

# Senate Amendment 3047

## Amendment Text

PAG LIN

1 1 Amend [Senate File 110](#) as follows:  
1 2 #1. Page 1, by striking lines 1 and 2 and  
1 3 inserting the following:  
1 4 "Sec. \_\_\_\_ Section [453A.2](#), subsections 1, 2, and  
1 5 4, Code 1997, are amended to read as follows:  
1 6 1. A person shall not sell, give, or otherwise  
1 7 supply any tobacco, tobacco products, or cigarettes to  
1 8 any person under

~~eighteen~~

- ~~twenty-one~~ years of age. A  
1 9 person who sells, gives, or otherwise supplies any  
1 10 tobacco, tobacco products, or cigarettes to any person  
1 11 shall require proof of age in the form of photographic  
1 12 identification if a reasonable person could conclude  
1 13 on the basis of outward appearance that a prospective  
1 14 recipient may be under twenty-five years of age.  
1 15 2. A person under

~~eighteen~~

- ~~twenty-one~~ years of age  
1 16 shall not smoke, use, possess, purchase, or attempt to  
1 17 purchase any tobacco, tobacco products, or  
1 18 cigarettes."  
1 19 #2. Page 1, by inserting after line 7 the  
1 20 following:  
1 21 "Sec. \_\_\_\_ Section [453A.13](#), subsections 2, 3, and  
1 22 4, Code 1997, are amended by striking the subsections  
1 23 and renumbering the subsequent subsections, and  
1 24 inserting in lieu thereof the following:  
1 25 2. Issuance or denial.  
1 26 a. The department shall issue state permits to  
1 27 distributors, wholesalers, and cigarette vendors  
1 28 subject to the conditions provided in this division.  
1 29 b. The department or the Iowa department of public  
1 30 health, as applicable, may deny the issuance of a  
1 31 permit to a distributor, wholesaler, vendor, or  
1 32 retailer who is substantially delinquent in the  
1 33 payment of a tax due, or the interest or penalty on  
1 34 the tax, administered by the department at the time of  
1 35 application. If the applicant is a partnership, a  
1 36 permit may be denied if a partner is substantially  
1 37 delinquent on any delinquent tax, penalty, or  
1 38 interest. If the applicant is a corporation, a permit  
1 39 may be denied if any officer having a substantial  
1 40 legal or equitable interest in the ownership of the  
1 41 corporation owes any delinquent tax, interest, or  
1 42 penalty of the applicant corporation.  
1 43 3. Fees - expiration. All permits provided for  
1 44 in this division shall expire on June 30 of each year.  
1 45 A permit shall not be granted or issued until the  
1 46 applicant has paid for the period ending June 30 next,  
1 47 to the department or the Iowa department of public  
1 48 health, the fees provided for in this division.  
1 49 a. The annual state permit fee for a distributor,  
1 50 cigarette vendor, and wholesaler is one hundred  
2 1 dollars when the permit is granted during the months

2 2 of July, August, or September. However, whenever a  
2 3 state permit holder operates more than one place of  
2 4 business, a duplicate state permit shall be issued for  
2 5 each additional place of business on payment of five  
2 6 dollars for each duplicate state permit, but refunds  
2 7 as provided in this division do not apply to any  
2 8 duplicate permit issued.

2 9 b. The fee for retail permits which are to be  
2 10 issued by the Iowa department of public health is as  
2 11 follows:

2 12 (1) For establishments located within the  
2 13 corporate limits of cities of ten thousand population  
2 14 and over the following:

2 15 (a) For establishments of less than fifteen  
2 16 hundred square feet, one hundred twenty-five dollars.

2 17 (b) For establishments of fifteen hundred square  
2 18 feet but less than two thousand square feet, one  
2 19 hundred seventy-five dollars.

2 20 (c) For establishments of two thousand square feet  
2 21 but less than five thousand square feet, two hundred  
2 22 fifty dollars.

2 23 (d) For establishments of five thousand square  
2 24 feet or more, three hundred seventy-five dollars.

2 25 (2) For establishments located within the  
2 26 corporate limits of cities of over fifteen hundred and  
2 27 less than ten thousand population the following:

2 28 (a) For establishments of less than fifteen  
2 29 hundred square feet, seventy-five dollars.

2 30 (b) For establishments of fifteen hundred square  
2 31 feet but less than two thousand square feet, one  
2 32 hundred twenty-five dollars.

2 33 (c) For establishments of two thousand square feet  
2 34 but less than five thousand square feet, one hundred  
2 35 seventy-five dollars.

2 36 (d) For establishments of five thousand square  
2 37 feet or more, two hundred fifty dollars.

2 38 (3) For establishments located within the  
2 39 corporate limits of cities of fifteen hundred  
2 40 population or less the following:

2 41 (a) For establishments of less than fifteen  
2 42 hundred square feet, thirty-five dollars and fifty  
2 43 cents.

2 44 (b) For establishments of fifteen hundred square  
2 45 feet but less than two thousand square feet, seventy-  
2 46 five dollars.

2 47 (c) For establishments of two thousand square feet  
2 48 but less than five thousand square feet, one hundred  
2 49 twenty-five dollars.

2 50 (d) For establishments of five thousand square  
3 1 feet or more, one hundred seventy-five dollars.

3 2 (4) For establishments located outside the  
3 3 corporate limits of any city, a sum equal to that  
3 4 charged in the incorporated city located nearest the  
3 5 premises to be permitted, and in case there is doubt  
3 6 as to which of two or more differing corporate limits  
3 7 is the nearest, the fee which is the largest shall  
3 8 prevail. However, if an establishment is located in  
3 9 an unincorporated town, for purposes of this  
3 10 subsection the unincorporated town shall be treated as  
3 11 if it is a city.

3 12 Sec. \_\_\_\_\_. Section [453A.22](#), subsections 1 and 2,  
3 13 Code 1997, are amended to read as follows:

3 14 1. If a person holding a permit issued by the  
3 15 department or the Iowa department of public health  
3 16 under this division, including a retailer permit for  
3 17 railway car, has willfully violated section 453A.2,  
3 18 the department shall revoke the permit upon notice and

3 19 hearing. If the person violates any other provision  
3 20 of this division, or a rule adopted under this  
3 21 division, or is substantially delinquent in the  
3 22 payment of a tax administered by the department or the  
3 23 interest or penalty on the tax, or if the person is a  
3 24 corporation and if any officer having a substantial  
3 25 legal or equitable interest in the ownership of the  
3 26 corporation owes any delinquent tax of the permit-  
3 27 holding corporation, or interest or penalty on the  
3 28 tax, administered by the department, the department  
3 29 may revoke the permit issued to the person, after  
3 30 giving the permit holder an opportunity to be heard  
3 31 upon ten days' written notice stating the reason for  
3 32 the contemplated revocation and the time and place at  
3 33 which the person may appear and be heard. The hearing  
3 34 before the department may be held at a site in the  
3 35 state as the department may direct. The notice shall  
3 36 be given by mailing a copy to the permit holder's  
3 37 place of business as it appears on the application for  
3 38 a permit. If, upon hearing, the department finds that  
3 39 the violation has occurred, the department may revoke  
3 40 the permit.

3 41 2. If a retailer or employee of a retailer has  
3 42 violated section 453A.2, 453A.36, subsection 6, or  
3 43 453A.39, the department or local authority, in  
3 44 addition to the other penalties fixed for such  
3 45 violations in this section, shall assess a penalty  
3 46 upon the same hearing and notice as prescribed in  
3 47 subsection 1 as follows:

3 48 a. For a first violation, the violator shall be  
3 49 assessed a civil penalty in the amount of three  
3 50 hundred dollars. Failure to pay the civil penalty as  
4 1 ordered under this subsection shall result in  
4 2 automatic suspension of the permit for a period of  
4 3 fourteen days.

4 4 b. For a second violation

~~within a period of two~~

4 5

~~years~~

~~-, the violator's permit shall be suspended for a~~  
4 6 period of thirty days.

4 7 c. For a third violation

~~within a period of five~~

4 8

~~years~~

~~-, the violator's permit shall be~~

~~suspended for a~~

4 9

~~period of sixty days~~

~~- revoked.~~

4 10

~~d. For a fourth violation within a period of five~~

4 11

~~years, the violator's permit shall be revoked.~~

4 12 Sec. \_\_\_\_\_. Section [453A.23](#), subsections 1 and 3,  
4 13 Code 1997, are amended to read as follows:

4 14 1. Subject to this division, a retailer's permit  
4 15 may be issued by the Iowa department of public health  
4 16 to any dining car company, sleeping car company,  
4 17 railroad or railway company. The permit shall  
4 18 authorize the holder to keep for sale, and sell,  
4 19 cigarettes at retail on any dining car, sleeping car,  
4 20 or passenger car operated by the applicant in,  
4 21 through, or across the state of Iowa, subject to all  
4 22 of the restrictions imposed upon retailers under this  
4 23 division. The application for the permit shall be in  
4 24 the form and contain the information required by the  
4 25 director. Each permit is good throughout the state.  
4 26 Only one permit is required for all cars operated in  
4 27 this state by the applicant, but a duplicate of the  
4 28 permit shall be posted in each car in which cigarettes  
4 29 are sold and no further permit shall be required or  
4 30 tax levied for the privilege of selling cigarettes in  
4 31 the cars. No cigarettes shall be sold in the cars  
4 32 without having affixed thereto stamps evidencing the  
4 33 payment of the tax as provided in this division.

4 34 3. The annual fee for a retailer's permit for  
4 35 railway cars shall be twenty-five dollars and two  
4 36 dollars for each duplicate thereof, which fee shall be  
4 37 paid to the department. The Iowa department of public  
4 38 health shall issue duplicates of such permits from  
4 39 time to time as applied for by such companies.

4 40 Sec. \_\_\_\_\_. Section [453A.35](#), Code 1997, is amended  
4 41 to read as follows:

4 42 453A.35 TAX AND FEES PAID TO GENERAL FUND.

4 43 The proceeds derived from the sale of stamps and  
4 44 the payment of taxes, fees and penalties provided for  
4 45 under this chapter, and the permit fees received from  
4 46 all permits issued by the department, shall be  
4 47 credited to the general fund of the state.

~~4 48 All permit~~

~~4 49~~

~~4 50 fees provided for in this chapter and collected by~~

~~4 51~~

~~4 52 cities in the issuance of permits granted by the~~

~~4 53~~

~~4 54 cities shall be paid to the treasurer of the city~~

~~5 1~~

~~5 2 where the permit is effective, or to another city~~

~~5 3~~

~~5 4 officer as designated by the council, and credited to~~

~~5 5~~

~~5 6 the general fund of the city. Permit fees so~~

~~5 7~~

~~5 8 collected by counties shall be paid to the county~~

~~5 9~~

~~treasurer.~~

- The proceeds derived from the payment of  
5 6 retail permit fees and penalties received from all  
5 7 permits issued by the Iowa department of public health  
5 8 shall be credited to the general fund of the state and  
5 9 are appropriated to the Iowa department of public  
5 10 health for programs related to cigarette, tobacco, and  
5 11 tobacco products-related programs.

5 12 Sec. \_\_\_\_ Section [453A.39](#), subsection 2,  
5 13 paragraphs a and b, Code 1997, are amended to read as  
5 14 follows:

5 15 a. A manufacturer, distributor, wholesaler,  
5 16 retailer, or distributing agent or agent thereof shall  
5 17 not give away any cigarettes or tobacco products to  
5 18 any person under

~~eighteen~~

- twenty-one years of age, or  
5 19 within five hundred feet of any playground, school,  
5 20 high school, or other facility when such facility is  
5 21 being used primarily by persons under age

~~eighteen~~

- 5 22 twenty-one for recreational, educational, or other  
5 23 purposes.

5 24 b. Proof of age in the form of photographic  
5 25 identification shall be required if a reasonable  
5 26 person could conclude on the basis of outward  
5 27 appearance that a prospective recipient of a sample  
5 28 may be under

~~eighteen~~

- twenty-five years of age."

5 29 #3. Page 1, line 17, by striking the word  
5 30 "eighteen" and inserting the following: "twenty-one".

5 31 #4. Title page, line 1, by inserting after the  
5 32 word "Act" the following: "relating to cigarettes,  
5 33 tobacco, and tobacco products including".

5 34 #5. Title page, line 4, by inserting after the  
5 35 word "provision" the following: "providing for the  
5 36 issuance of retail cigarette permits and collection of  
5 37 permit fees by the Iowa department of public health,  
5 38 increasing the age of a minor to twenty-one years of  
5 39 age or younger and providing penalties."

5 40 #6. By renumbering as necessary.

5 41

5 42

5 43

5 44 ROD [HALVORSON](#)

5 45 [SF 110.202](#) 77

5 46 pf/jj/28