

JAN 14 2000
JUDICIARY

HOUSE FILE 2049
BY REYNOLDS

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

A BILL FOR

1 An Act relating to the enhancement of penalties for certain
2 fraudulent or criminal acts.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2049

1 Section 1. Section 9C.9, Code 1999, is amended to read as
2 follows:

3 9C.9 PENALTY.

4 Any A merchant, whether an individual person, a firm,
5 corporation, partnership, or association, violating ~~any-of-the~~
6 ~~provisions-of~~ this chapter ~~shall-be~~ is guilty of a simple
7 misdemeanor for a first offense, and a serious misdemeanor for
8 each subsequent offense. Each sale made in violation of the
9 ~~provisions-hereof-shall-be-and-constitute~~ this chapter
10 constitutes a separate offense.

11 Sec. 2. Section 547.4, Code 1999, is amended to read as
12 follows:

13 547.4 PENALTY.

14 Any A person violating ~~the-provisions-of~~ this chapter ~~shall~~
15 ~~be~~ is guilty of a simple misdemeanor for a first offense, and
16 a serious misdemeanor for each subsequent offense.

17 Sec. 3. Section 555A.6, Code 1999, is amended to read as
18 follows:

19 555A.6 PENALTIES.

20 1. Any A seller who violates ~~the-provisions-of~~ this
21 chapter ~~shall-be~~ is guilty of a simple misdemeanor for a first
22 offense, and a serious misdemeanor for each subsequent
23 offense.

24 2. A violation of this chapter is a violation of section
25 714.16, subsection 2, paragraph "a".

26 EXPLANATION

27 This bill increases the penalty for repeat violations of
28 certain fraudulent or criminal acts which currently are
29 defined as simple misdemeanors, whether a first or repeat
30 offense.

31 The bill amends Code sections related to violations by
32 transient merchants (Code section 9C.9), persons engaging in
33 business under a trade name or assumed name without first
34 registering with the secretary of state (Code section 547.4),
35 and persons violating door-to-door sales requirements (Code

1 section 55A.6). In each case, a person committing a second
2 or subsequent offense is guilty of a serious misdemeanor.

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**HOUSE FILE 2049
FISCAL NOTE**

The estimate for House File 2049 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.

House File 2049 increases the penalty for repeat violations of certain fraudulent or criminal acts which are currently defined as simple misdemeanors. These violations include transient merchants, persons engaging in business under a trade name or an assumed name without first registering with the Secretary of State, and persons violating door-to-door sales requirements. In each case, a person committing a second or subsequent offense is guilty of a serious misdemeanor.

ASSUMPTIONS

1. Charge, conviction and sentencing patterns, and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 2000. There will be a lag effect of six months from the law's effective date to the date of first entry of affected offenders into the criminal justice system.
4. The maximum fine for a serious misdemeanor is \$1,500. The court may also order jail time not to exceed one year.
5. The Justice Data Warehouse eight-county prototype contains 70% of the statewide caseload.
6. The average cost per day for county jails is approximately \$60.
7. The average cost per serious misdemeanor indigent defense case is approximately \$500.
8. The conviction of a second offense is more likely to result in the imposition of a fine rather than jail time.
9. The District Court or District Associate Court is required to process the case.

CORRECTIONAL IMPACT

There will be no significant correctional impact on probation caseloads or State prison admissions. However, there may be increased demand for jail space, increased costs for indigent defense, and more court time required for cases where there have been previous convictions.

Projections based on the Justice System Warehouse data result in 19 convictions for violations related to transient merchants, no convictions for failure to register with the Secretary of State, and 10 convictions for violations of door-to-door sales requirements. The convictions are more likely to result in fines rather than jail time.

FISCAL IMPACT

House File 2049 may result in increased demand for jail space, increased costs for indigent defense, and increased court time for cases where there have been previous convictions; but the impact is not expected to be significant.

SOURCES

Department of Corrections
State Court Administrator's Office
Office of the State Public Defender
Iowa State Association of Counties
Criminal and Juvenile Justice Planning Division,
Department of Human Rights

(LSB 5045hh, BAL)

FILED FEBRUARY 15, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR