

Sec. 3. Section 321.372A, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For purposes of this subsection, “owner” means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Approved May 3, 2005

CHAPTER 93

REGULATION OF CIGARETTE AND TOBACCO PRODUCT RETAILERS

H.F. 339

AN ACT relating to the regulation of tobacco product retailers, and making penalties applicable.

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

Section 1. Section 453A.3, subsection 1, paragraphs a and b, Code 2005,¹ are amended to read as follows:

a. A person, other than a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, is guilty of a simple misdemeanor.

b. An employee of a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 3, paragraph “b”.

Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The alcoholic beverages division of the department of commerce shall develop a tobacco compliance employee training program not to exceed two hours in length for employees and prospective employees of tobacco retailers, as defined in sections 453A.1 and 453A.42, to inform the employees about state and federal laws and regulations regarding the sale of cigarettes and tobacco products to persons under eighteen years of age and compliance with and the importance of laws regarding the sale of cigarettes and tobacco products to persons under eighteen years of age.

2. The tobacco compliance employee training program shall be made available to employees and prospective employees of tobacco retailers, as defined in sections 453A.1 and 453A.42, at no cost to the employee, the prospective employee, or the retailer, and in a manner which is as convenient and accessible to the extent practicable throughout the state so as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

Sec. 3. Section 453A.22, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For the purposes of this section, “retailer” means retailer as defined in sections 453A.1 and 453A.42 and “retail permit” includes permits issued to retailers under division I or division II of this chapter.

¹ In Code 2005, section 453A.3, subsection 1, contained only paragraphs a and b

Sec. 4. NEW SECTION. 453A.47A RETAILERS — PERMITS — FEES — PENALTIES.

1. PERMITS REQUIRED. A person shall not engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer.

2. NO SALES WITHOUT PERMIT. A retailer shall not sell any tobacco products until an application has been filed and the fee prescribed paid for a permit and until such permit is obtained and only while such permit is not suspended, unrevoked, or unexpired.

3. NUMBER OF PERMITS. An application shall be filed and a permit obtained for each place of business owned or operated by a retailer.

4. RETAILER — CIGARETTES AND TOBACCO PRODUCTS. A retailer, as defined in section 453A.1, who holds a permit under division I of this chapter is not required to also obtain a retailer² permit under this division. However, if a retailer, as defined in section 453A.1, only holds a permit under division I of this chapter and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during the time which the permit is suspended, revoked, or expired.

5. SEPARATE PERMIT. A separate retail permit shall be required of a distributor or subjobber if the distributor or subjobber sells tobacco products at retail.

6. ISSUANCE. Cities shall issue retail permits to retailers within their respective limits. County boards of supervisors shall issue retail permits to retailers in their respective counties, outside of the corporate limits of cities. The city or county shall submit a duplicate of any application for a retail permit and any retail permit issued by the entity under this section to the Iowa department of public health within thirty days of issuance.

7. FEES — EXPIRATION.

a. All permits provided for in this division shall expire on June 30 of each year. A permit shall not be granted or issued until the applicant has paid the fees provided for in this section for the period ending June 30 next, to the city or county granting the permit. The fee for retail permits is as follows when the permit is granted during the months of July, August, or September:

- (1) In places outside any city, fifty dollars.
- (2) In cities of less than fifteen thousand population, seventy-five dollars.
- (3) In cities of fifteen thousand or more population, one hundred dollars.

b. If any permit is granted during the months of October, November, or December, the fee shall be three-fourths of the above maximum schedule; if granted during the months of January, February, or March, one-half of the maximum schedule, and if granted during the months of April, May, or June, one-fourth of the maximum schedule.

8. REFUNDS.

a. An unrevoked permit for which the retailer paid the full annual fee may be surrendered during the first nine months of the year to the officer issuing it, and the city or county granting the permit shall make refunds to the retailer as follows:

- (1) Three-fourths of the annual fee if the surrender is made during July, August, or September.
- (2) One-half of the annual fee if the surrender is made during October, November, or December.
- (3) One-fourth of the annual fee if the surrender is made during January, February, or March.

b. An unrevoked permit for which the retailer has paid three-fourths of a full annual fee may be surrendered during the first six months of the period covered by the payment, and the city or county shall make refunds to the retailer as follows:

- (1) A sum equal to one-half of an annual fee if the surrender is made during October, November, or December.
- (2) A sum equal to one-fourth of an annual fee if the surrender is made during January, February, or March.

c. An unrevoked permit for which the retailer has paid one-half of a full annual fee may be

² See chapter 179, §131 herein

surrendered during the first three months of the period covered by the payment, and the city or county shall refund to the retailer a sum equal to one-fourth of an annual fee.

9. APPLICATION. Retailer³ permits shall be issued only upon applications, accompanied by the fee indicated above, made upon forms furnished by the department upon written request. The failure to furnish such forms shall be no excuse for the failure to file the form unless absolute refusal is shown. The forms shall specify:

- a. The manner under which the retailer transacts or intends to transact business as a retailer.
- b. The principal office, residence, and place of business, for which the permit is to apply.
- c. If the applicant is not an individual, the principal officers or members of the applicant, not to exceed three, and their addresses.
- d. Such other information as the director shall by rules prescribe.

10. RECORDS AND REPORTS OF RETAILERS.

a. The director shall prescribe the forms necessary for the efficient administration of this section and may require uniform books and records to be used and kept by each retailer or other person as deemed necessary.

b. Every retailer shall, when requested by the department, make additional reports as the department deems necessary and proper and shall at the request of the department furnish full and complete information pertaining to any transaction of the retailer involving the purchase or sale or use of tobacco products.

11. PENALTIES. The permit suspension and revocation provisions and the civil penalties established in section 453A.22 shall apply to retailers under this division, in addition to any other penalties imposed under this division.

Approved May 3, 2005

CHAPTER 94

UNLAWFUL TRANSMISSION, INSTALLATION, AND USE OF COMPUTER SOFTWARE

H.F. 614

AN ACT relating to the transmission, installation, and use of computer software through deceptive or unauthorized means and providing for penalties.

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

Section 1. NEW SECTION. 714F.1 LEGISLATIVE INTENT.

It is the intent of the general assembly to protect owners and operators of computers in this state from the use of spyware and malware that is deceptively or surreptitiously installed on the owner's or the operator's computer.

Sec. 2. NEW SECTION. 714F.2 TITLE.

This chapter shall be known and may be cited as the "Computer Spyware Protection Act".

Sec. 3. NEW SECTION. 714F.3 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Advertisement" means a communication, the primary purpose of which is the commer-

³ See chapter 179, §131 herein