

FEB 1 2005  
PUBLIC SAFETY

HOUSE FILE 167  
BY McCARTHY and BAUDLER

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

**A BILL FOR**

1 An Act relating to the regulation of tobacco product retailers,  
2 and making penalties applicable.

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

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HF 167

1 Section 1. Section 453A.3, subsection 1, paragraphs a and  
2 b, Code 2005, are amended to read as follows:

3 a. A person, other than a retailer as defined in section  
4 453A.1 or 453A.42, who violates section 453A.2, subsection 1,  
5 is guilty of a simple misdemeanor.

6 b. An employee of a retailer as defined in section 453A.1  
7 or 453A.42, who violates section 453A.2, subsection 1, commits  
8 a simple misdemeanor punishable as a scheduled violation under  
9 section 805.8C, subsection 3, paragraph "b".

10 Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005,  
11 are amended to read as follows:

12 1. The alcoholic beverages division of the department of  
13 commerce shall develop a tobacco compliance employee training  
14 program not to exceed two hours in length for employees and  
15 prospective employees of ~~tobacco~~ retailers, as defined in  
16 sections 453A.1 and 453A.42, to inform the employees about  
17 state and federal laws and regulations regarding the sale of  
18 cigarettes and tobacco products to persons under eighteen  
19 years of age and compliance with and the importance of laws  
20 regarding the sale of cigarettes and tobacco products to  
21 persons under eighteen years of age.

22 2. The tobacco compliance employee training program shall  
23 be made available to employees and prospective employees of  
24 ~~tobacco~~ retailers, as defined in sections 453A.1 and 453A.42,  
25 at no cost to the employee, the prospective employee, or the  
26 retailer, and in a manner which is as convenient and  
27 accessible to the extent practicable throughout the state so  
28 as to encourage attendance. Contingent upon the availability  
29 of specified funds for provision of the program, the division  
30 shall schedule the program on at least a monthly basis and the  
31 program shall be available at a location in at least a  
32 majority of counties.

33 Sec. 3. Section 453A.22, Code 2005, is amended by adding  
34 the following new subsection:

35 NEW SUBSECTION. 8. For the purposes of this section,

1 "retailer" means retailer as defined in sections 453A.1 and  
2 453A.42 and "retail permit" includes permits issued to  
3 retailers under division I or division II of this chapter.

4 Sec. 4. NEW SECTION. 453A.47A RETAILERS -- PERMITS --  
5 FEES -- PENALTIES.

6 1. PERMITS REQUIRED. A person shall not engage in the  
7 business of a retailer of tobacco products at any place of  
8 business without first having received a permit as a tobacco  
9 products retailer.

10 2. NO SALES WITHOUT PERMIT. A retailer shall not sell any  
11 tobacco products until an application has been filed and the  
12 fee prescribed paid for a permit and until such permit is  
13 obtained and only while such permit is not suspended,  
14 unrevoked, or unexpired.

15 3. NUMBER OF PERMITS. An application shall be filed and a  
16 permit obtained for each place of business owned or operated  
17 by a retailer.

18 4. RETAILER -- CIGARETTES AND TOBACCO PRODUCTS. A  
19 retailer, as defined in section 453A.1, who holds a permit  
20 under division I of this chapter is not required to also  
21 obtain a retailer permit under this division. However, if a  
22 retailer, as defined in section 453A.1, only holds a permit  
23 under division I of this chapter and that permit is suspended,  
24 revoked, or expired, the retailer shall not sell any  
25 cigarettes or tobacco products during the time which the  
26 permit is suspended, revoked, or expired.

27 5. SEPARATE PERMIT. A separate retail permit shall be  
28 required of a distributor or subjobber if the distributor or  
29 subjobber sells tobacco products at retail.

30 6. ISSUANCE. Cities shall issue retail permits to  
31 retailers within their respective limits. County boards of  
32 supervisors shall issue retail permits to retailers in their  
33 respective counties, outside of the corporate limits of  
34 cities. The city or county shall submit a duplicate of any  
35 application for a retail permit and any retail permit issued

1 by the entity under this section to the Iowa department of  
2 public health within thirty days of issuance.

3 7. FEES -- EXPIRATION.

4 a. All permits provided for in this division shall expire  
5 on June 30 of each year. A permit shall not be granted or  
6 issued until the applicant has paid the fees provided for in  
7 this section for the period ending June 30 next, to the city  
8 or county granting the permit. The fee for retail permits is  
9 as follows when the permit is granted during the months of  
10 July, August, or September:

11 (1) In places outside any city, fifty dollars.

12 (2) In cities of less than fifteen thousand population,  
13 seventy-five dollars.

14 (3) In cities of fifteen thousand or more population, one  
15 hundred dollars.

16 b. If any permit is granted during the months of October,  
17 November, or December, the fee shall be three-fourths of the  
18 above maximum schedule; if granted during the months of  
19 January, February, or March, one-half of the maximum schedule,  
20 and if granted during the months of April, May, or June, one-  
21 fourth of the maximum schedule.

22 8. REFUNDS.

23 a. An unrevoked permit for which the retailer paid the  
24 full annual fee may be surrendered during the first nine  
25 months of the year to the officer issuing it, and the city or  
26 county granting the permit shall make refunds to the retailer  
27 as follows:

28 (1) Three-fourths of the annual fee if the surrender is  
29 made during July, August, or September.

30 (2) One-half of the annual fee if the surrender is made  
31 during October, November, or December.

32 (3) One-fourth of the annual fee if the surrender is made  
33 during January, February, or March.

34 b. An unrevoked permit for which the retailer has paid  
35 three-fourths of a full annual fee may be surrendered during

1 the first six months of the period covered by the payment, and  
2 the city or county shall make refunds to the retailer as  
3 follows:

4 (1) A sum equal to one-half of an annual fee if the  
5 surrender is made during October, November, or December.

6 (2) A sum equal to one-fourth of an annual fee if the  
7 surrender is made during January, February, or March.

8 c. An unrevoked permit for which the retailer has paid  
9 one-half of a full annual fee may be surrendered during the  
10 first three months of the period covered by the payment, and  
11 the city or county shall refund to the retailer a sum equal to  
12 one-fourth of an annual fee.

13 9. APPLICATION. Retailer permits shall be issued only  
14 upon applications, accompanied by the fee indicated above,  
15 made upon forms furnished by the department upon written  
16 request. The failure to furnish such forms shall be no excuse  
17 for the failure to file the form unless absolute refusal is  
18 shown. The forms shall specify:

19 a. The manner under which the retailer transacts or  
20 intends to transact business as a retailer.

21 b. The principal office, residence, and place of business,  
22 for which the permit is to apply.

23 c. If the applicant is not an individual, the principal  
24 officers or members of the applicant, not to exceed three, and  
25 their addresses.

26 d. Such other information as the director shall by rules  
27 prescribe.

28 10. RECORDS AND REPORTS OF RETAILERS.

29 a. The director shall prescribe the forms necessary for  
30 the efficient administration of this section and may require  
31 uniform books and records to be used and kept by each retailer  
32 or other person as deemed necessary.

33 b. Every retailer shall, when requested by the department,  
34 make additional reports as the department deems necessary and  
35 proper and shall at the request of the department furnish full

1 and complete information pertaining to any transaction of the  
2 retailer involving the purchase or sale or use of tobacco  
3 products.

4 11. PENALTIES. The permit suspension and revocation  
5 provisions and the civil penalties established in section  
6 453A.22 shall apply to retailers under this division, in  
7 addition to any other penalties imposed under this division.

8 EXPLANATION

9 This bill establishes permit requirements for tobacco  
10 product retailers. The bill prohibits a person from engaging  
11 in the business of a retailer of tobacco products at any place  
12 of business without first having received a permit as a  
13 tobacco product retailer. The bill provides for issuance of a  
14 permit by a city or county board of supervisors, establishes  
15 fees for a permit, provides for refunds, provides for  
16 application for a permit, and provides that a cigarette  
17 retailer who holds a permit is not required to also obtain a  
18 tobacco product retailer permit. The bill authorizes the  
19 director of revenue to prescribe the forms necessary for the  
20 efficient administration of the tobacco product retailer  
21 permit section and authorizes the director to require uniform  
22 books and records to be used and kept by each retailer or  
23 other person as deemed necessary. The bill requires tobacco  
24 product retailers, when requested by the department of revenue  
25 and finance, to make additional reports as the department  
26 deems necessary and proper and, at the request of the  
27 department, to furnish full and complete information  
28 pertaining to any transaction of the retailer involving the  
29 purchase or sale or use of tobacco products.

30 The bill also makes existing penalties and permit  
31 suspension and revocation provisions for cigarette retailers  
32 applicable to tobacco product retailers. The bill makes  
33 conforming changes in the Code to reflect the establishment of  
34 permit provisions for tobacco product retailers.

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