

House Study Bill 150 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to financial crime enforcement by assessing
2 a drug paraphernalia surcharge, creating a money transfer
3 service fee and related fund and income tax credit, and
4 including retroactive applicability provisions.

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

1 Section 1. NEW SECTION. 80.32 Financial crime and wire
2 transmitter fund.

3 1. A financial crime and wire transmitter fund is
4 established in the office of the treasurer of state under the
5 control of the department. Any moneys annually appropriated,
6 granted, or credited to the fund, including any federal moneys,
7 are appropriated to the department for investigating indictable
8 criminal offenses committed for financial gain.

9 2. Notwithstanding section 12C.7, subsection 2, interest
10 and earnings on moneys deposited in the fund shall be credited
11 to the fund. Notwithstanding section 8.33, moneys remaining
12 in the fund at the end of the fiscal year shall not revert to
13 any other fund but shall remain available to be used for the
14 purposes specified in this section.

15 3. For the fiscal year beginning July 1, 2017, and for
16 each fiscal year thereafter, the department shall transfer
17 from the fund to the general fund of the state, the lesser of
18 the amount of fees credited to the fund for the fiscal year
19 pursuant to section 533C.104 or an amount of money equal to the
20 money transfer service tax credits claimed pursuant to section
21 422.10C in that fiscal year, if any. The moneys transferred
22 to the general fund of the state in accordance with this
23 subsection shall not be considered new revenues for purposes
24 of the state general fund expenditure limitation under section
25 8.54 but instead as replacement of a like amount included in
26 the expenditure limitation for the fiscal year in which the
27 transfer is made.

28 Sec. 2. NEW SECTION. 422.10C Money transfer service fee tax
29 credit.

30 1. The taxes imposed under this division, less the credits
31 allowed under section 422.12, shall be reduced by a money
32 transfer service fee tax credit equal to the amount of money
33 transfer service fees under section 533C.104 paid by the
34 taxpayer during the tax year.

35 2. A credit shall not be allowed under this section to

1 an individual who does not include on the tax return for the
2 taxable year such individual's valid taxpayer identification
3 number and, if the individual is married, the valid taxpayer
4 identification number of such individual's spouse. For
5 purposes of this subsection, "*taxpayer identification number*"
6 means the same as defined in section 32 of the Internal Revenue
7 Code.

8 3. Any credit in excess of the tax liability is refundable.
9 In lieu of claiming a refund, the taxpayer may elect to have
10 the overpayment shown on the taxpayer's final, completed return
11 credited to the tax liability for the following tax year.

12 Sec. 3. NEW SECTION. 533C.104 **Money transfer service fee —**
13 **licensee requirements — enforcement.**

14 1. For purposes of this section, unless the context
15 otherwise requires:

16 a. "*Department*" means the department of revenue.

17 b. "*Director*" means the director of revenue.

18 c. "*Money transfer service*" means the transmission of
19 money by any means including transmission within this country
20 or to or from locations abroad by payment instrument, wire,
21 facsimile, or electronic transfer, courier, or otherwise.

22 2. a. A licensee and the authorized delegates of a licensee
23 shall collect from customers a money transfer service fee equal
24 to one percent of the amount of each money transfer service
25 transaction.

26 b. Money transfer service fees shall be paid over to the
27 department by licensees and their authorized delegates who
28 furnish money transfer services.

29 c. The department, in consultation with the superintendent,
30 shall administer and enforce the money transfer service fee as
31 nearly as possible in conjunction with the administration and
32 enforcement of the state sales and use tax law, except that
33 portion of the law which implements the streamlined sales and
34 use tax agreement.

35 d. The director may require licensees and their authorized

1 delegates to register with the department for purposes of this
2 section. The director may also require a permit applicable
3 only to this section for any licensee or the authorized
4 delegate of a licensee not collecting taxes under chapter 423.

5 *e.* All powers and requirements of the director to administer
6 the state sales and use tax law are applicable to the
7 administration of the money transfer service fee, including but
8 not limited to the provisions of section 422.25, subsection 4,
9 sections 422.30, 422.67, and 422.68, section 422.69, subsection
10 1, sections 422.70 through 422.75, section 423.14, subsection
11 1 and subsection 2, paragraphs "b" through "e", and sections
12 423.15, 423.23, 423.24, 423.25, 423.31 through 423.35, 423.37
13 through 423.42, 423.46, and 423.47.

14 *f.* Failure by a licensee or a licensee's authorized
15 delegate to collect and remit money transfer service fees
16 or to comply with any other provision of this section shall
17 subject the licensee and the authorized delegates of a licensee
18 to the enforcement provisions of article 7 of this chapter.
19 The director and the department shall cooperate with the
20 superintendent in identifying violations of this section and in
21 discharging the superintendent's enforcement responsibilities
22 under article 7 of this chapter.

23 *g.* All money transfer service fees collected under this
24 section shall be deposited in a separate account in the
25 financial crime and wire transmitter fund established by
26 section 80.32.

27 3. A licensee and the authorized delegates of a licensee
28 furnishing money transfer services shall post a notice in the
29 form and manner prescribed by the superintendent that notifies
30 customers that upon filing an individual income tax return with
31 a valid taxpayer identification number, the customer shall be
32 entitled to an individual income tax credit equal to the amount
33 of money transfer service fees paid by the customer during the
34 tax year.

35 Sec. 4. Section 602.8102, subsection 135A, Code 2017, is

1 amended to read as follows:

2 135A. Assess the surcharges provided by sections 911.1,
3 911.2, 911.2A, 911.2B, 911.2C, 911.3, and 911.4, and 911.5.

4 Sec. 5. Section 602.8108, Code 2017, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 13. The clerk of the district court shall
7 remit all moneys collected from the assessment of the drug
8 paraphernalia surcharge provided in section 911.5 to the state
9 court administrator for deposit in the financial crime and wire
10 transmitter fund established in section 80.32.

11 Sec. 6. NEW SECTION. **911.5 Drug paraphernalia surcharge.**

12 1. In addition to any other surcharge, the clerk of the
13 district court shall assess a drug paraphernalia surcharge of
14 five dollars if an adjudication of guilt or a deferred judgment
15 has been entered for a criminal violation of section 124.414 or
16 a similar city or county ordinance.

17 2. The surcharge shall be remitted by the clerk of court as
18 provided in section 602.8108, subsection 13.

19 Sec. 7. RETROACTIVE APPLICABILITY. The following provision
20 or provisions of this Act apply retroactively to January 1,
21 2017, for tax years beginning on or after that date:

22 1. The section of this division enacting section 422.10C.

23 **EXPLANATION**

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to financial crime enforcement by
27 assessing a drug paraphernalia surcharge and creating a money
28 transfer service fee and related fund and income tax credit.

29 **DRUG PARAPHERNALIA SURCHARGE.** The bill provides that the
30 clerk of the district court shall assess a drug paraphernalia
31 surcharge of five dollars if an adjudication of guilt or
32 a deferred judgment has been entered for possessing drug
33 paraphernalia in violation of Code section 124.414 or a similar
34 city or county ordinance. The bill specifies that the clerk of
35 the district court shall remit all moneys collected from the

1 assessment of the surcharge to the state court administrator
2 for deposit in the financial crime and wire transmitter fund
3 established by the bill.

4 MONEY TRANSFER SERVICE FEE AND RELATED FUND AND TAX CREDIT.
5 The bill requires a licensee under Code chapter 533C, the
6 uniform money services Act, to collect from customers a money
7 transfer service fee equal to 1 percent of the amount of each
8 money transfer service transaction. The bill defines "money
9 transfer service" as the transmission of money by any means
10 including transmission within this country or to or from
11 locations abroad by payment instrument, wire, facsimile, or
12 electronic transfer, courier, or otherwise.

13 The bill requires such licensees to pay such fees over to the
14 department of revenue. The bill requires the department, in
15 consultation with the superintendent of banking, to administer
16 and enforce the money transfer service fee as nearly as
17 possible in conjunction with the administration and enforcement
18 of the state sales and use tax law, except that portion of
19 the law which implements the streamlined sales and use tax
20 agreement.

21 The bill permits the director of revenue to require
22 licensees to register with the department for purposes of
23 the bill. The bill permits the director to require a permit
24 applicable only to the bill for any licensee not collecting
25 taxes under Code chapter 423. The bill provides that all
26 powers and requirements of the director to administer the state
27 sales and use tax law are applicable to the administration of
28 the money transfer service fee.

29 Failure by a licensee to collect and remit money transfer
30 service fees or to comply with any other provision of the bill
31 shall subject the licensee to the enforcement provisions of
32 article 7 of Code chapter 533C. The bill requires the director
33 and the department to cooperate with the superintendent in
34 identifying violations of the bill and in discharging the
35 superintendent's enforcement responsibilities under article 7

1 of Code chapter 533C.

2 Penalties provided for in article 7 of Code chapter 533C
3 include suspension and revocation of a license under Code
4 chapter 533C, civil penalties, and criminal penalties that
5 include class "C" and "D" felonies and aggravated and simple
6 misdemeanors. A class "C" felony is punishable by confinement
7 for no more than 10 years and a fine of at least \$1,000 but
8 not more than \$10,000. A class "D" felony is punishable by
9 confinement for no more than five years and a fine of at least
10 \$750 but not more than \$7,500. An aggravated misdemeanor
11 is punishable by confinement for no more than two years and
12 a fine of at least \$625 but not more than \$6,250. A simple
13 misdemeanor is punishable by confinement for no more than 30
14 days or a fine of at least \$65 but not more than \$625 or by
15 both.

16 The bill provides that all money transfer service fees
17 collected under the bill shall be deposited in the financial
18 crime and wire transmitter fund established by the bill.

19 The bill requires a licensee furnishing money transfer
20 services to post a notice in the form and manner prescribed
21 by the superintendent that notifies customers that upon
22 filing an individual income tax return with a valid taxpayer
23 identification number, the customer shall be entitled to an
24 individual income tax credit equal to the amount of money
25 transfer service fees paid by the customer during the tax year.

26 The bill also applies to authorized delegates of a licensee
27 under Code chapter 533C.

28 The bill provides an individual income tax credit equal to
29 the amount of money transfer service fees paid by the taxpayer
30 during the tax year. The bill provides that the credit shall
31 not be allowed to an individual who does not include on the tax
32 return for the taxable year the individual's valid taxpayer
33 identification number and that of the individual's spouse if
34 applicable. The bill provides that the credit is refundable
35 and may be credited to the individual's tax liability for the

1 following tax year. The provision enacting the tax credit
2 applies retroactively to January 1, 2017, for tax years
3 beginning on or after that date.

4 The bill establishes a financial crime and wire transmitter
5 fund in the office of the treasurer of state under the control
6 of the department of public safety. Any moneys annually
7 appropriated, granted, or credited to the fund, including any
8 federal moneys, are appropriated to the department of public
9 safety for the purpose of investigating indictable criminal
10 offenses committed for financial gain. Interest and earnings
11 on moneys deposited in the fund shall be credited to the fund
12 and moneys remaining in the fund at the end of the fiscal year
13 shall not revert.

14 The bill requires the department of public safety, for
15 the fiscal year beginning July 1, 2017, and for each fiscal
16 year thereafter, to transfer from the fund to the general
17 fund of the state, the lesser of the amount of money transfer
18 service fees collected or an amount of money equal to the money
19 transfer service tax credits claimed in that fiscal year, if
20 any. The bill provides that the moneys transferred to the
21 general fund of the state in accordance with the bill shall not
22 be considered new revenues for purposes of the state general
23 fund expenditure limitation under Code section 8.54 but instead
24 as replacement of a like amount included in the expenditure
25 limitation for the fiscal year in which the transfer is made.