

Senate File 471 - Introduced

SENATE FILE 471

BY BOULTON, KINNEY, DOTZLER,
J. SMITH, TRONE GARRIOTT,
GIDDENS, T. TAYLOR,
BISIGNANO, BOLKCOM, JOCHUM,
CELSI, PETERSEN, MATHIS,
QUIRMBACH, LYKAM, RAGAN,
WAHLS, and HOGG

A BILL FOR

1 An Act relating to occupational safety and health standards,
2 employment matters, reporting requirements, and civil
3 liability concerning COVID-19, providing penalties and
4 remedies, and including effective date provisions.

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

1 Section 1. Section 88.3, subsection 3, Code 2021, is amended
2 to read as follows:

3 3. "*Emergency temporary standards*" means any occupational
4 safety and health standard or modification thereof which
5 has been adopted and promulgated by a nationally recognized
6 standards-producing organization under procedures whereby it
7 can be determined by the commissioner that persons interested
8 and affected by the scope or provisions of the standard
9 have reached substantial agreement on its adoption, and was
10 formulated in a manner which afforded an opportunity for
11 diverse views to be considered or is an emergency temporary
12 standard provided by the secretary pursuant to and in
13 conformance with the provisions of the federal law. "*Emergency*
14 *temporary standards*" includes guidance related to COVID-19, as
15 defined in section 94.1, provided by the centers for disease
16 control and prevention of the federal department of health and
17 human services or by the federal occupational safety and health
18 administration.

19 Sec. 2. Section 88.5, subsection 5, Code 2021, is amended
20 to read as follows:

21 5. *Emergency temporary standards.* The commissioner shall
22 provide for an emergency temporary standard to take immediate
23 effect if the commissioner determines that employees are
24 exposed to COVID-19, as defined in section 94.1, or are
25 exposed to grave danger from exposure from substances or agents
26 determined to be toxic or physically harmful or from new
27 hazards and if such emergency temporary standard is necessary
28 to protect the employees from such danger. Such emergency
29 standard shall cease to be effective and shall no longer
30 be applicable after the lapse of six months following the
31 effective date thereof unless the commissioner has initiated
32 the procedures provided for under [this chapter](#), for the purpose
33 of promulgating a permanent standard as provided in subsection
34 1 of [this section](#) in which case the emergency temporary
35 standard will remain in effect until the permanent standard is

1 adopted and becomes effective. Abandonment of the procedure
2 for such promulgation by the commissioner shall terminate the
3 effectiveness and applicability of the emergency temporary
4 standard.

5 Sec. 3. NEW SECTION. 94.1 **Definitions.**

6 As used in this chapter, unless the context otherwise
7 requires:

8 1. "*COVID-19*" means the novel coronavirus identified
9 as SARS-CoV-2, the disease caused by the novel coronavirus
10 SARS-CoV-2 or a virus mutating therefrom, and conditions
11 associated with the disease caused by the novel coronavirus
12 SARS-CoV-2 or a virus mutating therefrom.

13 2. "*Employee*" means a natural person who is employed in this
14 state for wages by an employer.

15 3. "*Employer*" means a person, as defined in chapter 4, who
16 in this state employs for wages a natural person.

17 Sec. 4. NEW SECTION. 94.2 **Employee reporting of COVID-19 —**
18 **right to avoid exposure.**

19 1. An employer shall not discharge or in any manner
20 discriminate against an employee because the employee has
21 filed a complaint or instituted or caused to be instituted a
22 proceeding under or related to any condition of employment
23 that the employee believes to pose an undue risk of a COVID-19
24 infection or has testified or is about to testify in any such
25 proceeding or because of the exercise by the employee on behalf
26 of the employee or others of a right afforded by this chapter.

27 2. An employer shall not discharge or in any manner
28 discriminate against an employee because the employee, with no
29 reasonable alternative, refuses in good faith to be exposed to
30 COVID-19, provided that all of the following apply:

31 a. The employee, where possible, has first sought a
32 correction of the dangerous condition through resort to
33 regular statutory enforcement channels, unless there has been
34 insufficient time due to the urgency of the situation.

35 b. The employee has sought a correction of the dangerous

1 the explanation's substance by the members of the general assembly.

2 This bill requires the labor commissioner to provide for
3 emergency temporary standards for occupational safety and
4 health if the commissioner determines that employees are
5 exposed to COVID-19.

6 The bill prohibits an employer from discharging or in any
7 manner discriminating against an employee because the employee
8 has filed a complaint or instituted or caused to be instituted
9 a proceeding under or related to any condition of employment
10 that the employee believes to pose an undue risk of a COVID-19
11 infection or has testified or is about to testify in any such
12 proceeding or because of the exercise by the employee on behalf
13 of the employee or others of a right afforded by the bill.

14 The bill prohibits an employer from discharging or in any
15 manner discriminating against an employee because the employee,
16 with no reasonable alternative, refuses in good faith to
17 be exposed to COVID-19. The bill requires an employee to
18 first seek a correction to a dangerous condition in certain
19 circumstances.

20 The bill requires an employer to report every positive case
21 of COVID-19 of an employee to all other employees who work on
22 the premises, all other individuals directly or indirectly
23 invited onto the premises, the local health department, and
24 the Iowa department of public health. Such reports shall not
25 include identifying information about an employee or health
26 information not required by the bill.

27 An employer violating the applicable requirements of the
28 bill shall be assessed a civil penalty of \$1,000 per violation
29 and, if applicable, shall reinstate the employee with back pay,
30 pay the employee front pay equal to the total amount of back
31 pay, and reimburse the employee for the employee's court costs
32 and attorney fees.

33 The bill requires a school district or accredited nonpublic
34 school to report every positive case of COVID-19 of a student
35 to the local health department and the Iowa department of

1 public health.

2 The bill repeals Code chapter 686D, which provides standards
3 for civil liability relating to COVID-19 for premises owners;
4 health care providers; persons who design, manufacture, label,
5 sell, distribute, or donate certain materials relating to
6 COVID-19; and persons generally.

7 The bill takes effect upon enactment.