

Senate Study Bill 1141

SENATE FILE _____
BY (PROPOSED COMMITTEE ON STATE
GOVERNMENT BILL BY
CHAIRPERSON ZIEMAN)

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

A BILL FOR

1 An Act relating to tobacco retailers and providing penalties.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 2384SC 80
4 pf/pj/5

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1 1 Section 1. NEW SECTION. 453A.2A TOBACCO COMPLIANCE
1 2 EMPLOYEE TRAINING PROGRAM.

1 3 The alcoholic beverages division of the department of
1 4 commerce shall develop minimum training criteria for tobacco
1 5 compliance employee training programs provided by retailers to
1 6 inform employees about state and federal laws and regulations
1 7 regarding tobacco sales to minors.

1 8 Sec. 2. Section 453A.22, Code 2003, is amended by adding
1 9 the following new subsection:

1 10 NEW SUBSECTION. 2A. If an employee of a retailer violates
1 11 section 453A.2, subsection 1, unless the retailer directs or
1 12 knowingly permits the employee to violate section 453A.2,
1 13 subsection 1, the retailer shall not be assessed a penalty
1 14 under subsection 2 for a first or second such violation of
1 15 section 453A.2, subsection 1, that takes place at the same
1 16 place of business of the retailer within a one-year period, if
1 17 the retailer provides written documentation of all of the
1 18 following:

1 19 a. That the retailer has in place a tobacco compliance
1 20 employee training program that meets the minimum training
1 21 criteria established by the alcoholic beverages division of
1 22 the department of commerce pursuant to section 453A.2A, to
1 23 provide employees with information on state and federal laws
1 24 and regulations regarding tobacco sales to minors.

1 25 b. That the employee has acknowledged, in writing, that
1 26 the employee has completed the tobacco compliance employee
1 27 training program and understands state and federal laws and
1 28 regulations regarding tobacco sales to minors.

1 29 Sec. 3. Section 805.3, Code 2003, is amended to read as
1 30 follows:

1 31 805.3 PROCEDURE.

1 32 1. Before the cited person is released, the person shall
1 33 sign the citation, either in a paper or electronic format,
1 34 under penalty of providing false information under section
1 35 719.3, properly identifying the person cited. The person's
2 1 signature shall also serve as a written promise to appear in
2 2 court at the time and place specified. A copy of the citation
2 3 shall be given to the person.

2 4 2. If the citation is issued for a violation of section
2 5 453A.2, subsection 1, by an employee of a retailer in the
2 6 course of the employee's employment, a copy of the citation
2 7 shall be sent by certified mail, within twenty days of the
2 8 date of issuance of the citation, to the holder of the retail
2 9 permit pursuant to section 453A.13 for the place of business
2 10 where the offense occurred. If a copy of the citation is not
2 11 mailed by certified mail to the holder of the permit within
2 12 twenty days of the date of issuance of the citation, the
2 13 underlying violation shall be deemed not to be a violation of
2 14 section 453A.2, subsection 1, for the purposes of determining
2 15 the number of violations for which a penalty may be assessed
2 16 pursuant to section 453A.22, subsection 2, paragraph "b", "c",
2 17 or "d".

2 18 Sec. 4. CIGARETTE RETAILER CIVIL PENALTIES ASSESSED PRIOR
2 19 TO JULY 1, 2003. Notwithstanding section 453A.22, subsection
2 20 2, a retailer or an employee of a retailer who has violated
2 21 section 453A.2, subsection 1, but for whom prosecution of the
2 22 violation and assessment of a penalty are pending on July 1,
2 23 2003, shall pay a civil penalty of six hundred dollars in lieu

2 24 of the penalty that would be assessed under section 453A.22,
2 25 subsection 2. If a retailer pays the civil penalty under this
2 26 section, the underlying violation shall be deemed not to be a
2 27 violation of section 453A.2, subsection 1, for the purposes of
2 28 determining the number of violations for which a penalty may
2 29 be assessed pursuant to section 453A.22, subsection 2. The
2 30 proceeds derived from the collection of civil penalties under
2 31 this section shall be credited to the general fund of the
2 32 state.

2 33 EXPLANATION

2 34 This bill relates to cigarette retailers and the civil
2 35 penalties assessed against retailers for certain violations.

3 1 The bill instructs the alcoholic beverages division of the
3 2 department of commerce to develop minimum training criteria
3 3 for tobacco compliance employee training programs provided by
3 4 retailers to inform employees about state and federal laws and
3 5 regulations regarding tobacco sales to minors. The bill
3 6 provides that if an employee of a retailer sells, gives, or
3 7 otherwise supplies any tobacco, tobacco products, or
3 8 cigarettes to any person under the age of 18 (violates Code
3 9 section 453A.2, subsection 1), unless the retailer directs or
3 10 knowingly permits the employee to violate this provision, the
3 11 retailer is not to be assessed a penalty, in addition to other
3 12 penalties fixed for a first or second violation of this
3 13 provision that takes place at the same place of business of
3 14 the retailer within a one-year period, if the retailer
3 15 provides certain written documentation. The written
3 16 documentation provided is to include that the retailer has in
3 17 place a tobacco compliance employee training program that
3 18 meets the minimum training criteria established by the
3 19 alcoholic beverages division and that the employee has
3 20 acknowledged, in writing, that the employee has completed the
3 21 tobacco compliance employee training program and understands
3 22 state and federal laws and regulations regarding tobacco sales
3 23 to minors.

3 24 The bill also provides that if a citation is issued for a
3 25 violation of Code section 453A.2, subsection 1, by an employee
3 26 of a retailer, a copy of the citation is to be sent by
3 27 certified mail, within 20 days of the date of issuance of the
3 28 citation, to the holder of the retail permit for the place of
3 29 business where the offense occurred. If a copy of the
3 30 citation is not mailed as specified, the underlying violation
3 31 is to be deemed not to be a violation of Code section 453A.2,
3 32 subsection 1, for the purposes of determining the number of
3 33 violations, above a first violation, for which a penalty may
3 34 be assessed in addition to other penalties fixed for such
3 35 violation.

4 1 The bill also provides that only with regard to violation
4 2 of Code section 453A.2, subsection 1, for which prosecution of
4 3 the violation and assessment of a penalty are pending on July
4 4 1, 2003, the retailer is to pay a civil penalty of \$600 in
4 5 lieu of any other amount specified. If the retailer pays the
4 6 \$600 penalty, the underlying violation is to be deemed not to
4 7 be a violation of Code section 453A.2, subsection 1, for the
4 8 purposes of determining the number of violations for which a
4 9 penalty in addition to other penalties fixed for the violation
4 10 may be assessed.

4 11 LSB 2384SC 80

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