

3/24/98 Rereferred To: Judiciary

FEB 26 1998
Place On Calendar

HOUSE FILE 2457
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 564)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a civil cause of action on behalf of the
2 state to recover, from manufacturers of tobacco products,
3 medical assistance payments made by the state due to injury,
4 disease, or disability caused by the use of tobacco by the
5 recipients of medical assistance, providing for a jury trial,
6 making related changes, and providing for severability.

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

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HF 2457

1 Section 1. NEW SECTION. 249A.50 STATE RECOVERY OF
2 TOBACCO-RELATED MEDICAL ASSISTANCE PAYMENTS.

3 1. For purposes of this section:

4 a. "Manufacturer" means any person engaged in the process
5 of designing, fabricating, assembling, producing,
6 constructing, or otherwise preparing a product containing
7 tobacco, including any packaging or labeling or repackaging or
8 relabeling of such a product, with the intention of selling
9 the product for gain or profit. "Manufacturer" does not
10 include persons whose activity is limited to growing natural
11 leaf tobacco or to selling tobacco products at wholesale or
12 retail to consumers.

13 b. "Tobacco" means any tobacco product, including but not
14 limited to loose tobacco suitable for smoking, snuff, snuff
15 flour, cavendish, plug and twist tobacco, fine cuts and other
16 chewing tobaccos, shorts, refuse scraps, clippings, cuttings,
17 and sweepings of tobacco, and other kinds and forms of tobacco
18 suitable for chewing and smoking, including cigars and
19 cigarettes.

20 2. Notwithstanding any limitations upon recovery of
21 medical assistance payments contained in sections 249A.5 and
22 249A.6, the state and the department shall have a civil cause
23 of action to recover the full amount of medical assistance
24 provided under this chapter to or on behalf of recipients of
25 medical assistance, using any or all legal theories existing
26 in the Code or at common law, against any manufacturer for
27 injury, disease, or disability caused by the use of tobacco,
28 and to recover all related expenses and fees, including
29 attorney fees. The attorney general may institute the cause
30 of action on behalf of the state and the department.

31 3. Trial shall be by jury, if either party demands a jury.

32 Sec. 2. SEVERABILITY. In the event any provision of this
33 Act is ruled void or unenforceable for any reason, the court
34 shall give full effect to all other provisions.

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EXPLANATION

1 This bill establishes a civil cause of action, in favor of
2 the state and against manufacturers of tobacco products, to
3 recover the full amount of medical assistance payments made by
4 the state due to injury, disease, or disability caused by the
5 use of tobacco by medical assistance recipients. The bill
6 defines the terms "manufacturer" and "tobacco".

7 The bill authorizes the attorney general to institute a
8 suit based on the cause of action and allows recovery of
9 related expenses and fees, including attorney fees. The
10 attorney general may utilize all statutory and common law
11 theories of recovery in such a suit.

12 A jury trial may be requested by any party.

13 The bill includes a severability clause.

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HSB 564

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JUDICIARY

Succeeded By
SF/HF 2457

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LAMBERTI)

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Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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