

Reprinted
FILED MAR 04 1992

SENATE FILE 2271
BY COMMITTEE ON BUSINESS AND
LABOR RELATIONS
Approved (p. 577)
(SUCCESSOR TO SSB 2120)

Passed Senate, Date 3/17/92(818) Passed House, Date _____
Vote: Ayes 44 Nays 2 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to employees' use of lawful products during
2 nonworking hours, and providing civil enforcement procedures.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2271

1 Section 1. NEW SECTION. 730.6 EMPLOYEE USE OF LAWFUL
2 PRODUCTS DURING NONWORKING HOURS.

3 1. An employer shall not refuse to hire, discharge, or
4 otherwise disadvantage a person with respect to compensation,
5 terms, conditions, or privileges of employment because the
6 person uses lawful products off the premises of the employer
7 during nonworking hours.

8 2. This section does not apply to the use of lawful
9 products which impair an employee's ability to perform the
10 employee's assigned duties. This section does not apply to a
11 nonprofit organization which, as one of its primary purposes
12 or objectives, discourages the use of one or more lawful
13 products by the general public.

14 3. Notwithstanding subsection 1, an employer may offer,
15 impose, or have in effect a health, disability, or life
16 insurance policy or health care services coverage which
17 distinguishes between employees regarding the type or the
18 price of coverage based upon the employee's use of lawful
19 products, if differential premium rates charged employees
20 reflect a differential cost to the employer, and the employer
21 provides employees with a statement delineating the
22 differential rates used by the insurance carrier.

23 4. a. An action in district court may be brought for a
24 violation of this section. A person who violates this section
25 or who aids in the violation of this section is liable to an
26 aggrieved employee or applicant for employment for affirmative
27 relief, including reinstatement or hiring with or without back
28 pay, or other equitable relief as the court deems appropriate.

29 b. An action for injunctive relief may be brought in dis-
30 trict court by an aggrieved employee or applicant for employ-
31 ment, the county attorney, or the attorney general to enjoin a
32 person from committing an act in violation of this section.

33 c. In an action brought pursuant to this subsection, the
34 district court may award reasonable attorney fees and court
35 costs to a party proving a violation of this section.

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EXPLANATION

This bill prohibits an employer from refusing to hire, discharging, or otherwise disadvantaging a person with respect to compensation, terms, conditions, or privileges of employment because the person uses lawful products off the employer's premises during nonworking hours. The prohibition does not apply if the lawful product impairs an employee's ability to perform the employee's assigned duties. The bill does not apply to a nonprofit organization which, as one of its primary purposes, discourages the use of one or more of the lawful products by the general public. The bill allows employers to offer employees certain insurance and health care coverage policies which make distinctions regarding the type or price of coverage based upon the use of lawful products by employees.

The bill may be enforced through a civil action.

SENATE FILE 2271

S-5214

1 Amend Senate File 2271 as follows:
2 1. Page 1, by inserting after line 35 the
3 following:
4 "5. This section does not affect any employer
5 policies or labor contracts which exist on or before
6 July 1, 1992."

By MARY E. KRAMER
ELAINE SZYMONIAK

S-5214 FILED MARCH 12, 1992,
Adopted or amended by S-244 3/16

SENATE FILE 2271

S-5244

1 Amend the amendment, S-5214, to Senate File 2271,
2 as follows:
3 1. Page 1, line 6, by striking the word "July"
4 and inserting the following: "March".

By WILLIAM PALMER

S-5244 FILED MARCH 16, 1992
ADOPTED (p. 79)

SENATE FILE 2271

S-5255

1 Amend Senate File 2271 as follows:
2 1. Page 1, line 10, by inserting after the word
3 "duties" the following: "or which would contribute to
4 or cause an employee to suffer from a medical
5 condition or illness which would be aggravated by the
6 employee's employment in a particular position".

By BEVERLY HANNON
ELAINE SZYMONIAK

S-5255 FILED MARCH 16, 1992
w/d 3/17 (p. 818)

1 Section 1. NEW SECTION. 730.6 EMPLOYEE USE OF LAWFUL
2 PRODUCTS DURING NONWORKING HOURS.

3 1. An employer shall not refuse to hire, discharge, or
4 otherwise disadvantage a person with respect to compensation,
5 terms, conditions, or privileges of employment because the
6 person uses lawful products off the premises of the employer
7 during nonworking hours.

8 2. This section does not apply to the use of lawful
9 products which impair an employee's ability to perform the
10 employee's assigned duties. This section does not apply to a
11 nonprofit organization which, as one of its primary purposes
12 or objectives, discourages the use of one or more lawful
13 products by the general public.

14 3. Notwithstanding subsection 1, an employer may offer,
15 impose, or have in effect a health, disability, or life
16 insurance policy or health care services coverage which
17 distinguishes between employees regarding the type or the
18 price of coverage based upon the employee's use of lawful
19 products, if differential premium rates charged employees
20 reflect a differential cost to the employer, and the employer
21 provides employees with a statement delineating the
22 differential rates used by the insurance carrier.

23 4. a. An action in district court may be brought for a
24 violation of this section. A person who violates this section
25 or who aids in the violation of this section is liable to an
26 aggrieved employee or applicant for employment for affirmative
27 relief, including reinstatement or hiring with or without back
28 pay, or other equitable relief as the court deems appropriate.

29 b. An action for injunctive relief may be brought in dis-
30 trict court by an aggrieved employee or applicant for employ-
31 ment, the county attorney, or the attorney general to enjoin a
32 person from committing an act in violation of this section.

33 c. In an action brought pursuant to this subsection, the
34 district court may award reasonable attorney fees and court
35 costs to a party proving a violation of this section.

1 5. This section does not affect any employer policies or
2 labor contracts which exist on or before March 1, 1992.

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SENATE FILE 2271

H-5956

- 1 Amend amendment, H-5858, to Senate File 2271, as
2 amended, passed, and reprinted by the Senate, as
3 follows:
- 4 1. Page 1, lines 5 and 6, by striking the words
5 "USE OF LAWFUL PRODUCTS" and inserting the following:
6 "LAWFUL ACTIVITY".
 - 7 2. Page 1, line 7, by inserting after the figure
8 "1." the following: "a."
 - 9 3. Page 1, line 7, by striking the word "hire,".
 - 10 4. Page 1, line 13, by striking the figure and
11 words "2. This section" and inserting the following:
12 "b. This subsection".
 - 13 5. Page 1, line 15, by striking the word
14 "section" and inserting the following: "subsection".
 - 15 6. Page 1, by striking lines 23 through 34.
 - 16 7. Page 1, by inserting before line 35 the
17 following:
18 "2. An employer shall not discharge an employee
19 due to that employee's participation in a lawful
20 activity off the premises of the employer during
21 nonworking hours unless the restriction on the lawful
22 activity meets one of the following conditions:
23 a. The restriction relates to a bona fide
24 occupational requirement or is reasonably related to
25 the employment activities and responsibilities of a
26 particular employee or a particular group of
27 employees, rather than to all employees of the
28 employer.
29 b. The restriction is necessary to avoid an
30 employee's conflict of interest or the appearance of a
31 conflict of interest with any employee
32 responsibilities owed to the employer."
 - 33 8. Page 1, line 35, by striking the figure "4"
34 and inserting the following: "3".
 - 35 9. Page 2, by inserting after line 4 the
36 following:
37 "____. Title page, line 1, by inserting after the
38 word "products" the following: "and lawful
39 activity"."
 - 40 10. By renumbering as necessary.

By HALVORSON of Webster

H-5956 FILED APRIL 16, 1992

SENATE FILE 2271

H-5858

1 Amend Senate File 2271, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 730.6 EMPLOYEE USE OF
6 LAWFUL PRODUCTS DURING NONWORKING HOURS.

7 1. An employer shall not refuse to hire,
8 discharge, or otherwise disadvantage a person with
9 respect to compensation, terms, conditions, or
10 privileges of employment because the person uses
11 lawful products off the premises of the employer
12 during nonworking hours.

13 2. This section does not apply to the use of
14 lawful products which impair an employee's ability to
15 perform the employee's assigned duties. This section
16 does not apply to an employer which has previously
17 manifested as its primary purpose its discouragement
18 of the use of one or more lawful products by the
19 general public in its legal charter, by-laws, or
20 established organizational or business plan, and which
21 has provided written notification of this purpose to
22 its employees and applicants for employment.

23 3. Notwithstanding subsection 1, an employer may
24 offer, impose, or have in effect a health, disability,
25 or life insurance policy or health care services
26 coverage which distinguishes between employees
27 regarding the type or the price of coverage based upon
28 the employee's use of lawful products, if differential
29 premium rates charged employees reflect a differential
30 cost to the employer, the differential rates are filed
31 with and approved by the insurance division of the
32 department of commerce, and the employer provides
33 employees with a statement delineating the
34 differential rates used by the insurance carrier.

35 4. a. An action in district court may be brought
36 for a violation of this section. A person who
37 violates this section or who aids in the violation of
38 this section is liable to an aggrieved employee or
39 applicant for employment for affirmative relief,
40 including reinstatement or hiring with or without back
41 pay, or other equitable relief as the court deems
42 appropriate. If the court finds that the violation of
43 this section has been willful, the court may order
44 liquidated damages in an amount not to exceed five
45 thousand dollars per violation.

46 b. An action for injunctive relief may be brought
47 in district court by an aggrieved employee or
48 applicant for employment, the county attorney, or the
49 attorney general to enjoin a person from committing an
50 act in violation of this section.

H-5858 -1-

H-5858

Page 2

1 c. In an action brought pursuant to this
2 subsection, the district court may award reasonable
3 attorney fees and court costs to a party proving a
4 violation of this section."

By GILL of Woodbury

H-5858 FILED APRIL 10, 1992

Adopted as amended by 5913 & 5914 4/15 (p. 1482)

SENATE FILE 2271

H-5873

1 Amend amendment, H-5858, to Senate File 2271, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 16, by striking the word
5 "previously".

By HAMMOND of Story

H-5873 FILED APRIL 13, 1992

w/10 4/15 (p. 1481)

SENATE FILE 2271

H-5899

1 Amend the amendment, H-5858, to Senate File 2271,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 2, by inserting after line 4, the
5 following:

6 "E. This section does not affect any employer
7 policies or labor contracts which exist on or before
8 March 1, 1992."

By CARPENTER of Polk

H-5899 FILED APRIL 14, 1992

w/10 4/15 (p. 1481)

SENATE FILE 2271

H-5914

1 Amend the amendment, H-5858, to Senate File 2271,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, lines 10 and 11, by striking the words
5 "the person uses lawful products" and inserting the
6 following: "of the lawful use of lawful products by
7 the person".

8 2. Page 1, line 16, by striking the word
9 "previously".

10 3. Page 1, by striking lines 42 through 45, and
11 inserting the following: "appropriate."

By GILL of Woodbury
McNEAL of Hardin
RENAUD of Polk

H-5914 FILED APRIL 15, 1992

ADOPTED (*p. 1480*)

SENATE FILE 2271

H-5913

1 Amend the House amendment, H-5858, to Senate File
2 2271, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 2, by striking line 4 and inserting the
5 following: "violation of this section.

6 5. This section does not affect labor contracts
7 which exist before or on March 1, 1992."

By GILL of Woodbury

H-5913 FILED APRIL 15, 1992

ADOPTED (*p. 1481*)

SENATE FILE 2271

H-5585

- 1 Amend Senate File 2271, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, lines 1 and 2, by striking the words
4 "USE OF LAWFUL PRODUCTS" and inserting the following:
5 "LAWFUL ACTIVITY".
6 2. Page 1, line 3, by inserting after the figure
7 "1." the following: "a."
8 3. Page 1, line 8, by striking the figure and
9 words "2. This section" and inserting the following:
10 "b. This subsection".
11 4. Page 1, line 10, by striking the word
12 "section" and inserting the following: "subsection".
13 5. Page 1, by striking lines 14 through 22.
14 6. Page 1, by inserting before line 23 the
15 following:
16 "2. An employer shall not discharge an employee
17 due to that employee's participation in a lawful
18 activity off the premises of the employer during
19 nonworking hours unless the restriction on the lawful
20 activity meets one of the following conditions:
21 a. The restriction relates to a bona fide
22 occupational requirement or is reasonably related to
23 the employment activities and responsibilities of a
24 particular employee or a particular group of
25 employees, rather than to all employees of the
26 employer.
27 b. The restriction is necessary to avoid an
28 employee's conflict of interest or the appearance of a
29 conflict of interest with any employee
30 responsibilities owed to the employer."
31 7. Title page, line 1, by inserting after the
32 word "products" the following: "and lawful activity".
33 8. By renumbering as necessary.

By TEAFORD of Black Hawk

H-5585 FILED MARCH 30, 1992

Placed o/c 4/15 (p. 1482)

SENATE FILE 2271

H-5444

- 1 Amend Senate File 2271, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, lines 5 and 6, by striking the words
4 "the person uses lawful products" and inserting the
5 following: "of the lawful use of lawful products by
6 the person".

By McNEAL of Hardin

H-5444 FILED MARCH 23, 1992

Placed 4/15 (p. 1482)

SENATE FILE 2271

H-5661

1 Amend Senate File 2271, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 2, by inserting after line 2 the
4 following:
5 "6. This section shall not preclude an employer
6 from establishing and enforcing blood content levels
7 for alcohol, prescription drugs, or other medications
8 while the employee is on duty, on the employer's
9 premises, or using the employer's equipment."

By JAY of Appanoose

H-5661 FILED APRIL 2, 1992

Blanchard o/a 4/15 (p. 1482)

SENATE FILE 2271

H-5739

1 Amend Senate File 2271, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, lines 10 and 11, by striking the words
4 "a nonprofit" and inserting the following: "an".

By HANSEN of Woodbury

H-5739 FILED APRIL 6, 1992

Blanchard o/a 4/15 (p. 1482)

PALMER, CH.
LUMR
REUSINK

SSB 2120
BUSINESS & LABOR RELATIONS
NOW

SENATE FILE 2271
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CHAIRPERSON RUNNING)

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

A BILL FOR

1 An Act relating to employees' use of lawful products during
2 nonworking hours, and providing civil enforcement procedures
3 and a criminal penalty.

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

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1 Section 1. NEW SECTION. 730.6 EMPLOYEE USE OF LAWFUL
2 PRODUCTS DURING NONWORKING HOURS.

3 1. An employer shall not refuse to hire, discharge, or
4 otherwise disadvantage a person with respect to compensation,
5 terms, conditions, or privileges of employment because the
6 person uses lawful products off the premises of the employer
7 during nonworking hours.

8 2. This section does not apply to the use of lawful
9 products which impair an employee's ability to perform the
10 employee's assigned duties. This section does not apply to a
11 nonprofit organization which, as one of its primary purposes
12 or objectives, discourages the use of one or more lawful
13 products by the general public.

14 3. Notwithstanding subsection 1, an employer may offer,
15 impose, or have in effect a health, disability, or life
16 insurance policy or health care services coverage which
17 distinguishes between employees regarding the type or the
18 price of coverage based upon the employee's use of lawful
19 products, if differential premium rates charged employees
20 reflect a differential cost to the employer, and the employer
21 provides employees with a statement delineating the
22 differential rates used by the insurance carrier.

23 4. a. An action in district court may be brought for a
24 violation of this section. A person who violates this section
25 or who aids in the violation of this section is liable to an
26 aggrieved employee or applicant for employment for affirmative
27 relief, including reinstatement or hiring with or without back
28 pay, or other equitable relief as the court deems appropriate.

29 b. An action for injunctive relief may be brought in dis-
30 trict court by an aggrieved employee or applicant for employ-
31 ment, the county attorney, or the attorney general to enjoin a
32 person from committing an act in violation of this section.

33 c. In an action brought pursuant to this subsection, the
34 district court may award reasonable attorney fees and court
35 costs to a party proving a violation of this section.

2/20

1 5. A person who violates this section is, upon conviction,
2 guilty of a simple misdemeanor.

3 EXPLANATION

4 This bill prohibits an employer from refusing to hire, dis-
5 charging, or otherwise disadvantaging a person with respect to
6 compensation, terms, conditions, or privileges of employment
7 because the person uses lawful products off the employer's
8 premises during nonworking hours. The prohibition does not
9 apply if the lawful product impairs an employee's ability to
10 perform the employee's assigned duties. The bill does not
11 apply to a nonprofit organization which, as one of its primary
12 purposes, discourages the use of one or more of the lawful
13 products by the general public. The bill allows employers to
14 offer employees certain insurance and health care coverage
15 policies which make distinctions regarding the type or price
16 of coverage based upon the use of lawful products by
17 employees.

18 The bill may be enforced through a civil action. Violation
19 of the bill is a simple misdemeanor.

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