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**House File 202**

February 4, 1947.  
Social Security.

By REED, TROEGER, VAN EATON, SMITH  
of Des Moines, BROWN of Mahaska, TES-  
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ZIG, WEICHMAN, McELENNEY, ROBB,  
BURKMAN, KNICKERBOCKER, HEDIN  
and NIELSEN.

## **A BILL FOR**

An Act to provide workmen's compensation benefits for certain employees for disability or death from injurious exposure to certain occupational diseases, to define occupational diseases, to prescribe the terms, conditions, regulations, limitations and exceptions applicable thereto and to provide the procedure for obtaining benefits and for administering the law and for appeals and to provide the duties of the Industrial Commissioner in connection therewith.

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

1 Section 1. Short Title. This Act shall be known and  
2 referred to as the "Iowa Occupational Disease Law".

1 Sec. 2. Employers included. All employers as defined  
2 by the workmen's compensation law of Iowa and who are  
3 engaged in any business or industrial process hereinafter  
4 designated and described are employers within the provisions  
5 of this Act and shall be subject thereto.

1 Sec. 3. Employees covered. All employees as defined

2 by the workmen's compensation law of Iowa employed in any  
3 business or industrial process hereinafter designated and  
4 described and who in connection with their employment are  
5 exposed to an occupational disease as herein defined are  
6 subject to the provisions of this Act.

1 Sec. 4. Disablement defined. Disablement as that term  
2 is used in this Act is the event or condition where an employee  
3 becomes actually incapacitated from performing his work because  
4 of an occupational disease as designated and defined in this  
5 Act in the last occupation in which such employee is injuriously  
6 exposed to the hazards of such disease.

1 Sec. 5. Compensation payable. All employees subject to  
2 the provisions of this Act who shall become disabled from  
3 injurious exposure to an occupational disease herein designated  
4 and defined within the conditions, limitations and requirements  
5 provided herein, shall receive compensation, reasonable surgical,  
6 medical, osteopathic, chiropractic, nursing and hospital services  
7 and supplies therefor, and burial expenses as provided in the  
8 workmen's compensation law of Iowa except as otherwise provided  
9 in this Act.

1 Sec. 6. Dependents defined. Dependents of a deceased  
2 employee whose death has been caused by an occupational disease  
3 as herein defined and under the provisions, conditions and  
4 limitations of this Act shall be those persons defined as  
5 dependents under the workmen's compensation law of Iowa and

6 such dependents shall receive compensation benefits as provided  
7 by said law.

1 Sec. 7. Limitations and exceptions. The provisions of  
2 this Act providing payment of workmen's compensation on account  
3 of occupational disease as defined and set out in this Act,  
4 shall be subject to the following limitations and exceptions:

5 (a) No compensation shall be payable if the employee, at  
6 the time of entering the employment of the employer in writing  
7 falsely represented himself to said employer as not having been  
8 previously disabled, laid off or compensated, or having lost  
9 time by reason of an occupational disease.

10 (b) No compensation for death because of an occupational  
11 disease shall be payable to any person whose relationship to  
12 the deceased employee arose subsequent to the beginning of the  
13 first compensable disability, except only after-born children  
14 of a marriage existing at the beginning of such disability.

15 (c) When such occupational disease causes the death of an  
16 employee and there are no dependents entitled to compensation,  
17 then the employer shall pay the medical, hospital and burial  
18 expenses as is provided by the workmen's compensation law, and  
19 shall also pay to the Treasurer of the State of Iowa for the use  
20 and benefit of the Second Injury Compensation Fund such amount  
21 as is required by the Second Injury Compensation Act.

22 (d) Where such occupational disease is aggravated by any  
23 other disease or infirmity not of itself compensable, or where

24 disability or death results from any other cause not of itself  
25 compensable but is aggravated, prolonged or accelerated by such  
26 an occupational disease, and disability results such as to be  
27 compensable under the provisions of this Act, the compensation  
28 payable shall be reduced and limited to such proportion only  
29 of the compensation that would be payable if the occupational  
30 disease was the sole cause of the disability or death, as such  
31 occupational disease bears to all the causes of such disability  
32 or death. Such reduction or limitation in compensation shall  
33 be effected by reducing either the number of weekly payments or  
34 the amount of such payments as the Industrial Commissioner may  
35 determine is for the best interests of the claimant or claimants.

36 (e) No compensation shall be allowed or payable for any  
37 disease or death intentionally self-inflicted by the employee  
38 or due to his intoxication, his commission of a misdemeanor or  
39 felony, his wilful failure or refusal to use a safety  
40 appliance or health protective, his wilful failure or refusal  
41 to obey a reasonable written or printed rule of the employer  
42 which has been posted in a conspicuous position in the place  
43 of work, or his wilful failure or refusal to perform or obey  
44 any statutory duty. The burden of establishing any such ground  
45 shall rest upon the employer.

46 (f) No compensation shall be payable or allowed in any  
47 case where the last injurious exposure to the hazards of such  
48 occupational disease occurred prior to the effective date of  
49 this Act.

1     Sec. 8. Occupational disease defined. Occupational  
2 diseases shall be only those diseases hereinafter designated  
3 and defined and which arise out of and in the course of the  
4 employment hereinafter designated and described. Such diseases  
5 shall have a direct causal connection with the designated  
6 occupations or processes hereinafter set out opposite such  
7 named diseases respectively and must have followed as a natural  
8 incident thereto from injurious exposure occasioned by the  
9 nature of the occupation or process. Such disease must be  
10 incidental to the character of the business, occupation or  
11 process in which the employee was employed and not independent  
12 of the employment. Such disease need not have been foreseen  
13 or expected but after its contraction it must appear to have  
14 had its origin in a risk connected with the employment and to  
15 have resulted from that source as an incident and rational  
16 consequence. A disease which follows from a hazard to which  
17 an employee has or would have been equally exposed outside of  
18 said occupation is not compensable as an occupational disease.

1     Sec. 9. Compensable occupational diseases and description  
2 of process or occupation. The following occupational diseases  
3 and their respective process or occupation are hereby declared  
4 to be "occupational diseases" within the meaning, definition  
5 and provisions herein contained. For the purpose of and within  
6 the meaning of this Act, no other diseases shall be considered  
7 "occupational" and compensable under the provisions of this Act.

8 Column 1.	Column 2.
9 Description of disease 10 declared to be an 11 "occupational disease"	Description of process or occupation, in which said disease is declared to be an industrial hazard and compensable.
14 1. Lead poisoning	1. Any process or occupation involving the use of or direct contact with lead or its preparation or compounds.
18 2. Mercury poisoning	2. Any process or occupation involving the use of or direct contact with mercury or its preparations or compounds.
23 3. Poisoning by nitrous fumes	3. Any process or occupation in which nitrous fumes are evolved.
26 4. Poisoning by carbon monoxide	4. Any process or occupation in which carbon monoxide is produced.
29 5. Poisoning by methyl chloride 30 halogens or other halogenated 31 hydrocarbons	5. Any process or occupation involving the use of or direct contact with methyl chloride, halogens or other halogenated hydrocarbons.

34 6. Poisoning by benzol or by  
35 nitro and amido derivatives  
36 of benzol (dinitrobenzol,  
37 aniline) and other aromatic  
38 hydrocarbons.

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40 7. Dermatitis. Infection or  
41 inflammation of the skin or  
42 contact surfaces due to oils,  
43 cutting compounds or lubricants,  
44 dusts, liquids, fumes, gases,  
45 vapors and solids

46 8. Zinc poisoning

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51 9. Manganese poisoning

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55 10. Bursitis, synovitis, vacular  
56 disturbances, bone changes,  
57 muscle, nerve or joint injuries

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59 11. Chrome ulceration of the

6. Any process or occupation,  
involving the use of benzol,  
nitro or amide-derivatives  
of benzol and other aromatic  
hydrocarbons or their  
preparations or compounds.

7. Any process or occupation  
involving the handling or use  
of oils, cutting compounds,  
lubricants, or involving  
contact with dusts, liquids,  
fumes, gases, vapors or solids.

8. Any process or occupation  
involving the use of or direct  
contact with zinc or its  
preparations, compounds or  
alloys.

9. Any process or occupation  
involving the use of or direct  
contact with manganese or its  
compounds.

10. Any process or occupation  
involving continuous rubbing,  
pressure or vibration of the  
parts affected.

11. Any process or occupation

60 skin or nasal passages.

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65 12. Cyanide poisoning

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68 13. Brucellosis (undulant fever)

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73 14. Erysipoloid

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78 15. Silicosis

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82 16. Conjunctivitis

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involving the use of or direct contact with chromic acid or bichromates of amonium, potassium, sodium or their preparations.

12. Any process or occupation involving the use of or direct contact with cyanides.

13. Any process or occupation involving the handling of animals or carcasses of animals infected with brucellosis.

14. Any process or occupation involving the handling of animals or carcasses of animals infected with swine erysipelas.

15. Any process or occupation involving an exposure to or direct contact with silicon dioxide dust.

16. Any process or occupation involving an exposure to or direct contact with electro or oxy-acetylene welding or other radiant energy.

1     Sec. 10. Last exposure—Employer liable. Where  
2 compensation is payable for an occupational disease, the  
3 employer in whose employment the employee was last injuriously  
4 exposed to the hazards of such disease, shall be liable  
5 therefor. The notice of injury and claim for compensation as  
6 hereinafter required shall be given and made to such employer,  
7 provided, that in case of silicosis, the only employer liable  
8 shall be the last employer in whose employment the employee  
9 was last injuriously exposed to the hazards of the disease  
10 during a period of not less than sixty (60) days which period  
11 shall be after the effective date of this Act.

1     Sec. 11. Diagnosis for Brucellosis. When any employee  
2 is clinically diagnosed as having brucellosis (undulant fever),  
3 it shall not be considered that the employee has the disease  
4 unless the clinical diagnosis is confirmed by,  
5     (a) a positive blood culture for brucella organisms, or  
6     (b) a positive agglutination test which must be verified  
7 by not less than two (2) successive positive agglutination  
8 tests, each of which tests shall be positive in a titer of one  
9 (1) to one hundred sixty (160) or higher. Said subsequent  
10 agglutination tests must be made of specimens taken not less  
11 than seven (7) nor more than ten (10) days after each preceding  
12 test.

13     The specimens for the tests required herein must be taken  
14 by a licensed practicing physician or osteopathic physician,  
15 and immediately delivered to the State Hygienic Laboratory of

16 the State Department of Health at Iowa City, and each such  
17 specimen shall be in a container upon which is plainly printed  
18 the name and address of the subject, the date when the specimen  
19 was taken, the name and address of the subject's employer and,  
20 a certificate by the physician or osteopathic physician that  
21 he took the specimen from the named subject on the date stated  
22 over his signature and his address.

23 The State Hygienic Laboratory shall immediately make the  
24 test and upon completion thereof it shall send a report of the  
25 result of such test to the physician or osteopathic physician  
26 from whom the specimen was received and also to the employer.

27 In the event of a dispute as to whether the employee has  
28 brucellosis, the matter shall be determined as any other  
29 disputed case.

1 Sec. 12. Disablement or death following exposure—

2 Limitations. An employer shall not be liable for any  
3 compensation for an occupational disease unless such disease  
4 shall be due to the nature of an employment in which the hazards  
5 of such disease actually exist, and which hazards are  
6 characteristic thereof and peculiar to the trade, occupation,  
7 process, or employment, and such disease is actually incurred  
8 in the employment, and unless disablement or death results  
9 within three (3) years in case of silicosis, or within one (1)  
10 year in case of any other occupational disease, after the last  
11 injurious exposure to such disease in such employment, or in  
12 case of death, unless death follows continuous disability from

13 such disease commencing within the period above limited for  
14 which compensation has been paid or awarded or timely claim  
15 made as provided by this Act and results within seven (7)  
16 years after such exposure.

1 Sec. 13. Provisions relating to silicosis.

2 (a) Silicosis defined. Whenever used in this Act, "silicosis"  
3 shall mean the characteristic fibrotic condition of the lungs  
4 caused by the inhalation of silica dust.

5 (b) Presumptions. In the absence of conclusive evidence  
6 in favor of the claim, disability or death from silicosis shall  
7 be presumed not to be due to the nature of any occupation within  
8 the provisions of this Act unless during the ten (10) years  
9 immediately preceding the disablement of the employee who has  
10 been exposed to the inhalation of silica dust over a period of  
11 not less than five (5) years, two (2) years of which shall  
12 have been in employment in this State.

13 (c) Compensation payable. Except as in this Act otherwise  
14 provided, compensation for disability from uncomplicated silicosis  
15 shall be payable in accordance with the provisions thereof; pro-  
16 vided, however, that no compensation shall be payable for  
17 disability from silicosis of less than thirty-three and one-  
18 third percent (33 1/3%) of total, and provided further that,  
19 during the transitory period, the aggregate compensation  
20 payable to employees and their dependents for disability and  
21 death for uncomplicated silicosis shall be limited as follows:  
22 If disablement occurs or in case of no claim for prior-disablement,

23 if death occurs in the third calendar month after the effective  
24 date of this Act, the total compensation and death benefits pay-  
25 able shall not exceed the sum of five hundred dollars (\$500). If  
26 disablement occurs or in case of no claim for prior disablement,  
27 if death occurs during the next calendar month, the total compen-  
28 sation and death benefits payable shall not exceed five hundred and  
29 fifty dollars (\$550). Thereafter,  
30 the total amount or limit of the compensation and death  
31 benefits payable for disability and death shall be increased  
32 at the rate of fifty dollars (\$50) per month, the aggregate  
33 payable in each case to be limited according to the foregoing  
34 formula for the month in which disability occurs, or, in case  
34 of no claim for prior disablement, in which death occurs.  
36 Such progressive increase in the limits of the aggregate  
37 compensation and benefits for disability and death shall  
38 continue until the limit upon such benefits fixed in the  
39 workmen's compensation law is reached, and thereafter the  
40 total aggregate of such compensation and benefits shall be  
41 the total compensation and benefits otherwise provided in the  
42 workmen's compensation law.

43 (d) Silicosis complicated with other diseases. In case  
44 of disability or death from silicosis complicated with  
45 tuberculosis of the lungs, compensation shall be payable as  
46 for uncomplicated silicosis, provided, however, that the  
47 silicosis was an essential factor in causing such disability  
48 or death. In case of disability or death from silicosis

49 complicated with any other disease, or from any other disease  
50 complicated with silicosis, the compensation shall be reduced  
51 as herein provided.

1     Sec. 14. Restriction on liability. No compensation shall  
2 be payable under this Act for any condition or physical or  
3 mental illbeing, disability, disablement, or death for which  
4 compensation is recoverable on account of accidental injury  
5 under the workmen's compensation law.

1     Sec. 15. Employers limit of liability. Payments of  
2 compensation and compliance with other provisions herein by  
3 the employer or his insurance carrier in accordance with the  
4 findings and orders of the Industrial Commissioner or the  
5 appellate court in appealed cases, shall discharge such  
6 employer from any and all further obligation.

1     Sec. 16. Reference to compensation law. The provisions  
2 of the workmen's compensation law, so far as applicable, and  
3 not inconsistent herewith, shall apply in cases of compensable  
4 occupational diseases as specified and defined herein.

1     Sec. 17. Disability. Compensation payable under this  
2 Act for temporary disability, permanent total disability or  
3 permanent partial disability, shall be such amounts as are  
4 provided under the workmen's compensation law.

1     Sec. 18. Notice of disability or death—Filing of claims.  
2 Except as herein otherwise provided, procedure with respect to  
3 notice of disability or death, as to the filing of claims and  
4 determination of claims shall be the same as in cases of injury

5 or death arising out of and in the course of employment under  
6 the workmen's compensation law. Written notice shall be given  
7 to the employer of an occupational disease by the employee within  
8 ninety (90) days after the first distinct manifestation thereof,  
9 and in the case of death from such an occupational disease,  
10 written notice of such claim shall also be given to the employer  
11 within ninety (90) days thereafter.

1 Sec. 19. Autopsy. Upon the filing of a claim for  
2 compensation for death from an occupational disease where an  
3 autopsy is necessary in order to accurately and scientifically  
4 ascertain and determine the cause of death, such autopsy shall  
5 be ordered by the Industrial Commissioner and shall be made  
6 under the supervision of the coroner of the county in which  
7 death occurs or in any county where the body of such employee  
8 may be taken.

9 The Industrial Commissioner may designate a duly licensed  
10 physician to perform or attend such autopsy and to certify  
11 his findings thereon. Such findings shall be filed in the  
12 office of the Industrial Commissioner. The Industrial  
13 Commissioner may also exercise such authority on his own  
14 motion or on application made to him at any time, upon the  
15 presentation of facts showing that a controversy may exist  
16 in regard to the cause of death or the existence of any  
17 occupational disease. All proceedings for compensation shall  
18 be suspended upon refusal of a claimant or claimants to permit  
19 such autopsy when so ordered and no compensation shall be

20 payable.

1     Sec. 20. Review of decision—Time limit. An award or  
2 denial of an award of compensation for an occupational disease  
3 may be reviewed and compensation increased, reduced or  
4 terminated where previously awarded or where previously denied,  
5 only upon proof of fraud, undue influence or change of  
6 condition and then only upon application by a party in interest  
7 made not later than one (1) year after the denial of an award  
8 or, where compensation has been awarded, after the award or  
9 the date when the last payment was made under the award, except  
10 in case of silicosis, where such time limit shall be two (2)  
11 years.

1     Sec. 21. Medical Board. There is hereby created a medical  
2 board for occupational diseases which shall consist of the  
3 Industrial Hygiene Physician of the State Department of Health  
4 and two physicians selected by the dean of the College of  
5 Medicine of the State University of Iowa, from the staff of  
6 said college, who shall be qualified to diagnose and report  
7 on occupational diseases. The medical board shall have the  
8 use, without charge, of all necessary laboratory and other  
9 facilities of the College of Medicine and of the University  
10 Hospital at the State University of Iowa, and of the State  
11 Department of Health in performing its duties prescribed  
12 herein.

1     Sec. 22. Controverted medical questions. Controversial  
2 medical questions may be referred by the Industrial Commissioner

3 to the medical board for investigation and report to the  
4 Industrial Commissioner when agreed to by the parties or on his  
5 own motion. No award shall be made in any case where  
6 controversial medical questions have been referred to the board  
7 until the board shall have duly investigated the case and made  
8 its report with respect to all such medical questions. The  
9 date of disablement, if in dispute, shall be deemed a medical  
10 question.

1 Sec. 23. Examination of employee by medical board. The  
2 medical board, upon reference to it by the Industrial  
3 Commissioner of a claim for occupational disease, shall notify  
4 the claimant or claimants and the employer or his insurance  
5 carrier to appear before the medical board at a time and place  
6 stated in the notice. If the employee be living, he shall  
7 appear before the medical board at the time and place  
8 specified to submit to such clinical and x-ray examinations  
9 as the medical board may require. The claimant and the  
10 employer shall each be entitled, at his own expense, to have  
11 present at all examinations conducted by the medical board, a  
12 physician admitted to practice in the state, who shall be given  
13 every reasonable facility for participating in every such  
14 examination. If a physician admitted to practice in the state  
15 shall certify that the employee is physically unable to appear  
16 at the time and place designated by the medical board, such  
17 board shall, on notice to the parties, change the time and  
18 place of examination to such other time and place as may

19 reasonably facilitate the examination of the employee.  
20 Proceedings shall be suspended and no compensation be payable  
21 for any period during which the employee may refuse to submit  
22 to such examination.

1 Sec. 24. Medical board's report—date of disablement.

2 The medical board shall, as soon as practicable after it has  
3 completed its consideration of the case, report in writing its  
4 findings and conclusions on every medical question in  
5 controversy. If the date of disablement is controverted and  
6 cannot be fixed exactly, the medical board shall fix the most  
7 probable date having regard to all the circumstances of the  
8 case. The medical board shall also include in its report the  
9 name and address of the physician or physicians if any who  
10 appeared before it and what if any medical reports and x-rays  
11 were considered by it.

1 Sec. 25. Findings and decision. The medical board shall

2 file its report in triplicate with the Industrial Commissioner  
3 who shall mail or deliver a certified copy thereof to the  
4 claimant and to the employer. The report of the medical board  
5 shall become a part of the record of the case and the Industrial  
6 Commissioner shall make his decision or award in the case based  
7 upon the entire record. The report of the medical board in any  
8 case may be remanded by the Commissioner to the board for  
9 reconsideration and further report.

1 Sec. 26. Existing diseases barred. There shall be no

2 liability for the payment of compensation under the provisions

3 of this Act to any person who at the time of the taking effect  
4 of this Act, is suffering with an occupational disease, which  
5 would be compensable under the provisions of this Act. An  
6 employer may at his own expense require his employees to submit  
7 to a physical examination within ninety (90) days after the  
8 taking effect of this Act for the purpose of determining whether  
9 any employee is affected with an occupational disease otherwise  
10 compensable under the provisions of this Act. In the event it  
11 is determined that any employee is suffering with any such an  
12 occupational disease the employer may require the employee to  
13 waive in writing any claim for compensation on account of such  
14 disease as a condition to continuing in the employment of the  
15 employer. In cases of dispute as to the existence of the  
16 disease the controversy may be referred to the Industrial  
17 Commissioner who shall decide the matter and who may, upon  
18 his own motion or by agreement of the parties, submit the  
19 controverted question to the medical board provided herein for  
20 its investigation and report, and said board shall immediately  
21 proceed with the investigation and with the examination of the  
22 employee and forthwith make its report to the Industrial  
23 Commissioner. Said examination shall be made and the  
24 investigation conducted in the same manner as is provided  
25 herein as to other controverted medical questions. The  
26 Industrial Commissioner shall then make this decision on the  
27 matter, and said decision shall have the same force and effect  
28 and be subject to all the other provisions of law applicable

29 the same as any other decision of the Industrial Commissioner.

1     Sec. 27. Liability of several employers. In any case  
2 where an employee is determined to be suffering from a  
3 compensable occupational disease and that said employee was  
4 suffering from said disease while in the employ of a prior  
5 employer, then and in that event the Industrial Commissioner  
6 shall determine the proportion of liability of each employer  
7 and when so determined, each employer or his insurance  
8 carrier shall pay that amount of compensation which the  
9 Industrial Commissioner determines shall be paid by him.  
10 The decision of the Industrial Commissioner shall have the  
11 same force and effect and shall be subject to all of the  
12 provisions of law as any other decision made by him.

1     Sec. 28. Industrial Commissioner. The Industrial  
2 Commissioner shall have jurisdiction over the operation and  
3 administration of the compensation provisions of this Act and  
4 said Commissioner shall perform all of the duties imposed upon  
5 him by this Act and such further duties as may hereafter be  
6 imposed by law.

1     Sec. 29. Severability. If any clause, sentence, section  
2 or part of this Act is adjudged to be unconstitutional or  
3 invalid for any reason by any Court of competent jurisdiction,  
4 such judgment shall not impair, affect or invalidate the  
5 remaining parts of this Act.

EXPLANATION OF H. F. 202

This bill provides for compensation for certain occupational diseases.