

Senate File 415 - Reprinted

SENATE FILE _____
BY GRONSTAL and IVERSON

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

A BILL FOR

1 An Act relating to employment, including the payment of weekly
2 workers' compensation benefits, workers' compensation
3 settlements and filings, and the direct deposit of wages paid
4 by an employer, requiring a regular payday statement, and
5 making civil penalties applicable.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 SF 415
8 kh/cc/26

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1 1 Section 1. Section 22.7, Code 2005, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 51. Confidential information, as defined
1 4 in section 86.45, subsection 1, filed with the workers'
1 5 compensation commissioner.

1 6 Sec. 2. Section 85.27, subsection 7, Code 2005, is amended
1 7 to read as follows:

1 8 7. If, after the third day of incapacity to work following
1 9 the date of sustaining a compensable injury which does not
1 10 result in permanent partial disability, or if, at any time
1 11 after sustaining a compensable injury which results in
1 12 permanent partial disability, an employee, who is not
1 13 receiving weekly benefits under section 85.33 or section
1 14 85.34, subsection 1, returns to work and is required to leave
1 15 work for one full day or less to receive services pursuant to
1 16 this section, the employee shall be paid an amount equivalent
1 17 to the wages lost at the employee's regular rate of pay for
1 18 the time the employee is required to leave work. For the

1 19 purposes of this subsection, "day of incapacity to work" means
1 20 eight hours of accumulated absence from work due to incapacity
1 21 to work or due to the receipt of services pursuant to this

1 22 section. The employer shall make the payments under this
1 23 subsection as wages to the employee after making such
1 24 deductions from the amount as legally required or customarily
1 25 made by the employer from wages. Payments made under this
1 26 subsection shall be required to be reimbursed pursuant to any
1 27 insurance policy covering workers' compensation. Payments
1 28 under this subsection shall not be construed to be payment of
1 29 weekly benefits.

1 30 Sec. 3. Section 85.35, Code 2005, is amended to read as
1 31 follows:

1 32 85.35 ~~SETTLEMENT IN CONTESTED CASE SETTLEMENTS.~~

1 33 1. The parties to a contested case or persons who are
1 34 involved in a dispute which could culminate in a contested
1 35 case may enter into a settlement of any claim arising under
2 1 this chapter or chapter 85A, 85B, or 86, providing for ~~final~~
2 2 disposition of the claim, ~~provided that no final disposition~~
~~2 3 affecting rights to future benefits may be had when the only~~
~~2 4 dispute is the degree of disability resulting from an injury~~
~~2 5 for which an award for payments or agreement for settlement~~
~~2 6 under section 86.13 has been made.~~ The settlement shall be in
2 7 writing on forms prescribed by the workers' compensation
2 8 commissioner and submitted to the workers' compensation
2 9 commissioner for approval.

2 10 2. The parties may enter into an agreement for settlement
2 11 that establishes the employer's liability, fixes the nature
2 12 and extent of the employee's current right to accrued
2 13 benefits, and establishes the employee's right to statutory
2 14 benefits that accrue in the future.

2 15 3. The parties may enter into a compromise settlement of
2 16 the employee's claim to benefits as a full and final
2 17 disposition of the claim.

2 18 4. The parties may enter into a settlement that is a
2 19 combination of an agreement for settlement and a compromise
2 20 settlement that establishes the employer's liability for part
2 21 of a claim but makes a full and final disposition of other
2 22 parts of a claim.

2 23 5. A contingent settlement may be made and approved,
2 24 conditioned upon subsequent approval by a court or
2 25 governmental agency, or upon any other subsequent event that
2 26 is expected to occur within one year from the date of the
2 27 settlement. If the subsequent approval or event does not
2 28 occur, the contingent settlement and its approval may be
2 29 vacated by order of the workers' compensation commissioner
2 30 upon a petition for vacation filed by one of the parties or
2 31 upon agreement by all parties. If a contingent settlement is
2 32 vacated, the running of any period of limitation provided for
2 33 in section 85.26 is tolled from the date the settlement was
2 34 initially approved until the date that the settlement is
2 35 vacated, and the claim is restored to the status that the
3 1 claim held when the contingent settlement was initially
3 2 approved. The contingency on a settlement lapses and the
3 3 settlement becomes final and fully enforceable if an action to
3 4 vacate the contingent settlement or to extend the period of
3 5 time allowed for the subsequent approval or event to occur is
3 6 not initiated within one year from the date that the
3 7 contingent settlement was initially approved.

3 8 6. The parties may agree that settlement proceeds, which
3 9 are paid in a lump sum, are intended to compensate the injured
3 10 worker at a given monthly or weekly rate over the life
3 11 expectancy of the injured worker. If such an agreement is
3 12 reached, neither the weekly compensation rate which either has
3 13 been paid, or should have been paid, throughout the case, nor
3 14 the maximum statutory weekly rate applicable to the injury
3 15 shall apply. Instead, the rate set forth in the settlement
3 16 agreement shall be the rate for the case.

3 17 ~~The settlement shall not be approved unless evidence of a~~
3 18 ~~bona fide dispute exists concerning any of the following:~~

3 19 1. ~~The claimed injury arose out of or in the course of the~~
3 20 ~~employment.~~

3 21 2. ~~The injured employee gave notice under section 85.23.~~

3 22 3. ~~Whether or not the statutes of limitations as provided~~
3 23 ~~in section 85.26 have run. When the issue involved is whether~~
3 24 ~~or not the statute of limitations of section 85.26, subsection~~
3 25 ~~2, has run, the final disposition shall pertain to the right~~
3 26 ~~to weekly compensation unless otherwise provided for in~~
3 27 ~~subsection 7 of this section.~~

3 28 4. ~~The injury was caused by the employee's willful intent~~
3 29 ~~to injure the employee's self or to willfully injure another.~~

3 30 5. ~~Intoxication, which did not arise out of and in the~~
3 31 ~~course of employment but which was due to the effects of~~
3 32 ~~alcohol or another narcotic, depressant, stimulant,~~
3 33 ~~hallucinogenic, or hypnotic drug not prescribed by an~~
3 34 ~~authorized medical practitioner, was a substantial factor in~~
3 35 ~~causing the employee's injury.~~

4 1 6. ~~The injury was caused by the willful act of a third~~
4 2 ~~party directed against the employee for reasons personal to~~
4 3 ~~such employee.~~

4 4 7. ~~This chapter or chapter 85A, 85B, 86 or 87 applies to~~
4 5 ~~the party making the claim.~~

4 6 8. ~~A substantial portion of the claimed disability is~~
4 7 ~~related to physical or mental conditions other than those~~
4 8 ~~caused by the injury.~~

4 9 7. A settlement shall be approved by the workers'
4 10 compensation commissioner if the parties show all of the
4 11 following:

4 12 a. Substantial evidence exists to support the terms of the
4 13 settlement.

4 14 b. Waiver of the employee's right to a hearing, decision,
4 15 and statutory benefits is made knowingly by the employee.

4 16 c. The settlement is a reasonable and informed compromise
4 17 of the competing interests of the parties.

4 18 If an employee is represented by legal counsel, it is
4 19 presumed that the required showing for approval of the
4 20 settlement has been made.

4 21 8. Approval of a settlement by the workers' compensation
4 22 commissioner shall be is binding on the parties and shall not
4 23 be construed as an original proceeding. Notwithstanding any
4 24 provisions of this chapter and chapters 85A, 85B, 86 and 87,
4 25 an approved compromise settlement shall constitute a final bar
4 26 to any further rights arising under this chapter and chapters
4 27 85A, 85B, 86, and 87. Such regarding the subject matter of
4 28 the compromise and a payment made pursuant to a compromise

4 29 settlement agreement shall not be construed as the payment of
4 30 weekly compensation.

4 31 Sec. 4. Section 85.38, subsection 2, unnumbered paragraph
4 32 2, Code 2005, is amended to read as follows:

4 33 If an employer denies liability under this chapter, chapter
4 34 85A, or chapter 85B, for payment for any medical services
4 35 received or weekly compensation requested by an employee ~~with~~
5 1 ~~a disability~~, and the employee is a beneficiary under either
5 2 an individual or group plan for nonoccupational illness,
5 3 injury, or disability, the nonoccupational plan shall not deny
5 4 payment for the medical services received or for benefits
5 5 ~~under the plan~~ on the basis that the employer's liability ~~for~~
5 6 ~~the medical services~~ under this chapter, chapter 85A, or
5 7 chapter 85B is unresolved.

5 8 Sec. 5. Section 85.71, Code 2005, is amended by adding the
5 9 following new subsection:

5 10 NEW SUBSECTION. 5. The employer has a place of business
5 11 in Iowa, and the employee is working under a contract of hire
5 12 which provides that the employee's workers' compensation
5 13 claims be governed by Iowa law.

5 14 Sec. 6. Section 86.24, subsection 4, Code 2005, is amended
5 15 to read as follows:

5 16 4. A transcript of a contested case proceeding shall be
5 17 provided ~~to the workers' compensation commissioner~~ by an
5 18 appealing party at the party's cost ~~and an affidavit shall be~~
5 19 ~~filed by the appealing party or the party's attorney with the~~
5 20 ~~workers' compensation commissioner within ten days after the~~
5 21 ~~filing of the appeal to the workers' compensation commissioner~~
5 22 ~~stating that the transcript has been ordered and identifying~~
5 23 ~~the name and address of the reporter or reporting firm from~~
5 24 ~~which the transcript has been ordered.~~

5 25 Sec. 7. NEW SECTION. 86.45 CONFIDENTIAL INFORMATION.

5 26 1. "Confidential information", for the purposes of this
5 27 section, means all information that is filed with the workers'
5 28 compensation commissioner as a result of an employee's injury
5 29 or death that would allow the identification of the employee
5 30 or the employee's dependents. Confidential information
5 31 includes first reports of injury and subsequent reports of
5 32 claim activity. Confidential information does not include
5 33 pleadings, motions, decisions, opinions, or applications for
5 34 settlement that are filed with the workers' compensation
5 35 commissioner.

6 1 2. The workers' compensation commissioner shall not
6 2 disclose confidential information except as follows:

6 3 a. Pursuant to the terms of a written waiver of
6 4 confidentiality executed by the employee or the dependents of
6 5 the employee whose information is filed with the workers'
6 6 compensation commissioner.

6 7 b. To another governmental agency, or to an advisory,
6 8 rating, or research organization, for the purpose of compiling
6 9 statistical data, evaluating the state's workers' compensation
6 10 system, or conducting scientific, medical, or public policy
6 11 research, where such disclosure will not allow the
6 12 identification of the employee or the employee's dependents.

6 13 c. To the employee or to the agent or attorney of the
6 14 employee whose information is filed with the workers'
6 15 compensation commissioner.

6 16 d. To the person or to the agent of the person who
6 17 submitted the information to the workers' compensation
6 18 commissioner.

6 19 e. To an agent, representative, attorney, investigator,
6 20 consultant, or adjuster of an employer, or insurance carrier
6 21 or third-party administrator of workers' compensation
6 22 benefits, who is involved in administering a claim for such
6 23 benefits related to the injury or death of the employee whose
6 24 information is filed with the workers' compensation
6 25 commissioner.

6 26 f. To all parties to a contested case proceeding before
6 27 the workers' compensation commissioner in which the employee
6 28 or a dependent of the employee, whose information is filed
6 29 with the workers' compensation commissioner, is a party.

6 30 g. In compliance with a subpoena.

6 31 h. To an agent, representative, attorney, investigator,
6 32 consultant, or adjuster of the employee, employer, or
6 33 insurance carrier or third-party administrator of insurance
6 34 benefits, who is involved in administering a claim for
6 35 insurance benefits related to the injury or death of the
7 1 employee whose information is filed with the workers'
7 2 compensation commissioner.

7 3 i. To another governmental agency that is charged with the
7 4 duty of enforcing liens or rights of subrogation or indemnity.

7 5 3. This section does not create a cause of action for a
7 6 violation of its provisions against the workers' compensation
7 7 commissioner or against the state or any governmental
7 8 subdivision of the state.

7 9 Sec. 8. Section 87.11, unnumbered paragraph 1, Code 2005,
7 10 is amended to read as follows:

7 11 When an employer coming under this chapter furnishes
7 12 satisfactory proofs to the insurance commissioner of such
7 13 employer's solvency and financial ability to pay the
7 14 compensation and benefits as by law provided and to make such
7 15 payments to the parties when entitled thereto, or when such
7 16 employer deposits with the insurance commissioner security
7 17 satisfactory to the insurance commissioner ~~and the workers'~~
7 18 ~~compensation commissioner~~ as guaranty for the payment of such
7 19 compensation, such employer shall be relieved of the
7 20 provisions of this chapter requiring insurance; but such
7 21 employer shall, from time to time, furnish such additional
7 22 proof of solvency and financial ability to pay as may be
7 23 required by such insurance commissioner ~~or workers'~~
7 24 ~~compensation commissioner~~. Such security shall be held in
7 25 trust for the sole purpose of paying compensation and benefits
7 26 and is not subject to attachment, levy, execution,
7 27 garnishment, liens, or any other form of encumbrance.

7 28 However, the insurance commissioner shall be reimbursed from
7 29 the security for all costs and fees incurred by the insurance
7 30 commissioner in resolving disputes involving the security. A
7 31 political subdivision, including a city, county, community
7 32 college, or school corporation, that is self-insured for
7 33 workers' compensation is not required to submit a plan or
7 34 program to the insurance commissioner for review and approval.

7 35 Sec. 9. Section 87.14A, Code 2005, is amended to read as
8 1 follows:

8 2 87.14A INSURANCE ~~OR BOND~~ REQUIRED.

8 3 An employer subject to this chapter and chapters 85, 85A,
8 4 85B, and 86 shall not engage in business without first
8 5 obtaining insurance covering compensation benefits or
8 6 obtaining relief from insurance as provided in this chapter ~~or~~
8 7 ~~furnishing a bond pursuant to section 87.16~~. A person who
8 8 willfully and knowingly violates this section is guilty of a
8 9 class "D" felony.

8 10 Sec. 10. Section 87.19, unnumbered paragraph 1, Code 2005,
8 11 is amended to read as follows:

8 12 Upon the receipt of information by the workers'
8 13 compensation commissioner of any employer failing to comply
8 14 with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner
8 15 shall at once notify such employer by certified mail that
8 16 unless such employer comply with the requirements of law,
8 17 legal proceedings will be instituted to enforce such
8 18 compliance.

8 19 Sec. 11. Section 87.20, Code 2005, is amended to read as
8 20 follows:

8 21 87.20 REVOCATION OF RELEASE FROM INSURANCE.

8 22 The insurance commissioner ~~with the concurrence of the~~
8 23 ~~workers' compensation commissioner~~ may, at any time, upon
8 24 reasonable notice to such employer and upon hearing, revoke
8 25 for cause any order theretofore made relieving any employer
8 26 from carrying insurance as provided by this chapter.

8 27 Sec. 12. Section 91A.3, subsection 3, Code 2005, is
8 28 amended to read as follows:

8 29 3. The wages paid under subsection 1 shall be sent to the
8 30 employee by mail or be paid at the employee's normal place of
8 31 employment during normal employment hours or at a place and
8 32 hour mutually agreed upon by the employer and employee, ~~or the~~
8 33 ~~employee may elect to have the wages sent for direct deposit,~~
8 34 on or by the regular payday of the employee, into a financial
8 35 institution designated by the employee. An employer shall not
9 1 require a current employee to participate in direct deposit.

9 2 The employer may require, as a condition of hire, a new
9 3 employee to sign up for direct deposit of the employee's wages
9 4 in a financial institution of the employee's choice unless
9 5 either of the following conditions exist:

9 6 a. The costs to the employee of establishing and
9 7 maintaining an account for purposes of the direct deposit
9 8 would effectively reduce the employee's wages to a level below
9 9 the minimum wage provided under section 91D.1.

9 10 b. The provisions of a collective bargaining agreement
9 11 mutually agreed upon by the employer and the employee
9 12 organization prohibit the employer from requiring an employee
9 13 to sign up for direct deposit as a condition of hire.

9 14 Sec. 13. Section 91A.6, Code 2005, is amended by adding
9 15 the following new subsection:

9 16 NEW SUBSECTION. 4. On each regular payday, the employer
9 17 shall send to each employee by mail or shall provide at the
9 18 employee's normal place of employment during normal employment
9 19 hours a statement showing the hours the employee worked, the
9 20 wages earned by the employee, and deductions made for the
9 21 employee. An employer who provides each employee access to
9 22 view an electronic statement of the employee's earnings and
9 23 provides the employee free and unrestricted access to a
9 24 printer to print the employee's statement of earnings, if the
9 25 employee chooses, is in compliance with this subsection.
9 26 Sec. 14. Sections 87.16 and 87.17, Code 2005, are
9 27 repealed.
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