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COMMERCE, REGULATION & LABOR

HOUSE FILE 2532  
BY R. OLSON

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act pertaining to workers' compensation laws by regulating  
2 insurance policy inclusions, debt collection practices,  
3 calculation of weekly benefits of certain employees, liability  
4 for employees of certain contractors, and timely payment of  
5 benefits by insurers.

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

HF 2532

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1 Section 1. Section 85.1, subsection 6, Code 2005, is  
2 amended to read as follows:

3 6. Employers may with respect to an employee or a  
4 classification of employees exempt from coverage provided by  
5 this chapter pursuant to subsection 1, 2, or 3, ~~4~~or~~5~~ other  
6 than the employee or classification of employees with respect  
7 to whom a rule of liability or a method of compensation is  
8 established by the Congress of the United States, assume a  
9 liability for compensation imposed upon employers by this  
10 chapter, for the benefit of employees within the coverage of  
11 this chapter, by the purchase of valid workers' compensation  
12 insurance that does not specifically including exclude the  
13 employee or classification of employees. The purchase of and  
14 acceptance by an employer of valid workers' compensation  
15 insurance applicable to the employee or classification of  
16 employees constitutes an assumption by the employer of  
17 liability without any further act on the part of the employer,  
18 but only with respect to the employee or classification of  
19 employees as are within the coverage of the workers'  
20 compensation insurance contract and only for the time period  
21 in which the insurance contract is in force. Upon an election  
22 of such coverage, the employee or classification of employees  
23 shall accept compensation in the manner provided by this  
24 chapter and the employer shall be relieved from any other  
25 liability for recovery of damage, or other compensation for  
26 injury.

27 Sec. 2. Section 85.27, subsection 6, Code Supplement 2005,  
28 is amended to read as follows:

29 6. While a contested case proceeding for determination of  
30 liability for workers' compensation benefits is pending before  
31 the workers' compensation commissioner relating to an injury  
32 alleged to have given rise to treatment, no debt collection,  
33 as defined by section 537.7102, shall be undertaken against an  
34 employee or the employee's dependents for the collection of  
35 charges for that treatment rendered an employee by any health

1 service provider. If debt collection is undertaken after a  
2 creditor receives actual notice that a contested case  
3 proceeding for determination of liability for workers'  
4 compensation benefits is pending, such debt collection shall  
5 constitute a prohibited practice under section 537.7103, and  
6 the employee or the employee's dependents are entitled to the  
7 remedies provided in section 537.5201. However, the health  
8 service provider may send one itemized written bill to the  
9 employee setting forth the amount of the charges in connection  
10 with the treatment after notification of the contested case  
11 proceeding.

12 Sec. 3. Section 85.33, subsection 4, Code 2005, is amended  
13 to read as follows:

14 4. If an employee is entitled to temporary partial  
15 benefits under subsection 3 ~~of this section~~, the employer for  
16 whom the employee was working at the time of injury shall pay  
17 to the employee weekly compensation benefits, as provided in  
18 section 85.32, for and during the period of temporary partial  
19 disability. The temporary partial benefit shall be sixty-six  
20 and two-thirds percent of the difference between the  
21 employee's weekly earnings at the time of injury, computed in  
22 compliance with section 85.36, and the employee's actual gross  
23 weekly income from employment during the period of temporary  
24 partial disability. ~~If at the time of injury an employee is~~  
25 ~~paid on the basis of the output of the employee, with a~~  
26 ~~minimum guarantee pursuant to a written employment agreement,~~  
27 ~~the minimum guarantee shall be used as the employee's weekly~~  
28 ~~earnings at the time of injury.~~ However, the weekly  
29 compensation benefits shall not exceed the payments to which  
30 the employee would be entitled under section 85.36 or section  
31 85.37, or under subsection 1 of this section.

32 Sec. 4. Section 85.61, subsection 2, Code Supplement 2005,  
33 is amended to read as follows:

34 2. a. "Employer" includes and applies to a person, firm,  
35 association, or corporation, state, county, municipal

1 corporation, school corporation, area education agency,  
2 township as an employer of volunteer fire fighters, volunteer  
3 emergency rescue technicians, and emergency medical care  
4 providers only, benefited fire district, and the legal  
5 representatives of a deceased employer. "Employer" includes  
6 and applies to a rehabilitation facility approved for  
7 purchase-of-service contracts or for referrals by the  
8 department of human services or the department of education.

9 b. "Employer" also includes and applies to an eligible  
10 postsecondary institution as defined in section 261C.3,  
11 subsection 1, a school corporation, or an accredited nonpublic  
12 school if a student enrolled in the eligible postsecondary  
13 institution, school corporation, or accredited nonpublic  
14 school is providing unpaid services under a school-to-work  
15 program that includes, but is not limited to, the components  
16 provided for in section 258.10, subsection 2, paragraphs "a"  
17 through "f". However, if a student participating in a school-  
18 to-work program is participating in open enrollment under  
19 section 282.18, "employer" means the receiving district.

20 "Employer" also includes and applies to a community college as  
21 defined in section 260C.2, if a student enrolled in the  
22 community college is providing unpaid services under a school-  
23 to-work program that includes, but is not limited to, the  
24 components provided for in section 258.10, subsection 2,  
25 paragraphs "a" through "f", and that is offered by the  
26 community college pursuant to a contractual agreement with a  
27 school corporation or accredited nonpublic school to provide  
28 the program. If a student participating in a school-to-work  
29 program that includes, but is not limited to, the components  
30 provided for in section 258.10, subsection 2, paragraphs "a"  
31 through "f", is paid for services provided under the program,  
32 "employer" means any entity otherwise defined as an employer  
33 under this subsection which pays the student for providing  
34 services under the program.

35 c. "Employer" also includes and applies to a person who

1 contracts with a contractor for purposes of the person's trade  
2 or business and the person shall be subject to the  
3 jurisdiction of the workers' compensation commissioner and to  
4 all of the provisions of this chapter and chapters 85B, 86,  
5 and 87, as to all personal injuries sustained by employees of  
6 the contractor arising out of and in the course of performance  
7 of the contract with the person, if the contractor has failed  
8 to insure the contractor's workers' compensation liability or  
9 to obtain relief from insurance as provided in chapter 87. A  
10 person who pays benefits pursuant to this paragraph is  
11 considered to be the employer of the contractor's employees  
12 for purposes of the exclusive remedy provisions of sections  
13 85.3 and 85.20, and for purposes of the subrogation and  
14 indemnity provisions of section 85.22. A person who pays  
15 benefits to the employees of a contractor pursuant to this  
16 paragraph is entitled to be indemnified, with interest, by the  
17 contractor. A person shall not be charged a premium for  
18 workers' compensation insurance for coverage of a contractor's  
19 employees if the person holds a current certificate of  
20 insurance or self-insurance showing that the contractor with  
21 whom the person has a contract is in compliance with chapter  
22 87.

23 Sec. 5. Section 87.8, unnumbered paragraph 1, Code 2005,  
24 is amended to read as follows:

25 An insurer shall pay, when due, all benefits and  
26 compensation for which the insured is liable under this  
27 state's workers' compensation laws, regardless of whether the  
28 insured has reimbursed the insurer for any deductible due  
29 under the policy of insurance. No policy of insurance issued  
30 under this chapter shall contain any provision relieving the  
31 insurer from payment if the insured becomes insolvent or  
32 discharged in bankruptcy during the period that the policy is  
33 in operation, or the compensation, or any part of it, is  
34 unpaid.

35 Sec. 6. Section 537.7103, Code Supplement 2005, is amended

1 by adding the following new subsection:

2 NEW SUBSECTION. 7. A debt collector shall not collect or  
3 attempt to collect charges from an employee or an employee's  
4 dependents for treatment rendered the employee by any health  
5 service provider, after receiving actual notice that a  
6 contested case proceeding for determination of liability of  
7 workers' compensation benefits is pending as provided in  
8 section 85.27, subsection 6.

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EXPLANATION

10 Code section 85.1, subsection 6, is amended to provide that  
11 an employer assumes liability for workers' compensation  
12 coverage of certain domestic, casual, and agricultural  
13 employees that are exempt from workers' compensation  
14 requirements, by purchasing coverage that does not  
15 specifically exclude them. The bill also provides that an  
16 employer cannot assume liability for workers' compensation  
17 coverage of police officers and firefighters who are entitled  
18 to benefits under Code chapters 410 and 411, and certain  
19 officers of a corporation other than a family farm corporation  
20 who voluntarily reject workers' compensation coverage.  
21 Currently, any employee exempt from workers' compensation  
22 requirements under this section is covered under a workers'  
23 compensation insurance policy only if the policy specifically  
24 includes the employee.

25 Code section 85.27, subsection 6, and Code section 537.7103  
26 are amended to provide that debt collection for charges  
27 rendered to an employee by a health services provider that is  
28 undertaken after a creditor receives actual notice that a  
29 contested case proceeding for determination of liability for  
30 workers' compensation benefits is pending, constitutes a  
31 prohibited practice under the Iowa consumer credit code and  
32 entitles the employee or the employee's dependents to the  
33 remedies provided by the Iowa consumer credit code.

34 Code section 85.33, subsection 4, is amended to remove a  
35 provision allowing an injured employee paid on the basis of

1 output, with a minimum written guarantee, to be paid weekly  
2 workers' compensation temporary partial disability benefits  
3 using the minimum guarantee as the employee's weekly earnings  
4 at the time of injury.

5 Code section 85.61, subsection 2, is amended to provide  
6 that an "employer" for purposes of workers' compensation laws  
7 includes a person who contracts with a contractor for purposes  
8 of the person's trade or business. The bill provides that  
9 such a person is liable for all personal injuries sustained by  
10 employees of the contractor arising out of and in the  
11 performance of the contract with the person, if the contractor  
12 has failed to insure its workers' compensation liability. The  
13 bill provides that a person who is liable for such workers'  
14 compensation benefits is considered to be the employer of the  
15 contractor's employees for purposes of exclusive remedy  
16 provisions and subrogation and indemnity provisions. The bill  
17 also provides that such a person is entitled to be indemnified  
18 with interest by the contractor for the cost of benefits paid  
19 to the contractor's employees. The bill provides that a  
20 person shall not be charged a premium for coverage of a  
21 contractor's employees if the person holds a current  
22 certificate showing that the contractor has complied with the  
23 insurance or self-insurance requirements of Code chapter 87.

24 Code section 87.8 is amended to provide that an insurer  
25 must pay all workers' compensation benefits when due,  
26 regardless of whether the insured (the employer) has  
27 reimbursed the insurer for any deductible due under the policy  
28 of insurance.

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