

YNE Kean  
Boettger  
Hammond

556.3020  
Judiciary  
Succeeded By  
SF/HF 2079

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON McKEAN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the prohibition of shipping or importing into  
2 the state, or the offering for sale, selling, transporting,  
3 distributing, or possessing within the state, of cigarettes  
4 and tobacco products which were previously exported from or  
5 which are manufactured for use outside the United States, and  
6 making penalties applicable.

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

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1 ~~Section 1.~~ Section 453A.36, Code 1999, is amended by  
2 adding the following new subsection:

3 NEW SUBSECTION. 8. It is unlawful for a person to ship or  
4 import into the state, or to offer for sale, sell, distribute,  
5 transport, or possess within this state, cigarettes or tobacco  
6 products previously exported from or manufactured for use  
7 outside the United States.

8 EXPLANATION

9 This bill establishes as unlawful the act of shipping or  
10 importing into the state, or offering for sale, selling,  
11 distributing, transporting, or possessing within this state,  
12 cigarettes or tobacco products if the cigarettes or tobacco  
13 products had previously been exported from or manufactured for  
14 use outside the United States.

15 Existing penalties under Code chapter 453A apply to  
16 violation of the prohibition. Under Code section 453A.36,  
17 violation by a holder of a distributor's, wholesaler's, or  
18 manufacturer's permit is grounds for revocation of such a  
19 permit. Under Code section 453A.37, a violation of the  
20 prohibition is a fraudulent practice which carries a range of  
21 criminal penalties based upon the amount of money or the  
22 property involved.

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3/1/00 Judiciary

REPRINTED

FILED FEB 2 2000

SENATE FILE 2079  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3023)

Passed Senate, Date <sup>(p.470)</sup> 2/29/00 Passed House, Date <sup>(p.976)</sup> 3/23/00  
Vote: Ayes 48 Nays 0 Vote: Ayes 99 Nays 0  
Approved April 17, 2000

A BILL FOR

1 An Act relating to the prohibition of shipping or importing into  
2 the state, or the offering for sale, selling, transporting,  
3 distributing, or possessing within the state, of cigarettes  
4 and tobacco products which were previously exported from or  
5 which are manufactured for use outside the United States, and  
6 making penalties applicable.

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

SENATE FILE 2079

S-5031

1 Amend Senate File 2079 as follows:  
2 1. Page 1, by inserting after line 7, the  
3 following:  
4 "Sec. 2. EFFECTIVE DATE. This Act, being deemed  
5 of immediate importance, takes effect upon enactment."  
6 2. Title page, line 5, by striking the word  
7 "and".  
8 3. Title page line 6, by inserting after the word  
9 "applicable" the following: ", and providing an  
10 effective date".

By ANDY MCKEAN

S-5031 FILED FEBRUARY 29, 2000  
ADOPTED <sup>(p. 469)</sup>

SF 2079

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1 Section 1. Section 453A.36, Code 1999, is amended by  
2 adding the following new subsection:

3 NEW SUBSECTION. 8. It is unlawful for a person to ship or  
4 import into the state, or to offer for sale, sell, distribute,  
5 transport, or possess within this state, cigarettes or tobacco  
6 products previously exported from or manufactured for use  
7 outside the United States.

8 EXPLANATION

9 This bill establishes as unlawful the act of shipping or  
10 importing into the state, or offering for sale, selling,  
11 distributing, transporting, or possessing within this state,  
12 cigarettes or tobacco products if the cigarettes or tobacco  
13 products had previously been exported from or manufactured for  
14 use outside the United States.

15 Existing penalties under Code chapter 453A apply to  
16 violation of the prohibition. Under Code section 453A.36,  
17 violation by a holder of a distributor's, wholesaler's, or  
18 manufacturer's permit is grounds for revocation of such a  
19 permit. Under Code section 453A.37, a violation of the  
20 prohibition is a fraudulent practice which carries a range of  
21 criminal penalties based upon the amount of money or the  
22 property involved.

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**SENATE FILE 2079  
FISCAL NOTE**

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The estimate for Senate File 2079 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.

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Senate File 2079 makes it an unlawful act to ship or import into the state, or offer for sale, sell, distribute, transport, or possess within Iowa cigarettes or tobacco products which had previously been exported from or manufactured for use outside the United States. Violations by a holder of a distributor's, wholesaler's, or manufacturer's permit is grounds for revocation of such a permit. Violators are also subject to the range of criminal penalties imposed under fraudulent practice provisions.

**ASSUMPTIONS**

1. Cigarettes and tobacco products which are manufactured for export are being transported and sold in Iowa.
2. Sellers of these products are paying the state cigarette tax. They may or may not be paying the federal cigarette tax.
3. Cigarettes and tobacco products which are manufactured for export are cheaper to produce, and have a lower retail sale price than domestic cigarettes. This creates a demand for these products.
4. The Master Settlement Agreement for tobacco litigation distributes monetary awards to the states based on national sales figures and inflation. National sales figures do not include the sale of cigarettes or tobacco products which are manufactured for export. Therefore, domestic sales of such cigarettes will lower future tobacco litigation settlement payments to the states. However, sales volume of these products is unknown.
5. There were 195 convictions during calendar 1998 for fraudulent practices. Most of the convictions were misdemeanors. However, there are no readily available data regarding how many of the 195 cases were for violations of cigarette and tobacco regulations.

**FISCAL IMPACT**

Continued sales of cigarettes or tobacco products designed and manufactured for export in the domestic market will decrease annual payments to the states for tobacco litigation. The revenue loss cannot be estimated since sales volume of these products is unknown.

There may be an impact on the criminal justice system, due to the imposition of criminal penalties for fraud. However, that impact cannot be estimated due to a lack of data.

**SOURCES**

Criminal and Juvenile Justice Planning Division, Department of Human Rights  
Department of Revenue and Finance  
Department of Justice

(LSB 5210SV, BAL)

H - 3/1/00 Referred to  
Judiciary  
H-3/9/00 Dotson W  
# 8302

SENATE FILE **2079**  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3023)

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 29, 2000)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, <sup>(p.470)</sup> Date 2/29/00 Passed House, <sup>(p.975)</sup> Date 3/23/00  
Vote: Ayes 48 Nays 0 Vote: Ayes 99 Nays 0  
Approved April 17, 2000

Re Passed 4-5-00  
Vote 93-1

A BILL FOR

1 An Act relating to the prohibition of shipping or importing into  
2 the state, or the offering for sale, selling, transporting,  
3 distributing, or possessing within the state, of cigarettes  
4 and tobacco products which were previously exported from or  
5 which are manufactured for use outside the United States,  
6 making penalties applicable, and providing an effective date.

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

S.F. 2079

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1 Section 1. Section 453A.36, Code 1999, is amended by  
2 adding the following new subsection:

3 NEW SUBSECTION. 8. It is unlawful for a person to ship or  
4 import into the state, or to offer for sale, sell, distribute,  
5 transport, or possess within this state, cigarettes or tobacco  
6 products previously exported from or manufactured for use  
7 outside the United States.

8 Sec. 2. EFFECTIVE DATE. This Act, being deemed of  
9 immediate importance, takes effect upon enactment.

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SENATE FILE 2079

H-8302

1 Amend Senate File 2079, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 5 through 7, and  
4 inserting the following: "transport, or possess more  
5 than forty cigarettes within this state, previously  
6 sold for export from the United States or manufactured  
7 for use outside the United States."

8 2. Title page, by striking lines 3 and 4 and  
9 inserting the following: "distributing, or possessing  
10 more than forty cigarettes within the state, which  
11 were previously sold for export from or".

By COMMITTEE ON JUDICIARY

LARSON of Linn, Chairperson

H-8302 FILED MARCH 9, 2000

*Adopted*  
*3/23/00*  
*(p. 975)*



## SENATE FILE 2079

H-8509

1 Amend Senate File 2079, as amended, passed, and  
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 421B.4, Code 1999, is amended  
6 to read as follows:

7 421B.4 COMBINATION SALES.

8 In all offers for sale or sales involving  
9 cigarettes and any other item at a combined price, and  
10 ~~in all offers for sale, or sales, involving the giving~~  
11 ~~of any gift or concession of any kind whatsoever~~  
12 ~~{whether it be coupons or otherwise}~~, the wholesaler's  
13 or retailer's combined selling price shall not be  
14 below the cost to the wholesaler or the cost to the  
15 retailer, respectively, ~~of the total of all articles,~~  
16 ~~products, commodities, gifts and concessions included~~  
17 ~~in such transactions:--if any such articles, products,~~  
18 ~~commodities, gifts or concessions, shall not be~~  
19 ~~cigarettes, the basic cost thereof shall be determined~~  
20 ~~in like manner as provided in section 421B.2,~~  
21 ~~subsection 8."~~

22 2. Page 1, by inserting after line 7 the  
23 following:

24 "Sec. \_\_\_\_ . Section 453A.39, Code 1999, is amended  
25 by striking the section and inserting in lieu thereof  
26 the following:

27 453A.39 TOBACCO PRODUCTS, CIGARETTES, GIFTS, AND  
28 PAYMENTS FOR DISPLAYING CIGARETTES -- PROHIBITIONS.

29 1. Unless authorized under subsection 3, a  
30 manufacturer, distributor, wholesaler, retailer, or  
31 distributing agent or agent thereof shall not give  
32 away cigarettes or tobacco products at any time in  
33 connection with the manufacturer's, distributor's,  
34 wholesaler's, retailer's, or distributing agent's  
35 business or for promotion of the business or product.

36 2. Unless authorized by subsection 3, a  
37 manufacturer, distributor, wholesaler, retailer, or  
38 distributing agent shall not provide free articles,  
39 products, commodities, gifts, or concessions in an  
40 offer for sale or sale involving cigarettes or tobacco  
41 products.

42 3. The prohibitions in this section do not apply  
43 to transactions between manufacturers, distributors,  
44 or wholesalers."

45 3. Title page, line 1 by inserting after the word  
46 "of" the following: "certain practices including  
47 the".

48 4. Title page, line 5, by inserting after the  
49 word "states," the following: "and including the  
50 prohibition of the giving away of certain cigarettes

H-8509

H-8509

Page 2

1 and tobacco products,".

By SHOULTZ of Black Hawk

H-8509 FILED MARCH 22, 2000

(p. 975) 0/0  
3/23/00

SENATE FILE 2079

H-8515

1 Amend the amendment, H-8302, to Senate File 2079,  
2 as amended, passed and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 "\_\_\_\_. Page 1, line 3, by inserting after the  
7 figure "8." The following: "a.""

8 2. Page 1, by inserting after line 7, the  
9 following:

10 "\_\_\_\_. Page 1, by inserting before line 8 the  
11 following:

12 "b. In addition to any other remedy provided by  
13 law, a person that sustains economic damages or  
14 commercial injury as a result of a violation of this  
15 subsection may bring an action for injunctive or other  
16 equitable relief; actual damages if sustained as the  
17 result of the violation; and, as determined by the  
18 court, interest on damages from the date of the  
19 complaint, taxable costs, and reasonable attorney  
20 fees.""

21 3. Page 1, by inserting after line 11 the  
22 following:

23 "\_\_\_\_. Title page, line 6, by inserting after the  
24 word "applicable," the following: "providing for  
25 civil remedies,",".

By LARSON of Linn  
KREIMAN of Davis

H-8515 FILED MARCH 22, 2000

Lost  
9/23/00  
(p. 972)  
Motion to Rk by Kreiman 3/23/00  
motion lost

## SENATE FILE 2079

H-8517

1 Amend the amendment, H-8302, to Senate File 2079,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 "\_\_\_\_. Page 1, by inserting before line 1 the  
7 following:

8 "Section 1. Section 421B.4, Code 1999, is amended  
9 to read as follows:

10 421B.4 COMBINATION SALES.

11 In all offers for sale or sales involving  
12 cigarettes and any other item at a combined price, and  
13 ~~in all offers for sale, or sales, involving the giving~~  
14 ~~of any gift or concession of any kind whatsoever~~  
15 ~~{whether it be coupons or otherwise},~~ the wholesaler's  
16 or retailer's combined selling price shall not be  
17 below the cost to the wholesaler or the cost to the  
18 retailer, respectively, ~~of the total of all articles,~~  
19 ~~products, commodities, gifts and concessions included~~  
20 ~~in such transactions:--if any such articles, products,~~  
21 ~~commodities, gifts or concessions, shall not be~~  
22 ~~cigarettes, the basic cost thereof shall be determined~~  
23 ~~in like manner as provided in section 421B.2,~~  
24 ~~subsection 8."~~

25 2. Page 1, by inserting after line 7 the  
26 following:

27 "\_\_\_\_. Page 1, by inserting after line 7 the  
28 following:

29 "Sec. \_\_\_\_\_. Section 453A.39, Code 1999, is amended  
30 by striking the section and inserting in lieu thereof  
31 the following:

32 453A.39 TOBACCO PRODUCTS, CIGARETTES, GIFTS, AND  
33 PAYMENTS FOR DISPLAYING CIGARETTES -- PROHIBITIONS.

34 1. Unless authorized under subsection 3, a  
35 manufacturer, distributor, wholesaler, retailer, or  
36 distributing agent or agent thereof shall not give  
37 away cigarettes or tobacco products at any time in  
38 connection with the manufacturer's, distributor's,  
39 wholesaler's, retailer's, or distributing agent's  
40 business or for promotion of the business or product.

41 2. Unless authorized by subsection 3, a  
42 manufacturer, distributor, wholesaler, retailer, or  
43 distributing agent shall not provide free articles,  
44 products, commodities, gifts, or concessions in an  
45 offer for sale or sale involving cigarettes or tobacco  
46 products.

47 3. The prohibitions in this section do not apply  
48 to transactions between manufacturers, distributors,  
49 or wholesalers."

50 \_\_\_\_\_. Title page, line 1 by inserting after the

H-8517

H-8517

Page 2

1 word "of" the following: "certain practices including  
2 the".

3 3. Page 1, by inserting after line 11 the  
4 following:

5 "\_\_\_\_. Title page, line 5, by inserting after the  
6 word "states," the following: "and including the  
7 prohibition of the giving away of certain cigarettes  
8 and tobacco products,"."

By SHOULTZ of Black Hawk

H-8517 FILED MARCH 22, 2000

*Not germane*

*3/23/00*

*(p. 974)*

*Motion to Suspend Rules  
Motion prevailed*

*Now adopted  
3/23/00 (p. 975)*

HOUSE AMENDMENT TO  
SENATE FILE 2079

S-5242

1 Amend Senate File 2079, as amended, passed, and  
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 421B.4, Code 1999, is amended  
6 to read as follows:

7 421B.4 COMBINATION SALES.

8 In all offers for sale or sales involving  
9 cigarettes and any other item at a combined price, and  
10 ~~in-all-offers-for-sale, or sales, involving the giving~~  
11 ~~of any gift or concession of any kind whatsoever~~  
12 ~~{whether it be coupons or otherwise},~~ the wholesaler's  
13 or retailer's combined selling price shall not be  
14 below the cost to the wholesaler or the cost to the  
15 retailer, respectively, ~~of the total of all articles,~~  
16 ~~products, commodities, gifts and concessions included~~  
17 ~~in such transactions:--if any such articles, products,~~  
18 ~~commodities, gifts or concessions, shall not be~~  
19 ~~cigarettes, the basic cost thereof shall be determined~~  
20 ~~in like manner as provided in section 421B.2,~~  
21 ~~subsection 8."~~

22 2. Page 1, by striking lines 5 through 7, and  
23 inserting the following: "transport, or possess more  
24 than forty cigarettes within this state, previously  
25 sold for export from the United States or manufactured  
26 for use outside the United States."

27 3. Page 1, by inserting after line 7 the  
28 following:

29 "Sec. \_\_\_\_ . Section 453A.39, Code 1999, is amended  
30 by striking the section and inserting in lieu thereof  
31 the following:

32 453A.39 TOBACCO PRODUCTS, CIGARETTES, GIFTS, AND  
33 PAYMENTS FOR DISPLAYING CIGARETTES -- PROHIBITIONS.

34 1. Unless authorized under subsection 3, a  
35 manufacturer, distributor, wholesaler, retailer, or  
36 distributing agent or agent thereof shall not give  
37 away cigarettes or tobacco products at any time in  
38 connection with the manufacturer's, distributor's,  
39 wholesaler's, retailer's, or distributing agent's  
40 business or for promotion of the business or product.

41 2. Unless authorized by subsection 3, a  
42 manufacturer, distributor, wholesaler, retailer, or  
43 distributing agent shall not provide free articles,  
44 products, commodities, gifts, or concessions in an  
45 offer for sale or sale involving cigarettes or tobacco  
46 products.

47 3. The prohibitions in this section do not apply  
48 to transactions between manufacturers, distributors,  
49 or wholesalers."

50 4. Title page, line 1 by inserting after the word

S-5242

S-5242

Page 2

1 "of" the following: "certain practices including  
 2 the".  
 3 5. Title page, by striking lines 3 and 4 and  
 4 inserting the following: "distributing, or possessing  
 5 more than forty cigarettes within the state, which  
 6 were previously sold for export from or".  
 7 6. Title page, line 5, by inserting after the  
 8 word "states," the following: "and including the  
 9 prohibition of the giving away of certain cigarettes  
 10 and tobacco products,".

RECEIVED FROM THE HOUSE

S-5242 FILED MARCH 27, 2000

*Senate Refused*  
 4-5-00  
 (P. 1010)

*House Recedes*  
 4-5-00  
 (P. 1266)

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2079, Seventy-eighth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved April 17, 2000

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THOMAS J. VILSACK  
Governor

SENATE FILE 2079

AN ACT

RELATING TO THE PROHIBITION OF SHIPPING OR IMPORTING INTO THE STATE, OR THE OFFERING FOR SALE, SELLING, TRANSPORTING, DISTRIBUTING, OR POSSESSING WITHIN THE STATE, OF CIGARETTES AND TOBACCO PRODUCTS WHICH WERE PREVIOUSLY EXPORTED FROM OR WHICH ARE MANUFACTURED FOR USE OUTSIDE THE UNITED STATES, MAKING PENALTIES APPLICABLE, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 453A.36, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 8. It is unlawful for a person to ship or import into the state, or to offer for sale, sell, distribute, transport, or possess within this state, cigarettes or tobacco products previously exported from or manufactured for use outside the United States.