

JAN 26 1988

HOUSE FILE 2106

HUMAN RESOURCES

BY MULLINS

Passed House, Date 2/11/88 (p. 1160)

Passed Senate, Date 3/30/88 (p. 1160)

Vote: Ayes 92 Nays 0

Vote: Ayes 28 Nays 14

Approved May 12, 1988

Mullins to measure of 167
2/11/88 (p. 1160)

A BILL FOR

1 An Act prohibiting the advertisement, sale, or use in this state
2 of home testing kits for human immunodeficiency virus antibody
3 or antigen testing, and providing a penalty.

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

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HF 2106

1 Section 1. NEW SECTION. 139.43 HUMAN IMMUNODEFICIENCY
2 VIRUS HOME TESTING KITS -- PROHIBITION.

3 A person shall not advertise for sale, offer for sale,
4 sell, or use in this state a home testing kit for human
5 immunodeficiency virus antibody or antigen testing. A person
6 who violates this section is guilty of a serious misdemeanor.

7 EXPLANATION

8 This bill prohibits the advertising, offering for sale,
9 sale, or use in this state of a home testing kit for human
10 immunodeficiency syndrome virus antibody or antigen testing,
11 and provides that a person who does so is guilty of a serious
12 misdemeanor.

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H-5219

1 Amend House File 2106 as follows:

2 1. Page 1, line 3, by inserting before the word
3 "A" the following: "1."

4 2. Page 1, line 4, by striking the words "sell,
5 or use" and inserting the following: "or sell".

6 3. Page 1, lines 5 and 6, by striking the words
7 "A person who violates this section is guilty of a
8 serious misdemeanor."

9 4. By inserting after line 6 the following:

10 "2. A person who violates this section is guilty
11 of a class "D" felony.

12 3. The board may seek relief pursuant to section
13 203A.4 restraining any person from violating the
14 provisions of this section. In addition to granting a
15 temporary or permanent injunction, the court may
16 impose a civil penalty not to exceed forty thousand
17 dollars per violation of this section.

18 4. In addition to other remedies provided for in
19 this chapter or section 203A.4, the court may impose a
20 civil penalty of not more than five thousand dollars
21 for each day of intentional violation of a temporary
22 restraining order, preliminary injunction, or
23 permanent injunction issued under authority of this
24 section.

25 5. The board may refer available evidence concern-
26 ing a possible violation of this section to the
27 attorney general. The attorney general, with or
28 without such a referral, may institute appropriate
29 criminal proceedings or may refer the case to the
30 appropriate county attorney."

31 5. Title page, line 1, by striking the words "
32 sale, or use" and inserting the following: "or sale".

33 6. Title page, line 3, by striking the words "a
34 penalty" and inserting the following: "penalties".

H-5219 FILED MARCH 2, 1988 BY COMMITTEE ON HUMAN RESOURCES

Adopted 3/11 (p. 152)

HOUSE FILE 2106

H-5508

1 Amend the amendment, H-5219, to House File 2106 as
2 follows:

3 1. Page 1, by inserting after line 30 the
4 following:

5 "6. This section does not apply to a newspaper or
6 other print medium in which the advertisement appears,
7 or to a broadcast station or other electronic medium
8 which disseminates the advertisement unless the medium
9 knowingly violates this section. A person who sells
10 home testing kits for human immunodeficiency virus
11 antibody or antigen testing shall not cause
12 advertising of the kits to appear in this state from a
13 location outside this state where such advertising is
14 not prohibited without prominently indicating in the
15 advertisement that the sale of the kits is void in
16 this state."

H-5508 FILED MARCH 10, 1988

BY MULLINS of Kossuth

Adopted 3/11 (p. 152)

HOUSE FILE 2106
BY MULLINS

(As Amended and Passed by the House March 17, 1988)

Passed House, Date 4/4/88 (p. 1150) Passed Senate, Date 3/30/88 (p. 1160)
Vote: Ayes 95 Nays 0 Vote: Ayes 28 Nays 14
Approved May 13, 1988
Motion to Reconsider (p. 1180)

A BILL FOR

1 An Act prohibiting the advertisement or sale in this state of
2 home testing kits for human immunodeficiency virus antibody or
3 antigen testing, and providing penalties.

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

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House Amendments _____
Deleted Language *

1 Section 1. NEW SECTION. 139.43 HUMAN IMMUNODEFICIENCY
2 VIRUS HOME TESTING KITS -- PROHIBITION.

3 1. A person shall not advertise for sale, offer for sale,
4 or sell in this state a home testing kit for human
5 immunodeficiency virus antibody or antigen testing.

* 6 2. A person who violates this section is guilty of a class
7 "D" felony.

8 3. The board may seek relief pursuant to section 203A.4
9 restraining any person from violating the provisions of this
10 section. In addition to granting a temporary or permanent
11 injunction, the court may impose a civil penalty not to exceed
12 forty thousand dollars per violation of this section.

13 4. In addition to other remedies provided for in this
14 chapter or section 203A.4, the court may impose a civil
15 penalty of not more than five thousand dollars for each day of
16 intentional violation of a temporary restraining order,
17 preliminary injunction, or permanent injunction issued under
18 authority of this section.

19 5. The board may refer available evidence concerning a
20 possible violation of this section to the attorney general.
21 The attorney general, with or without such a referral, may
22 institute appropriate criminal proceedings or may refer the
23 case to the appropriate county attorney.

24 6. This section does not apply to a newspaper or other
25 print medium in which the advertisement appears, or to a
26 broadcast station or other electronic medium which
27 disseminates the advertisement unless the medium knowingly
28 violates this section. A person who sells home testing kits
29 for human immunodeficiency virus antibody or antigen testing
30 shall not cause advertising of the kits to appear in this
31 state from a location outside this state where such
32 advertising is not prohibited without prominently indicating
33 in the advertisement that the sale of the kits is void in this
34 state.

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HOUSE FILE 2106

S-5638

- 1 Amend House File 2106, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 1, line 1, by striking the figure
- 4 "139.43" and inserting the following: "203A.21".
- 5 2. Page 1, line 14, by striking the words and
- 6 figure "or section 203A.4".

S-5638

Filed March 29, 1988

BY DAVID M. READINGER

A- Adopted 3/30 (p. 1154)
B- Adopted (p. 1154)

HOUSE FILE 2106

S-5643

- 1 Amend House File 2106 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 5, by striking the word
- 4 "testing." and inserting the following: "unless the
- 5 kit has been approved by the Iowa department of public
- 6 health as meeting acceptable reliability standards for
- 7 determining the presence or absence of the human
- 8 immunodeficiency virus antibody, and unless the kit
- 9 provides a disclaimer and consumer education material
- 10 which provides guidelines for the interpretation of
- 11 the test results, where appropriate for the necessity
- 12 of additional testing, and for the importance of
- 13 counseling. A person who violates this section is
- 14 guilty of an aggravated misdemeanor."
- 15 2. Page 1, by striking lines 6 through 34.

S-5643

Filed March 29, 1988

BY CHARLES BRUNER

w/20 3/30 (p. 1154)

JIM LIND

HOUSE FILE 2106

S-5646

- 1 Amend House File 2106 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 1, line 5, by striking the word
- 4 "testing." and inserting the following: "testing
- 5 unless the kit has been approved by the Iowa
- 6 department of public health as meeting acceptable
- 7 reliability standards for determining the presence or
- 8 absence of the human immunodeficiency virus antibody.
- 9 In addition the kit shall be approved only if the kit
- 10 provides a disclaimer and consumer education material,
- 11 approved by the department, which includes guidelines
- 12 for the interpretation of the test results, the
- 13 necessity for additional testing when appropriate, and
- 14 the importance of counseling. A person who violates
- 15 this section is guilty of an aggravated misdemeanor."
- 16 2. Page 1, by striking lines 6 through 34.

S-5646

Filed March 29, 1988

BY CHARLES BRUNER

Lost 3/30 (p. 1154)

JIM LIND

SENATE AMENDMENT TO HOUSE FILE 2106

H-6141

1 Amend House File 2106, as amended, passed, and
2 reprinted by the House, as follows:

- 3 1. Page 1, line 1, by striking the figure
- 4 "139.43" and inserting the following: "203A.21".
- 5 2. Page 1, line 14, by striking the words and
- 6 figure "or section 203A.4".

RECEIVED FROM THE SENATE

H-6141 FILED MARCH 31, 1988

House renumbered 4/4 (p. 1350)

HOUSE FILE 2106

AN ACT

PROHIBITING THE ADVERTISEMENT OR SALE IN THIS STATE OF HOME TESTING KITS FOR HUMAN IMMUNODEFICIENCY VIRUS ANTIBODY OR ANTIGEN TESTING, AND PROVIDING PENALTIES.

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

Section 1. NEW SECTION. 203A.21 HUMAN IMMUNODEFICIENCY VIRUS HOME TESTING KITS -- PROHIBITION.

1. A person shall not advertise for sale, offer for sale, or sell in this state a home testing kit for human immunodeficiency virus antibody or antigen testing.
2. A person who violates this section is guilty of a class "D" felony.
3. The board may seek relief pursuant to section 203A.4 restraining any person from violating the provisions of this section. In addition to granting a temporary or permanent injunction, the court may impose a civil penalty not to exceed forty thousand dollars per violation of this section.
4. In addition to other remedies provided for in this chapter, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section.
5. The board may refer available evidence concerning a possible violation of this section to the attorney general. The attorney general, with or without such a referral, may institute appropriate criminal proceedings or may refer the case to the appropriate county attorney.
6. This section does not apply to a newspaper or other print medium in which the advertisement appears, or to a broadcast station or other electronic medium which disseminates the advertisement unless the medium knowingly

violates this section. A person who sells home testing kits for human immunodeficiency virus antibody or antigen testing shall not cause advertising of the kits to appear in this state from a location outside this state where such advertising is not prohibited without prominently indicating in the advertisement that the sale of the kits is void in this state.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2106, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 12, 1988

TERRY E. BRANSTAD
Governor

HF 2106