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SENATE FILE 309
BY KREIMAN

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

A BILL FOR

1 An Act relating to non-English-speaking employees and their
2 rights and remedies and creating the position of meatpacking
3 worker rights coordinator.

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

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SF 309
BUSINESS & LABOR

1 Section 1. This Act shall be known and may be cited as the
2 "Non-English-Speaking Workers Protection Act".

3 Sec. 2. Section 91E.1, Code 2003, is amended to read as
4 follows:

5 91E.1 DEFINITIONS.

6 As used in this chapter:

7 1. "Actively recruit" means any affirmative act, as
8 defined by the division, done by or on behalf of an employer
9 for the purpose of recruitment or hiring of non-English-
10 speaking employees who reside more than five hundred miles
11 from the place of employment.

12 ~~1.~~ 2. "Commissioner" means the commissioner of the
13 division of labor services of the department of workforce
14 development.

15 3. "Coordinator" means the meatpacking industry worker
16 rights coordinator appointed pursuant to section 91E.7.

17 4. "Division" means the division of labor services of the
18 department of workforce development.

19 5. "Employ" means to permit to work.

20 ~~2.~~ 6. "Employee" means a natural person who is employed in
21 this state for wages paid on an hourly basis by an employer.
22 An-employee but does not include a any of the following:

23 a. A person engaged in agriculture as defined in section
24 91A.2 or a person engaged in agriculture on a seasonal basis.
25 ~~However, this exemption shall not apply to~~ except farm owners
26 who hire workers to work on cropland other than their own.

27 b. A person employed as a child care provider in or for a
28 private home.

29 ~~3.~~ 7. "Employer" means a person, as defined in chapter 4,
30 partnership, limited liability company, association,
31 corporation, business trust, legal representative, or
32 organized group of persons, who in this state employs for
33 wages, paid on an hourly basis, one hundred or more natural
34 persons.---An-employer employees at any one time, except for
35 seasonal employment of not more than twenty weeks in any

1 calendar year, but does not include a any of the following:

2 a. A client, patient, customer, or other person who
3 obtains professional services from a licensed person who
4 provides the services on a fee service basis or as an
5 independent contractor~~7-or.~~

6 b. The United States, the state, or an agency or
7 governmental subdivision of the United States or the state.

8 8. "Farm owner" does not include a person who uses
9 cropland for research or experimental purposes, or for
10 testing, developing, or producing seeds or plants for sale or
11 resale.

12 9. "Meatpacking operation" means a business in which
13 slaughtering, butchering, meat canning, meat packing, meat
14 manufacturing, poultry canning, poultry packing, poultry
15 manufacturing, pet food manufacturing, processing of
16 meatpacking products, or rendering is carried on.

17 10. "Meatpacking products" includes livestock products and
18 poultry products as defined in section 189A.2.

19 ~~4-~~ 11. "Non-English-speaking Non-English-speaking
20 employee" means an employee who does not speak, read, write,
21 or understand English to the degree necessary for
22 comprehension of the terms, conditions, and daily
23 responsibilities of employment.

24 ~~5---~~ "Farm-owner"-does-not-include-a-person-who-uses
25 cropland-for-research-or-experimental-purposes, testing,
26 developing, or producing seeds or plants for sale or resale.

27 Sec. 3. Section 91E.3, Code 2003, is amended to read as
28 follows:

29 91E.3 EMPLOYER RECRUITING PRACTICES.

30 1. An employer or a representative of an employer who
31 actively recruits ~~non-English-speaking~~ non-English-speaking
32 ~~residents-of-other-states-more-than-five-hundred-miles-from~~
33 ~~the-place-of-employment,~~ persons for employment as employees
34 for wages paid on an hourly basis in this state, must have on
35 file, a copy of which must be provided to the employee, a

1 written statement signed by the employer and the employee
2 which provides relevant information regarding the position of
3 employment, including but not limited to the following
4 information:

5 a. The minimum number of hours the employee can expect to
6 work on a weekly basis.

7 b. The hourly wages of the position of employment
8 including the starting hourly wage.

9 c. A description of the responsibilities and tasks of the
10 position of employment.

11 d. A description of the transportation and housing to be
12 provided, if any, including any costs to be charged for
13 housing or transportation, the length of time such housing is
14 to be provided, and whether or not such housing is in
15 compliance with all applicable state and local housing
16 standards.

17 ~~d.~~ e. The health risks, known to the employer, to the
18 employee involved in the position of employment.

19 ~~e.~~ f. That possession of forged documentation authorizing
20 the person to stay or be employed in the United States is a
21 class "D" felony under section 715A.2.

22 2. If an employee who resigns from employment with an
23 employer within four weeks of the employee's initial date of
24 employment requests, within three business days of
25 termination, transportation to return to the location from
26 which the employee was recruited and the location from which
27 the employee was recruited is five hundred or more miles from
28 the place of employment, the employer shall provide the
29 employee with transportation at no cost to the employee.

30 3. It is a violation of this section if an employer or
31 representative knowingly and willfully provides false or
32 misleading information on the statement or regarding the
33 contents of the statement.

34 Sec. 4. Section 91E.4, subsection 3, Code 2003, is amended
35 to read as follows:

1 3. Any person aggrieved as a result of a violation of
2 section 91E.2 or 91E.3 or the rules adopted pursuant to those
3 sections may file suit in any district court of this state for
4 actual damages and injunctive relief. An employer who,
5 through repeated violation of section 91E.3, demonstrates a
6 pattern of abusive recruitment practices may be ordered to pay
7 punitive damages.

8 Sec. 5. Section 91E.5, Code 2003, is amended to read as
9 follows:

10 91E.5 DUTIES AND AUTHORITY OF THE COMMISSIONER.

11 1. The commissioner shall adopt rules regarding the
12 keeping of confidential records and trade secrets obtained
13 pursuant to this chapter and to implement and enforce this
14 chapter and shall provide further exemptions from the
15 provisions of this chapter where reasonable.

16 2. In order to carry out the purposes of this chapter, the
17 commissioner, ~~or~~ the commissioner's representative, or the
18 coordinator, upon presenting appropriate credentials to the
19 owner, operator, or agent in charge, may:

20 a. Inspect employment records relating to the total number
21 of employees and ~~non-English-speaking~~ non-English-speaking
22 employees, and the services provided to ~~non-English-speaking~~
23 non-English-speaking employees.

24 b. Interview an employer, owner, operator, agent, or
25 employee, during working hours or at other reasonable times.

26 Sec. 6. NEW SECTION. 91E.7 DUTIES AND AUTHORITY OF
27 COORDINATOR -- BILL OF RIGHTS.

28 1. The position of meatpacking industry worker rights
29 coordinator is established within the division and under the
30 direction and control of the commissioner. The coordinator
31 shall be appointed by the governor and serve at the pleasure
32 of the governor. Preference shall be given to applicants for
33 the coordinator position who are fluent in the Spanish
34 language.

35 2. The duties of the coordinator shall be to inspect and

1 review the practices and procedures of meatpacking operations
2 in this state as they relate to the provision of the Iowa
3 meatpacking industry worker bill of rights, which rights are
4 outlined as follows:

5 a. The right to organize.

6 b. The right to a safe workplace.

7 c. The right to adequate facilities and the opportunity to
8 use them.

9 d. The right to complete information.

10 e. The right to understand the information provided.

11 f. The right to existing state and federal benefits and
12 rights.

13 g. The right to be free from discrimination.

14 h. The right to continuing training, including training of
15 supervisors.

16 i. The right to compensation for work performed.

17 j. The right to seek state help.

18 3. The coordinator and the coordinator's designated
19 representatives shall have access to all meatpacking
20 operations in this state at any time meatpacking products are
21 being processed and industry workers are on the job.

22 4. The coordinator may issue a subpoena to compel any
23 person to appear, give sworn testimony, or produce documentary
24 or other evidence relevant to the duties of the coordinator
25 authorized under this section. If any person subpoenaed
26 refuses to produce the records, books, or papers, the
27 coordinator may apply to the district court having
28 jurisdiction over that person for the enforcement of the
29 subpoena.

30 5. The coordinator may receive complaints and make
31 referrals to appropriate government agencies as necessary to
32 enforce the provisions of this section.

33 6. The commissioner shall provide necessary office space,
34 furniture, equipment, and supplies as well as necessary
35 assistance for the coordinator.

1 7. The coordinator shall, on or before December 1 of each
2 year, submit a report to the members of the general assembly
3 and the governor regarding any actions the coordinator deems
4 necessary or appropriate to provide for the fair treatment of
5 workers in the meatpacking industry.

6 EXPLANATION

7 This bill creates a position of meatpacking industry worker
8 rights coordinator within the division of labor services of
9 the department of workforce development to be appointed by the
10 governor and who shall grant preference to Spanish-speaking
11 applicants. The bill grants to the coordinator the right to
12 inspect and review the practices and procedures of meatpacking
13 operations to ensure specific rights of meatpacking workers as
14 enumerated in the bill. The coordinator is granted access to
15 all meatpacking operations in Iowa, may issue subpoenas,
16 compel testimony or documentary evidence, and enforce the
17 subpoenas in district court. The coordinator may receive
18 complaints, make referrals to government agencies, and must
19 make an annual report to the legislature and governor. Office
20 space, equipment, and general direction and control shall be
21 provided by the labor commissioner although the coordinator
22 serves at the pleasure of the governor.

23 The bill adopts additional definitions of terms used within
24 the chapter, excludes child care providers in private homes
25 from the definition of employee, excludes the United States
26 and its governmental subdivisions from the definition of
27 employer, and requires employers who actively recruit non-
28 English-speaking employees to additionally describe in writing
29 any transportation and housing being provided as part of the
30 employment agreement. The bill provides that any person may
31 bring a civil suit for actual damages and an injunction
32 against an employer for failing to provide an interpreter
33 where required by the chapter and for knowingly or willfully
34 providing a false statement as required under the chapter.
35 The bill requires the labor commissioner to adopt rules

1 regarding the keeping of any confidential records and trade
2 secrets obtained while enforcing the Code chapter.

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