

453A.2 Persons under legal age.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age.

2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

3. Possession of cigarettes or tobacco products by an individual under eighteen years of age does not constitute a violation under this section if the individual under eighteen years of age possesses the cigarettes or tobacco products as part of the individual's employment and the individual is employed by a person who holds a valid permit under this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.

4. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority which issued the permit against a permit holder violating this section.

5. Payment and distribution of court costs, fees, and fines in a prosecution initiated by a city or county shall be made as provided in chapter 602 for violation of a city or county ordinance.

6. If a county health department, a city health department, or a city has not assessed a penalty pursuant to section 453A.22, subsection 2, for a violation of subsection 1, within sixty days of the adjudication of the violation, the matter shall be transferred to and be the exclusive responsibility of the Iowa department of public health. Following transfer of the matter, if the violation is contested, the Iowa department of public health shall request an administrative hearing before an administrative law judge, assigned by the division of administrative hearings of the department of inspections and appeals in accordance with the provisions of section 10A.801, to adjudicate the matter pursuant to chapter 17A.

7. A tobacco compliance employee training fund is created in the office of the treasurer of state. The fund shall consist of civil penalties assessed by the Iowa department of public health under section 453A.22 for violations of this section. Moneys in the fund are appropriated to the alcoholic beverages division of the department of commerce and shall be used to develop and administer the tobacco compliance employee training program under section 453A.5. Moneys deposited in the fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection. Notwithstanding section 8.33, any unexpended balance in the fund at the end of the fiscal year shall be retained in the fund.

8. A person shall not be guilty of a violation of this section if conduct that would otherwise constitute a violation is performed to assess compliance with cigarette and tobacco products laws if any of the following applies:

a. The compliance effort is conducted by or under the supervision of law enforcement officers.

b. The compliance effort is conducted with the advance knowledge of law enforcement officers and reasonable measures are adopted by those conducting the effort to ensure that use of cigarettes or tobacco products by individuals under eighteen years of age does not result from participation by any individual under eighteen years of age in the compliance effort.

For the purposes of this subsection, "*law enforcement officer*" means a peace officer as defined in section 801.4 and includes persons designated under subsection 4 to enforce this section.

[C97, §5005, 5006; C24, 27, 31, 35, 39, §1553; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §98.2]

87 Acts, ch 83, §1; 91 Acts, ch 240, §3

C93, §453A.2

94 Acts, ch 1172, §37; 2000 Acts, ch 1105, §2; 2001 Acts, ch 116, §25; 2003 Acts, ch 26, §1, 5, 7; 2003 Acts, ch 179, §130, 159; 2003 Acts, 1st Ex, ch 2, §29, 33

For scheduled fines applicable to violations of subsections 1 and 2, see §805.8C, subsection 3, paragraphs b and c