

Senate Study Bill 2074

Conference Committee Text

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1 1 Section 1. Section [142B.1](#), subsection 3, Code 1995, is
1 2 amended to read as follows:
1 3 3. "Public place" means any enclosed indoor area used by
1 4 the general public or serving as a place of work

~~containing~~

1 5

~~two hundred fifty or more square feet of floor space~~

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

1 27 Sec. 2. Section [142B.6](#), Code 1995, is amended to read as
1 28 follows:

1 29 142B.6 CIVIL PENALTY FOR VIOLATION -

~~UNIFORM APPLICATION~~

1 30 ENFORCEMENT.

1 31 A person who smokes in those areas prohibited in section
1 32 [142B.2](#), or who violates section 142B.2, subsection 2 or 3,
1 33 section 142B.3, or section 142B.4, shall pay a civil fine
1 34 pursuant to section 805.8, subsection 11, for each violation.
1 35 Judicial magistrates shall hear and determine violations of
2 1 this chapter. The civil penalties paid pursuant to this
2 2 chapter shall be deposited in the county treasury.
2 3

~~Enforcement of this chapter shall be implemented in an~~

2 4

~~equitable manner throughout the state. For the purpose of~~

2 5

~~equitable and uniform implementation, application, and~~

2 6

~~enforcement of state and local laws and regulations, the~~

2 7

~~provisions of this chapter shall supersede any local law or~~

2 8

~~regulation which is inconsistent with or conflicts with the~~

2 9

~~provisions of this chapter.~~

~~The Iowa department of public~~

2 10 ~~health shall adopt rules to enforce this chapter.~~

2 11 Sec. 3. Section [453A.3](#), unnumbered paragraph 1, Code 1995,

2 12 is amended to read as follows:

2 13 A person who violates section 453A.2, subsection 1,

~~or~~

2 14

~~section 453A.39~~

~~is guilty of a simple misdemeanor.~~

2 15 Sec. 4. Section [453A.22](#), subsection 2, unnumbered

2 16 paragraph 1, Code 1995, is amended to read as follows:

2 17 If a retailer or employee of a retailer has violated

2 18 section 453A.2

~~or 453A.36, subsection 6,~~

~~or 453A.39~~

~~8, or 9,~~

2 19 the department or local authority, in addition to the other

2 20 penalties fixed for such violations in this section, shall

2 21 assess a penalty upon the same hearing and notice as

2 22 prescribed in subsection 1 as follows:

2 23 Sec. 5. Section [453A.36](#), Code 1995, is amended by adding

2 24 the following new subsections:

2 25 NEW SUBSECTION. 8. A manufacturer, distributor,

2 26 wholesaler, retailer, distributing agent, or agent thereof

2 27 shall not give away cigarettes or tobacco products at any time

2 28 in connection with the manufacturer's, distributor's,

2 29 wholesaler's, retailer's, or distributing agent's business or

2 30 for promotion of the business or product. A manufacturer,

2 31 distributor, wholesaler, retailer, distributing agent, or

2 32 agent thereof who violates this subsection is guilty of a

2 33 serious misdemeanor.

2 34 NEW SUBSECTION. 9. It is unlawful for any manufacturer,

2 35 distributor, wholesaler, retailer, distributing agent, or

3 1 agent thereof to advertise on any advertising device

3 2 cigarettes or other tobacco products within one thousand feet

3 3 of any playground, school, high school, or other facility when

3 4 such facility is being used primarily by persons under age

3 5 eighteen for recreational, educational, or other purposes. A

3 6 manufacturer, distributor, wholesaler, retailer, distributing

3 7 agent, or agent thereof who violates this subsection is guilty

3 8 of a serious misdemeanor.

3 9 Sec. 6. Sections 453A.39 and 453A.56, Code 1995, are

3 10 repealed.

3 11

EXPLANATION

3 12 This bill amends the chapters of the Code regarding
3 13 regulation of smoking in a public place and regarding smoking
3 14 and tobacco products. The bill redefines "public place" for
3 15 the purposes of smoking in public places, by eliminating the
3 16 restriction regarding the size of the public place, which is
3 17 currently a minimum of 250 or more square feet of floor space,
3 18 and includes licensed child care centers in the definition of
3 19 public place. The bill provides for the payment of a civil
3 20 fine for violation of provisions relating to designation of
3 21 smoking areas and for violation of provisions relating to the
3 22 responsibilities of proprietors. The bill removes the
3 23 provisions relating to state regulation superseding local law
3 24 or regulation relating to smoking in a public place and
3 25 relating to cigarette and tobacco products; and requires the
3 26 Iowa department of public health to adopt rules to enforce the
3 27 smoking in public places chapter. The bill also prohibits
3 28 manufacturers, distributors, wholesalers, retailers,
3 29 distributing agents, or agents thereof from giving away
3 30 cigarettes or tobacco products and from the advertising of
3 31 cigarettes or tobacco products within 1,000 feet of a
3 32 playground, school, or a similar facility. Violation of
3 33 either of the prohibitions is a serious misdemeanor and this
3 34 penalty is in addition to existing penalties which provide for
3 35 revocation of an existing permit.

4 1 LSB 3671XL 76

4 2 pf/jw/5.1