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FAUL, MARTIN and MAYTAG.

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 engaged
3 in any business or industrial process hereinafter designated
4 and described are employers within the provisions of this Act
5 and shall be subject thereto.

1 Sec. 3. Employees covered. All employees as defined by
2 the workmen's compensation law of Iowa employed in any business
3 or industrial process hereinafter designated and described and
4 who in connection with their employment are exposed to an
5 occupational disease as herein defined are subject to the
6 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 appliance
40 or health protective, his wilful failure or refusal to obey a
41 reasonable written or printed rule of the employer which has
42 been posted in a conspicuous position in the place of work, or
43 his wilful failure or refusal to perform or obey any statutory
44 duty. The burden of establishing any such ground shall rest
45 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 12 occupation, in which said 13 disease is declared to be 14 an industrial hazard and 15 compensable.
14 1. Lead poisoning	1. Any process or occupation involving the use of or direct

- 16 contact with lead or its
17 preparation or compounds.
- 18 2. Mercury poisoning 2. Any process or occupation
19 involving the use of or
20 direct contact with mercury
21 or its preparations or
22 compounds.
- 23 3. Poisoning by nitrous fumes 3. Any process or occupation
24 in which nitrous fumes are
25 evolved.
- 26 4. Poisoning by carbon monoxide 4. Any process or occupation
27 in which carbon monoxide is
28 produced.
- 29 5. Poisoning by methyl chloride 5. Any process or occupation
30 halogens or other halogenated involving the use of or direct
31 hydrocarbons contact with methyl chloride,
32 halogens or other halogenated
33 hydrocarbons.
- 34 6. Poisoning by benzol or by 6. Any process or occupation
35 nitro and amido derivatives involving the use of benzol,
36 of benzol (dinitrobenzol, nitro or amide-derivatives
37 aniline) and other aromatic of benzol and other aromatic
38 hydrocarbons. hydrocarbons or their
39 preparations or compounds.
- 40 7. Dermatitis. Infection or 7. Any process or occupation
41 inflammation of the skin or involving the handling or use

- 42 contact surfaces due to oils, of oils, cutting compounds,
43 cutting compounds or lubricants, lubricants, or involving
44 dusts, liquids, fumes, gases, contact with dusts, liquids,
45 vapors and solids fumes, gases, vapors or solids.
- 46 8. Zinc poisoning 8. Any process or occupation
47 involving the use of or direct
48 contact with zinc or its
49 preparations, compounds or
50 alloys.
- 51 9. Manganese poisoning 9. Any process or occupation
52 involving the use of or direct
53 contact with manganese or its
54 compounds.
- 55 10. Bursitis, synovitis, vacular 10. Any process or occupation
56 disturbances, bone changes, involving continuous rubbing,
57 muscle, nerve or joint injuries pressure or vibration of the
58 parts affected.
- 59 11. Chrome ulceration of the 11. Any process or occupation
60 skin or nasal passages. involving the use of or direct
61 contact with chromic acid or
62 bichromates of amonium,
63 potassium, sodium or their
64 preparations.
- 65 12. Cyanide poisoning 12. Any process or occupation
66 involving the use of or direct
67 contact with cyanides.

68 13. Brucellosis (undulant fever) 13. Any process or occupation
69 involving the handling of
70 animals or carcasses of
71 animals infected with
72 brucellosis.

73 14. Erysipoloid 14. Any process or occupation
74 involving the handling of
75 animals or carcasses of
76 animals infected with swine
77 erysipelas.

78 15. Silicosis 15. Any process or occupation
79 involving an exposure to or
80 direct contact with silicon
81 dioxide dust.

82 16. Conjunctivitis 16. Any process or occupation
83 involving an exposure to or
84 direct contact with electro
85 or oxy-acetylene welding or
86 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 hereof;
16 provided, 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
23 disablement, if death occurs in the third calendar month after
24 the effective date of this Act, the total compensation and
25 death benefits payable shall not exceed the sum of five hundred
26 dollars (\$500). If disablement occurs or in case of no claim
27 for prior disablement, if death occurs during the next calendar
28 month, the total compensation and death benefits payable shall
29 not exceed five hundred and 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.