

MAR 1 2006
WAYS AND MEANS

HOUSE FILE 2585
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 239)

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

A BILL FOR

1 An Act relating to permit and inspection fees for amusement
2 rides, devices, and concessions, and providing an effective
3 date.

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

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HF 2585

TLSB 6548HV 81

kh/je/5

1 Section 1. Section 88A.4, subsection 1, paragraphs a and
2 b, Code 2005, are amended to read as follows:

3 a. One through ten rides, or devices or concessions,
4 ~~twenty~~ thirty dollars.

5 b. Eleven or more rides, or devices or concessions, ~~thirty~~
6 forty dollars.

7 Sec. 2. Section 88A.4, subsection 2, paragraphs a, b, and
8 c, Code 2005, are amended to read as follows:

9 a. For rides which are designed for seventy-five pounds or
10 less per passenger unit, ~~sixty~~ seventy-five dollars for each
11 inspection.

12 b. For rides which are designed for seventy-five pounds or
13 more and for which the manufacturer's recommended assembly
14 time is less than forty work hours, ~~ninety~~ one hundred ten
15 dollars for each inspection.

16 c. For rides for which the manufacturer's recommended
17 assembly time is forty work hours or more, ~~one~~ two hundred
18 ~~twenty~~ fifty dollars for each inspection.

19 Sec. 3. Section 88A.4, subsection 3, Code 2005, is amended
20 to read as follows:

21 3. Electrical inspection of concession booths, and
22 amusement devices fees, ~~thirty-five~~ forty dollars each.

23 Sec. 4. EFFECTIVE DATE. This Act takes effect January 1,
24 2007.

25 EXPLANATION

26 This bill raises a number of permit and inspection fees the
27 labor commissioner is authorized to impose and collect for
28 amusement rides, devices, and concessions.

29 The bill takes effect January 1, 2007.

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WILDERDYKE, CH
SOBERBERG
D. TAYLOR

HSB 239
COMMERCE, REGULATION & LABOR
SENATE/HOUSE FILE 02585
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 the laws administered by the labor
2 commissioner, and to penalties assessed for violation of those
3 laws, including regulation of safety inspection of amusement
4 rides, and providing an effective date.

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

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1 Section 1. Section 88A.2, Code 2005, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The commissioner may assess a
4 civil penalty as provided in section 88A.10 for failure to
5 comply with this section.

6 Sec. 2. Section 88A.3, Code 2005, is amended to read as
7 follows:

8 88A.3 SAFETY STANDARDS -- RULES -- INSPECTION FEES.

9 1. The commissioner shall adopt and issue rules for the
10 safe installation, repair, maintenance, use, operation, and
11 inspection of amusement devices, amusement rides, concession
12 booths, and related electrical equipment at carnivals and
13 fairs to the extent necessary for the protection of the
14 public. The rules shall be based upon generally accepted
15 engineering standards and shall be concerned with, but not
16 necessarily limited to, engineering force stresses, safety
17 devices, and preventive maintenance. Whenever such standards
18 are available in suitable form they may be incorporated by
19 reference. The rules shall provide for the reporting of
20 accidents and injuries incurred from the operation of
21 amusement devices or rides, concession booths, or related
22 electrical equipment.

23 2. The commissioner shall adopt rules to charge and
24 collect fees for inspection and permitting of amusement rides,
25 amusement devices, concession booths, and any related
26 equipment. Fees may be set by rule not more than once each
27 year. The fees shall be based upon the costs of administering
28 the provisions of this chapter and shall give due regard to
29 the time spent by personnel of the division of labor services
30 in performing their official duties and to any travel expenses
31 incurred.

32 ~~The commissioner may modify or repeal any rule adopted~~
33 ~~under the provisions of this chapter.~~

34 Sec. 3. Section 88A.7, Code 2005, is amended by adding the
35 following new unnumbered paragraph:

1 NEW UNNUMBERED PARAGRAPH. The commissioner may assess a
2 civil penalty as provided in section 88A.10 for failure to
3 comply with this section.

4 Sec. 4. Section 88A.8, Code 2005, is amended to read as
5 follows:

6 88A.8 JUDICIAL REVIEW AND ENFORCEMENT BY COMMISSIONER.

7 1. Judicial review of action of the commissioner may be
8 sought in accordance with the terms of the Iowa administrative
9 procedure Act, chapter 17A.

10 2. Upon final determination of the commissioner that fees
11 or penalties are due and owing the division, yet remain
12 unpaid, the commissioner shall notify the department of
13 revenue of the unpaid fees or penalties and may commence an
14 action in district court to enforce payment. Upon receipt of
15 a petition for enforcement from the commissioner, the clerk of
16 the district court, unless otherwise ordered by the court,
17 shall enter a decree enforcing the order and shall transmit a
18 copy of the decree to the commissioner and the person named in
19 the petition. Interest shall be calculated from the date of
20 the final determination of the commissioner.

21 Sec. 5. Section 88A.10, Code 2005, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4. As specifically authorized under this
24 chapter, the commissioner may assess a civil penalty, upon
25 notice, in an amount not exceeding five hundred dollars per
26 violation, for failure to comply with this chapter. For a
27 second or subsequent violation, the civil penalty assessed
28 shall not exceed five thousand dollars for each violation.
29 The commissioner shall provide notice by service in the same
30 manner as an original notice or by certified mail of the
31 penalty to be assessed and that the person has thirty calendar
32 days from receipt of the notice to notify the commissioner
33 that the person wishes to contest the proposed penalty. If,
34 within thirty calendar days from receipt of the notice the
35 person fails to notify the commissioner that the person

1 intends to contest the proposed penalty, the proposed penalty
2 shall be deemed a final order of the agency and not subject to
3 review by any court or agency.

4 Sec. 6. Section 88A.4, Code 2005, is repealed.

5 Sec. 7. EFFECTIVE DATE. The section of this Act repealing
6 section 88A.4 takes effect January 1, 2006.

7 EXPLANATION

8 This bill amends Code provisions regarding the labor
9 commissioner's administration of laws regulating safety
10 inspection of amusement rides.

11 The bill authorizes the labor commissioner to assess civil
12 penalties for failure to comply with the permit, inspection,
13 and cessation requirements for amusement devices or rides,
14 concession booths, or any related electrical equipment
15 operated at a carnival or fair, and for failure to make
16 changes ordered by the commissioner.

17 The bill also repeals, effective January 1, 2006, a Code
18 provision that establishes a fee structure for the inspection
19 of amusement park-related equipment or devices and for related
20 permits, and which authorizes special inspections and provides
21 that the commissioner is not liable for any damage incurred if
22 a special inspector fails to inform the commissioner of
23 violations. The bill allows the commissioner to determine
24 fees for inspection based upon the costs of administration.

25 Notice of a penalty assessment is required to be in the
26 same manner as an original notice, or by certified mail. If
27 an owner or employer does not contest a penalty within 30
28 days, the penalty is deemed a final agency order and is not
29 subject to review by any court or agency.

30 The bill authorizes the commissioner to enforce payment of
31 fees and penalties through the district court. The bill sets
32 the maximum civil penalty at \$500 for a first violation and
33 \$5,000 for subsequent violations.

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Iowa Workforce Development

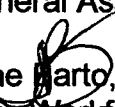
Thomas J. Vilsack, Governor

Sally J. Pederson, Lt. Governor

Richard V. Running, Director

Putting Iowa
to Work®

MEMORANDUM

Date: February 4, 2005
To: General Assembly
From: Jane  Harto, Deputy Director
Iowa Workforce Development
(515) 281-5082

RE: LSB #1205DP – An Act relating to amusement devices, rides, and equipment regulation.

Sections 1, 3, 4, and 5 allow the Labor Commissioner to assess civil penalties of up to \$500 for violations of the safety law protecting users of amusement rides and related equipment. Repeat violations could result in a penalty of up to \$5,000. Section 4 also creates a mechanism for the Labor Commissioner to collect fees and penalties due under the amusement ride safety law.

Sections 2, 6 and 7 repeal the current statutory inspection and permit fees and replace them with a provision allowing the Labor Commissioner to set the fees through administrative rules. Criteria for determining fee levels are set forth in a manner very similar to the fee criteria set forth in Iowa Code chapters 88B and 89.

Problem: Current law establishes fees for inspection and permitting of amusement rides through statute. Fees need to be changed periodically due to the introduction of new rides and inflation. The current fees have been in effect since 1992.

Solution: The legislation removes the current statutory fee schedule and allows the Labor Commissioner to set fees based on rules. The language closely parallels fee language in Iowa Code Sections 88B.3 and 89.8.

Problems: Under current law, the only options available for enforcement of amusement ride safety laws are to apply to district court for an injunction or make a referral to the county attorney for criminal prosecution. Referral for criminal prosecution is only appropriate in egregious cases. Prosecution is at the discretion of the local



county attorney who may not place a high priority on amusement ride safety. Similarly, not all violations warrant an injunction. Failure to correct a safety hazard after notice, failure to obtain a permit, and improper assembly of a portable ride are examples of violations that might not justify an injunction or criminal prosecution.

The amusement ride safety law provides no mechanism for the Labor Commissioner to collect fees due under the chapter.

Solution: The legislation allows the Labor Commissioner to assess a civil penalty of up to \$500 for a first violation of the amusement ride safety law and up to \$5,000 for a repeat violation. This will encourage owners and operators to take amusement ride safety more seriously without resorting to criminal referrals. The legislation also creates specific procedures for collecting fees and penalties due under the amusement ride safety law. The language in both cases is very similar to other statutory provisions enforced by the Labor Commissioner such as those found in Iowa Code Chapters 88 and 91C.