

February 20, 1951.

**House File 481**

Labor.

By McFARLANE, SCHWENGEL, AUBREY, MILLER of Black Hawk, STEVENS, PALMER, UHLENHOPP LISLE, POSTON, SAR, BROWN, CLARK of Marion, NELSON of Woodbury, MUNGER, METZ, SLOANE, COOKSEY, RYAN, BUTLER, KUESTER, HENDRIX, NELSON of Jasper, HANSEN of Carroll, BASS, PUTNEY, FREY, McELENNEY, KOSEK, BROOKINGS, JUDD, DAVIS, OLSON, SCHROEDER, GOODE, PEDRICK.

Passed House, Date .....

Vote: Ayes..... Nays.....

Passed Senate, Date .....

Vote: Ayes..... Nays.....

Approved .....

# A BILL FOR

An Act to create an Industrial Safety Board within the department of labor, to prescribe its powers and duties and to provide penalties for violations of its rules and regulations.

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

1 Section 1. Definitions. When used in the chapter:

2 1. "Employer" includes any person acting directly or  
3 indirectly in the interest of an employer in relation to an em-  
4 ployee or to a place of employment.

5 2. "Employee" includes any person suffered or permitted to  
6 work by an employer.

7 3. "Person" means an individual, partnership, association,  
8 corporation, business trust, receiver, trustee, legal representa-  
9 tive, or successor to any of the foregoing.

10 4. "Place of employment" means any place in or about which  
11 an employee is suffered or permitted to work.

12 5. "Commissioner" means the state commissioner of labor.

1     Sec. 2. Employer's duty as to safety and health. Every  
2 employer shall furnish and maintain employment and a place of  
3 employment which, under all circumstances, shall be reasonably  
4 safe and healthful for employees. Every employer shall install,  
5 maintain and use such methods, processes, devices and safeguards,  
6 including methods of sanitation and hygiene, as are reasonably  
7 necessary to protect the life, health and safety of such employees  
8 and shall do every other thing reasonably necessary to render  
9 safe such employment and places of employment.

1     Sec. 3. Industrial safety board.

- 2     1. There is hereby created within the department of labor  
3 an "Industrial Safety Board", hereinafter referred to as "the  
4 board", consisting of eleven members, one to be selected from  
5 each of the following areas of industrial activity in the state:
- 6     a. Stone, clay, glass, cement mill, mine and quarry industry.
  - 7     b. Construction industry.
  - 8     c. Public utility service.
  - 9     d. Food products industry, excluding meat processing.
  - 10    e. Meat processing industry.
  - 11    f. Printing industry.
  - 12    g. Wood products industry.
  - 13    h. Chemical and allied products industry.
  - 14    i. Materials distribution, warehousing, office, hotel and  
15 service occupations.
  - 16    j. Equipment manufacture and repair industry.
  - 17    k. Miscellaneous industries.

18 The perspective of both labor and management shall be con-  
19 sidered in the appointment of the board members. Each member  
20 of the board shall be appointed by the governor from recommenda-  
21 tions by the commissioner for a term of three years, ending June 30  
22 of each odd-numbered year, or until their successors are appointed  
23 and qualified. Vacancies shall be filled by appointment for the  
24 unexpired term by the governor in the same manner as the original  
25 appointments. The commissioner of labor and commissioner of  
26 health shall be *ex officio* members of the board but shall have  
27 no vote and receive no additional compensation for duties per-  
28 formed in connection therewith.

29 2. Members of the board shall receive no salary but shall  
30 receive a per diem compensation of not to exceed fifteen dollars  
31 for each day, or part thereof, necessarily spent in the discharge  
32 of their official duties and shall be reimbursed for their rea-  
33 sonable and necessary travel and other expenses in amounts ap-  
34 proved by the commissioner. The commissioner is hereby authorized  
35 and directed to provide the board with such clerical, technical,  
36 legal and other assistance as shall be necessary to permit the  
37 board to perform its duties. Expenditures provided in this sub-  
38 section shall be paid from funds appropriated to the department  
39 of labor.

40 3. The board shall meet quarterly, or at the call of its  
41 chairman or the commissioner.

1 Sec. 4. Duties of industrial safety board. In addition to  
2 such other duties as may be conferred upon it by law, the board

3 shall formulate orders for the adoption, amendment, and repeal  
4 of such reasonable rules and regulations as the board may find  
5 to be necessary for the protection of life, health and safety  
6 of every employee in every employment and place of employment.  
7 such orders shall be referred to the commissioner for execution.

1 Sec. 5. Commissioner's duties.

2 1. In addition to such other powers and duties as may be  
3 conferred upon him by law, the commissioner shall enforce such  
4 rules and regulations for the prevention of accidents and occupa-  
5 tional diseases in every employment or place of employment as  
6 the board shall find, upon the basis of substantial evidence  
7 presented at a public hearing held, prior to the effective date  
8 of any such rule or regulation or amendment thereto, in accordance  
9 with the provisions of section 6 of this chapter to be necessary  
10 for the protection of the life, health and safety of employees.

11 2. The commissioner shall initiate suggestions to the board  
12 for the adoption, amendment or repeal of rules and regulations  
13 as appear necessary within the purview of the chapter.

14 3. In the performance of his duties, the commissioner may  
15 appoint special committees composed of employers, employees, and  
16 persons experienced in dealing with specific problems arising  
17 under this chapter and suggest to the board rules, regulations  
18 and amendments relating thereto.

19 4. Rules, regulations and amendments, and repeals thereof,  
20 issued by the commissioner under this chapter shall be effective  
21 as provided in section 7 hereof.

1     Sec. 6. Notice of public hearing. Notice of any public  
2 hearing held under this chapter shall be published at least once,  
3 not less than ten days prior thereto, in such newspaper or  
4 newspapers of general circulation as the commissioner may pre-  
5 scribe. Notice of such hearings and a copy of the proposed regu-  
6 lations or amendments shall be mailed to anyone filing with the  
7 commissioner a request for same upon payment of an annual fee of  
8 twenty-five dollars to cover the cost thereof.

1     Sec. 7. Effective date of rules—publication.

2     1. All rules and regulations, and all amendments and repeals  
3 thereof shall, unless otherwise prescribed by the commissioner,  
4 take effect thirty days after the first publication thereof and  
5 certified copies thereof shall be filed in the office of the  
6 secretary of state, and in the office of the auditor of each  
7 county in the state.

8     2. Every rule or regulation adopted and every amendment or  
9 repeal thereof, shall be published in such manner as the commissioner  
10 may determine and the commissioner shall deliver, without fee, a  
11 copy to every person making application therefor. Every rule and  
12 regulation adopted and every amendment or repeal thereof shall  
13 be reported to the governor by the commissioner in his biennial  
14 report, and copies of the rules, regulations, amendments or re-  
15 peals thereof made available by the commissioner to the general  
16 public.

1     Sec. 8. Variations. If there shall be practical difficul-  
2 ties or unnecessary hardship in carrying out the provisions of

3 this chapter or a rule of the commissioner thereunder, the com-  
4 missioner may make a variation from such requirements if the  
5 spirit of the provision or rule shall be observed and public  
6 safety and health secured. Any person affected by such pro-  
7 vision or rule, or his agent, may request the commissioner to  
8 authorize such variation stating the grounds thereof. Any  
9 authorization by the commissioner of a variation shall be in  
10 writing and shall describe the conditions under which the vari-  
11 ation shall be permitted. A properly indexed record of all vari-  
12 ations shall be kept in the office of the department and open to  
13 public inspection. Variations shall be subject to the approval  
14 of the board at its next meeting following the authorization of  
15 the variation.

1 Sec. 9. Hearings on reasonableness of safety regulations.

2 1. Any employer or other person affected by any safety rule  
3 or regulation may petition the commissioner for a hearing on  
4 the reasonableness of such regulation.

5 2. Such petition for hearing shall be by verified petition  
6 filed with the commissioner, setting out specifically and in full  
7 detail the regulation or regulations upon which a hearing is  
8 desired and reason why such a regulation or regulations are un-  
9 reasonable. All hearings shall be open to the public and notice  
10 thereof shall be given to the petitioner and to such other persons  
11 as the commissioner may find directly interested in such  
12 decisions.

13 3. Upon receipt of such petition, if the issues raised

14 therein have been adequately considered, the commissioner shall  
15 determine the same by confirming without hearing the previous  
16 determination, or if such hearing is necessary to determine the  
17 issues raised, the commissioner shall order a hearing thereon  
18 and determine the matter or matters in question at such times  
19 as he shall prescribe.

20 4. Upon such investigation, if it shall be found that the  
21 regulation complained of is unjust or unreasonable, the commission-  
22 er shall recommend to the board substitution therefor such other  
23 regulation as shall be just and reasonable.

24 5. Whenever at the time of the final determination upon  
25 such hearing it shall be found that further time is reasonably  
26 necessary for compliance with the regulation of the commissioner,  
27 the commissioner shall grant such time as may be reasonably  
28 necessary for such compliance.

1 Sec. 10. Right of entry. The commissioner or his author-  
2 ized representative shall have the power and authority to enter  
3 and inspect such places, question such employees, and investigate  
4 such facts, whether any person has violated any provisions of  
5 this chapter, or any rule or regulation issued thereunder or  
6 which may aid in the enforcement of the provision of this chapter.

1 Sec. 11. Enforcement. The commissioner shall have the  
2 power to enforce and shall administer the provisions of this  
3 chapter.

1 Sec. 12. Power to witnesses. The commissioner or his desig-  
2 nated representative, in the performance of any duty or the execu-

3 tion of any power prescribed by this chapter shall have the power  
4 to administer oaths, certify to official acts, take and cause  
5 to be taken depositions of witnesses, issue subpoenas, compel  
6 the attendance of witnesses, and the production of papers,  
7 books, documents, records and testimony. In cases of failure of  
8 any person to comply with any subpoena lawfully issued, or on  
9 the refusal of any witness to produce evidence or to testify  
10 to any matter regarding which he may be lawfully interrogated,  
11 it shall be the duty of the district court, upon application  
12 of the commissioner, or his designated agent, to compel  
13 obedience by proceedings for contempt, as in the case of dis-  
14 obedience of the requirements of a subpoena issued by such a  
15 court or a refusal to testify therein.

1 Sec. 13. Court review.

2 1. Any person aggrieved by a rule or regulation of the  
3 commissioner promulgated pursuant to sections 5 and 7 may com-  
4 mence an action in the district court against the commissioner  
5 to set aside such rule or regulation only on the ground that it  
6 is unlawful and unreasonable. Such action and pleadings therein  
7 shall be governed by the rules and laws applicable to equity  
8 proceedings in such court, provided that no order granting any  
9 character of injunctive relief shall be issued and no rule shall  
10 be set aside except after due notice in writing to the commis-  
11 sioner and a full hearing and determination as to the lawfulness  
12 and reasonableness of the rule or regulation. Either party to  
13 such action shall have a right to appeal from any judgment or

14 order therein, as provided by law; provided, no order granting  
15 any character of injunctive relief shall become effective until  
16 the time for appeal has expired without appeal having been taken,  
17 or until such order has been finally sustained.

18 2. In any proceeding under this section rules and regula-  
19 tions of the commissioner shall be deemed prima facie lawful and  
20 reasonable. No such rules and regulations shall be held invalid  
21 because of technical defect, provided there is substantial com-  
22 pliance with the provisions of this chapter.

23 3. In any proceedings brought pursuant to section 14 in-  
24 volving a rule or regulation which is the subject of a proceeding  
25 under this section, the court shall stay the proceeding under  
26 section 14 during the pendency of a proceeding under this section;  
27 provided, in the case of a proceeding under section 14, subsec-  
28 tion 2, the court granting a stay, shall, upon verified statement  
29 of the commissioner that serious danger to the health or safety  
30 of employees is threatened by the continuing violation of a rule  
31 or regulation involved in a proceeding under such subsection,  
32 issue a temporary injunction or restraining order enjoining or  
33 restraining, during the period of the stay, any violation of such  
34 rule or regulation.

1 Sec. 14. Penalties and injunctions.

2 1. Any person failing to comply with any provisions of  
3 this chapter or with any rule, regulation, or order issued there-  
4 under, or interfering with, impeding or obstructing in any manner  
5 the commissioner or his authorized representatives or the board

6 members in the performance of their official duties under this  
 7 chapter shall be guilty of a violation of this chapter and upon  
 8 conviction thereof shall be subject to a fine of not less than  
 9 .....dollars nor more than ..... dollars or to imprison-  
 10 ment for not less than ..... nor more than ....., or both  
 11 such fine and imprisonment, for each such offense.

12 2. The commissioner may institute proceedings in the court  
 13 of the judicial district within which any person charged with  
 14 violating any provision of this chapter resides or maintains a  
 15 place of business to enjoin such violation, and such court shall  
 16 have jurisdiction to issue temporary relief to assure compliance  
 17 with the provisions of this chapter and any applicable rule,  
 18 regulation, or order under the enforcement power of the commis-  
 19 sioner.

1 Sec. 15. Separability. If any provision of this chapter,  
 2 or the application of such provision to any person or circum-  
 3 stances, shall be held invalid, the remainder of this chapter,  
 4 and the application of such provision to other persons or cir-  
 5 cumstances shall not be affected thereby.

EXPLANATION OF H. F. 481

This bill would provide an Industrial Safety Board to work within the Department of Labor. Its function would be to secure the cooperation of management and labor to foster greater safety and health preserving practices for workers in all places of employment.