construction-of-which-is-commenced-subsequent-to-the-date-of~~

1 ~~adoption of those rules shall be registered in the manner~~
2 ~~prescribed by the commissioner.~~

3 Sec. 8. Section 89A.6, subsection 5, Code 1999, is amended
4 to read as follows:

5 5. A report of every inspection shall be filed with the
6 commissioner by the inspector or special inspector, ~~on~~ in a
7 ~~form approved by and containing all information~~ format
8 required by the commissioner, after the inspection has been
9 completed and within the time provided by rule, but not to
10 exceed thirty days. The report shall include all information
11 required by the commissioner to determine whether the ~~owner of~~
12 ~~the facility has complied~~ is in compliance with applicable
13 rules. For the inspection required by subsection 1, the
14 report shall indicate whether the facility has been installed
15 in accordance with the detailed plans and specifications
16 approved by the commissioner, and meets the requirements of
17 the applicable rules. The failure of a special inspector to
18 inform the commissioner of violations shall not subject the
19 commissioner to liability for any damages incurred.

20 Sec. 9. Section 89A.7, Code 1999, is amended to read as
21 follows:

22 89A.7 ALTERATION PERMITS.

23 ~~On and after the effective date of rules relating to~~
24 ~~alterations,~~ The owner shall submit to the commissioner
25 detailed plans, of specifications, and other information the
26 commissioner may require for each facility to be altered ~~shall~~
27 ~~be submitted to the commissioner,~~ together with an application
28 for an alteration permit, ~~on forms to be furnished or approved~~
29 in a format required by the commissioner. Repairs or
30 replacements necessary for normal maintenance are not
31 alterations, and may be made on existing installations with
32 parts equivalent in material, strength and design to those
33 replaced and no plans or specifications or application need be
34 filed for ~~such~~ the repairs or replacements. However, ~~nothing~~
35 ~~in this section shall~~ does not authorize the use of any

1 facility contrary to an order issued pursuant to section
2 89A.10, subsections 2 and 3.

3 Sec. 10. Section 89A.8, unnumbered paragraph 3, Code 1999,
4 is amended to read as follows:

5 ~~Plans~~ The owner shall be-submitted submit plans in
6 ~~triplicate and-shall-be-accompanied-by,~~ together with an
7 ~~application for the permit on-a-form-to-be-furnished,~~ in a
8 format required by the commissioner. The plans shall include:

9 Sec. 11. Section 89A.10, subsection 2, unnumbered
10 paragraph 1, Code 1999, is amended to read as follows:

11 If the owner does not make the changes necessary for
12 compliance as required in subsection 1 within the period
13 specified by the commissioner, the commissioner, upon notice,
14 may suspend or revoke the operating permit, or may refuse to
15 issue the operating permit for the facility. The commissioner
16 shall notify the owner of any action to suspend, revoke, or
17 refuse to issue an operating permit and the reason for the
18 action by service in the same manner as an original notice or
19 by certified mail. An owner may appeal the commissioner's
20 initial decision. The appeal shall be heard by an
21 administrative law judge of the department of inspections and
22 appeals. An owner who, after a hearing before an
23 administrative law judge, is aggrieved by a suspension,
24 revocation, or refusal to issue an operating permit may appeal
25 to the employment appeal board created under section 10A.601.
26 Notice of appeal shall be filed with the appeal board within
27 thirty calendar days from receipt of the notice of the
28 commissioner's action.

29 Sec. 12. Section 89A.12, Code 1999, is amended to read as
30 follows:

31 89A.12 ACCESS TO FACILITIES.

32 Every owner of a facility subject to regulation by this
33 chapter shall grant access to that facility to the
34 commissioner and personnel of the division of-labor-services
35 administering-the-provisions-of-this-chapter. Inspections

1 shall be permitted at reasonable times, with or without prior
2 notice.

3 Sec. 13. Section 90A.1, subsection 2, Code 1999, is
4 amended to read as follows:

5 2. "Commissioner" means the state commissioner of
6 athletics, who is also the labor commissioner appointed
7 pursuant to section 91.2, or the labor commissioner's
8 designee.

9 Sec. 14. Section 91.4, subsection 2, Code 1999, is amended
10 to read as follows:

11 2. To collect, assort, and systematize statistical details
12 relating to ~~all departments of labor in the state~~ programs of
13 the division of labor services.

14 Sec. 15. Section 91.4, subsection 5, Code 1999, is amended
15 to read as follows:

16 5. The director of the department of workforce
17 development, in consultation with the labor commissioner,
18 shall, at the time provided by law, make an annual report to
19 the governor setting forth in appropriate form the business
20 and expense of the division of labor services for the
21 preceding year, the number of disputes or violations processed
22 by the division and the disposition of the disputes or
23 violations, and other matters pertaining to the division which
24 are of public interest, together with recommendations for
25 change or amendment of the laws in this chapter and chapters
26 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94,
27 and 95, and sections 30.7 and 85.68, and the recommendations,
28 if any, shall be transmitted by the governor to the first
29 general assembly in session after the report is filed.

30 Sec. 16. Section 91.10, Code 1999, is amended to read as
31 follows:

32 91.10 POWER TO SECURE EVIDENCE.

33 The labor commissioner ~~and the commissioner's deputy,~~ or
34 the commissioner's designee, may issue subpoenas, administer
35 oaths, and take testimony in all matters relating to the

1 duties required of them. Witnesses subpoenaed and testifying
2 before the commissioner or the commissioner's deputy designee
3 shall be paid the same fees as witnesses under section 622.69,
4 payment to be made out of the funds appropriated to the
5 division of labor services.

6 Sec. 17. Section 91.11, Code 1999, is amended to read as
7 follows:

8 91.11 PROSECUTIONS FOR VIOLATIONS.

9 If the commissioner ~~or-an-inspector-shall-learn~~ learns of
10 any violation of any law administered by the division, the
11 commissioner, or neglect to comply with the law in respect to
12 the employment of children, or in respect to fire escapes, or
13 the safety of employees, or for the preservation of health,
14 such officer may give the county attorney of the county in
15 which such factory or building is situated the violation
16 occurred, written notice of the facts, whereupon that officer
17 shall institute the proper proceedings against the person
18 guilty of such charged with the offense ~~or neglect~~.

19 If the commissioner ~~or-inspector~~ is of the opinion that
20 such the violation ~~or neglect~~ is not willful, or is an
21 oversight or of a trivial nature, the commissioner ~~or~~
22 inspector may in at the commissioner's ~~or-inspector's~~
23 discretion fix a time within which the ~~defect or evil may~~
24 violation shall be corrected and notify the owner, operator,
25 superintendent, or person in charge, and if corrected within
26 the time fixed, then the commissioner ~~or-inspector~~ shall not
27 cause prosecution to be begun.

28 Sec. 18. Section 91A.3, subsection 7, Code 1999, is
29 amended to read as follows:

30 7. A If a farm labor contractor ~~who~~ contracts with a
31 person engaged in the production of seed or feed grains to
32 remove unwanted or genetically deviant plants or corn tassels
33 or to hand pollinate plants ~~shall file with the commissioner a~~
34 bond of at least twenty thousand dollars on behalf of, and
35 fails to pay all wages due the employees of the farm labor

1 Strike outdated and unnecessary language in the labor services
2 division chapter.

3 Code section 91.4, subsection 5: Requires the director of
4 the department of workforce development to include in an
5 annual report to the governor information regarding Code
6 section 30.7, relating to duties transferred by agreement from
7 the Iowa emergency response commission to the department of
8 workforce development; and Code section 85.68, which relates
9 to cause of action authority by the labor commissioner when
10 acting on behalf of the second injury fund.

11 Code section 91A.3, subsection 7: Eliminates a requirement
12 that farm labor contractors who contract with persons engaged
13 in the production of seed or feed grains obtain a minimum bond
14 of \$20,000 on the person's behalf. The bill preserves the
15 provision making both the producer and the farm labor
16 contractor liable for the wages to employees.

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AN ACT

RELATING TO WORKER AND PUBLIC SAFETY AND PROTECTION LAWS
ADMINISTERED BY THE LABOR SERVICES DIVISION OF ICWA
WORKFORCE DEVELOPMENT.

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

Section 1. Section 84A.5, subsection 3, Code 1999, is amended to read as follows:

3. The division of labor services is responsible for the administration of the laws of this state relating to ~~occupational health and safety, the inspection of amusement rides, the removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks~~ under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and 85.68. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

Sec. 2. Section 88.3, subsection 2, Code 1999, is amended to read as follows:

2. "Commissioner" means the labor commissioner appointed pursuant to section 91.2, or the commissioner's designee.

Sec. 3. Section 88.8, subsections 1 and 2, Code 1999, are amended to read as follows:

1. POSTINSPECTION PENALTY NOTICE. If, after an inspection or an investigation, the commissioner issues a citation under section 88.7, the commissioner shall, within a reasonable time after the termination of such the inspection or investigation, notify the employer by service in the same manner as an original notice or by certified mail of the penalty, if any, proposed to be assessed under section 88.14 and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalties. If, within fifteen working days from the receipt of the notice issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employees or authorized employee representative under subsection 3 of this section within such the time specified, the citation and the assessment, as proposed, shall be deemed a final order of the appeal board and not subject to review by any court or agency.

2. NONCOMPLIANCE NOTICE. If the commissioner has reason to believe that an employer has failed to correct the violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the appeal board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the commissioner shall notify the employer by service in the same manner as an original notice or by certified mail of the failure and of the penalty proposed to be assessed under section 88.14 by reason of the failure, and that the employer has fifteen working days within which to notify the commissioner that the employer wishes to contest the commissioner's notification or the

proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the commissioner, the employer fails to notify the commissioner that the employer intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed the final order of the appeal board and not subject to review by any court or agency.

Sec. 4. Section 89A.1, subsections 5 and 11, Code 1999, are amended to read as follows:

5. "Dormant facility" means an a facility whose power feed lines have been disconnected from the mainline disconnect switch and is one of the following:

a. An electric elevator, material lift, or dumbwaiter whose cables suspension ropes have been removed, whose car and counterweight rest at the bottom of the shaftway hoistway, and whose shaftway hoistway doors are have been permanently boarded-up or barricaded such-that-entry-into-the-shaft through-each-door-or-other-entryway-is-substantially precluded, or an or sealed in the closed position on the hoistway side.

b. A hydraulic elevator, material lift, or dumbwaiter whose car rests at the bottom of the hoistway, whose pressure piping has been disassembled and a section removed from the premises; whose hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side; and, if provided, whose suspension ropes have been removed and the counterweights landed at the bottom of the hoistway.

c. An escalator, or moving walk, or lift, the main power feed lines of which have been disconnected, and the top and bottom whose entrances of which have been permanently boarded up or barricaded.

d. A rack and pinion or screw column facility, whose motor has been removed, platform lowered to the bottom, and entrances barricaded.

11. "Inclined or vertical wheelchair lift" means a lift used as part of an accessible route in or at a public building as specified in the American national standard society of mechanical engineers safety code codes for elevators and escalators, A17.1.

Sec. 5. Section 89A.3, subsection 2, Code 1999, is amended to read as follows:

2. ~~Insofar as applicable, rules adopted for facilities installed after January 17, 1975, shall be based on the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, and supplements to the Code, A17.1. The commissioner shall adopt rules for facilities installed prior to January 17, 1975, according to the applicable provisions of such the American National Standard Safety Code society of mechanical engineers safety codes for elevators and escalators, A17.1 and A17.3, as the commissioner deems necessary. In adopting rules the commissioner may adopt the American National Standard Safety Code society of mechanical engineers safety codes, or any part of the Code codes, by reference.~~

The commissioner may adopt rules permitting existing passenger and freight elevators to be modified into material lift elevators.

Sec. 6. Section 89A.3, subsection 3, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

3. A rule adopted pursuant to this section which adopts standards by reference to another publication shall be exempt from the requirements of section 17A.6, subsection 4, if the following conditions exist:

a. The cost of the publication is an unreasonable expense when compared to the anticipated usage of the publication.

b. A copy of the publication is available from an entity located within the state capitol complex.

c. The rule identifies the location where the publication is available.

d. The administrative rules coordinator approves the exemption.

Sec. 7. Section 89A.5, Code 1999, is amended to read as follows:

89A.5 REGISTRATION OF FACILITIES.

~~Within three months after the date of adoption of rules under this chapter relating to registration of facilities, the~~
The owner of every existing facility, whether or not dormant, shall register each such the facility with the commissioner, giving type, contract load and speed, name of manufacturer, its location and the purpose for which it is used, and such other information ~~as~~ the commissioner may require. Registration shall be made on a form to be furnished in a format required by the division upon request. ~~Facilities the construction of which is commenced subsequent to the date of adoption of those rules shall be registered in the manner prescribed by the commissioner.~~

Sec. 8. Section 89A.6, subsection 5, Code 1999, is amended to read as follows:

5. A report of every inspection shall be filed with the commissioner by the inspector or special inspector, on in a form approved by and containing all information format required by the commissioner, after the inspection has been completed and within the time provided by rule, but not to exceed thirty days. The report shall include all information required by the commissioner to determine whether the ~~owner of~~ the facility has complied is in compliance with applicable rules. For the inspection required by subsection 1, the report shall indicate whether the facility has been installed in accordance with the detailed plans and specifications approved by the commissioner, and meets the requirements of the applicable rules. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.

Sec. 9. Section 89A.7, Code 1999, is amended to read as follows:

89A.7 ALTERATION PERMITS.

~~On and after the effective date of rules relating to alterations, The owner shall submit to the commissioner detailed plans, of specifications, and other information the commissioner may require for each facility to be altered shall be submitted to the commissioner, together with an application for an alteration permit, on forms to be furnished or approved in a format required~~ by the commissioner. Repairs or replacements necessary for normal maintenance are not alterations, and may be made on existing installations with parts equivalent in material, strength and design to those replaced and no plans or specifications or application need be filed for such the repairs or replacements. However, ~~nothing~~ in this section ~~shall~~ does not authorize the use of any facility contrary to an order issued pursuant to section 89A.10, subsections 2 and 3.

Sec. 10. Section 89A.8, unnumbered paragraph 3, Code 1999, is amended to read as follows:

~~Plans~~ The owner shall be submitted submit plans in triplicate ~~and shall be accompanied by, together with an application for the permit on a form to be furnished, in a format required~~ by the commissioner. The plans shall include:

Sec. 11. Section 89A.10, subsection 2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

If the owner does not make the changes necessary for compliance as required in subsection 1 within the period specified by the commissioner, the commissioner, upon notice, may suspend or revoke the operating permit, or may refuse to issue the operating permit for the facility. The commissioner shall notify the owner of any action to suspend, revoke, or refuse to issue an operating permit and the reason for the action by service in the same manner as an original notice or by certified mail. An owner may appeal the commissioner's

initial decision. The appeal shall be heard by an administrative law judge of the department of inspections and appeals. An owner who, after a hearing before an administrative law judge, is aggrieved by a suspension, revocation, or refusal to issue an operating permit may appeal to the employment appeal board created under section 10A.601. Notice of appeal shall be filed with the appeal board within thirty calendar days from receipt of the notice of the commissioner's action.

Sec. 12. Section 89A.12, Code 1999, is amended to read as follows:

89A.12 ACCESS TO FACILITIES.

Every owner of a facility subject to regulation by this chapter shall grant access to that facility to the commissioner and personnel of the division ~~of labor services administering the provisions of this chapter~~. Inspections shall be permitted at reasonable times, with or without prior notice.

Sec. 13. Section 90A.1, subsection 2, Code 1999, is amended to read as follows:

2. "Commissioner" means the state commissioner of athletics, who is also the labor commissioner appointed pursuant to section 91.2, or the labor commissioner's designee.

Sec. 14. Section 91.4, subsection 2, Code 1999, is amended to read as follows:

2. To collect, assort, and systematize statistical details relating to ~~all departments of labor in the state~~ programs of the division of labor services.

Sec. 15. Section 91.4, subsection 5, Code 1999, is amended to read as follows:

5. The director of the department of workforce development, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business

and expense of the division of labor services for the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, 91C, 91D, 91E, 92, 94, and 95, and sections 30.7 and 85.68, and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

Sec. 16. Section 91.10, Code 1999, is amended to read as follows:

91.10 POWER TO SECURE EVIDENCE.

The labor commissioner ~~and the commissioner's deputy, or the commissioner's designee~~, may issue subpoenas, administer oaths, and take testimony in all matters relating to the duties required of them. Witnesses subpoenaed and testifying before the commissioner or the commissioner's deputy designee shall be paid the same fees as witnesses under section 622.69, payment to be made out of the funds appropriated to the division of labor services.

Sec. 17. Section 91.11, Code 1999, is amended to read as follows:

91.11 PROSECUTIONS FOR VIOLATIONS.

If the commissioner ~~or an inspector shall learn~~ learns of any violation of any law administered by the division, the commissioner, or neglect to comply with the law in respect to the employment of children, or in respect to fire escapes, or the safety of employees, or for the preservation of health, such officer may give the county attorney of the county in which ~~such factory or building is situated~~ the violation occurred, written notice of the facts, whereupon that officer shall institute the proper proceedings against the person guilty of such charged with the offense or neglect.

If the commissioner or-inspector is of the opinion that such the violation or-neglect is not willful, or is an oversight or of a trivial nature, the commissioner or inspector may in at the commissioner's or-inspector's discretion fix a time within which the defect-or-evil-may violation shall be corrected and notify the owner, operator, superintendent, or person in charge, and if corrected within the time fixed, then the commissioner or-inspector shall not cause prosecution to be begun.

Sec. 18. Section 91A.3, subsection 7, Code 1999, is amended to read as follows:

7. A If a farm labor contractor who contracts with a person engaged in the production of seed or feed grains to remove unwanted or genetically deviant plants or corn tassels or to hand pollinate plants ~~shall file with the commissioner a bond of at least twenty thousand dollars on behalf of, and fails to pay all wages due the employees of the farm labor contractor,~~ the person engaged in the production of seed or feed grains, ~~with a corporate surety approved by the commissioner, securing the payment of all wages due the employees of the farm labor contractor,--The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.--If the bond is not filed as required or if the farm labor contractor fails to pay all wages due the employees of the farm labor contractor,~~ the person engaged in the production of seed or feed grains shall also be liable to the employees for wages not paid by the farm labor contractor.

Sec. 19. Section 91C.8, subsection 4, Code 1999, is amended to read as follows:

4. If a citation is issued, the commissioner shall, within seven days, notify the contractor by service in the same manner as an original notice or by certified mail of the administrative penalty, if any, proposed to be assessed and that the contractor has fifteen working days within which to

notify the commissioner that the employer wishes to contest the citation or proposed assessment of penalty.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 146, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 27, 1999

THOMAS J. VILSACK
Governor