

FILED FEB 9 1996

WITHDRAWN
3-27-96
(P. 1007)

SENATE FILE 2174
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2074)

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

A BILL FOR

1 An Act relating to cigarettes and tobacco products, establishing
2 penalties and making penalties applicable.

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

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WITHDRAWN

WVAB 1

1 Section 1. Section 142B.1, subsection 3, Code 1995, is
2 amended to read as follows:

3 3. "Public place" means any enclosed indoor area used by
4 the general public or serving as a place of work containing
5 ~~two-hundred-fifty-or-more-square-feet-of-floor-space,~~
6 including, but not limited to, all restaurants with a seating
7 capacity greater than fifty, all retail stores, lobbies and
8 malls, offices, including waiting rooms, and other commercial
9 establishments; public conveyances with departures, travel,
10 and destination entirely within this state; educational
11 facilities; hospitals, clinics, nursing homes, and other
12 health care and medical facilities; a licensed child care
13 center as defined in section 237A.1; and auditoriums,
14 elevators, theaters, libraries, art museums, concert halls,
15 indoor arenas, and meeting rooms. "Public place" does not
16 include a retail store at which fifty percent or more of the
17 sales result from the sale of tobacco or tobacco products, the
18 portion of a retail store where tobacco or tobacco products
19 are sold, a private, enclosed office occupied exclusively by
20 smokers even though the office may be visited by nonsmokers, a
21 room used primarily as the residence of students or other
22 persons at an educational facility, a sleeping room in a motel
23 or hotel, or each resident's room in a health care facility.
24 The person in custody or control of the facility shall provide
25 a sufficient number of rooms in which smoking is not permitted
26 to accommodate all persons who desire such rooms.

27 Sec. 2. Section 142B.6, Code 1995, is amended to read as
28 follows:

29 142B.6 CIVIL PENALTY FOR VIOLATION -- ~~UNIFORM-APPLICATION~~
30 ENFORCEMENT.

31 A person who smokes in those areas prohibited in section
32 142B.2, or who violates section 142B.2, subsection 2 or 3,
33 section 142B.3, or section 142B.4, shall pay a civil fine
34 pursuant to section 805.8, subsection 11, for each violation.

35 Judicial magistrates shall hear and determine violations of

1 this chapter. The civil penalties paid pursuant to this
2 chapter shall be deposited in the county treasury.

3 ~~Enforcement of this chapter shall be implemented in an~~
4 ~~equitable manner throughout the state. For the purpose of~~
5 ~~equitable and uniform implementation, application, and~~
6 ~~enforcement of state and local laws and regulations, the~~
7 ~~provisions of this chapter shall supersede any local law or~~
8 ~~regulation which is inconsistent with or conflicts with the~~
9 ~~provisions of this chapter.~~ The Iowa department of public
10 health shall adopt rules to enforce this chapter.

11 Sec. 3. Section 453A.3, unnumbered paragraph 1, Code 1995,
12 is amended to read as follows:

13 A person who violates section 453A.2, subsection 1, or
14 ~~section 453A.39~~ is guilty of a simple misdemeanor.

15 Sec. 4. Section 453A.22, subsection 2, unnumbered
16 paragraph 1, Code 1995, is amended to read as follows:

17 If a retailer or employee of a retailer has violated
18 section 453A.27 or 453A.36, subsection 6, ~~or 453A.39~~ 8, or 9,
19 the department or local authority, in addition to the other
20 penalties fixed for such violations in this section, shall
21 assess a penalty upon the same hearing and notice as
22 prescribed in subsection 1 as follows:

23 Sec. 5. Section 453A.36, Code 1995, is amended by adding
24 the following new subsections:

25 NEW SUBSECTION. 8. A manufacturer, distributor,
26 wholesaler, retailer, distributing agent, or agent thereof
27 shall not give away cigarettes or tobacco products at any time
28 in connection with the manufacturer's, distributor's,
29 wholesaler's, retailer's, or distributing agent's business or
30 for promotion of the business or product. A manufacturer,
31 distributor, wholesaler, retailer, distributing agent, or
32 agent thereof who violates this subsection is guilty of a
33 serious misdemeanor.

34 NEW SUBSECTION. 9. It is unlawful for any manufacturer,
35 distributor, wholesaler, retailer, distributing agent, or

1 agent thereof to advertise on any advertising device
2 cigarettes or other tobacco products within one thousand feet
3 of any playground, school, high school, or other facility when
4 such facility is being used primarily by persons under age
5 eighteen for recreational, educational, or other purposes. A
6 manufacturer, distributor, wholesaler, retailer, distributing
7 agent, or agent thereof who violates this subsection is guilty
8 of a serious misdemeanor.

9 Sec. 6. Section 453A.56, Code 1995, is amended to read as
10 follows:

11 453A.56 UNIFORM APPLICATION.

12 Enforcement of this chapter shall be implemented in an
13 equitable manner throughout the state. For the purpose of
14 equitable and uniform implementation, application, and
15 enforcement of state and local laws and regulations, the
16 provisions of this chapter shall supersede any local law or
17 regulation which is inconsistent with or conflicts with the
18 provisions of this chapter, unless the local law or regulation
19 is more restrictive in application in which case the more
20 restrictive portion of the local law or regulation shall
21 supersede any inconsistent or conflicting provision of this
22 chapter.

23 Sec. 7. Section 453A.39, Code 1995, is repealed.

24 EXPLANATION

25 This bill amends the chapters of the Code regarding
26 regulation of smoking in a public place and regarding smoking
27 and tobacco products. The bill redefines "public place" for
28 the purposes of smoking in public places, by eliminating the
29 restriction regarding the size of the public place, which is
30 currently a minimum of 250 or more square feet of floor space,
31 and includes licensed child care centers in the definition of
32 public place. The bill provides for the payment of a civil
33 fine for violation of provisions relating to designation of
34 smoking areas and for violation of provisions relating to the
35 responsibilities of proprietors.

1 The bill removes the provision relating to uniform
2 application of the provisions of the chapter relating to
3 smoking in a public place and provides for the enforcement of
4 the chapter by the Iowa department of public health. The bill
5 also modifies the provision of the Code relating to uniform
6 application of the provisions of the chapter relating to
7 cigarette and tobacco products by maintaining existing uniform
8 application provisions but providing that if local laws or
9 regulations related to the provisions of the chapter are more
10 restrictive than state law or regulation, the portions of the
11 local laws or regulations which are more restrictive are to
12 supersede any inconsistent or conflicting provision of the
13 chapter.

14 The bill also prohibits manufacturers, distributors,
15 wholesalers, retailers, distributing agents, or agents thereof
16 from giving away cigarettes or tobacco products and from the
17 advertising of cigarettes or tobacco products within 1,000
18 feet of a playground, school, or a similar facility.
19 Violation of either of the prohibitions is a serious
20 misdemeanor and this penalty is in addition to existing
21 penalties which provide for revocation of an existing permit.

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1 Amend Senate File 2174 as follows:

- 2 1. Page 2, by striking lines 3 through 9 and
 3 inserting the following:
 4 Enforcement of this chapter shall be implemented in
 5 an equitable manner throughout the state. For the
 6 purpose of equitable and uniform implementation,
 7 application, and enforcement of state and local laws
 8 and regulations, the provisions of this chapter shall
 9 supersede any local law or regulation which is
 10 inconsistent with or conflicts with the provisions of
 11 this chapter, unless the local law or regulation is
 12 more restrictive in application to a public place
 13 other than a restaurant, in which case the more
 14 restrictive portion of the local law or regulation
 15 shall supersede any inconsistent or conflicting
 16 provision of this chapter. The Iowa department of
 17 public".
 18 2. Page 3, line 19, by inserting after the word
 19 "application" the following: "to a public place other
 20 than a restaurant,".

By JOANN DOUGLAS

S-5345 FILED MARCH 14, 1996

SENATE FILE 2174

S-5243

- 1 Amend Senate File 2174 as follows:
 2 1. Page 2, by striking lines 11 through 14.
 3 2. Page 2, by striking line 18 and inserting the
 4 following: "section 453A.2, 453A.36, subsection 6, 8,
 5 or 9, or 453A.39,".
 6 3. Page 2, line 24, by striking the word
 7 "subsections" and inserting the following:
 8 "subsection".
 9 4. Page 2, by striking lines 25 through 33.
 10 5. Page 3, by striking line 23.

By STEVEN D. HANSEN

S-5243 FILED MARCH 7, 1996

SENATE FILE 2174

S-5244

- 1 Amend Senate File 2174 as follows:
 2 1. Page 3, line 1, by striking the words
 3 "advertising device" and inserting the following:
 4 "billboard".

By STEVEN D. HANSEN

S-5244 FILED MARCH 7, 1996

*Hammond
Dvorsky
Kramer*

SSB - 2074
Human Resources

Succeeded By

SF/HF 2174

SENATE/HOUSE FILE

BY (PROPOSED GOVERNOR'S BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

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20 fine for violation of provisions relating to designation of
21 smoking areas and for violation of provisions relating to the
22 responsibilities of proprietors. The bill removes the
23 provisions relating to state regulation superseding local law
24 or regulation relating to smoking in a public place and
25 relating to cigarette and tobacco products; and requires the
26 Iowa department of public health to adopt rules to enforce the
27 smoking in public places chapter. The bill also prohibits
28 manufacturers, distributors, wholesalers, retailers,
29 distributing agents, or agents thereof from giving away
30 cigarettes or tobacco products and from the advertising of
31 cigarettes or tobacco products within 1,000 feet of a
32 playground, school, or a similar facility. Violation of
33 either of the prohibitions is a serious misdemeanor and this
34 penalty is in addition to existing penalties which provide for
35 revocation of an existing permit.