

MAR 9 2005
Place On Calendar

HOUSE FILE 681
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 9)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to workers' compensation insurance, benefits, and
2 settlements.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

HF 681

1 Section 1. Section 85.27, subsection 7, Code 2005, is
2 amended to read as follows:

3 7. If, after the third day of incapacity to work following
4 the date of sustaining a compensable injury which does not
5 result in permanent partial disability, or if, at any time
6 after sustaining a compensable injury which results in
7 permanent partial disability, an employee, who is not
8 receiving weekly benefits under section 85.33 or section
9 85.34, subsection 1, returns to work and is required to leave
10 work for one full day or less to receive services pursuant to
11 this section, the employee shall be paid an amount equivalent
12 to the wages lost at the employee's regular rate of pay for
13 the time the employee is required to leave work. For the
14 purposes of this subsection, "day of incapacity to work" means
15 eight hours of accumulated absence from work due to incapacity
16 to work or due to the receipt of services pursuant to this
17 section. The employer shall make the payments under this
18 subsection as wages to the employee after making such
19 deductions from the amount as legally required or customarily
20 made by the employer from wages. Payments made under this
21 subsection shall be required to be reimbursed pursuant to any
22 insurance policy covering workers' compensation. Payments
23 under this subsection shall not be construed to be payment of
24 weekly benefits.

25 Sec. 2. Section 85.35, Code 2005, is amended to read as
26 follows:

27 85.35 ~~SETTLEMENT-IN-CONTESTED-CASE~~ SETTLEMENTS.

28 1. The parties to a contested case or persons who are
29 involved in a dispute which could culminate in a contested
30 case may enter into a settlement of any claim arising under
31 this chapter or chapter 85A, 85B, or 86, providing for final
32 disposition of the claim, ~~provided that no final disposition~~
33 ~~affecting rights to future benefits may be had when the only~~
34 ~~dispute is the degree of disability resulting from an injury~~
35 ~~for which an award for payments or agreement for settlement~~

1 ~~under-section-86-i3-has-been-made.~~ The settlement shall be in
2 writing on forms prescribed by the workers' compensation
3 commissioner and submitted to the workers' compensation
4 commissioner for approval.

5 2. The parties may enter into an agreement for settlement
6 that establishes the employer's liability, fixes the nature
7 and extent of the employee's current right to accrued
8 benefits, and establishes the employee's right to statutory
9 benefits that accrue in the future.

10 3. The parties may enter into a compromise settlement of
11 the employee's claim to benefits as a full and final
12 disposition of the claim.

13 4. The parties may enter into a settlement that is a
14 combination of an agreement for settlement and a compromise
15 settlement that establishes the employer's liability for part
16 of a claim but makes a full and final disposition of other
17 parts of a claim.

18 5. A contingent settlement may be made and approved,
19 conditioned upon subsequent approval by a court or
20 governmental agency, or upon any other subsequent event that
21 is expected to occur within one year from the date of the
22 settlement. If the subsequent approval or event does not
23 occur, the contingent settlement and its approval may be
24 vacated by order of the workers' compensation commissioner
25 upon a petition for vacation filed by one of the parties or
26 upon agreement by all parties. If a contingent settlement is
27 vacated, the running of any period of limitation provided for
28 in section 85.26 is tolled from the date the settlement was
29 initially approved until the date that the settlement is
30 vacated, and the claim is restored to the status that the
31 claim held when the contingent settlement was initially
32 approved. The contingency on a settlement lapses and the
33 settlement becomes final and fully enforceable if an action to
34 vacate the contingent settlement or to extend the period of
35 time allowed for the subsequent approval or event to occur is

1 not initiated within one year from the date that the
2 contingent settlement was initially approved.

3 6. The parties may agree that settlement proceeds, which
4 are paid in a lump sum, are intended to compensate the injured
5 worker at a given monthly or weekly rate over the life
6 expectancy of the injured worker. If such an agreement is
7 reached, neither the weekly compensation rate which either has
8 been paid, or should have been paid, throughout the case, nor
9 the maximum statutory weekly rate applicable to the injury
10 shall apply. Instead, the rate set forth in the settlement
11 agreement shall be the rate for the case.

12 ~~The settlement shall not be approved unless evidence of a~~
13 ~~bona fide dispute exists concerning any of the following:~~

14 ~~1. The claimed injury arose out of or in the course of the~~
15 ~~employment.~~

16 ~~2. The injured employee gave notice under section 85.23.~~

17 ~~3. Whether or not the statutes of limitations as provided~~
18 ~~in section 85.26 have run. When the issue involved is whether~~
19 ~~or not the statute of limitations of section 85.26, subsection~~
20 ~~2, has run, the final disposition shall pertain to the right~~
21 ~~to weekly compensation unless otherwise provided for in~~
22 ~~subsection 7 of this section.~~

23 ~~4. The injury was caused by the employee's willful intent~~
24 ~~to injure the employee's self or to willfully injure another.~~

25 ~~5. Intoxication, which did not arise out of and in the~~
26 ~~course of employment but which was due to the effects of~~
27 ~~alcohol or another narcotic, depressant, stimulant,~~
28 ~~hallucinogenic, or hypnotic drug not prescribed by an~~
29 ~~authorized medical practitioner, was a substantial factor in~~
30 ~~causing the employee's injury.~~

31 ~~6. The injury was caused by the willful act of a third~~
32 ~~party directed against the employee for reasons personal to~~
33 ~~such employee.~~

34 ~~7. This chapter or chapter 85A, 85B, 86 or 87 applies to~~
35 ~~the party making the claim.~~

1 ~~8.--A-substantial-portion-of-the-claimed-disability-is~~
2 ~~related-to-physical-or-mental-conditions-other-than-those~~
3 ~~caused-by-the-injury.~~

4 7. A settlement shall be approved by the workers'
5 compensation commissioner if the parties show all of the
6 following:

7 a. Substantial evidence exists to support the terms of the
8 settlement.

9 b. Waiver of the employee's right to a hearing, decision,
10 and statutory benefits is made knowingly by the employee.

11 c. The settlement is a reasonable and informed compromise
12 of the competing interests of the parties.

13 If an employee is represented by legal counsel, it is
14 presumed that the required showing for approval of the
15 settlement has been made.

16 8. Approval of a settlement by the workers' compensation
17 commissioner shall be is binding on the parties and shall not
18 be construed as an original proceeding. Notwithstanding any
19 provisions of this chapter and chapters 85A, 85B, 86, and 87,
20 an approved compromise settlement shall constitute a final bar
21 to any further rights arising under this chapter and chapters
22 85A, 85B, 86, and 87.--Such regarding the subject matter of
23 the compromise and a payment made pursuant to a compromise
24 settlement agreement shall not be construed as the payment of
25 weekly compensation.

26 Sec. 3. Section 85.71, Code 2005, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 5. The employer has a place of business
29 in Iowa, and the employee is working under a contract of hire
30 which provides that the employee's workers' compensation
31 claims be governed by Iowa law.

32 Sec. 4. Section 86.24, subsection 4, Code 2005, is amended
33 to read as follows:

34 4. A transcript of a contested case proceeding shall be
35 provided by an appealing party at the party's cost and-an

~~1 affidavit shall be filed by the appealing party or the party's
2 attorney with the workers' compensation commissioner within
3 ten days after the filing of the appeal to the workers'
4 compensation commissioner stating that the transcript has been
5 ordered and identifying the name and address of the reporter
6 or reporting firm from which the transcript has been ordered.~~

7 Sec. 5. Section 87.14A, Code 2005, is amended to read as
8 follows:

9 87.14A INSURANCE OR BOND REQUIRED.

10 An employer subject to this chapter and chapters 85, 85A,
11 85B, and 86 shall not engage in business without first
12 obtaining insurance covering compensation benefits or
13 obtaining relief from insurance as provided in this chapter ~~or~~
14 ~~furnishing a bond pursuant to section 87.16.~~ A person who
15 willfully and knowingly violates this section is guilty of a
16 class "D" felony.

17 Sec. 6. Section 87.19, unnumbered paragraph 1, Code 2005,
18 is amended to read as follows:

19 Upon the receipt of information by the workers'
20 compensation commissioner of any employer failing to comply
21 with ~~sections 87.16 and 87.17~~ section 87.14A, the commissioner
22 shall at once notify such employer by certified mail that
23 unless such employer comply with the requirements of law,
24 legal proceedings will be instituted to enforce such
25 compliance.

26 Sec. 7. Section 87.20, Code 2005, is amended to read as
27 follows:

28 87.20 REVOCATION OF RELEASE FROM INSURANCE.

29 The insurance commissioner ~~with the concurrence of the~~
30 ~~workers' compensation commissioner~~ may, at any time, upon
31 reasonable notice to such employer and upon hearing, revoke
32 for cause any order theretofore made relieving any employer
33 from carrying insurance as provided by this chapter.

34 Sec. 8. Sections 87.16 and 87.17, Code 2005, are repealed.

35

EXPLANATION

1 This bill relates to workers' compensation insurance,
2 payment of workers' compensation benefits, and workers'
3 compensation settlements.

4 Code section 85.27 is amended to provide that for purposes
5 of paying lost wages pursuant to subsection 7, "day of
6 incapacity to work" means eight hours of accumulated absence
7 from work due to incapacity to work or due to the receipt of
8 services pursuant to that section.

9 Code section 85.35 is amended to modify settlement
10 procedures for workers' compensation claims. The bill
11 provides that parties may enter into an agreement for
12 settlement that establishes the employer's liability, fixes
13 the nature and extent of the employee's rights to accrued
14 benefits, and establishes the employee's right to statutory
15 benefits that accrue in the future; a compromise settlement of
16 an employee's claim to benefits that is a full and final
17 disposition of the claim; or a settlement that is a
18 combination of an agreement for settlement and a compromise
19 settlement that establishes the employer's liability for part
20 of a claim but makes a full and final disposition of other
21 parts of a claim.

22 Code section 85.35 is also amended to provide for a
23 contingent settlement, which may be made and approved by the
24 workers' compensation commissioner, conditioned upon
25 subsequent approval by a court or governmental agency or upon
26 any other event that is expected to occur within one year from
27 the date of the settlement. The bill provides that if the
28 subsequent approval or event does not occur, the contingent
29 settlement and its approval can be vacated by order of the
30 workers' compensation commissioner upon a petition by one of
31 the parties or upon agreement by all parties. If such a
32 contingent settlement is vacated, the running of any statute
33 of limitations provided for in Code section 85.26 is
34 considered to be stopped from the date that the contingent
35 settlement was initially approved until the date that the

1 settlement is vacated and the claim is then restored to the
2 status that it held at the time the settlement was initially
3 approved. The contingency on a settlement lapses and the
4 settlement becomes final and fully enforceable if an action to
5 vacate the settlement or to extend the period of time allowed
6 for the subsequent approval or event to occur is not initiated
7 within one year from the date that the contingent settlement
8 was initially approved.

9 Code section 85.35 is also amended to strike the
10 requirement that the parties produce evidence of a bona fide
11 dispute before a final settlement can be approved by the
12 workers' compensation commissioner. The amendment to the Code
13 section provides that a settlement cannot be approved unless
14 the parties show that substantial evidence exists to support
15 the terms of the settlement, waiver of the employee's right to
16 a hearing, decision, and statutory benefits is made knowingly
17 by the employee, and the settlement is a reasonable and
18 informed compromise of the competing interests of the parties.
19 The amendment to the Code section also provides that if an
20 employee is represented by legal counsel, it is presumed that
21 the required showing has been made.

22 Code section 85.71 is amended to revise the jurisdiction of
23 the workers' compensation commissioner over Iowa employees who
24 are injured while working outside the state. The revision
25 allows jurisdiction where an employer has a place of business
26 in this state and the employee is working under a contract of
27 hire which provides that the employee's workers' compensation
28 claims be governed by Iowa law.

29 Code section 86.24 is amended to remove the requirement
30 that in an appeal to the workers' compensation commissioner,
31 the appealing party or that party's attorney must file an
32 affidavit within 10 days after filing the appeal stating that
33 a transcript has been ordered.

34 The bill repeals Code section 87.16, which requires an
35 employer who has failed to carry workers' compensation

1 insurance or to obtain relief from carrying such insurance, to
2 furnish a bond approved by the workers' compensation
3 commissioner. Code section 87.14A is amended to remove the
4 reference to the bonding requirements contained in Code
5 section 87.16. The bill also repeals Code section 86.17,
6 which requires an employer to post a notice stating the nature
7 of the security furnished in lieu of insurance to secure
8 workers' compensation payments.

9 Code section 87.19 is amended to provide that an employer
10 that fails to comply with the provisions of Code chapters 85,
11 85A, 85B, 86, and 87, as set forth in Code section 87.14A, may
12 be subject to enforcement proceedings.

13 The bill amends Code section 87.20 to provide that the
14 insurance commissioner may revoke, for cause, an order
15 relieving an employer from carrying insurance as required by
16 Code chapter 87 without the concurrence of the workers'
17 compensation commissioner.

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Eichhorn - ch
Carroll
Winkler

HSB 9

JUDICIARY

Succeeded By

HOUSE FILE

SF 0681-

BY (PROPOSED COMMITTEE ON

JUDICIARY BILL BY

CHAIRPERSON PAULSEN)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to workers' compensation insurance, benefits, and
2 settlements, and related nonoccupational disability benefits.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

1 Section 1. Section 85.27, subsection 7, Code 2005, is
2 amended to read as follows:

3 7. If, after the third day of incapacity to work following
4 the date of sustaining a compensable injury which does not
5 result in permanent partial disability, or if, at any time
6 after sustaining a compensable injury which results in
7 permanent partial disability, an employee, who is not
8 receiving weekly benefits under section 85.33 or section
9 85.34, subsection 1, returns to work and is required to leave
10 work for one full day or less to receive services pursuant to
11 this section, the employee shall be paid an amount equivalent
12 to the wages lost at the employee's regular rate of pay for
13 the time the employee is required to leave work. For the
14 purposes of this subsection, "day of incapacity to work" means
15 eight hours of accumulated absence from work due to incapacity
16 to work or due to the receipt of services pursuant to this
17 section. The employer shall make the payments under this
18 subsection as wages to the employee after making such
19 deductions from the amount as legally required or customarily
20 made by the employer from wages. Payments made under this
21 subsection shall be required to be reimbursed pursuant to any
22 insurance policy covering workers' compensation. Payments
23 under this subsection shall not be construed to be payment of
24 weekly benefits.

25 Sec. 2. Section 85.35, Code 2005, is amended to read as
26 follows:

27 85.35 SETTLEMENT-IN-CONTESTED-CASE SETTLEMENTS.

28 1. The parties to a contested case or persons who are
29 involved in a dispute which could culminate in a contested
30 case may enter into a settlement of any claim arising under
31 this chapter or chapter 85A, 85B, or 86, providing for final
32 disposition of the claim, provided that no final disposition
33 affecting rights to future benefits may be had when the only
34 dispute is the degree of disability resulting from an injury
35 for which an award for payments or agreement for settlement

1 under-section-86-13-has-been-made. The settlement shall be in
2 writing on forms prescribed by the workers' compensation
3 commissioner and submitted to the workers' compensation
4 commissioner for approval.

5 2. The parties may enter into an agreement for settlement
6 that establishes the employer's liability, fixes the nature
7 and extent of the employee's current right to accrued
8 benefits, and establishes the employee's right to statutory
9 benefits that accrue in the future.

10 3. The parties may enter into a compromise settlement of
11 the employee's claim to benefits as a full and final
12 disposition of the claim.

13 4. The parties may enter into a settlement that is a
14 combination of an agreement for settlement and a compromise
15 settlement that establishes the employer's liability for part
16 of a claim but makes a full and final disposition of other
17 parts of a claim.

18 5. A contingent settlement may be made and approved,
19 conditioned upon subsequent approval by a court or
20 governmental agency, or upon any other subsequent event that
21 is expected to occur within one year from the date of the
22 settlement. If the subsequent approval or event does not
23 occur, the contingent settlement and its approval may be
24 vacated by order of the workers' compensation commissioner
25 upon a petition for vacation filed by one of the parties or
26 upon agreement by all parties. If a contingent settlement is
27 vacated, the running of any period of limitation provided for
28 in section 85.26 is tolled from the date the settlement was
29 initially approved until the date that the settlement is
30 vacated, and the claim is restored to the status that the
31 claim held when the contingent settlement was initially
32 approved. The contingency on a settlement lapses and the
33 settlement becomes final and fully enforceable if an action to
34 vacate the contingent settlement or to extend the period of
35 time allowed for the subsequent approval or event to occur is

1 not initiated within one year from the date that the
2 contingent settlement was initially approved.

3 6. The parties may agree that settlement proceeds, which
4 are paid in a lump sum, are intended to compensate the injured
5 worker at a given monthly or weekly rate over the life
6 expectancy of the injured worker. If such an agreement is
7 reached, neither the weekly compensation rate which either has
8 been paid, or should have been paid, throughout the case, nor
9 the maximum statutory weekly rate applicable to the injury
10 shall apply. Instead, the rate set forth in the settlement
11 agreement shall be the rate for the case.

12 ~~The settlement shall not be approved unless evidence of a~~
13 ~~bona fide dispute exists concerning any of the following:~~

14 ~~1.---The claimed injury arose out of or in the course of the~~
15 ~~employment.~~

16 ~~2.---The injured employee gave notice under section 85.23.~~

17 ~~3.---Whether or not the statutes of limitations as provided~~
18 ~~in section 85.26 have run.---When the issue involved is whether~~
19 ~~or not the statute of limitations of section 85.26, subsection~~
20 ~~2, has run, the final disposition shall pertain to the right~~
21 ~~to weekly compensation unless otherwise provided for in~~
22 ~~subsection 7 of this section.~~

23 ~~4.---The injury was caused by the employee's willful intent~~
24 ~~to injure the employee's self or to willfully injure another.~~

25 ~~5.---Intoxication, which did not arise out of and in the~~
26 ~~course of employment but which was due to the effects of~~
27 ~~alcohol or another narcotic, depressant, stimulant,~~
28 ~~hallucinogenic, or hypnotic drug not prescribed by an~~
29 ~~authorized medical practitioner, was a substantial factor in~~
30 ~~causing the employee's injury.~~

31 ~~6.---The injury was caused by the willful act of a third~~
32 ~~party directed against the employee for reasons personal to~~
33 ~~such employee.~~

34 ~~7.---This chapter or chapter 85A, 85B, 86 or 87 applies to~~
35 ~~the party making the claim.~~

1 ~~8. A substantial portion of the claimed disability is~~
2 ~~related to physical or mental conditions other than those~~
3 ~~caused by the injury.~~

4 7. A settlement shall be approved by the workers'
5 compensation commissioner if the parties show all of the
6 following:

7 a. Substantial evidence exists to support the terms of the
8 settlement.

9 b. Waiver of the employee's right to a hearing, decision,
10 and statutory benefits is made knowingly by the employee.

11 c. The settlement is a reasonable and informed compromise
12 of the competing interests of the parties.

13 If an employee is represented by legal counsel, it is
14 presumed that the required showing for approval of the
15 settlement has been made.

16 8. Approval of a settlement by the workers' compensation
17 commissioner shall be is binding on the parties and shall not
18 be construed as an original proceeding. Notwithstanding any
19 provisions of this chapter and chapters 85A, 85B, 86, and 87,
20 an approved compromise settlement shall constitute a final bar
21 to any further rights arising under this chapter and chapters
22 85A, 85B, 86, and 87. Such regarding the subject matter of
23 the compromise and a payment made pursuant to a compromise
24 settlement agreement shall not be construed as the payment of
25 weekly compensation.

26 Sec. 3. Section 85.38, subsection 2, Code 2005, is amended
27 to read as follows:

28 2. CREDIT FOR BENEFITS PAID UNDER GROUP PLANS. In the
29 event the employee ~~with a disability~~ shall receive any
30 benefits, including medical, surgical, or hospital benefits,
31 under any group plan covering nonoccupational disabilities
32 contributed to wholly or partially by the employer, which
33 benefits should not have been paid or payable if any rights of
34 recovery existed under this chapter, chapter 85A, or chapter
35 85B, then the amounts so paid to the employee from the group

1 plan shall be credited to or against any compensation
2 payments, including medical, surgical, or hospital, made or to
3 be made under this chapter, chapter 85A, or chapter 85B. The
4 amounts so credited shall be deducted from the payments made
5 under these chapters. Any nonoccupational plan shall be
6 reimbursed in the amount deducted. This section shall not
7 apply to payments made under any group plan which would have
8 been payable even though there was an injury under this
9 chapter or an occupational disease under chapter 85A or an
10 occupational hearing loss under chapter 85B. Any employer
11 receiving such credit shall keep the employee safe and
12 harmless from any and all claims or liabilities that may be
13 made against them by reason of having received the payments
14 only to the extent of the credit.

15 If an employer denies liability under this chapter, chapter
16 85A, or chapter 85B, for payment for any medical services
17 received or weekly compensation requested by an employee with
18 ~~a-disability~~, and the employee is a beneficiary under either
19 an individual or group plan for nonoccupational illness,
20 injury, or disability, the nonoccupational plan shall not deny
21 payment for the medical services received or for benefits
22 under the plan on the basis that the employer's liability for
23 ~~the-medical-services~~ under this chapter, chapter 85A, or
24 chapter 85B is unresolved.

25 Sec. 4. Section 85.71, Code 2005, is amended to read as
26 follows:

27 85.71 INJURY OUTSIDE OF STATE.

28 If an employee, while working outside the territorial
29 limits of this state, suffers an injury on account of which
30 the employee, or in the event of death, the employee's
31 dependents, would have been entitled to the benefits provided
32 by this chapter had such injury occurred within this state,
33 such employee, or in the event of death resulting from such
34 injury, the employee's dependents, shall be entitled to the
35 benefits provided by this chapter, if at the time of such

1 injury any of the following is applicable:

2 1. ~~The employment is principally localized in this state,~~
3 ~~that is, the employee's~~ employer has a place of business in
4 this ~~or some other~~ state and the employee regularly works in
5 ~~this state, or if the employee's employer has~~ at or from such
6 a place of business ~~in this state and the employee is~~
7 ~~domiciled in this state.~~

8 2. ~~The employee is working under a contract of hire made~~
9 ~~in this state in employment not principally localized in any~~
10 ~~state and the employee spends a substantial part of the~~
11 ~~employee's working time working for the~~ employer has a place
12 of business in this state and the employee is domiciled in
13 this state.

14 3. The employee is working under a contract of hire made
15 in this state ~~in employment principally localized in another~~
16 ~~state, whose workers' compensation law is not applicable to~~
17 ~~the employee's employer~~ and the employee spends a substantial
18 part of the employee's time working in this state.

19 4. The employee is working under a contract of hire made
20 in this state and sustains an injury for which no remedy is
21 available under the workers' compensation laws of another
22 state.

23 4. 5. The employee is working under a contract of hire
24 made in this state for employment outside the United States.

25 6. The employee is working under a contract of hire which
26 provides that the employee's workers' compensation claims be
27 governed by Iowa law.

28 Sec. 5. Section 86.24, subsection 4, Code 2005, is amended
29 to read as follows:

30 4. A transcript of a contested case proceeding shall be
31 provided by an appealing party at the party's cost ~~and an~~
32 ~~affidavit shall be filed by the appealing party or the party's~~
33 ~~attorney with the workers' compensation commissioner within~~
34 ~~ten days after the filing of the appeal to the workers'~~
35 ~~compensation commissioner stating that the transcript has been~~

1 ~~ordered-and-identifying-the-name-and-address-of-the-reporter~~
2 ~~or-reporting-firm-from-which-the-transcript-has-been-ordered.~~

3 Sec. 6. Section 87.14A, Code 2005, is amended to read as
4 follows:

5 87.14A INSURANCE OR-BOND REQUIRED.

6 An employer subject to this chapter and chapters 85, 85A,
7 85B, and 86 shall not engage in business without first
8 obtaining insurance covering compensation benefits or
9 obtaining relief from insurance as provided in this chapter ~~or~~
10 ~~furnishing-a-bond-pursuant-to-section-87-16.~~ A person who
11 willfully and knowingly violates this section is guilty of a
12 class "D" felony.

13 Sec. 7. Section 87.19, unnumbered paragraph 1, Code 2005,
14 is amended to read as follows:

15 Upon the receipt of information by the workers'
16 compensation commissioner of any employer failing to comply
17 with ~~sections-87-16-and-87-17~~ section 87.14A, the commissioner
18 shall at once notify such employer by certified mail that
19 unless such employer comply with the requirements of law,
20 legal proceedings will be instituted to enforce such
21 compliance.

22 Sec. 8. Section 87.20, Code 2005, is amended to read as
23 follows:

24 87.20 REVOCATION OF RELEASE FROM INSURANCE.

25 The insurance commissioner ~~with-the-concurrence-of-the~~
26 ~~workers'-compensation-commissioner~~ may, at any time, upon
27 reasonable notice to such employer and upon hearing, revoke
28 for cause any order theretofore made relieving any employer
29 from carrying insurance as provided by this chapter.

30 Sec. 9. Sections 87.16 and 87.17, Code 2005, are repealed.

31 EXPLANATION

32 This bill relates to workers' compensation insurance,
33 payment of workers' compensation benefits, and workers'
34 compensation settlements.

35 Code section 85.27 is amended to provide that for purposes

1 of paying lost wages pursuant to subsection 7, "day of
2 incapacity to work" means eight hours of accumulated absence
3 from work due to incapacity to work or due to the receipt of
4 services pursuant to that section.

5 Code section 85.35 is amended to modify settlement
6 procedures for workers' compensation claims. The bill
7 provides that parties may enter into an agreement for
8 settlement that establishes the employer's liability, fixes
9 the nature and extent of the employee's rights to accrued
10 benefits, and establishes the employee's right to statutory
11 benefits that accrue in the future; a compromise settlement of
12 an employee's claim to benefits that is a full and final
13 disposition of the claim; or a settlement that is a
14 combination of an agreement for settlement and a compromise
15 settlement that establishes the employer's liability for part
16 of a claim but makes a full and final disposition of other
17 parts of a claim.

18 Code section 85.35 is also amended to provide for a
19 contingent settlement, which may be made and approved by the
20 workers' compensation commissioner, conditioned upon
21 subsequent approval by a court or governmental agency or upon
22 any other event that is expected to occur within one year from
23 the date of the settlement. The bill provides that if the
24 subsequent approval or event does not occur, the contingent
25 settlement and its approval can be vacated by order of the
26 workers' compensation commissioner upon a petition by one of
27 the parties or upon agreement by all parties. If such a
28 contingent settlement is vacated, the running of any statute
29 of limitations provided for in Code section 85.26 is
30 considered to be stopped from the date that the contingent
31 settlement was initially approved until the date that the
32 settlement is vacated and the claim is then restored to the
33 status that it held at the time the settlement was initially
34 approved. The contingency on a settlement lapses and the
35 settlement becomes final and fully enforceable if an action to

1 vacate the settlement or to extend the period of time allowed
2 for the subsequent approval or event to occur is not initiated
3 within one year from the date that the contingent settlement
4 was initially approved.

5 Code section 85.35 is also amended to strike the
6 requirement that the parties produce evidence of a bona fide
7 dispute before a final settlement can be approved by the
8 workers' compensation commissioner. The amendment to the Code
9 section provides that a settlement cannot be approved unless
10 the parties show that substantial evidence exists to support
11 the terms of the settlement, waiver of the employee's right to
12 a hearing, decision, and statutory benefits is made knowingly
13 by the employee, and the settlement is a reasonable and
14 informed compromise of the competing interests of the parties.
15 The amendment to the Code section also provides that if an
16 employee is represented by legal counsel, it is presumed that
17 the required showing has been made.

18 The bill amends Code section 85.38 to provide that if an
19 employer denies liability under Code chapter 85, 85A, or 85B,
20 for payment of weekly compensation requested by an employee
21 and the employee is a beneficiary under either an individual
22 or group plan for nonoccupational illness, injury, or
23 disability, the nonoccupational plan shall not deny payment of
24 benefits under the plan on the basis that the employer's
25 liability under Code chapter 85, 85A, or 85B is unresolved.
26 Code section 85.38 currently requires payment by a
27 nonoccupational plan for any medical services received by an
28 injured employee under these circumstances.

29 Code section 85.71 is amended to revise the jurisdiction of
30 the workers' compensation commissioner over Iowa employees who
31 are injured while working outside the state. The revisions
32 allow jurisdiction where an employer has a place of business
33 in this state and the employee regularly works at or from such
34 a place of business; where the employer has a place of
35 business in this state and the employee is domiciled in this

1 state; where the employee is working under a contract of hire
2 made in this state and the employee spends a substantial part
3 of the employee's time working in this state; where the
4 employee is working under a contract of hire made in this
5 state and sustains an injury for which no remedy is available
6 under the workers' compensation laws of another state; and
7 where the employee is working under a contract of hire which
8 provides that the employee's workers' compensation claims be
9 governed by Iowa law. The commissioner continues to have
10 jurisdiction where an employee is working under a contract of
11 hire made in this state for employment outside the United
12 States.

13 Code section 86.24 is amended to remove the requirement
14 that in an appeal to the workers' compensation commissioner,
15 the appealing party or that party's attorney must file an
16 affidavit within 10 days after filing the appeal stating that
17 a transcript has been ordered.

18 The bill repeals Code section 87.16, which requires an
19 employer who has failed to carry workers' compensation
20 insurance or to obtain relief from carrying such insurance, to
21 furnish a bond approved by the workers' compensation
22 commissioner. Code section 87.14A is amended to remove the
23 reference to the bonding requirements contained in Code
24 section 87.16. The bill also repeals Code section 86.17,
25 which requires an employer to post a notice stating the nature
26 of the security furnished in lieu of insurance to secure
27 workers' compensation payments.

28 Code section 87.19 is amended to provide that an employer
29 that fails to comply with the provisions of Code chapters 85,
30 85A, 85B, 86, and 87, as set forth in Code section 87.14A, may
31 be subject to enforcement proceedings.

32 The bill amends Code section 87.20 to provide that the
33 insurance commissioner may revoke, for cause, an order
34 relieving an employer from carrying insurance as required by
35 Code chapter 87 without the concurrence of the workers'

- 1 compensation commissioner.
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35