

Sec. 6-a5. Notice not required. Upon application under the last preceding section no notice of the hearing shall be required.

That section sixty-six hundred seventy-one (6671) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 7. Petition - trial. Such petition shall set forth, as particularly as may be, the facts upon which the application is based, and shall be answered as in other ordinary actions, all the rules of which shall govern so far as applicable and not otherwise provided in this chapter. The applicant shall be plaintiff and the other party defendant.

Sec. 7-a1. Temporary guardian. A temporary guardian may be appointed but only after a hearing on such notice to the defendant and on such service of said notice as the court or judge shall prescribe.

Sec. 7-a2. Trial. An issue arising on a prayer for the appointment of a temporary guardian shall be tried by the court, or by a judge in vacation. An issue arising on the prayer for the appointment of a permanent guardian shall be tried by the court unless a jury be demanded by either party.

Sec. 7-a3. Effect of appointment. If a permanent guardian be appointed, all contracts or business transactions of the defendant after the filing of the petition shall be presumed to be a fraud against the rights and interests of the defendant.

That sections seventy-eight hundred forty-eight (7848) and seventy-eight hundred forty-eight-a one (7848-a1) of the supplement to the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 9. Return day - notice and service. The applicant for the order to sell or mortgage may fix the time and place of hearing before the court, and, in such case, a notice thereof must be served, unless otherwise provided, on all resident and nonresident persons interested in said real estate, including claimants, if any, whose names are unknown, in the same manner, and for the same time before the day of hearing, as would be required if the day of hearing was the first day of a term of court, and the notice was a notice of the commencement of an ordinary civil action.

Sec. 9. Time and place of hearing and service. The court or judge may, on application therefor, fix, by proper order, the time and place of hearing before the court or judge, and the time of service and the manner thereof.

Sec. 10. Order conditional on service. No order for the sale or mortgage of such real estate shall be granted until proof of service as above provided is made.

Approved March 14, 1924.

CHAPTER 163

CIGARETTES AND TOBACCO

S. F. 257

ANY ACT to amend, revise, and codify chapter seven-a (7-a) and chapter seven-b (7-b) of title five (5) of the supplement to the compiled code of Iowa, re-

lating to cigarettes, cigarette papers, wrappers, and tubes and to the sale and advertisement of tobacco.

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

That chapters seven-A (7-A) and seven-B (7-B) of title five (5) of the supplement to the compiled Code of Iowa are amended, revised, and codified to read as follows:

CHAPTER _____

CIGARETTES AND TOBACCO

Section 1. Definition of terms. The term "person" as used in this chapter shall include corporation, firm, copartnership, and association; the term "paper" shall include "wrapper" and "tube".

Sec. 2. Sale or gift to minor prohibited. No person shall furnish to any minor under twenty-one (21) years of age by gift, sale, or otherwise any cigarette or cigarette paper, or any paper or other substance made or prepared for the purpose of use in making of cigarettes. No person shall directly or indirectly by himself or agent sell, barter, or give to any minor under sixteen (16) years of age any tobacco in any other form whatever except upon the written order of his parent or guardian or the person in whose custody he is.

Sec. 3. Violation - penalty. Any person who shall violate any of the provisions of the preceding section shall for the first offense be punished by fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail for not more than thirty (30) days. For a second or any subsequent violation such person shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment in the county jail for not less than one (1) month nor more than six (6) months or by both such fine and imprisonment.

Sec. 4. Minors required to give information. Any minor under twenty-one (21) years of age in any place other than at the home of his parent or parents, being in the possession of a cigarette or cigarette papers, shall be required at the request of any peace officer, juvenile court officer, truant officer, or teacher in any school to give information as to where he or she obtained such article.

Sec. 5. Violation - penalty. Any minor under twenty-one (21) years of age refusing to give information as required by the preceding section shall be guilty of a misdemeanor and if eighteen (18) years of age or over, shall be punished by a fine not exceeding five dollars (\$5.00) or by imprisonment in the county jail not exceeding five (5) days, or by both such fine and imprisonment.

If such minor shall be under the age of eighteen (18) years he or she shall be certified by the magistrate or justice of the peace before whom the case is tried, to the juvenile court of the county for such action as said court shall deem proper. But if any minor having been convicted of violating the preceding section shall give information which shall lead to the arrest of the person or persons having violated any of the provisions of the third preceding section and shall give evidence as a witness in any proceedings that may be prosecuted against said person or persons, the court in its discretion may suspend sentence against the offending minor.

Sec. 6. Permit to sell. No person shall sell cigarettes or cigarette papers, without first having obtained a permit therefor in the manner provided

by this chapter. Such permit may be granted by resolution of the council of any city or town under any form of government and when so granted, may be issued by the clerk of such city or town. If issued to a person for use outside of a city or town such permit may be granted by resolution of the board of supervisors and when so granted shall be issued by the auditor of the county. Such permit shall remain in force and effect for two (2) years following the July first after its issuance, unless sooner revoked.

Sec. 7. Form of permit. Such permit shall:

1. Be granted only to a person owning or operating the place from which sales are to be made under the permit.
2. Not be transferable.
3. Be numbered and show the name and residence of the person to whom granted and the place of business of the holder where sales are to be conducted under said permit.

Sec. 8. Revocation. The city or town council or board of supervisors, as the case may be, granting such permit shall revoke the permit of any person who has been convicted of violating any of the provisions of this chapter and no permit shall again be granted to a person for a period of two (2) years from the date his permit has been revoked.

Sec. 9. Issuance or revocation certified to state treasurer. The clerk of a city or town and the auditor of a county which has granted a permit shall upon the issuance or revocation of any permit granted under the provisions of this chapter immediately certify such issuance or revocation to the treasurer of state.

Sec. 10. Bond. No permit shall be issued until the applicant therefor shall file a bond to be approved by the council or the board of supervisors granting the permit, which bond shall run to the city, town or county, as the case may be, for the benefit of all parties interested and shall be in the amount of not less than one thousand dollars (\$1,000.00), conditioned upon the faithful observance of all the provisions of this chapter, including the payment of all taxes, fines, penalties and costs in said chapter provided and for the payment of all damages that may result from the sale of cigarettes or cigarette papers, in or upon the premises occupied by the obligor. Said bond shall be signed by the obligor as principal and by a surety company authorized to do business in this state; or by two sureties who shall each qualify in double the amount of the bond, and neither of whom shall be surety on any other like bond.

Sec. 11. Milet tax. No permit shall be granted or issued until the applicant shall have paid to the treasurer of the city or town or county granting such permit, a millet tax as follows:

1. In towns and other places outside any city or town, fifty dollars (\$50.00).
2. In cities of the second class, seventy-five dollars (\$75.00).
3. In cities of the first class, one hundred dollars (\$100.00).

Such millet tax shall be paid for the period ending the first of July next following such permit and said permit shall become null and void if the holder thereof shall fail to pay a similar millet tax on or before the first day of July each year thereafter, for the year then beginning.

Sec. 12. When payable. Every person holding a permit or carrying on the business of selling or keeping for sale any cigarettes or cigarette papers, or maintaining a place where cigarettes or cigarette papers are sold or kept with intent to sell, shall pay the millet tax provided for in the preceding section, on or before the first day of July in each year, for the year then beginning.

Sec. 13. Lien and penalties. The said millet tax shall be a lien upon the real estate wherein or whereon the business is conducted or where a place for selling or

keeping with intent to sell, any cigarettes or cigarette papers, is maintained, from the time said tax becomes due and payable. If the tax is not paid in the month of July when the same falls due a penalty of twenty percent (20%) shall be added to the amount thereof for said month and one per cent (1%) per month thereafter until paid.

Sec. 14. Return by assessor—certification of tax. In all cases where the mulct tax has not been paid the assessor of the city or town or township, as the case may be, shall, on or after the twentieth of July of each year, return to the county auditor and the treasurer of state a list of persons who are or during the preceding year have been, engaged in carrying on within said city or town or township the business of selling or keeping for sale cigarettes or cigarette papers, or maintaining a place where they or any of them are sold or kept for sale, together with a description of the real estate wherein or whereon such business is carried on or such place maintained, with the name of the occupant or tenant or owner or agent.

The county auditor shall thereupon enter said mulct tax as provided for in section eleven (11) of this chapter against the real estate so described and also certify said tax to the county treasurer for collection as other taxes. Any assessor willfully failing to comply with the provisions of this section shall pay a fine of fifty dollars (\$50.00) and costs for each offense.

Sec. 15. Listing by sheriff or citizens. Should the assessor for any reason fail to perform the duties prescribed in the preceding section, the sheriff or any three (3) citizens of the county, may by verified statement on information and belief, addressed to the county auditor, procure the listing of names and description of property and places as provided in said section with the same force and effect as if done by the assessor.

Sec. 16. When tax delinquent—collection. After the expiration of thirty (30) days from the date when the mulct tax becomes due and payable, if not paid it shall be delinquent and collectible by the county treasurer in the same manner in which other delinquent taxes are collectible and all the provisions as to the collection of other delinquent taxes shall apply, including the provisions of law regarding tax sales for delinquent taxes in December of each year.

Sec. 17. Tax paid to general fund. All mulct taxes provided for in this chapter for cities and towns shall be paid to the treasurer of the city or town wherein the business for which such tax is paid is located and shall go into the general fund of said city or town. If paid for conducting business outside of any city or town it shall be paid to the county treasurer and credited to the general fund of such county.

Sec. 18. State stamp tax—schedule. There is hereby levied and assessed and shall be collected and paid to the treasurer of state prior to or at the time of sale and delivery to the consumer, upon all cigarettes, cigarette papers, wrappers, and tubes sold, the following taxes:

1. Class A. On cigarettes weighing not more than three (3) pounds per thousand (1,000), one (1) mill on each such cigarette.

2. Class B. On cigarettes weighing more than three (3) pounds per thousand (1,000), two (2) mills on each such cigarette.

3. Class C. On cigarette papers or wrappers or any papers made or prepared for the purpose of making cigarettes, made up in packages, books or sets, on each such package, book, or set containing:

(a) More than twenty five (25) but not more than fifty (50) papers, one half cent (1/2c).

(b) More than fifty (50) papers but not more than one hundred (100) papers, one cent (1c).

(c) More than one hundred (100) papers, one-half cent (1/2c) for each fifty (50) or fractional part thereof.

4. Class D. On tubes, one cent (1c) for each fifty (50) tubes

or fractional part thereof.

Sec. 19. Size of package - stamps affixed - cancellation. All cigarettes sold under the provisions of this chapter shall be put up in packages containing five (5), eight (8), ten (10), twelve (12), fifteen (15), sixteen (16), twenty (20), twenty-four (24), forty (40), fifty (50), eighty (80), or one hundred (100) cigarettes each. Before being delivered to the consumer each package of cigarettes and each package, book, or set of papers or tubes shall have securely affixed thereto a suitable stamp denoting the tax thereon and said stamp shall be properly cancelled prior to removal or consumption under such regulation as the treasurer of state shall prescribe.

Sec. 20. Violation - penalty. Any person violating any of the provisions of the last two (2) preceding sections shall be punished by fine of not less than one hundred dollars (\$100.00), nor more than three hundred dollars (\$300.00) and be confined in the county jail until such fine is paid, but not exceeding six (6) months. In addition all cigarettes, cigarette papers, and papers made or prepared for the purpose of making cigarettes, in his possession or in his place shall be confiscated and forfeited to the state.

Sec. 21. Forgery - counterfeiting - penalty. Any person who, with intent to defraud the state, shall make, alter, forge, or counterfeit any license, permit, or stamp provided for in this chapter or who shall have in his possession any forged, counterfeited, spurious, or altered license, permit, or stamp with intent to use the same, knowing or having reasonable grounds to believe they are such, shall be fined not more than one thousand dollars (\$1,000.00), and be imprisoned in the state penitentiary not more than three (3) years.

Sec. 22. Preparation of stamps - delivery to treasurer - sale. The auditor of state shall prepare and have suitable stamps for use on each kind of package. Upon requisition of the treasurer of state the auditor shall deliver to his order the stamps designated in such requisition and shall charge the treasurer with the stamps so delivered, and shall keep an accurate record of all stamps coming into and leaving his hands. The treasurer of state shall sell the stamps only to dealers holding unrevoked permits. The moneys received from the sale of said stamps shall be turned into the general fund of the state.

Sec. 23. Redemption of unused stamps - unlawful for dealers to sell. The state treasurer shall, on written request, redeem any unused stamps from any dealer to whom the stamps were sold, and pay for same out of any funds derived under the provisions of this chapter. It shall be unlawful for any dealer to sell such stamps to any person whatsoever.

Sec. 24. Additional assistant to enforce provisions - compensation. The state treasurer is hereby authorized to appoint an additional assistant, whose sole duty it shall be to administer and enforce the provisions of this chapter including the collection of all stamp taxes provided for herein. In such enforcement the state treasurer may call to his aid the attorney general, the special agents of the state, any county attorney, or any peace officer. The treasurer is further authorized to appoint such clerks and additional help as may be needed to carry out the provisions of this chapter. The compensation of all persons employed hereunder shall be fixed by the executive council, and be paid from the revenues derived under the provisions of this chapter.

Sec. 25. Violation - nuisance - abatement. Any person violating any of the provisions of this Chapter or maintaining a place where cigarettes or ciga-

rette papers are sold or kept with intent to sell in violation of the provisions of this chapter shall be guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale of cigarettes or cigarette papers, in violation of the provisions of this chapter, shall be a nuisance and all persons keeping or maintaining the same or aiding or being concerned therein may be enjoined and such building or place abated as a nuisance. The procedure in actions to enjoin and abate such nuisance or for contempt for violating any order of injunction in connection therewith shall be, so far as applicable, the same as those now provided by the laws of the state for enjoining and abating intoxicating liquor nuisance.

Sec. 26. Proceedings by search warrant. If any reputable citizen of the county shall make oath before a magistrate that he has reason to believe and does believe that any house, place or building, describing the same and naming the occupant or keeper thereof, is unlawfully used as a place in which to receive, keep, store, sell or give away cigarettes or cigarette papers in violation of this chapter or that the keeper or occupant is in any way concerned, engaged, or employed, in owning or keeping any such cigarettes or cigarette papers in such building or place with intent to violate the law or authorize or permit the same to be done, such magistrate shall issue a search warrant particularly describing the place to be searched, the person or persons to be apprehended or the articles or things to be seized, directed to any peace officer in the county, commanding him to search such house, building or place and to seize such cigarettes or cigarette papers and for the arrest of the occupant or keeper thereof.

Sec. 27. Seizure - sale. Any cigarettes or cigarette papers seized under a search warrant and the occupant or keeper of the house, building or place where they were seized shall be brought before the magistrate who issued the search warrant. If the magistrate finds that such cigarettes or cigarette papers so seized were kept in violation of law, he shall make and enter upon his docket an order for their forfeiture to the county in which they were seized and shall issue a special execution directing any peace officer of the county to whom the magistrate shall deliver it, to sell such forfeited goods to any person having a permit to keep and sell the same at the highest cash price he can obtain and such peace officer shall be exempt from the provisions of this chapter providing for stamping such articles before sale. The proceeds derived from such sale shall be paid by the peace officer to the county treasurer and by him credited to the school fund of the county. Such peace officer shall return the special execution to the court from which it was issued as in other cases.

Sec. 28. Additional tax penalty assessed by magistrate. Any magistrate who shall, in a search warrant proceeding, order the forfeiture and sale of any cigarettes or cigarette papers which have been seized as having been kept for sale or with intent to sell in violation of the provisions of this chapter, shall certify a copy of the record of such finding and order to the county treasurer within ten (10) days after the entry of such order, and thereupon the county treasurer shall, in addition to all other penalties and taxes, assess a tax of three hundred dollars (\$300.00) against the property, building or place in or upon which such cigarettes or cigarette papers were unlawfully kept for sale or with intent to sell in violation of the provisions of this chapter, and which tax the county treasurer shall collect in the same manner and by the same proceedings as other taxes and credit the same to the city or town or general fund of the county as the case may be.

Sec. 29. Notice of assessment. Within ten (10) days after the receipt of the magistrate's certificate the county treasurer shall by registered mail notify the keeper or occupant of such house, building or place and the owner

of record thereof, if any, of such assessment.

Sec. 30. Request to exhibit permit - prima facie evidence. The proprietor or keeper of any building or place wherein cigarettes or cigarette papers shall be kept for sale or with intent to sell, shall upon request of any peace officer of the county exhibit to such peace officer his permit to so keep and sell. His refusal or failure to so exhibit such permit shall be prima facie evidence that such cigarettes or cigarette papers are kept for sale or with intent to sell in violation of the provisions of this chapter.

Sec. 31. Advertisement near public schools prohibited. No bills, pictures, posters, placards or other matter used to advertise the sale of tobacco in any room shall be distributed, posted, painted or maintained within four hundred (400) feet of premises occupied by a public school or used for school purposes. But this provision shall not apply to advertisement in newspapers regularly published and distributed to subscribers and purchasers as such.

Sec. 32. Penalty. Any person violating any of the provisions of the preceding section shall be punished by a fine not exceeding one hundred dollars (\$100.00) or imprisonment in the county jail not exceeding thirty (30) days.

Approved March 12, 1924.

CHAPTER 164

PUBLIC HEALTH

H. F. 260

AN ACT to amend, revise, and codify chapters two (2), three (3), four (4), and ten (10) of title six (6), and sections thirteen hundred thirty-five (1335) to thirteen hundred thirty-eight (1338), inclusive, thirteen hundred forty-six (1346) to thirteen hundred fifty-five (1355), inclusive, thirty-four hundred forty-seven (3447), thirty-four hundred forty-eight (3448), forty-one hundred fourteen (4114), forty-two hundred ten (4210), forty-two hundred eleven (4211), and forty-two hundred thirteen (4213) of the compiled code of Iowa, and chapters one (1) and five (5) of title six (6) of the compiled code of Iowa and the supplement to said code, and chapters one-a (1-a), four-a (4-a), nine-a (9-a), and eleven (11) of title six (6) of the supplement to the compiled code of Iowa, relating to the public health.

So It Enacted by the General Assembly of the State of Iowa:

That chapters two (2), three (3), four (4), and ten (10) of title six (6), and sections thirteen hundred thirty-five (1335) to thirteen hundred thirty-eight (1338), inclusive, thirteen hundred forty-six (1346) to thirteen hundred fifty-five (1355), inclusive, thirty-four hundred forty-seven (3447), thirty-four hundred forty-eight (3448), forty-one hundred fourteen (4114), forty-two hundred ten (4210), forty-two hundred eleven (4211), and forty-two hundred thirteen (4213) of the compiled Code of Iowa, and chapters one (1) and five (5) of title six (6) of the compiled Code of Iowa and the supplement to said Code, and chapters one-A (1-A), four-A (4-A), nine-A (9-A), and eleven (11) of title six (6) of the supplement to the compiled Code of Iowa are amended, revised, and codified to read as follows: