

FEB 16 2000

JUDICIARY

HOUSE FILE

2297

BY DAVIS

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

A BILL FOR

1 An Act establishing the criminal offense of loitering for a drug-
 2 related purpose and providing a penalty.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

HF 2297

1 Section 1. NEW SECTION. 124.407A LOITERING.

2 1. It shall be unlawful for any person to loiter within
3 one hundred feet of any public place and possess with the
4 intent to deliver, or possess or attempt to possess, a
5 controlled substance.

6 2. The following circumstances may be considered in
7 determining whether a person is loitering and possessing with
8 the intent to deliver, or possessing or attempt to possess, a
9 controlled substance:

10 a. The person has a prior conviction under chapter 124,
11 124A, 124B, or 453B.

12 b. The person passes or receives objects in a manner which
13 would hide the objects from public view.

14 c. The person possesses a device which is primarily used
15 to distribute or ingest controlled substances which includes,
16 but is not limited to, a crack pipe, push wires, chore boys,
17 hand scales, hypodermic needles, razor blades, or other
18 cutting devices.

19 d. The person flees or conceals their presence from a
20 uniformed law enforcement officer.

21 e. The person is under the influence of a controlled
22 substance.

23 f. The person is acting in such a manner as to raise a
24 reasonable suspicion that the person is acting as a lookout
25 for other persons delivering, possessing with the intent to
26 deliver or possessing, or attempting to possess a controlled
27 substance.

28 3. For purposes of this section:

29 a. "Loiter" means to remain or linger in a place with no
30 apparent reason other than to establish control over an area,
31 or to intimidate others from entering the area, for the
32 purpose of possessing with the intent to deliver or
33 possessing, or attempting to possess a controlled substance.

34 b. "Public place" means a street, an alley, driveway,
35 plaza, park, parking lot, a building open to the public, or a

1 motor vehicle located in a public place as defined in this
2 paragraph.

3 4. A person commits a serious misdemeanor for a first
4 offense under this section, an aggravated misdemeanor for a
5 second offense, and a class "D" felony for a third or
6 subsequent offense.

7

EXPLANATION

8 This bill establishes a new criminal offense of loitering
9 for a drug-related purpose and provides a penalty.

10 The bill provides that a person shall not loiter within 100
11 feet of a public place and possess with the intent to deliver,
12 or possess or attempt to possess a controlled substance. The
13 bill further provides that in determining whether a person is
14 loitering, the court or jury, if tried before a jury, may
15 generally consider whether: the person has a prior drug-
16 related conviction; the person is passing or receiving objects
17 in a manner which would hide objects from public view; the
18 person is in possession of an object used to distribute or
19 ingest a controlled substance; the person flees or hides from
20 a uniformed law enforcement officer; the person is under the
21 influence of a controlled substance; or the person is or
22 appears to be acting as a lookout for others who are
23 delivering, or possessing with the intent to deliver, or
24 possessing, or attempting to possess a controlled substance.

25 The bill defines "loiter" to mean any person who is within
26 100 feet of a public place for no apparent reason other than
27 to establish control of an area, or to intimidate others from
28 entering the area for the purpose of possessing with the
29 intent to deliver, or possessing or attempting to possess a
30 controlled substance. The bill defines public place to mean a
31 street, an alley, driveway, plaza, park, parking lot, a
32 building open to the public, or a motor vehicle located in a
33 public place.

34 Under the bill, a person commits a serious misdemeanor for
35 a first offense, an aggravated misdemeanor for a second

S.F. _____

H.F. _____

2297

1 offense, and a class "D" felony for a third or subsequent
2 offense.

3 A serious misdemeanor is punishable by confinement for no
4 more than one year and a fine of at least \$250 but not more
5 than \$1,500. An aggravated misdemeanor is punishable by
6 confinement for no more than two years and a fine of at least
7 \$500 but not more than \$5,000. A class "D" felony is
8 punishable by confinement for no more than five years and a
9 fine of at least \$750 but not more than \$7,500.

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35