

MAR 21 1996  
HUMAN RESOURCES

HOUSE FILE 2483  
BY BRAMMER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to cigarettes and tobacco products including  
2 distribution and advertising related to cigarettes and tobacco  
3 products, and providing penalties.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2483

1 Section 1. Section 453A.1, subsections 3 and 4, Code 1995,  
2 are amended by striking the subsections.

3 Sec. 2. Section 453A.3, unnumbered paragraph 1, Code 1995,  
4 is amended to read as follows:

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

7 Sec. 3. Section 453A.13, subsections 1 and 2, Code 1995,  
8 are amended to read as follows:

9 1. PERMITS REQUIRED. Every distributor, wholesaler,  
10 ~~cigarette-vendor~~, and retailer, now engaged or who desires to  
11 become engaged in the sale or use of cigarettes, upon which a  
12 tax is required to be paid, shall obtain a state or retail  
13 cigarette permit as a distributor, wholesaler, ~~cigarette~~  
14 ~~vender~~, or retailer, as the case may be.

15 2. ISSUANCE OR DENIAL.

16 a. The department shall issue state permits to  
17 distributors, and wholesalers, ~~and-cigarette-vendors~~ subject  
18 to the conditions provided in this division. Cities may issue  
19 retail permits to dealers within their respective limits.  
20 County boards of supervisors may issue retail permits to  
21 dealers in their respective counties, outside of the corporate  
22 limits of cities.

23 b. The department may deny the issuance of a permit to a  
24 distributor, wholesaler, ~~vender~~ or retailer who is  
25 substantially delinquent in the payment of a tax due, or the  
26 interest or penalty on the tax, administered by the department  
27 at the time of application. If the applicant is a  
28 partnership, a permit may be denied if a partner is  
29 substantially delinquent on any delinquent tax, penalty or  
30 interest. If the applicant is a corporation, a permit may be  
31 denied if any officer having a substantial legal or equitable  
32 interest in the ownership of the corporation owes any  
33 delinquent tax, interest or penalty of the applicant  
34 corporation.

35 Sec. 4. Section 453A.13, subsection 3, unnumbered

1 paragraph 1, Code 1995, is amended to read as follows:

2 All permits provided for in this division shall expire on  
3 June 30 of each year. A permit shall not be granted or issued  
4 until the applicant has paid for the period ending June 30  
5 next, to the department or the city or county granting the  
6 permit, the fees provided for in this division. The annual  
7 state permit fee for a distributor, ~~cigarette-vendor,~~ and  
8 wholesaler is one hundred dollars when the permit is granted  
9 during the months of July, August, or September. However,  
10 whenever a state permit holder operates more than one place of  
11 business, a duplicate state permit shall be issued for each  
12 additional place of business on payment of five dollars for  
13 each duplicate state permit, but refunds as provided in this  
14 division do not apply to any duplicate permit issued.

15 Sec. 5. Section 453A.13, subsection 6, Code 1995, is  
16 amended to read as follows:

17 6. NO SALES WITHOUT PERMIT. No distributor, wholesaler,  
18 ~~cigarette-vendor,~~ or retailer shall sell any cigarettes until  
19 such application has been filed and the fee prescribed paid  
20 for a permit and until such permit is obtained and only while  
21 such permit is unrevoked and unexpired.

22 Sec. 6. Section 453A.22, subsection 2, unnumbered  
23 paragraph 1, Code 1995, is amended to read as follows:

24 2. If a retailer or employee of a retailer has violated  
25 section 453A.2, or 453A.36, subsection 6, ~~or-453A.39,~~ the  
26 department or local authority, in addition to the other  
27 penalties fixed for such violations in this section, shall  
28 assess a penalty upon the same hearing and notice as  
29 prescribed in subsection 1 as follows:

30 Sec. 7. Section 453A.36, subsection 6, Code 1995, is  
31 amended by striking the subsection and inserting in lieu  
32 thereof the following:

33 6. a. A person shall not sell cigarettes or tobacco  
34 products through a vending machine or through self-service  
35 displays in this state and a person shall not give away

1 cigarettes or tobacco products at any time in this state. Any  
2 cigarettes or tobacco products or related items sold or  
3 distributed in this state are subject to all of the following,  
4 as applicable:

5 (1) All sales of cigarettes and tobacco products shall be  
6 made in face-to-face sales and age verification shall be  
7 required for each sale.

8 (2) Single cigarettes shall not be sold and packages of  
9 cigarettes shall not be sold unless the package contains  
10 twenty or more cigarettes.

11 (3) Cigarettes and tobacco products shall not be purchased  
12 or provided through mail order in this state.

13 (4) Promotional items, including but not limited to caps,  
14 T-shirts, and bags, which bear the logo or name of a cigarette  
15 or tobacco product, shall not be sold or distributed in this  
16 state and proof of purchase exchanges for cigarettes or other  
17 tobacco products are prohibited in this state.

18 b. A person who violates this subsection is guilty of a  
19 serious misdemeanor.

20 Sec. 8. NEW SECTION. 453A.36A CIGARETTES AND OTHER  
21 TOBACCO PRODUCTS -- ADVERTISING, PROMOTIONAL LIMITATIONS.

22 1. It is unlawful for any person to advertise on any  
23 advertising device cigarettes or other tobacco products within  
24 one thousand feet of any playground, school, high school, or  
25 other facility when such facility is being used primarily by  
26 persons under age eighteen for recreational, educational, or  
27 other purposes.

28 2. Any advertising of cigarettes or tobacco products on  
29 advertising devices in this state, no matter where located,  
30 including but not limited to advertising devices located on  
31 public transportation or at the point-of-sale, shall be in  
32 black and white text only.

33 3. Use of the brand name or logo of a cigarette or tobacco  
34 product shall not be used in the promotion of any sport or  
35 entertainment event held in this state. However, the

1 corporate name of a manufacturer, distributor, wholesaler,  
2 retailer, or distributing agent may be used in the promotion  
3 of such an event.

4 4. A person who violates this section is guilty of a  
5 serious misdemeanor.

6 Sec. 9. NEW SECTION. 453A.57 CIGARETTE AND TOBACCO  
7 PRODUCT EDUCATION CAMPAIGN FUND ESTABLISHED.

8 1. A cigarette and tobacco product education campaign fund  
9 is created within the state treasury under the control of the  
10 Iowa department of public health. Moneys received by the  
11 department from fees collected and designated for this purpose  
12 shall be deposited in the state treasury to the credit of the  
13 fund and are appropriated for the purposes specified in this  
14 section. Notwithstanding section 8.33, any unexpended balance  
15 in the fund at the end of each fiscal year shall be retained  
16 in the fund. Any interest and earnings on investments from  
17 money in the fund shall be credited to the fund, section 12C.7  
18 notwithstanding.

19 2. Every manufacturer, distributor, distributing agent,  
20 wholesaler, retailer, or subjobber who engages in the sale,  
21 distribution, or use of cigarettes or tobacco products in this  
22 state, upon which a tax is required to be paid, and who is  
23 required to obtain a permit or license, shall pay, in addition  
24 to any fee for a permit, a fee of one hundred dollars at the  
25 time of application for a permit or license. If a state  
26 permit holder operates more than one place of business, the  
27 fee shall only be paid at the time of the initial application  
28 for a permit or license. The moneys collected shall be  
29 deposited in the cigarette and tobacco product education  
30 campaign fund created in this section.

31 3. The Iowa department of public health shall develop and  
32 implement a cigarette and tobacco product education campaign  
33 to educate minors and others about the hazards of using  
34 cigarettes and tobacco products.

35 Sec. 10. Section 453A.42, subsection 8, Code 1995, is

1 amended to read as follows:

2 8. "Place of business" means any place where tobacco  
3 products are sold or where tobacco products are manufactured,  
4 stored, or kept for the purpose of sale or consumption,  
5 including any vessel, vehicle, airplane, or train, ~~or~~-vending  
6 machine.

7 Sec. 11. Section 453A.39, Code 1995, is repealed.

8 EXPLANATION

9 This bill establishes a variety of provisions relating to  
10 cigarettes and tobacco products. The bill eliminates all  
11 means of selling or distributing cigarettes or tobacco  
12 products in the state with the exception of face-to-face  
13 sales. The bill also prohibits the sale or distribution of  
14 products which include the name or logo of a cigarette or  
15 tobacco product and prohibits proof of purchase exchanges for  
16 cigarettes and tobacco products. The bill prohibits outdoor  
17 advertising of cigarettes and tobacco products within 1,000  
18 feet of a playground, school, high school, or other facility  
19 if the facility is being used primarily by persons under the  
20 age of 18 for recreational, educational, or other purposes and  
21 allows other advertising only if the text of the advertisement  
22 is black and white only. The bill also prohibits the use of  
23 brand names in the sponsorship of sporting or entertainment  
24 events within the state, but allows the use of the corporate  
25 name for this purpose. The bill also requires manufacturers,  
26 wholesalers, distributors, distributing agents, retailers, and  
27 subjobbers in the state to contribute to a cigarette and  
28 tobacco product education campaign fund created in the state  
29 treasury to be used by the Iowa department of public health to  
30 educate minors and others regarding the hazards associated  
31 with the use of cigarettes and tobacco products. The bill  
32 establishes a penalty of a serious misdemeanor for any  
33 violation of the new provisions.

34

35