

H. 3/4/98 State Gov.
H. 3/17/98 Do Pass

H-3/23/98 UNFINISHED BUSINESS CALENDAR FILED FEB 23 1998

SENATE FILE 2286
BY COMMITTEE ON HUMAN RESOURCES
(SUCCESSOR TO SSB 2129)

Passed Senate, ^(P. 552) Date 3/4/98 Passed House, Date _____
Vote: Ayes 49 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to cigarettes and tobacco products by restricting
2 smoking of tobacco products in licensed child day care centers
3 and registered group day care homes, by restricting
4 advertising, and providing a penalty.

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

SENATE FILE 2286

H-9200

1 Amend Senate File 2286, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking line 20 and inserting the
4 following: "this section is subject to a civil
5 penalty of one hundred dollars."

6 2. Title page, line 4, by inserting before the
7 word "penalty" the following: "civil".

By NELSON of Marshall

H-9200 FILED APRIL 15, 1998

S.F. 2286

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UNFINISHED BUSINESS CALIFORNIA

1 Section 1. Section 237A.12, Code 1997, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 9. a. For the purposes of this
4 subsection, "smoking" means the same as defined in section
5 142B.1.

6 b. Requirements for child care center policy shall not
7 allow smoking during a center's hours of operation in any
8 program area, child-occupied room, or center-operated vehicle.
9 In addition, smoking shall not be allowed in the center's food
10 preparation or storage areas.

11 c. Requirements for group day care homes shall not allow
12 smoking in a group day care home while children are present
13 receiving child day care.

14 Sec. 2. NEW SECTION. 453A.4 ADVERTISING PROHIBITION.

15 Any outdoor advertising, including but not limited to a
16 billboard, poster, or placard, within one thousand feet of a
17 playground, elementary school, or secondary school, shall not
18 display an advertisement for any tobacco, tobacco product, or
19 cigarette. An owner of an advertising device who violates
20 this section is guilty of a simple misdemeanor.

21 EXPLANATION

22 This bill requires the department of human services to
23 restrict the smoking of tobacco products in licensed child day
24 care centers and registered group day care homes. The bill
25 amends Code section 237A.12 which requires the department to
26 adopt rules setting minimum standards for child day care
27 providers.

28 The bill also prohibits any outdoor advertising from
29 displaying an advertisement for tobacco products when the
30 advertising is located within 1,000 feet of a playground,
31 elementary school, or secondary school. The bill provides
32 that a person violating this prohibition is guilty of a simple
33 misdemeanor.

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SENATE FILE 2286

H-8531

1 Amend Senate File 2286, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 14 the
4 following:

5 "Sec. 101. NEW SECTION. 249A.50 STATE RECOVERY
6 OF TOBACCO-RELATED MEDICAL ASSISTANCE PAYMENTS.

7 1. For purposes of this section:

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

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

25 2. The state and the department shall be entitled
26 to bring an action against and recover in full from
27 any manufacturer which caused in fact any injury,
28 disease, or disability arising from or connected with
29 the use of tobacco by recipients of medical
30 assistance, for the full amount of medical assistance
31 paid under this chapter on behalf of such recipients,
32 and for other relief, including legal and
33 administrative fees and expenses. The attorney
34 general may institute a civil action to enforce the
35 rights conferred by this section. The right of
36 recovery of the state and the department under this
37 section is independent from and not derivative of any
38 right or claim of the individual recipients of medical
39 assistance.

40 a. The court shall do all of the following:

41 (1) Shall permit evidence, proof, and argument as
42 to causation and amount of damages by and through
43 statistical analysis or other methods of scientific or
44 statistical proof.

45 (2) Shall not require proof of causation and
46 damages as to individual recipients.

47 b. The state or department may recover damages
48 against manufacturers based upon an aggregation of or
49 a reasonable estimation of payments made on behalf of
50 recipients of medical assistance. Apportionment of

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1 damages among defendants shall be according to a
2 manufacturer's respective share of the market for
3 tobacco within the state.

4 c. Trial shall be by jury, if either party demands
5 a jury."

6 2. Page 1, by inserting after line 20 the
7 following:

8 "Sec. 201. EFFECTIVE DATE AND APPLICABILITY.

9 Section 101 of this Act, being deemed of immediate
10 importance, takes effect upon enactment and applies to
11 medical assistance paid on or after the effective date
12 of this Act. Section 101 of this Act shall not affect
13 the common law rights of the state or the department,
14 if any."

15 3. Title page, line 4, by inserting after the
16 word "advertising," the following: "and by providing
17 a civil cause of action to recover medical assistance
18 payments made due to injury, disease, or disability
19 caused by the use of tobacco, providing an
20 applicability and an effective date,".

21 4. By renumbering as necessary.

By KREIMAN of Davis

H-8531 FILED MARCH 20, 1998

SENATE FILE 2286

H-8552

1 Amend Senate File 2286, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting after line 13 the
4 following:

5 "Sec. 101. NEW SECTION. 249A.50 STATE RECOVERY
6 OF TOBACCO-RELATED MEDICAL ASSISTANCE PAYMENTS.

7 1. For purposes of this section:

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

18 b. "Tobacco" means any tobacco product, including
19 but not limited to loose tobacco suitable for smoking,
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21 fine cuts and other chewing tobaccos, shorts, refuse
22 scraps, clippings, cuttings, and sweepings of tobacco,
23 and other kinds and forms of tobacco suitable for
24 chewing and smoking, including cigars and cigarettes.

25 2. The state and the department shall be entitled
26 to bring an action against and recover in full from
27 any manufacturer which caused in fact any injury,
28 disease, or disability arising from or connected with
29 the use of tobacco by recipients of medical
30 assistance, for the full amount of medical assistance
31 paid under this chapter on behalf of such recipients,
32 and for other relief, including legal and
33 administrative fees and expenses. The attorney
34 general may institute a civil action to enforce the
35 rights conferred by this section. The right of
36 recovery of the state and the department under this
37 section is independent from and not derivative of any
38 right or claim of the individual recipients of medical
39 assistance.

40 a. The court shall do all of the following:

41 (1) Shall permit evidence, proof, and argument as
42 to causation and amount of damages by and through
43 statistical analysis or other methods of scientific or
44 statistical proof.

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50 recipients of medical assistance. Apportionment of

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Page 2

1 damages among defendants shall be according to a
2 manufacturer's respective share of the market for
3 tobacco within the state.

4 c. Trial shall be by jury, if either party demands
5 a jury."

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12 of this Act. Section 101 of this Act shall not affect
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15 3. Title page, line 4, by inserting after the
16 word "advertising," the following: "and by providing
17 a civil cause of action to recover medical assistance
18 payments made due to injury, disease, or disability
19 caused by the use of tobacco, providing an
20 applicability and an effective date,".

21 4. By renumbering as necessary.

By DODERER of Johnson

H-8552 FILED MARCH 23, 1998

SENATE FILE 2286**H-8584**

1 Amend Senate File 2286 as passed by the Senate as
2 follows:

3 1. Page 1, by striking lines 14 through 20.

4 2. Title page, by striking lines 3 and 4 and
5 inserting the following: "and registered group day
6 care homes."

By NELSON of Marshall

H-8584 FILED MARCH 23, 1998

SENATE FILE 2286**H-8585**

1 Amend Senate File 2286, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking line 16 and inserting the
4 following: "billboard, poster, or placard, which may
5 be viewed from a".

6 2. Page 1, line 19, by inserting after the word
7 "cigarette" the following: "which contains words or
8 graphics which may be read or identified from the
9 playground, elementary school, or secondary school".

By NELSON of Marshall

H-8585 FILED MARCH 23, 1998

Tinsman
Boettger
Hammond

SSB 2129

Human Resources

SENATE FILE (SF) HF 2286

BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL BY
CHAIRPERSON BOETTGER)

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

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