

CHAPTER 1103

HIGHWAY CONSTRUCTION AND REPAIR — TOPSOIL PRESERVATION

S.F. 144

AN ACT requiring contracts for the construction or maintenance of highways to include certain provisions for the restoration of areas in which fill dirt or other materials are to be removed.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 314.12A PRESERVATION OF TOPSOIL IN HIGHWAY CONSTRUCTION.

In the award of contracts for the construction, reconstruction, improvement and repair, except for minor maintenance, of a highway, the state department of transportation shall require that when fill dirt, soil, or other materials are to be removed from an area acquired by title or easement, whether by agreement or condemnation, for use in the project, adequate provision shall be made for the salvage of topsoil from the area for use in the restoration of the specified critical areas of the project by replacement of salvaged topsoil, by fertilizing and mulching if necessary, or by other appropriate measures to provide vegetative cover to prevent erosion, including filling or covering the area with compost, except where a lake or subwater table conditions exist, where deep loess is present, or where outside ditch bottoms and backslopes are present in rock cut areas. This section shall not apply to borrow pits covered by section 314.12.

Approved April 11, 2002

CHAPTER 1104

CHILD CARE AND CHILD CARE PROVIDERS — OBTAINING PUBLIC FUNDING BY FRAUDULENT MEANS

S.F. 466

AN ACT relating to child care and protection public policy provisions involving children by authorizing sanctions for a child care provider who obtains public funding by fraudulent means.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 237A.29, Code 2001, is amended to read as follows:
237A.29 ~~STATE AND FEDERAL PUBLIC FUNDING OF CHILD CARE.~~

1. State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, and guidance of a child for periods of less than twenty-four hours per day on a regular basis unless the care, supervision, and guidance is defined as child care as used in this chapter.

2. a. For the purposes of this subsection, "fraudulent means" means knowingly making or causing to be made a false statement or a misrepresentation of a material fact, knowingly failing to disclose a material fact, or committing a fraudulent practice.

b. A child care provider that has been found in an administrative or judicial proceeding to

have obtained, or has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the child care provider has obtained, by fraudulent means, public funding for provision of child care in an amount equal to or in excess of the minimum amount for a fraudulent practice in the second degree under section 714.10, subsection 1, shall be subject to sanction in accordance with this subsection. Such child care provider shall be subject to a period during which receipt of public funding for provision of child care is conditioned upon no further violations and to one or more of the following sanctions as determined by the department and imposed in an administrative proceeding:

- (1) Ineligibility to receive public funding for provision of child care.
- (2) Suspension from receipt of public funding for provision of child care.
- (3) Special review of the child care provider's claims for providing publicly funded child care.

c. The following factors shall be considered in determining the sanction or sanctions to be imposed under paragraph "b", subparagraphs (1) through (3):

- (1) Seriousness of the violation.
- (2) Extent of the violation.
- (3) History of prior violations.
- (4) Prior imposition of sanctions.
- (5) Prior provision of provider education.
- (6) Provider willingness to obey program rules.
- (7) Whether a lesser sanction will be sufficient to remedy the problem.

d. In determining the value of the public funding obtained by fraudulent means, if the public funding is obtained by two or more acts of fraudulent means by the same person or location, or is obtained by different persons by two or more acts which occur in approximately the same location or time period so that the acts of fraudulent means used to obtain the public funding are attributable to a single scheme, plan, or conspiracy, these acts may be considered as a single instance of the use of fraudulent means and the value may be the total value of all monies involved.

3. a. If a child care provider is subject to sanctions under subsection 2, the provider shall submit to the department the names and addresses of children receiving child care from the provider. The department shall send information to the parents of the children regarding the provider's actions leading to the imposition of the sanctions and the nature of the sanctions imposed. If the provider fails to submit the names and addresses within five business days of the department notifying the provider, the department shall suspend the provider's registration or license under this chapter until the names and addresses are provided.

b. In addition to applying the suspension, the department may request that the attorney general file a petition with the district court of the county in which the provider is located for issuance of a temporary injunction enjoining the provider from providing child care until the names and addresses are submitted to the department. The attorney general may file the petition upon receiving the request from the department. Any temporary injunction may be granted without a bond being required from the department.

c. If the sanctions imposed under subsection 2 involve the provider's suspension or ineligibility for receiving public funding for provision of child care, the department shall not impose those sanctions before the parents of the affected children are informed, and upon request, shall provide assistance to the parents in locating replacement child care.

Approved April 11, 2002