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SENATE FILE 13 BUSINESS & LABOR
BY KREIMAN

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

A BILL FOR

1 An Act relating to non-English-speaking employees and their
2 rights and remedies and creating the position of meatpacking
3 worker rights coordinator.

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

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1 Section 1. This Act shall be known and may be cited as the
2 "Non-English-Speaking Workers Protection Act".

3 Sec. 2. Section 91E.1, Code 2005, is amended to read as
4 follows:

5 91E.1 DEFINITIONS.

6 As used in this chapter:

7 1. "Actively recruit" means any affirmative act, as
8 defined by the division, done by or on behalf of an employer
9 for the purpose of recruitment or hiring of non-English-
10 speaking employees who reside more than five hundred miles
11 from the place of employment.

12 ~~1.~~ 2. "Commissioner" means the commissioner of the
13 division of labor services of the department of workforce
14 development.

15 3. "Coordinator" means the meatpacking industry worker
16 rights coordinator appointed pursuant to section 91E.7.

17 4. "Division" means the division of labor services of the
18 department of workforce development.

19 5. "Employ" means to permit to work.

20 ~~2.~~ 6. "Employee" means a natural person who is employed
21 in this state for wages paid on an hourly basis by an
22 employer.---An-employee but does not include a any of the
23 following:

24 a. A person engaged in agriculture as defined in section
25 91A.2 or-a-person-engaged-in-agriculture-on-a-seasonal-basis.
26 However, this exemption shall not apply to except farm owners
27 who hire workers to work on cropland other than their own.

28 b. A person employed as a child care provider in or for a
29 private home.

30 ~~3.~~ 7. "Employer" means a person, as-defined-in-chapter-4,
31 partnership, limited liability company, association,
32 corporation, business trust, legal representative, or
33 organized group of persons, who in this state employs for
34 wages, paid on an hourly basis, one hundred or more natural
35 persons.---An-employer employees at any one time, except for

1 seasonal employment of not more that twenty weeks in any
2 calendar year, but does not include a any of the following:

3 a. A client, patient, customer, or other person who
4 obtains professional services from a licensed person who
5 provides the services on a fee service basis or as an
6 independent contractor, or.

7 b. The United States, the state, or an agency or
8 governmental subdivision of the United States or the state.

9 8. "Farm owner" does not include a person who uses
10 cropland for research or experimental purposes, or for
11 testing, developing, or producing seeds or plants for sale or
12 resale.

13 9. "Meatpacking operation" means a business in which
14 slaughtering, butchering, meat canning, meat packing, meat
15 manufacturing, poultry canning, poultry packing, poultry
16 manufacturing, pet food manufacturing, processing of
17 meatpacking products, or rendering is carried on.

18 10. "Meatpacking products" includes livestock products and
19 poultry products as defined in section 189A.2.

20 4. 11. "Non-English-speaking "Non-English-speaking
21 employee" means an employee who does not speak, read, write,
22 or understand English to the degree necessary for
23 comprehension of the terms, conditions, and daily
24 responsibilities of employment.

25 5. ~~5. "Farm owner" does not include a person who uses~~
26 ~~cropland for research or experimental purposes, testing,~~
27 ~~developing, or producing seeds or plants for sale or resale.~~

28 Sec. 3. Section 91E.3, Code 2005, is amended to read as
29 follows:

30 91E.3 EMPLOYER RECRUITING PRACTICES.

31 1. An employer or a representative of an employer who
32 actively recruits ~~non-English-speaking residents of other~~
33 ~~states more than five hundred miles from the place of~~
34 ~~employment,~~ non-English-speaking persons for employment as
35 employees for wages paid on an hourly basis in this state,

1 must have on file, a copy of which must be provided to the
2 employee, a written statement signed by the employer and the
3 employee which provides relevant information regarding the
4 position of employment, including but not limited to the
5 following information:

6 a. The minimum number of hours the employee can expect to
7 work on a weekly basis.

8 b. The hourly wages of the position of employment
9 including the starting hourly wage.

10 c. A description of the responsibilities and tasks of the
11 position of employment.

12 d. A description of the transportation and housing to be
13 provided, if any, including any costs to be charged for
14 housing or transportation, the length of time such housing is
15 to be provided, and whether or not such housing is in
16 compliance with all applicable state and local housing
17 standards.

18 ~~d.~~ e. The health risks, known to the employer, to the
19 employee involved in the position of employment.

20 ~~e.~~ f. That possession of forged documentation authorizing
21 the person to stay or be employed in the United States is a
22 class "D" felony under section 715A.2.

23 2. If an employee who resigns from employment with an
24 employer within four weeks of the employee's initial date of
25 employment requests, within three business days of
26 termination, transportation to return to the location from
27 which the employee was recruited and the location from which
28 the employee was recruited is five hundred or more miles from
29 the place of employment, the employer shall provide the
30 employee with transportation at no cost to the employee.

31 3. It is a violation of this section if an employer or
32 representative knowingly and willfully provides false or
33 misleading information on the statement or regarding the
34 contents of the statement.

35 Sec. 4. Section 91E.4, subsection 3, Code 2005, is amended

1 to read as follows:

2 3. Any person aggrieved as a result of a violation of
3 section 91E.2 or 91E.3 or the rules adopted pursuant to those
4 sections may file suit in any district court of this state for
5 actual damages and injunctive relief. An employer who,
6 through repeated violation of section 91E.3, demonstrates a
7 pattern of abusive recruitment practices may be ordered to pay
8 punitive damages.

9 Sec. 5. Section 91E.5, Code 2005, is amended to read as
10 follows:

11 91E.5 DUTIES AND AUTHORITY OF THE COMMISSIONER.

12 1. The commissioner shall adopt rules regarding the
13 keeping of confidential records and trade secrets obtained
14 pursuant to this chapter and to implement and enforce this
15 chapter and shall provide further exemptions from the
16 provisions of this chapter where reasonable.

17 2. In order to carry out the purposes of this chapter, the
18 commissioner, or the commissioner's representative, or the
19 coordinator, upon presenting appropriate credentials to the
20 owner, operator, or agent in charge, may:

21 a. Inspect employment records relating to the total number
22 of employees and ~~non-English-speaking~~ non-English-speaking
23 employees, and the services provided to ~~non-English-speaking~~
24 non-English-speaking employees.

25 b. Interview an employer, owner, operator, agent, or
26 employee, during working hours or at other reasonable times.

27 Sec. 6. NEW SECTION. 91E.7 DUTIES AND AUTHORITY OF
28 COORDINATOR -- BILL OF RIGHTS.

29 1. The position of meatpacking industry worker rights
30 coordinator is established within the division and under the
31 direction and control of the commissioner. The coordinator
32 shall be appointed by the governor and serve at the pleasure
33 of the governor. Preference shall be given to applicants for
34 the coordinator position who are fluent in the Spanish
35 language.

1 2. The duties of the coordinator shall be to inspect and
2 review the practices and procedures of meatpacking operations
3 in this state as they relate to the provision of the Iowa
4 meatpacking industry worker bill of rights, which rights are
5 outlined as follows:

6 a. The right to organize.

7 b. The right to a safe workplace.

8 c. The right to adequate facilities and the opportunity to
9 use them.

10 d. The right to complete information.

11 e. The right to understand the information provided.

12 f. The right to existing state and federal benefits and
13 rights.

14 g. The right to be free from discrimination.

15 h. The right to continuing training, including training of
16 supervisors.

17 i. The right to compensation for work performed.

18 j. The right to seek state help.

19 3. The coordinator and the coordinator's designated
20 representatives shall have access to all meatpacking
21 operations in this state at any time meatpacking products are
22 being processed and industry workers are on the job.

23 4. The coordinator may issue a subpoena to compel any
24 person to appear, give sworn testimony, or produce documentary
25 or other evidence relevant to the duties of the coordinator
26 authorized under this section. If any person subpoenaed
27 refuses to produce the records, books, or papers, the
28 coordinator may apply to the district court having
29 jurisdiction over that person for the enforcement of the
30 subpoena.

31 5. The coordinator may receive complaints and make
32 referrals to appropriate government agencies as necessary to
33 enforce the provisions of this section.

34 6. The commissioner shall provide necessary office space,
35 furniture, equipment, and supplies as well as necessary

1 assistance for the coordinator.

2 7. The coordinator shall, on or before December 1 of each
3 year, submit a report to the members of the general assembly
4 and the governor regarding any actions the coordinator deems
5 necessary or appropriate to provide for the fair treatment of
6 workers in the meatpacking industry.

7 EXPLANATION

8 This bill creates a position of meatpacking industry worker
9 rights coordinator within the division of labor services of
10 the department of workforce development to be appointed by the
11 governor and who shall grant preference to Spanish-speaking
12 applicants. The bill grants to the coordinator the right to
13 inspect and review the practices and procedures of meatpacking
14 operations to ensure specific rights of meatpacking workers as
15 enumerated in the bill. The coordinator is granted access to
16 all meatpacking operations in Iowa, may issue subpoenas,
17 compel testimony or documentary evidence, and enforce the
18 subpoenas in district court. The coordinator may receive
19 complaints, make referrals to government agencies, and must
20 make an annual report to the legislature and governor. Office
21 space, equipment, and general direction and control shall be
22 provided by the labor commissioner although the coordinator
23 serves at the pleasure of the governor.

24 The bill adopts additional definitions of terms used within
25 the chapter, excludes child care providers in private homes
26 from the definition of employee, excludes the United States
27 and its governmental subdivisions from the definition of
28 employer, and requires employers who actively recruit non-
29 English-speaking employees to additionally describe in writing
30 any transportation and housing being provided as part of the
31 employment agreement. The bill provides that any person may
32 bring a civil suit for actual damages and an injunction
33 against an employer for failing to provide an interpreter
34 where required by the chapter and for knowingly or willfully
35 providing a false statement as required under the chapter.

1 The bill requires the labor commissioner to adopt rules
2 regarding the keeping of any confidential records and trade
3 secrets obtained while enforcing the Code chapter.

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