

2-19-97 *Harmon Res*  
FILED FEB 19 1997 3/3 *House Floor*  
3/3/97 *Amend/Do Pass*  
W/S-3102  
SENATE FILE **163** *H. Local Gov. 4/3/97*  
BY BOETTGER and IVERSON  
*4/7/97 No Pass*  
*H. 4/10/97 Unfinished Business*  
*Calendar*

Passed Senate, Date 4/2/97 *(p.941)* Passed House, Date 4-14-97 *(p.1202)*  
Vote: Ayes 45 Nays 0 Vote: Ayes 96 Nays 0  
Approved May 9, 1997 *Re-Passed*  
*98-0 4/25/97*  
*(p.1481)*

A BILL FOR

1 An Act relating to the sale of cigarettes and tobacco products  
2 through vending machines.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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S.F. 163

1 Section 1. Section 453A.36, subsection 6, Code 1997, is  
2 amended to read as follows:

3 6. Any sales of cigarettes or tobacco products made  
4 through a cigarette vending machine are subject to rules and  
5 penalties relative to retail sales of cigarettes and tobacco  
6 products provided for in this chapter. No cigarettes shall be  
7 sold through any cigarette vending machine unless the  
8 cigarettes have been properly stamped or metered as provided  
9 by this division, and in case of violation of this provision,  
10 the permit of the dealer authorizing retail sales of  
11 cigarettes shall be canceled. Payment of the license fee as  
12 provided in section 453A.13 authorizes a cigarette vendor to  
13 sell cigarettes or tobacco products through vending machines,  
14 ~~provided that the following conditions are met:--the machines~~  
15 ~~are located in places where the machines are under the~~  
16 ~~supervision of a person of legal age who is responsible for~~  
17 ~~prevention of purchase by minors from the machines; the~~  
18 ~~machines are equipped with a lock-out device under the control~~  
19 ~~of a person of legal age who shall directly regulate the sale~~  
20 ~~of items through the machines; and which shall include a~~  
21 ~~mechanism to prevent the machines from functioning if the~~  
22 ~~power source for the lock-out device fails or if the lock-out~~  
23 ~~device is disabled; and a mechanism to ensure that only one~~  
24 ~~pack of cigarettes or one tobacco product is dispensed at a~~  
25 ~~time; and the location where the machines are placed is~~  
26 ~~covered by a local retail permit. However, a lock-out device~~  
27 ~~is not required for machines operated in the following~~  
28 ~~locations; if the machines are not to be placed in a doorway~~  
29 ~~or other area readily accessible to minors:--a commercial~~  
30 ~~establishment holding a class "C" liquor license or a class~~  
31 ~~"B" beer permit under chapter 123; if the establishment is not~~  
32 ~~also licensed as a food service establishment under chapter~~  
33 ~~137B; a private facility not open to the public; or a~~  
34 ~~workplace not open to the public. However, cigarettes or~~  
35 tobacco products shall not be sold through a vending machine

1 unless the vending machine is located in a place where the  
2 retailer ensures that no person younger than eighteen years of  
3 age is present or permitted to enter at any time. This  
4 section does not require a retail licensee to buy a cigarette  
5 vendor's permit if the retail licensee is in fact the owner of  
6 the cigarette vending machines and the machines are operated  
7 in the location described in the retail permit.

8 EXPLANATION

9 The bill prohibits the sale of cigarettes or tobacco  
10 products through vending machines unless the vending machine  
11 is located in a place where the retailer ensures that a person  
12 younger than 18 years of age is not present or permitted to  
13 enter at any time.

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## SENATE FILE 163

S-3102

1 Amend Senate File 163 as follows:

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

4 "Section 1. Section 142B.6, unnumbered paragraph  
5 3, Code 1997, is amended by striking the unnumbered  
6 paragraph.

7 Sec. 2. Section 453A.13, subsection 3, Code 1997,  
8 is amended to read as follows:

9 3. FEES -- EXPIRATION. All permits provided for  
10 in this division shall expire on June 30 of each year.  
11 A permit shall not be granted or issued until the  
12 applicant has paid for the period ending June 30 next,  
13 to the department or the city or county granting the  
14 permit, the fees provided for in this division.

15 a. The annual state permit fee for a distributor,  
16 cigarette vendor, and wholesaler is one hundred  
17 dollars when the permit is granted during the months  
18 of July, August, or September. However, whenever a  
19 state permit holder operates more than one place of  
20 business, a duplicate state permit shall be issued for  
21 each additional place of business on payment of five  
22 dollars for each duplicate state permit, but refunds  
23 as provided in this division do not apply to any  
24 duplicate permit issued.

25 b. The annual state fee for retail permits is as  
26 follows when the permit is granted during the months  
27 of July, August, or September:

28 a. (1) In places outside any city, fifty dollars.

29 b. (2) In cities of less than fifteen thousand  
30 population, seventy-five dollars.

31 c. (3) In cities of fifteen thousand or more  
32 population, one hundred dollars.

33 c. If any permit is granted during the months of  
34 October, November, or December, the fee shall be  
35 three-fourths of the ~~above-maximum-schedule~~ annual  
36 fee; if granted during the months of January,  
37 February, or March, one-half of the ~~maximum-schedule~~  
38 annual fee, and if granted during the months of April,  
39 May, or June, one-fourth of the ~~maximum-schedule~~  
40 annual fee.

41 d. A city or county may establish a local retail  
42 permit fee in addition to the annual state retail  
43 permit fee. A local retail permit fee shall be  
44 retained by the city or county imposing the fee and  
45 shall be used by the city or county exclusively for  
46 the purpose of enforcing section 453A.2."

47 2. Page 1, line 3, by inserting after the number  
48 "6." the following: "Unless otherwise provided in  
49 this subsection, any sales of cigarettes or tobacco  
50 products shall be made in a direct, face-to-face

S-3102

-1-

S-3102

Page 2

- 1 exchange."
- 2 3. Page 1, line 4, by inserting after the word
- 3 "machine" the following: "or through a self-service
- 4 display".
- 5 4. Page 1, line 7, by inserting after the word
- 6 "machine" the following: "or through a self-service
- 7 display".
- 8 5. Page 1, line 26, by inserting after the word
- 9 "permit" the following: "or self-service displays".
- 10 6. Page 1, line 35, by inserting after the word
- 11 "machine" the following: "or through a self-service
- 12 display".
- 13 7. Page 2, line 1, by inserting after the word
- 14 "machine" the following: "or self-service display".
- 15 8. Page 2, line 7, by inserting after the word
- 16 "permit." the following: "A city or county may
- 17 directly enforce this subsection. Notwithstanding
- 18 chapter 602, any fines collected as a result of
- 19 enforcement of this subsection by a city or county
- 20 shall be retained by the city or county."
- 21 9. Page 2, by inserting after line 7 the
- 22 following:
- 23 "Sec. \_\_\_\_\_. Section 453A.56, Code 1997, is
- 24 repealed."
- 25 10. Title page, line 1, by striking the words
- 26 "the sale of".
- 27 11. Title page, line 2, by striking the words
- 28 "through vending machines".
- 29 12. By renumbering as necessary.

By COMMITTEE ON HUMAN RESOURCES  
NANCY BOETTGER, Chairperson

S-3102 FILED MARCH 3, 1997

*out of order 4/2/97 (p.935)*

## SENATE FILE 163

H-1598

- 1 Amend Senate File 163, as passed by the Senate, as  
 2 follows:  
 3 1. Page 2, by inserting after line 7 the  
 4 following:  
 5 "Sec. \_\_\_\_ . CIGARETTE AND TOBACCO PRODUCTS --  
 6 ADVERTISING -- INTERIM. The legislative council is  
 7 requested to establish an interim committee to review  
 8 the effects of the advertising of cigarette and  
 9 tobacco products on persons under the age of eighteen.  
 10 The committee shall make recommendations to the  
 11 general assembly on or before December 15, 1997, which  
 12 include measures that may be implemented to address  
 13 such advertising."  
 14 2. Title page, line 2, by striking the words  
 15 "through vending machines".  
 16 3. By renumbering as necessary.

By FALLON of Polk

H-1598 FILED APRIL 8, 1997

*Adopted 4-14-97*  
*(P. 1201)*

## SENATE FILE 163

H-1599

- 1 Amend Senate File 163, as passed by the Senate, as  
 2 follows:  
 3 1. Page 2, line 2, by striking the word  
 4 "eighteen" and inserting the following: "twenty-one".

By CONNORS of Polk  
DIX of Butler

H-1599 FILED APRIL 8, 1997

*Adopted 4-14-97*  
*(P. 1201)*

## SENATE FILE 163

H-1657

- 1 Amend Senate File 163, as passed by the Senate, as  
 2 follows:  
 3 1. Page 2, by inserting after line 7, the  
 4 following:  
 5 "Sec. \_\_\_\_ . Section 453A.39, Code 1997, is amended  
 6 by striking the section and inserting in lieu thereof  
 7 the following:  
 8 453A.39 TOBACCO PRODUCT AND CIGARETTE SAMPLES --  
 9 PROHIBITION.  
 10 A manufacturer, distributor, wholesaler, retailer,  
 11 or distributing agent or agent thereof shall not give  
 12 away cigarettes or tobacco products at any time in  
 13 connection with the manufacturer's, distributor's,  
 14 wholesaler's, retailer's, or distributing agent's  
 15 business or for promotion of the business or product."  
 16 2. Title page, by striking line 2 and inserting  
 17 the following: "and their distribution."

By THOMSON of Linn

H-1657 FILED APRIL 9, 1997

*Not Germore (P. 1202)*

*4.14.97*

SEVENTY-SEVENTH GENERAL ASSEMBLY  
1997 REGULAR SESSION  
DAILY  
SENATE CLIP SHEET

APRIL 15, 1997

HOUSE AMENDMENT TO  
SENATE FILE 163

S-3510

- 1 Amend Senate File 163, as passed by the Senate, as  
2 follows:  
3 1. Page 2, line 2, by striking the word  
4 "eighteen" and inserting the following: "twenty-one".  
5 2. Page 2, by inserting after line 7 the  
6 following:  
7 "Sec. \_\_\_\_ . CIGARETTE AND TOBACCO PRODUCTS --  
8 ADVERTISING -- INTERIM. The legislative council is  
9 requested to establish an interim committee to review  
10 the effects of the advertising of cigarette and  
11 tobacco products on persons under the age of eighteen.  
12 The committee shall make recommendations to the  
13 general assembly on or before December 15, 1997, which  
14 include measures that may be implemented to address  
15 such advertising."  
16 3. Title page, line 2, by striking the words  
17 "through vending machines".  
18 4. By renumbering, relettering, or redesignating  
19 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3510 FILED APRIL 14, 1997

*Refused to concur 4/22/97 (p. 1333)*  
*House received 4/23/97 (p. 1480)*

SENATE FILE 163

S-3352

1 Amend Senate File 163 as follows:

2 1. Page 1, line 3, by inserting after the number  
3 "6." the following: "Unless otherwise provided in  
4 this subsection, any sales of cigarettes or tobacco  
5 products shall be made in a direct, face-to-face  
6 exchange."

7 2. Page 1, line 4, by inserting after the word  
8 "machine" the following: "or through a self-service  
9 display".

10 3. Page 1, line 7, by inserting after the word  
11 "machine" the following: "or through a self-service  
12 display".

13 4. Page 1, line 26, by inserting after the word  
14 "permit" the following: "or self-service displays".

15 5. Page 1, line 35, by inserting after the word  
16 "machine" the following: "or through a self-service  
17 display".

18 6. Page 2, line 1, by inserting after the word  
19 "machine" the following: "or self-service display".

20 7. Page 2, line 7, by inserting after the word  
21 "permit." the following: "A city or county may  
22 directly enforce this subsection. Notwithstanding  
23 chapter 602, any fines collected as a result of  
24 enforcement of this subsection by a city or county  
25 shall be retained by the city or county."

26 8. Page 2, by inserting after line 7 the  
27 following:

28 "Sec. \_\_\_\_ . EFFECTIVE DATE. This Act is effective  
29 August 28, 1997."

30 9. Title page, by striking line 2 and inserting  
31 the following: "and providing an effective date."

By ROBERT DVORSKY  
JOHNIE HAMMOND

S-3352 FILED APRIL 2, 1997  
RULED OUT OF ORDER

4.2-97

(p. 940)



SENATE FILE 163

AN ACT  
RELATING TO THE SALE OF CIGARETTES AND TOBACCO PRODUCTS  
THROUGH VENDING MACHINES.

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

Section 1. Section 453A.36, subsection 6, Code 1997, is amended to read as follows:

6. Any sales of cigarettes or tobacco products made through a cigarette vending machine are subject to rules and penalties relative to retail sales of cigarettes and tobacco products provided for in this chapter. No cigarettes shall be sold through any cigarette vending machine unless the cigarettes have been properly stamped or metered as provided by this division, and in case of violation of this provision, the permit of the dealer authorizing retail sales of cigarettes shall be canceled. Payment of the license fee as provided in section 453A.13 authorizes a cigarette vendor to sell cigarettes or tobacco products through vending machines provided that the following conditions are met:--the machines are located in places where the machines are under the supervision of a person of legal age who is responsible for prevention of purchase by minors from the machines; the machines are equipped with a lock-out device under the control of a person of legal age who shall directly regulate the sale of items through the machines; and which shall include a mechanism to prevent the machines from functioning if the power source for the lock-out device fails or if the lock-out device is disabled, and a mechanism to ensure that only one pack of cigarettes or one tobacco product is dispensed at a time; and the location where the machines are placed is covered by a local retail permit. However, a lock-out device is not required for machines operated in the following locations; if the machines are not to be placed in a doorway or other area readily accessible to minors:--a commercial

establishment holding a class "C" liquor license or a class "B" beer permit under chapter 123; if the establishment is not also licensed as a food service establishment under chapter 139B; a private facility not open to the public or a workplace not open to the public. However, cigarettes or tobacco products shall not be sold through a vending machine unless the vending machine is located in a place where the retailer ensures that no person younger than eighteen years of age is present or permitted to enter at any time. This section does not require a retail licensee to buy a cigarette vendor's permit if the retail licensee is in fact the owner of the cigarette vending machines and the machines are operated in the location described in the retail permit.

\_\_\_\_\_  
MARY E. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 163, Seventy-seventh General Assembly.

\_\_\_\_\_  
MARY PAT GUNDERSON  
Secretary of the Senate

Approved May 9, 1997

SF 163

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TERRY E. BRANSTAD  
Governor