

SENATE FILE 2069
BY HAMMOND

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 including
2 providing for the prohibition of smoking in a public place or
3 public meeting at a future date, providing for the enforcement
4 of smoking prohibitions through rulemaking, providing for more
5 restrictive local enforcement of smoking provisions, making
6 provisions for distribution and advertising related to
7 cigarettes and tobacco products, providing penalties, and
8 providing an effective date.

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

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

S.F. 2069

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; child day care facilities
13 as defined in section 237A.1; and auditoriums, elevators,
14 theaters, libraries, art museums, concert halls, indoor
15 arenas, and meeting rooms. "Public place" does not include a
16 retail store at which fifty percent or more of the sales
17 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.2, subsection 1, Code 1995, is
28 amended to read as follows:

29 1. a. A Beginning July 1, 1999, a person shall not smoke
30 in a public place or in a public meeting except-in-a
31 designated-smoking-area. This prohibition does not apply in
32 cases in which an entire room or hall is used for a private
33 social function and seating arrangements are under the control
34 of the sponsor of the function and not of the proprietor or
35 person in charge of the place. This prohibition does not

1 apply to factories, warehouses, and similar places of work not
2 usually frequented by the general public, except that an
3 employee cafeteria in such place of work shall have a
4 designated nonsmoking area.

5 b. Where smoking areas are designated, existing physical
6 barriers and existing ventilation systems shall be used to
7 minimize the toxic effect of smoke in adjacent nonsmoking
8 areas.

9 c. If a bar has within its premises a nonsmoking area,
10 this designation shall be posted on all entrances normally
11 used by the public.

12 Sec. 3. Section 142B.2, subsections 2, 3, and 4, Code
13 1995, are amended by striking the subsections.

14 Sec. 4. Section 142B.6, unnumbered paragraph 1, Code 1995,
15 is amended to read as follows:

16 A person who smokes in those areas prohibited in section
17 ~~142B.27-or-who-violates-section-142B.47~~, shall pay a civil fine
18 pursuant to section 805.8, subsection 11 for each violation.

19 Sec. 5. Section 142B.6, unnumbered paragraph 3, Code 1995,
20 is amended to read as follows:

21 Enforcement of this chapter shall be implemented in an
22 equitable manner throughout the state. For the purpose of
23 equitable and uniform implementation, application, and
24 enforcement of state and local laws and regulations, the
25 provisions of this chapter shall supersede any local law or
26 regulation which is inconsistent with or conflicts with the
27 provisions of this chapter, unless the local law or regulation
28 is more restrictive in application, in which case the more
29 restrictive portion of the local law or regulation shall
30 supersede any inconsistent or conflicting provision of this
31 chapter.

32 Sec. 6. Section 142B.6, Code 1995, is amended by adding
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. The Iowa department of public
35 health shall adopt rules to administer this chapter.

1 Sec. 7. Section 453A.1, subsections 3 and 4, Code 1995,
2 are amended by striking the subsections.

3 Sec. 8. 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. 9. 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 ~~vendor~~, 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. 10. 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~~7-cigarette-vendor7~~ 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. 11. 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-vendor7~~ 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. 12. Section 453A.22, subsection 2, unnumbered
23 paragraph 1, Code 1995, is amended to read as follows:

24 If a retailer or employee of a retailer has violated
25 section 453A.27 or section 453A.36, subsection 6, ~~or-453A.397~~
26 the 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. 13. 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. 14. 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. 15. Section 453A.56, Code 1995, is amended to read as
7 follows:

8 453A.56 UNIFORM APPLICATION.

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

20 Sec. 16. NEW SECTION. 453A.57 CIGARETTE AND TOBACCO
21 PRODUCT EDUCATION CAMPAIGN FUND ESTABLISHED.

22 1. A cigarette and tobacco product education campaign fund
23 is created within the state treasury under the control of the
24 Iowa department of public health. Moneys received by the
25 department from fees collected and designated for this purpose
26 shall be deposited in the state treasury to the credit of the
27 fund and are appropriated for the purposes specified in this
28 section. Notwithstanding section 8.33, any unexpended balance
29 in the fund at the end of each fiscal year shall be retained
30 in the fund. Any interest and earnings on investments from
31 money in the fund shall be credited to the fund, section 12C.7
32 notwithstanding.

33 2. Every manufacturer, distributor, distributing agent,
34 wholesaler, retailer, or subjobber who engages in the sale,
35 distribution, or use of cigarettes or tobacco products in this

1 state, upon which a tax is required to be paid, and who is
2 required to obtain a permit or license, shall pay, in addition
3 to any fee for a permit, a fee of one hundred dollars at the
4 time of application for a permit or license. If a state
5 permit holder operates more than one place of business, the
6 fee shall only be paid at the time of the initial application
7 for a permit or license. The moneys collected shall be
8 deposited in the cigarette and tobacco product education
9 campaign fund created in this section.

10 3. The Iowa department of public health shall develop and
11 administer a cigarette and tobacco product education campaign
12 to educate minors and others about the hazards of using
13 cigarettes and tobacco products.

14 Sec. 17. Section 453A.42, subsection 8, Code 1995, is
15 amended to read as follows:

16 8. "Place of business" means any place where tobacco
17 products are sold or where tobacco products are manufactured,
18 stored, or kept for the purpose of sale or consumption,
19 including any vessel, vehicle, airplane, or train~~-or-vending~~
20 machine.

21 Sec. 18. Section 453A.39, Code 1995, is repealed.

22 Sec. 19. Sections 142B.3 and 142B.4, Code 1995, are
23 repealed.

24 Sec. 20. EFFECTIVE DATE. Sections 2, 3, 4, and 19 of this
25 Act are effective July 1, 1999.

26 EXPLANATION

27 This bill establishes a variety of provisions relating to
28 cigarettes and tobacco products.

29 The bill includes in the definition of "public place" child
30 day care facilities; provides that local laws or regulations
31 which are more restrictive in application supersede any
32 inconsistent or conflicting provision of state law or
33 regulation relating to smoking provisions; and directs the
34 Iowa department of public health to adopt rules to administer
35 and enforce the provisions relating to smoking prohibitions.

1 The bill also eliminates all means of selling or
2 distributing cigarettes or tobacco products in the state with
3 the exception of face-to-face sales. The bill also prohibits
4 the sale or distribution of products which include the name or
5 logo of a cigarette or tobacco product and prohibits proof of
6 purchase exchanges for cigarettes and tobacco products. The
7 bill prohibits outdoor advertising of cigarettes and tobacco
8 products within 1,000 feet of a playground, school, high
9 school, or other facility if the facility is being used
10 primarily by persons under the age of 18 for recreational,
11 educational, or other purposes and allows other advertising
12 only if the text of the advertisement is black and white only.
13 The bill also prohibits the use of brand names in the
14 sponsorship of sporting or entertainment events within the
15 state, but allows the use of the corporate name for this
16 purpose.

17 The bill also requires manufacturers, wholesalers,
18 distributors, distributing agents, retailers, and subjobbers
19 in the state to contribute to a cigarette and tobacco product
20 education campaign fund created in the state treasury to be
21 used by the Iowa department of public health to educate minors
22 and others regarding the hazards associated with the use of
23 cigarettes and tobacco products.

24 The bill establishes a penalty of a serious misdemeanor for
25 any violation of the new provisions relating to advertising of
26 cigarettes or other tobacco products.

27 Additionally, the bill provides that effective July 1,
28 1999, smoking is prohibited in any public place or public
29 meeting, with certain exceptions, and makes other conforming
30 changes in the Code to reflect this.

31
32
33
34
35

**SENATE FILE 2069
FISCAL NOTE**

The estimate for Senate File 2069 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2069 expands the definition of "public place", provides that more restrictive local laws supersede State law, directs the Department of Public Health to administer and enforce smoking provisions, eliminates all means of tobacco sales excepting face-to-face sales, prohibits outdoor advertising within 1,000 feet of a facility used primarily by children, restricts other advertising, establishes a tobacco education campaign fund, prohibits smoking in any public place or public meeting with certain exceptions, establishes a penalty, and provides an effective date of July 1, 1999.

ASSUMPTIONS

1. There are approximately 10,000 tobacco retailers in the State.
2. A permit costing \$100 per retailer would contribute \$1,000,000 to the Cigarette and Tobacco Product Education Campaign Fund in FY 1997.
3. The Department of Public Health would require 1.00 FTE position and support to administer the education campaign.
4. All moneys collected in the Cigarette and Tobacco Product Education Campaign Fund would be spent on the education campaign in the same fiscal year. Unspent monies would be retained in the fund.

FISCAL IMPACT

The fiscal impact of SF 2069 is reflected below:

(dollars in thousands)

	Fiscal Year 1997			Fiscal Year 1998		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
REVENUE						
General Fund \$	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Permit Fees	0	1,000	1,000	0	900	900
Total \$	0	1,000	1,000	0	900	900
EXPENDITURES						
Salaries (FTE's) \$	0 (0.0)	50 (1.0)	50 (1.0)	0 (0.0)	50 (1.0)	50 (1.0)
Support	0	15	15	0	15	15
Education Fund	0	935	935	0	835	835
Total \$	0	1,000	1,000	0	900	900

-2-

NET EFFECT \$ 0 \$ 0 \$ 0 \$ 0 \$ 0 \$ 0

SOURCES

Department of Public Health
Department of Justice

(LSB 3631ss, MMB)

FILED FEBRUARY 14, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR