

CHAPTER 1077ACTIONS TO ABATE NUISANCES —
ELECTRIC UTILITIES — COMPARATIVE FAULT

H.F. 2397

AN ACT relating to the act or property of a public utility with respect to the definition of nuisance.

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

Section 1. Section 657.1, Code 2003, is amended to read as follows:

657.1 NUISANCE — WHAT CONSTITUTES — ACTION TO ABATE.

1. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property, so as essentially to ~~unreasonably~~ interfere ~~unreasonably~~ with the comfortable enjoyment of life or property, is a nuisance, and a civil action by ordinary proceedings may be brought to enjoin and abate the same nuisance and to recover damages sustained on account thereof ~~of the nuisance~~.

2. Notwithstanding subsection 1, in an action to abate a nuisance against an electric utility, an electric utility may assert a defense of comparative fault as set out in section 668.3 if the electric utility demonstrates that in the course of providing electric services to its customers that it has complied with engineering and safety standards as adopted by the utilities board of the department of commerce, and if the electric utility has secured all permits and approvals, as required by state law and local ordinances, necessary to perform activities alleged to constitute a nuisance.

Approved April 14, 2004

CHAPTER 1078ENVIRONMENTAL REGULATION — RECYCLED OIL
AND REFUSE-DERIVED FUEL

H.F. 2517

AN ACT relating to environmental regulations administered by the department of natural resources regarding the use of recycled oil and the calculation of waste volume reduction measures.

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

Section 1. Section 455B.306, subsection 3, Code 2003, is amended to read as follows:

3. A city or county required to file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents and which seeks approval of the inclusion of refuse-derived fuel as a component of its percentage of waste reduction, shall file an annual report with the director regarding the percentage of reduction attributable to refuse-derived fuel and the justification for such inclusion. The director shall approve or reject the inclusion. The percentage of reduction attributable to refuse-

derived fuel and allowable for inclusion shall not exceed fifty percent and only those products established as allowable pursuant to section 455D.20 shall be included in the calculation of the waste reduction goal.

Sec. 2. Section 455B.412, subsection 5, Code 2003, is amended by striking the subsection.

Sec. 3. Section 455D.20, Code 2003, is repealed.

Approved April 14, 2004

CHAPTER 1079

IOWA EDUCATIONAL SAVINGS PLAN TRUST REVISIONS

H.F. 2553

AN ACT relating to technical and substantive changes regarding the Iowa educational savings plan trust and the establishment of an additional optional program by a specified date, and providing an effective date.

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

Section 1. Section 12D.1, Code 2003, is amended to read as follows:

12D.1 PURPOSE AND DEFINITIONS.

The general assembly finds that the general welfare and well-being of the state are directly related to educational levels and skills of the citizens of the state, and that a vital and valid public purpose is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the state. The state has limited resources to provide additional programs for higher education funding and the continued operation and maintenance of the state's public institutions of higher education and the general welfare of the citizens of the state will be enhanced by establishing a program which allows citizens of the state to invest money in a public trust for future application to the payment of higher education costs. The creation of the means of encouragement for citizens to invest in such a program represents the carrying out of a vital and valid public purpose. In order to make available to the citizens of the state an opportunity to fund future higher education needs, it is necessary that a public trust be established in which moneys may be invested for future educational use. ~~It is also necessary to establish an endowment fund which may be funded with public funds, among other sources, the income from which will be made available to participants in the trust to enhance their savings invested for the payment of future higher education costs.~~

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

1. "Account balance limit" means the maximum allowable aggregate balance of accounts established for the same beneficiary. Account earnings, if any, are included in the account balance limit.
2. "Administrative fund" means the administrative fund established under section 12D.4.
3. "Beneficiary" means the individual designated by a participation agreement to benefit from advance payments of higher education costs on behalf of the beneficiary.
4. "Benefits" means the payment of higher education costs on behalf of a beneficiary by the trust during the beneficiary's attendance at an institution of higher education.
5. ~~"Endowment fund" means the endowment fund established under section 12D.4.~~