

son who installed such dispenser before the sixty-day period expired may use the dispenser as provided in subparagraph (1) until four years after the date that the order is published.

3. (3) This section paragraph "a" is repealed four years following the date that the order issued by the state fire marshal is published in the Iowa administrative bulletin as provided in this section subparagraph (2).

b. (1) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline. In addition, the retail dealer must install an under-dispenser containment system with electronic monitoring. The under-dispenser containment system shall comply with applicable rules adopted by the department of natural resources and the state fire marshal.

(2) If within ten years from the date that a dispenser described in subparagraph (1) is installed, the same model of dispenser is listed as compatible for use with E-85 gasoline by an independent testing laboratory, the dispenser shall be deemed as compatible for use with ethanol blended gasoline classified as E-9 or higher up to and including E-85 by the department of natural resources and the state fire marshal. However, if after that time, the same model of dispenser is not listed as compatible for use with E-85 gasoline by an independent testing laboratory, subparagraph (1) no longer applies, and the retail dealer must do any of the following:

(a) Upgrade or replace the dispenser as necessary to be listed as compatible for use with E-85 gasoline.

(b) Comply with the requirements in paragraph "a".

Approved May 18, 2009

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## CHAPTER 106

### STATUTORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES — LEGISLATIVE APPOINTMENTS

S.F. 430

**AN ACT** relating to appointments to statutory boards, commissions, councils, and committees that involve the general assembly, and including effective date and applicability provisions.

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

Section 1. Section 2.32, subsection 1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

The governor shall either make an appointment or file a notice of deferred appointment by March 15 1 for the following appointments which are subject to confirmation by the senate:

Sec. 2. Section 2.32, subsection 3, Code 2009, is amended to read as follows:

3. The governor shall submit all appointments requiring confirmation by the senate and notices of deferred appointment to the secretary of the senate who shall provide the governor's office with receipts of submission. Each notice of appointment shall be accompanied by a statement of the appointee's political affiliation. The notice of a deferred appointment shall be filed by the governor with the secretary of the senate and accompanied by a statement of reasons for the deferral. For appointments requiring confirmation by the senate made during the legislative interim, the notice of appointment shall be submitted to the secretary of the senate within three days of the appointment date.

Sec. 3. Section 8.65, subsection 1, paragraph b, Code 2009, is amended to read as follows:

b. Four nonvoting members of the general assembly shall be appointed for a term of two years commencing at the convening of each general assembly terms as provided in section 69.16B, one each appointed by the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. ~~However, initial appointments of members under this paragraph shall be made on April 27, 2007.~~

Sec. 4. Section 8.65, subsection 2, paragraph a, Code 2009, is amended to read as follows:

a. Terms of voting members and of nonvoting members specified in subsection 1, paragraph "c", shall begin and end as provided by section 69.19. However, the terms of the voting members appointed by a member of the general assembly shall begin and end as provided in section 69.16B. Any vacancy shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

Sec. 5. Section 216A.139, subsection 2, unnumbered paragraph 1, Code 2009, is amended to read as follows:

~~Members~~ The voting members of the council shall include ~~members of the general assembly selected by the legislative council and~~ one representative of each of the following:

Sec. 6. Section 216A.139, Code 2009, is amended by adding the following new subsection: NEW SUBSECTION. 2A. In addition to the voting members, the council membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves for a term as provided in section 69.16B in an ex officio, nonvoting capacity.

Sec. 7. Section 225C.5, subsection 1, unnumbered paragraph 1, Code 2009, is amended to read as follows:

A mental health, mental retardation, developmental disabilities, and brain injury commission is created as the state policy-making body for the provision of services to persons with mental illness, mental retardation or other developmental disabilities, or brain injury. ~~The commission shall consist of sixteen~~ commission's voting members shall be appointed to three-year staggered terms by the governor and are subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, mental retardation or other developmental disabilities, and brain injury, in a manner so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. ~~Members~~ The membership of the commission shall ~~include~~ consist of the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

Sec. 8. Section 249A.36, subsection 2, paragraph a, Code 2009, is amended to read as follows:

a. The council shall consist of ~~seven~~ eight voting members who are not members of the general assembly. The voting members shall be appointed two each by the majority leader of the senate, the minority leader of the senate, the speaker of the house, and the minority leader of the house of representatives. At least one member of the council shall be a consumer and at least one member shall be a medical assistance program provider. An individual who is employed by a private or nonprofit organization that receives one million dollars or more in compensation or reimbursement from the department, annually, is not eligible for appointment to the council. The members shall serve terms of two years beginning and ending as provided in section ~~69.19~~ 69.16B, and appointments shall comply with sections 69.16, ~~and~~ 69.16A, and

69.16C. Members shall receive reimbursement for actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6. Vacancies shall be filled by the original appointing authority and in the manner of the original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term.

Sec. 9. Section 280A.2, subsections 8 and 9, Code 2009, are amended to read as follows:

8. TERMS OF MEMBERS. The members shall be appointed to ~~three-year staggered terms and the terms shall commence and end as provided by section 69.19, except that the appointment and terms of legislators shall be terms~~ as provided in section 69.16B. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. A successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired portion of the term.

9. EXPENSES. ~~Members~~ The members of the commission who are not legislators are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties from funds appropriated to the department of education for that purpose, ~~except that legislators'.~~ Legislators' per diem and expenses shall be paid from funds appropriated by section 2.12.

Sec. 10. Section 303A.5, subsection 2, Code 2009, is amended to read as follows:

2. Members appointed by the general assembly shall be appointed to ~~two-year terms~~ as provided in section 69.16B. The public members appointed by the governor shall serve five-year staggered terms beginning and ending as provided in section 69.19. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as the original appointments.

Sec. 11. Section 411.36, subsection 2, Code 2009, is amended to read as follows:

2. Except as otherwise provided for the initial appointments, the voting members shall be appointed for four-year terms, and the nonvoting members shall be appointed for ~~two-year~~ terms as provided in section 69.16B. Terms of voting members begin on May 1 in the year of appointment and expire on April 30 in the year of expiration.

Sec. 12. Section 411.36, subsection 5, paragraph a, Code 2009, is amended to read as follows:

a. ~~Members~~ The voting members of the board shall be paid their actual and necessary expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service. Per diem and expenses shall be paid to voting members from the fire and police retirement fund created in section 411.8.

Sec. 13. Section 455B.150, subsection 1, paragraph b, Code 2009, is amended to read as follows:

b. Four persons appointed by the leadership of the general assembly.

(1) The persons, who shall not be members of the general assembly, shall be appointed as follows:

(a) One person by the majority leader of the senate after consultation with the president of the senate ~~and the minority leader,~~ and one person by the minority leader of the senate ~~after consultation with the president of the senate and the majority leader.~~

(b) ~~Two persons appointed~~ One person by the speaker of the house of representatives after consultation with the majority leader ~~and minority leader, and one person by the minority leader of the house of representatives.~~

(2) Each person shall be an owner of a small business stationary source or shall represent an owner of a small business stationary source.

(3) ~~The~~ Each person shall serve for a two-year term as provided in section 69.16B and may be reappointed.

~~(4) A term shall expire upon the convening of the following general assembly, or when the appointee's successor is appointed, whichever occurs later.~~

Sec. 14. EFFECTIVE DATE AND APPLICABILITY PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment. This Act applies to appointees named by a member or members of the general assembly before, on, or after the effective date of this Act and to appointments subject to section 2.32 on or after the effective date of this Act.

Approved May 18, 2009

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## CHAPTER 107

### PROTECTION OF DEPENDENT ADULTS

S.F. 438

**AN ACT** relating to actions injurious to dependent adults and providing penalties.

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

Section 1. Section 235B.2, subsection 5, paragraph a, subparagraph (3), Code 2009, is amended to read as follows:

(3) ~~(a)~~ Sexual exploitation of a dependent adult by a caretaker.

~~(b) "Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. "Sexual exploitation" includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.<sup>1</sup>~~

Sec. 2. Section 235B.17, Code 2009, is amended to read as follows:

235B.17 PROVISION OF PROTECTIVE SERVICES WITH THE CONSENT OF DEPENDENT ADULT — CARETAKER REFUSAL.

1. If a caretaker of a dependent adult, who consents to the receipt of protective services, refuses to allow provision of the services, the department may petition the court with probate jurisdiction in the county in which the dependent adult resides for an order enjoining the caretaker from interfering with the provision of services.

2. The petition shall be verified and shall allege specific facts sufficient to demonstrate that the dependent adult is in need of protective services and consents to the provision of services and that the caretaker refuses to allow provision of the services. The petition shall include all of the following:

a. The name, date of birth, and address of the dependent adult alleged to be in need of protective services.

<sup>1</sup> See chapter 179, §52, repealing chapter 41, §95, 96 herein