

MAR 15 2005  
Place On Calendar

HOUSE FILE 767  
BY COMMITTEE ON ENVIRONMENTAL  
PROTECTION

(SUCCESSOR TO HSB 180)

Passed House, Date 3-22-05 Passed Senate, Date 4-13-05  
Vote: Ayes 69 Nays 29 Vote: Ayes 46 Nays 4  
Approved VETO 6/10

**A BILL FOR**

1 An Act relating to a schedule established by the environmental  
2 protection commission for civil penalties.

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

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HF 767

1 Section 1. Section 455B.109, subsection 1, unnumbered  
2 paragraph 1, Code 2005, is amended to read as follows:

3 The commission shall establish, by rule, a schedule or  
4 range of civil penalties which may be administratively  
5 assessed. The schedule shall provide procedures and criteria  
6 for the administrative assessment of penalties of not more  
7 than ~~ten~~ twenty-five thousand dollars for violations of this  
8 chapter or rules, permits or orders adopted or issued under  
9 this chapter. In adopting a schedule or range of penalties  
10 and in proposing or assessing a penalty, the commission and  
11 director shall consider among other relevant factors the  
12 following:

13 EXPLANATION

14 This bill relates to a schedule established by the  
15 environmental protection commission for civil penalties.

16 Currently, the environmental protection commission is  
17 required to establish a schedule or range of civil penalties  
18 of not more than \$10,000 which may be administratively  
19 assessed. Currently, if a civil penalty is more than \$10,000,  
20 the civil penalty is not administratively assessed.

21 The bill increases the maximum, administratively assessed  
22 civil penalty amount from \$10,000 to \$25,000.

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Watts, Ch.  
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Wessel-Kroeschell

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SF 0767

HSB 180

ENVIRONMENTAL PROTECTION

HOUSE FILE \_\_\_\_\_

BY (PROPOSED COMMITTEE ON  
ENVIRONMENTAL PROTECTION

BILL BY CHAIRPERSON GREINER)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to a schedule established by the environmental  
2 protection commission for civil penalties.

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

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1 Section 1. Section 455B.109, subsection 1, Code 2005, is  
2 amended to read as follows:

3 1. The commission shall establish, by rule, a schedule or  
4 range of civil penalties which may be administratively  
5 assessed. The schedule shall provide procedures and criteria  
6 for the administrative assessment of penalties ~~of not more~~  
7 ~~than ten thousand dollars~~ in an amount not to exceed civil  
8 penalties established in this chapter for violations of this  
9 chapter or rules, permits or orders adopted or issued under  
10 this chapter. In adopting a schedule or range of penalties  
11 and in proposing or assessing a penalty, the commission and  
12 director shall consider among other relevant factors the  
13 following:

- 14 a. The costs saved or likely to be saved by noncompliance
- 15 by the violator.
- 16 b. The gravity of the violation.
- 17 c. The degree of culpability of the violator.
- 18 d. The maximum penalty authorized for that violation under
- 19 this chapter.

20 PARAGRAPH DIVIDED. Penalties may be administratively  
21 assessed only after an opportunity for a contested case  
22 hearing which may be combined with a hearing on the merits of  
23 the alleged violation. Violations ~~not fitting within the~~  
24 ~~schedule, or violations~~ which the commission determines should  
25 be referred to the attorney general for legal action shall not  
26 be governed by the schedule established under this subsection.

27 EXPLANATION

28 This bill relates to a schedule established by the  
29 environmental protection commission for civil penalties.

30 Currently, the environmental protection commission is  
31 required to establish a schedule or range of civil penalties  
32 of not more than \$10,000 which may be administratively  
33 assessed. Currently, if a civil penalty is more than \$10,000,  
34 the civil penalty is not administratively assessed.

35 The bill provides that the schedule is to provide

1 procedures and criteria for the administrative assessment of  
2 penalties in an amount not to exceed civil penalties  
3 established in Code chapter 455B. The bill eliminates a  
4 provision providing that violations not within the schedule  
5 shall not be governed by the schedule.

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June 10, 2005

The Honorable Chester Culver  
Secretary of State  
State Capitol Building  
L O C A L

Dear Mr. Secretary:

I hereby transmit **House File 767**, an Act relating to a schedule established by the Environmental Protection Commission for civil penalties.

This bill increases the maximum administrative penalty that the Environmental Protection Commission may impose for environmental violations from \$10,000 to \$25,000. Under this legislation, only cases involving violations of more than \$25,000 would be referred to the Attorney General's Office for prosecution and recovery of civil penalties. Attorney General Tom Miller has conveyed deep concern that this legislation will reduce the intensity of environmental enforcement in Iowa, and this is a policy that I cannot support.

The current maximum administrative penalty is consistent with that of surrounding states. Nebraska and Minnesota both have a \$10,000 limit for resolving violations by administrative penalties—same as Iowa. All clean water and clean air violations are referred to the Attorney General's Office in Wisconsin. Illinois has a similar law that requires all environmental violations to be referred to the Attorney General except for certain landfill violations, and Missouri has referred all but three violations for action by the Attorney General.

The quality of our water and air contribute to the high quality of life Iowans value and expect, and now is not the time to relax environmental enforcement when we are working aggressively to clean-up Iowa's 211 impaired waterways. The State holds the responsibility of ensuring our water and air are safe. This bill would compromise our ability to do so.

For the above reasons, I respectfully disapprove **House File 767**.

Sincerely,

Thomas J. Vilsack  
Governor

TJV:jmc

cc: Secretary of the Senate  
Chief Clerk of the House

director shall consider among other relevant factors the following:

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CHRISTOPHER C. RANTS  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 767, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

*VETOED 6/10*  
Approved \_\_\_\_\_, 2005

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THOMAS J. VILSACK  
Governor

HOUSE FILE 767

AN ACT

RELATING TO A SCHEDULE ESTABLISHED BY THE ENVIRONMENTAL PROTECTION COMMISSION FOR CIVIL PENALTIES.

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

Section 1. Section 455B.109, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The commission shall establish, by rule, a schedule or range of civil penalties which may be administratively assessed. The schedule shall provide procedures and criteria for the administrative assessment of penalties of not more than ~~ten~~ twenty-five thousand dollars for violations of this chapter or rules, permits or orders adopted or issued under this chapter. In adopting a schedule or range of penalties and in proposing or assessing a penalty, the commission and

