

House Study Bill 239

SENATE/HOUSE FILE _____
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:
6 TLSB 1205DP 81
7 kh/pj/5

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1 1 Section 1. Section 88A.2, Code 2005, is amended by adding
1 2 the following new unnumbered paragraph:
1 3 NEW UNNUMBERED PARAGRAPH. The commissioner may assess a
1 4 civil penalty as provided in section 88A.10 for failure to
1 5 comply with this section.

1 6 Sec. 2. Section 88A.3, Code 2005, is amended to read as
1 7 follows:

1 8 88A.3 SAFETY STANDARDS == RULES == INSPECTION FEES.

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

1 23 2. The commissioner shall adopt rules to charge and
1 24 collect fees for inspection and permitting of amusement rides,
1 25 amusement devices, concession booths, and any related
1 26 equipment. Fees may be set by rule not more than once each
1 27 year. The fees shall be based upon the costs of administering
1 28 the provisions of this chapter and shall give due regard to
1 29 the time spent by personnel of the division of labor services
1 30 in performing their official duties and to any travel expenses
1 31 incurred.

1 32 ~~The commissioner may modify or repeal any rule adopted~~
1 33 ~~under the provisions of this chapter.~~

1 34 Sec. 3. Section 88A.7, Code 2005, is amended by adding the
1 35 following new unnumbered paragraph:

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

2 4 Sec. 4. Section 88A.8, Code 2005, is amended to read as
2 5 follows:

2 6 88A.8 JUDICIAL REVIEW AND ENFORCEMENT BY COMMISSIONER.

2 7 1. Judicial review of action of the commissioner may be
2 8 sought in accordance with the terms of the Iowa administrative
2 9 procedure Act, chapter 17A.

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

2 18 copy of the decree to the commissioner and the person named in
2 19 the petition. Interest shall be calculated from the date of
2 20 the final determination of the commissioner.

2 21 Sec. 5. Section 88A.10, Code 2005, is amended by adding
2 22 the following new subsection:
2 23 NEW SUBSECTION. 4. As specifically authorized under this
2 24 chapter, the commissioner may assess a civil penalty, upon
2 25 notice, in an amount not exceeding five hundred dollars per
2 26 violation, for failure to comply with this chapter. For a
2 27 second or subsequent violation, the civil penalty assessed
2 28 shall not exceed five thousand dollars for each violation.
2 29 The commissioner shall provide notice by service in the same
2 30 manner as an original notice or by certified mail of the
2 31 penalty to be assessed and that the person has thirty calendar
2 32 days from receipt of the notice to notify the commissioner
2 33 that the person wishes to contest the proposed penalty. If,
2 34 within thirty calendar days from receipt of the notice the
2 35 person fails to notify the commissioner that the person
3 1 intends to contest the proposed penalty, the proposed penalty
3 2 shall be deemed a final order of the agency and not subject to
3 3 review by any court or agency.

3 4 Sec. 6. Section 88A.4, Code 2005, is repealed.

3 5 Sec. 7. EFFECTIVE DATE. The section of this Act repealing
3 6 section 88A.4 takes effect January 1, 2006.

3 7 EXPLANATION

3 8 This bill amends Code provisions regarding the labor
3 9 commissioner's administration of laws regulating safety
3 10 inspection of amusement rides.

3 11 The bill authorizes the labor commissioner to assess civil
3 12 penalties for failure to comply with the permit, inspection,
3 13 and cessation requirements for amusement devices or rides,
3 14 concession booths, or any related electrical equipment
3 15 operated at a carnival or fair, and for failure to make
3 16 changes ordered by the commissioner.

3 17 The bill also repeals, effective January 1, 2006, a Code
3 18 provision that establishes a fee structure for the inspection
3 19 of amusement park-related equipment or devices and for related
3 20 permits, and which authorizes special inspections and provides
3 21 that the commissioner is not liable for any damage incurred if
3 22 a special inspector fails to inform the commissioner of
3 23 violations. The bill allows the commissioner to determine
3 24 fees for inspection based upon the costs of administration.

3 25 Notice of a penalty assessment is required to be in the
3 26 same manner as an original notice, or by certified mail. If
3 27 an owner or employer does not contest a penalty within 30
3 28 days, the penalty is deemed a final agency order and is not
3 29 subject to review by any court or agency.

3 30 The bill authorizes the commissioner to enforce payment of
3 31 fees and penalties through the district court. The bill sets
3 32 the maximum civil penalty at \$500 for a first violation and
3 33 \$5,000 for subsequent violations.

3 34 LSB 1205DP 81

3 35 kh:rj/pj/5.1