

Senate File 43 - Introduced

SENATE FILE 43

BY DAWSON

A BILL FOR

1 An Act relating to the regulation of certain tobacco and
2 hemp-related products, and providing penalties.

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

DIVISION I

REGULATION OF DEVICE RETAILERS

Section 1. NEW SECTION. 453E.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Business*" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products and devices in this state.

2. "*Consumer*" means any person who has title to or possession of devices in storage, for use or other consumption in this state.

3. "*Controlled substance*" means controlled substance as defined in section 124.101.

4. "*Delivery sale*" means any sale of a device to a purchaser in this state where the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, mail or any other delivery service, or the internet or other online service and the device is delivered by use of mail or a delivery service. The sale of a device shall constitute a delivery sale regardless of whether the seller is located in this state. "*Delivery sale*" does not include a sale to a distributor or retailer of a device not for personal use.

5. "*Department*" means the department of revenue.

a. "*Device*" means any equipment or product, made in whole or in part of glass or metal, that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "*Device*" does not include a vapor product.

b. In determining whether any particular item constitutes a "*device*", the following factors may be considered:

(1) The instructions, oral or written, provided with the item concerning its use.

(2) Any descriptive materials accompanying the item which

1 explain or depict its use.

2 (3) National and local advertising concerning the item's
3 use.

4 (4) The manner in which the item is displayed for sale.

5 (5) Whether the owner of the place of business, or anyone in
6 control of the item at the place of business, is a legitimate
7 supplier of like or related items to the community, such as a
8 licensed distributor, manufacturer, or subjobber.

9 (6) Direct or circumstantial evidence of the ratio of sales
10 of the item to the total sales of the place of business.

11 (7) The existence and scope of legitimate uses of the item
12 in the community.

13 (8) Expert testimony concerning the item's use.

14 c. A particular item may constitute a device notwithstanding
15 any lawful use of the item.

16 7. "*Device retailer*" means a person engaged in the retail
17 sale of tangible personal property who is also engaged in
18 selling devices to the ultimate consumer.

19 8. "*Director*" means the director of revenue.

20 9. "*Distributor*" means the same as defined in section
21 453A.42.

22 10. "*Manufacturer*" means the same as defined in section
23 453A.42.

24 11. "*Place of business*" means any place where tobacco
25 products and devices are sold, stored, or kept for the purpose
26 of sale or consumption; or for a business within or without the
27 state that conducts delivery sales, any place where tobacco
28 products and devices are sold or are kept for the purpose of
29 sale, including delivery sales.

30 12. "*Retail outlet*" means each place of business from which
31 tobacco products and devices are sold to consumers.

32 13. "*Sale*" means any transfer, exchange, or barter, in
33 any manner or by any means whatsoever, for consideration, and
34 includes and means all sales made by any person.

35 14. "*Subjobber*" means the same as defined in section

1 453A.42.

2 15. "*Tobacco products*" means cigars; little cigars;
3 cheroots; stogies; periques; granulated, plug cut, crimp cut,
4 ready rubbed, and other smoking tobacco; snuff; cavendish;
5 plug and twist tobacco; fine-cut and other chewing tobaccos;
6 shorts; refuse scraps, clippings, cuttings and sweepings of
7 tobacco, and other kinds and forms of tobacco, prepared in
8 such manner as to be suitable for chewing or smoking in a pipe
9 or otherwise, or both for chewing and smoking; but shall not
10 include cigarettes as defined in section 453A.1.

11 16. "*Tobacco retailer*" means a retailer as defined in
12 section 453A.42.

13 17. "*Use*" means the exercise of any right or power
14 incidental to the ownership of tobacco products or devices.

15 18. "*Vapor product*" means the same as defined in section
16 453A.1.

17 Sec. 2. NEW SECTION. 453E.2 Administration — rules —
18 intent.

19 1. The director shall administer this chapter. The director
20 shall collect, supervise, and enforce the collection of all
21 fees, taxes, and civil penalties imposed under this chapter.

22 2. The director may adopt rules pursuant to chapter 17A that
23 are necessary to enforce this chapter.

24 3. The director may designate employees to administer
25 and enforce the provisions of this chapter, including the
26 collection of all taxes provided for in this chapter. In the
27 enforcement, the director may request aid from the attorney
28 general, the special agents of the state, any county attorney,
29 or any peace officer. The director may appoint clerks and
30 additional help as may be needed to administer this chapter.

31 4. This chapter or the holding of a device retailer permit
32 or a device delivery sale permit under this chapter shall not
33 be construed to provide for any of the following:

34 a. Immunity from prosecution or the limitation of the
35 application of other state law and regulations governing

1 tobacco products, drug paraphernalia, or controlled substances.

2 *b.* Authorization for the possession, marketing, offering
3 for sale, or selling of a device, the possession, marketing,
4 offering for sale, or selling of which is otherwise prohibited
5 by state or federal law.

6 Sec. 3. NEW SECTION. **453E.3 Device retailers — permits —**
7 **fees.**

8 1. *Permits required.* A person shall not engage in the
9 business of a device retailer at any place of business or
10 through delivery sales, unless the person complies with all of
11 the following:

12 *a.* The person has received and holds a permit as a tobacco
13 retailer pursuant to section 453A.47A that has not been
14 suspended or revoked and is not expired; complies with the
15 provisions of chapter 453A applicable to a tobacco retailer;
16 and sells tobacco products in addition to devices at the retail
17 outlet or through delivery sales.

18 *b.* The person has received and holds a permit as a device
19 retailer pursuant to this section that has not been suspended
20 or revoked and is not expired, and complies with the provisions
21 of this chapter.

22 2. *No sales without device retailer permit.* A device
23 retailer shall not sell devices until an application has been
24 filed and the fee prescribed paid for a permit and until such
25 permit is obtained and only while such permit is not suspended,
26 revoked, or expired.

27 3. *Number of device retailer permits.* An application shall
28 be filed and a permit obtained for each place of business
29 owned or operated by a device retailer located in the state.
30 If an out-of-state device retailer makes delivery sales of
31 devices, an application shall be filed with the department and
32 a permit shall be issued for the out-of-state device retailer's
33 principal place of business.

34 4. *Issuance.* Cities may issue device retailer permits
35 to device retailers located within their respective limits.

1 County boards of supervisors may issue device retailer permits
2 to device retailers located in their respective counties,
3 outside of the corporate limits of cities. The city or county
4 shall submit a duplicate of any application for a device
5 retailer permit to the alcoholic beverages division of the
6 department of commerce within thirty days of issuance of a
7 device retailer permit. The alcoholic beverages division of
8 the department of commerce shall submit the current list of
9 all device retailer permits issued to the department of public
10 health by the last day of each quarter of a state fiscal year.

11 5. *Fees — expiration.* All device retailer permits provided
12 for in this section shall expire on June 30 of each year. A
13 device retailer permit shall not be granted or issued until the
14 applicant has paid the fees provided for in this section for
15 the period ending June 30 next, to the city or county granting
16 the device retailer permit. The fee for a device retailer
17 permit is one thousand five hundred dollars.

18 6. *Application.* Device retailer permits shall be issued
19 only upon application, accompanied by the one thousand five
20 hundred dollar fee, made upon forms furnished by the department
21 upon written request. The failure to furnish such forms
22 shall be no excuse for the failure to file the form unless
23 absolute refusal is shown. The forms shall specify all of the
24 following:

25 a. The manner under which the device retailer transacts or
26 intends to transact business as a device retailer.

27 b. The principal office, residence, and place of business,
28 to which the device retailer permit is to apply.

29 c. If the applicant is not an individual, the names of the
30 partners if the applicant is a partnership or the names of
31 the principal officers or members if the applicant is a legal
32 entity, and their addresses.

33 d. Such other information as the director shall by rule
34 prescribe.

35 7. *Records and reports of device retailers.*

1 *a.* The director shall prescribe the forms necessary for
2 the efficient administration of this section and may require
3 uniform books and records to be used and kept by each device
4 retailer or other person as deemed necessary.

5 *b.* Every device retailer shall, when requested by the
6 department, make additional reports as the department deems
7 necessary and proper and shall at the request of the department
8 furnish full and complete information pertaining to any
9 transaction of the device retailer involving the purchase or
10 sale of devices, including the number of devices sold.

11 8. *Requirements for sale.*

12 *a.* A device retailer shall not sell, give, or otherwise
13 supply a device to any person under twenty-one years of age and
14 must verify the age of all purchasers of devices. If a device
15 is purchased at a retail outlet, valid proof of the purchaser's
16 identity and age shall be obtained at the time the device is
17 supplied to the purchaser. If a device is purchased through a
18 delivery sale, valid proof of the purchaser's identity and age
19 shall be obtained in accordance with section 453E.4.

20 *b.* A device retailer shall only display and sell devices
21 in a location of a retail outlet where the device retailer
22 ensures that the devices are not visible to a person younger
23 than twenty-one years of age and where no person younger than
24 twenty-one years of age is present or permitted to enter at any
25 time.

26 Sec. 4. NEW SECTION. 453E.4 **Delivery sale of devices —**
27 **permit — requirements.**

28 1. *a.* A person shall not mail, ship, or otherwise cause
29 to be delivered any device in connection with a delivery sale
30 to any other person within this state unless the person has
31 applied for and holds a device delivery sale permit as provided
32 in this section.

33 *b.* A person applying for a device delivery sale permit shall
34 submit an application for the permit electronically, or in a
35 manner prescribed by the director.

1 *c.* An application submitted pursuant to paragraph "b" shall
2 be accompanied by a permit fee in the amount of one thousand
3 five hundred dollars.

4 *d.* The director may in accordance with this section issue a
5 device delivery sale permit which shall be valid for one year
6 from the date of issuance unless it is sooner suspended or
7 revoked for a violation of this section.

8 *e.* A permit issued pursuant to this section may be renewed
9 annually by submitting a renewal application in a manner
10 prescribed by the director, accompanied by the one thousand
11 five hundred dollar permit fee.

12 2. The delivery sale of devices pursuant to this
13 section shall be subject to the following requirements and
14 restrictions:

15 *a.* All devices delivered by delivery sale directly to a
16 resident of this state shall be sold only by a device delivery
17 sale permit holder.

18 *b.* A device delivery sale permit holder shall only deliver
19 devices by delivery sale to a resident of this state who is at
20 least twenty-one years of age for the resident's personal use
21 and not for resale.

22 *c.* All devices delivered by delivery sale directly to a
23 resident of this state shall be conspicuously labeled with the
24 words "CONTAINS DEVICE: SIGNATURE OF PERSON AGE 21 OR OLDER
25 REQUIRED FOR DELIVERY" or shall be conspicuously labeled with
26 alternative wording preapproved by the director.

27 *d.* A device delivery sale permit holder shall obtain
28 valid proof of identity and age prior to delivery, and shall
29 obtain the signature of a person age twenty-one or older as a
30 condition of delivery.

31 *e.* A device delivery sale permit holder shall maintain
32 records of devices delivered which include the name of the
33 device manufacturer, quantity of devices delivered, recipient's
34 name and address and verification of age on an electronic or
35 paper form of signature from the recipient of the device, and

1 sales and excise taxes paid. Records shall be submitted to
2 the director on a monthly basis in a form and manner to be
3 determined by the director. Records shall be maintained for at
4 least five years.

5 3. A device delivery sale permit holder shall remit to the
6 director an amount equivalent to the applicable sales tax and
7 excise tax on devices subject to delivery sale at the rates
8 specified in section 423.2 and section 453E.5, as applicable.
9 The amount shall be remitted at the time and in the manner
10 provided in section 453E.5.

11 4. A device delivery sale permit holder shall be deemed to
12 have consented to the jurisdiction of the director or any other
13 agency or court in this state concerning enforcement of this
14 section and any related laws, rules, or regulations. A device
15 delivery sale permit holder shall allow the director to perform
16 an audit of records of devices upon request.

17 Sec. 5. NEW SECTION. **453E.5 Sales and use tax on sales and**
18 **delivery sales of devices — examination of records and premises**
19 **— subpoena for witnesses and papers.**

20 1. A sale or delivery sale of a device within this state
21 shall be subject to the sales tax provided in chapter 423,
22 subchapter II. All the provisions for the lien of the tax, its
23 collection, and all actions as provided in the uniform sales
24 and use tax administration Act, chapter 423, shall apply to the
25 tax imposed in this chapter.

26 2. There is levied and imposed an excise tax on a device
27 purchased in this state through a sale or purchased for use
28 in this state through a delivery sale of forty percent of the
29 purchase price of the device.

30 3. A device delivery sale permit holder shall be deemed to
31 have waived all claims that such permit holder lacks physical
32 presence within this state for purposes of collecting and
33 remitting the sales and excise taxes.

34 4. A device delivery sale permit holder making taxable
35 delivery sales of devices within this state and a device

1 retailer shall remit to the department all sales and excise
2 taxes due on such sales at the times and in the manner as
3 established by rule of the director.

4 5. The director may adopt rules pursuant to chapter 17A to
5 administer this section.

6 6. Excise taxes collected under this section shall be
7 deposited in the specialty courts program fund created in
8 section 453E.6.

9 7. *a.* For the purpose of enabling the department to
10 determine the tax liability of device delivery sale permit
11 holders, device retailers, or any other person dealing in
12 devices or to determine whether a tax liability has been
13 incurred, the department shall have the right to inspect any
14 premises of the device delivery sale permit holder, device
15 retailer, or other person dealing in devices located within
16 or without the state of Iowa where devices are manufactured,
17 produced, made, stored, transported, sold, or offered for
18 sale or exchange, and to examine all of the records required
19 to be kept or any other records that may be kept incident
20 to the conduct of the business of said device delivery sale
21 permit holder, device retailer, or any other person dealing in
22 devices.

23 *b.* The department shall also have the right as an incident
24 to determining the tax liability, or whether a tax liability
25 has been incurred, to examine all stocks of devices and to
26 remain upon the premises for such length of time as may be
27 necessary to fully determine the tax liability, or whether a
28 tax liability has been incurred.

29 *c.* It shall be unlawful for a permit holder to fail to
30 produce upon demand of the department any records required to
31 be kept or to hinder or prevent in any manner the inspection of
32 the records or the examination of the premises.

33 *d.* In the case of any departmental inspection conducted
34 under this section requiring department personnel to travel
35 outside the state of Iowa, any additional costs incurred by

1 the department for out-of-state travel expenses shall be borne
2 by the device delivery sale permit holder, device retailer, or
3 other person dealing in devices. These additional costs shall
4 be those costs in excess of the costs of a similar inspection
5 conducted at the geographical point located within the state
6 of Iowa nearest to the out-of-state inspection point. In
7 lieu of conducting an on-premises out-of-state inspection,
8 the department shall have the authority to direct the device
9 delivery sale permit holder, device retailer, or other person
10 dealing in devices to assemble and transport all records
11 described in this subsection to the nearest practical and
12 convenient geographical location in Iowa for inspection by the
13 department.

14 Sec. 6. NEW SECTION. **453E.6 Specialty courts program fund.**

15 1. A specialty courts program fund is created in the state
16 treasury under the control of the drug policy coordinator of
17 the governor's office of drug control policy. Moneys from
18 permit fees, with the exception of permit fees collected by
19 cities or counties in the issuance of permits, and excise taxes
20 imposed and collected pursuant to section 453E.5, shall be
21 deposited in the fund. Permit fees collected by cities or
22 counties under this chapter shall be paid to the treasurer of
23 the city where the permit is effective, or to another city
24 officer as designated by the city council, and credited to the
25 general fund of the city. Permit fees collected by counties
26 under this chapter shall be paid to the county treasurer and
27 credited to the general fund of the county.

28 2. Moneys in the fund shall be used only as provided
29 in appropriations from the fund for the purpose of the
30 support of specialty courts to address underlying substance
31 use disorder-related and mental health-related issues that
32 contribute to the contact of individuals with the justice
33 system.

34 3. The fund shall be separate from the general fund of the
35 state and shall not be considered part of the general fund of

1 the state. The moneys in the fund shall not be considered
2 revenue of the state, but rather shall be moneys of the fund.
3 The moneys in the fund are not subject to reversion to the
4 general fund of the state under section 8.33 and shall not
5 be transferred, used, obligated, appropriated, or otherwise
6 encumbered, except to provide for the purposes of this section.
7 Notwithstanding section 12C.7, subsection 2, interest or
8 earnings on moneys deposited in the fund shall be credited to
9 the fund.

10 4. The treasurer of state shall provide a quarterly report
11 of fund activities and balances to the drug policy coordinator
12 of the governor's office of drug control policy.

13 **Sec. 7. NEW SECTION. 453E.7 Permits — suspension —**
14 **revocation — penalties.**

15 1. The provisions of chapter 453A including the permit
16 suspension and revocation provisions and the civil penalties
17 established in section 453A.22 shall apply to tobacco retailers
18 who are also device retailer permit holders or device delivery
19 sale permit holders under this chapter. The provisions of
20 chapter 453A applicable to persons other than tobacco retailers
21 who violate chapter 453A shall also apply to persons who
22 violate this chapter.

23 2. A person holding a device retailer permit or a device
24 delivery sale permit under this chapter who violates this
25 chapter by marketing or selling a device to be used or
26 attempted to be used in combination with a controlled substance
27 to knowingly or intentionally and primarily inject, ingest,
28 inhale, or otherwise introduce into the human body a controlled
29 substance commits a serious misdemeanor and is also subject to
30 permit revocation.

31 3. a. If a person holding a device retailer permit or a
32 device delivery sale permit under this chapter has willfully
33 violated this chapter, the department shall revoke the permit
34 upon notice and hearing. The hearing before the department may
35 be held at a site in the state as the department may direct.

1 The notice shall be given by mailing a copy to the permit
2 holder's place of business as it appears on the application
3 for a permit. If, upon hearing, the department finds that the
4 violation has occurred, the department may revoke the permit.

5 *b.* If a device retailer permit or a device delivery
6 sale permit is suspended or revoked under this section, the
7 suspension or revocation shall only apply to the place of
8 business at which the violation occurred and shall not apply to
9 any other place of business to which the permit applies but at
10 which the violation did not occur.

11 *c.* The department or local authority shall report the
12 suspension or revocation of a device retailer permit or a
13 device delivery sale permit under this section to the alcoholic
14 beverages division of the department of commerce within thirty
15 days of the suspension or revocation of the permit.

16 4. In addition to any other applicable penalties, a device
17 retailer permit holder or a device delivery sale permit holder
18 who violates this chapter shall be subject to the following:

19 *a.* For a first violation, a civil penalty of five hundred
20 dollars.

21 *b.* For a second violation, a civil penalty of one thousand
22 dollars.

23 *c.* A third violation constitutes grounds for suspension or
24 revocation of the permit under this chapter.

25 5. A person other than a device retailer permit holder or a
26 device delivery sale permit holder who violates this chapter,
27 including a person who engages in the business of a device
28 retailer at any place of business or through delivery sales
29 without holding an applicable, valid permit under this chapter,
30 shall be subject to the following penalties:

31 *a.* For a first violation, a civil penalty of one thousand
32 dollars.

33 *b.* For a second violation, a civil penalty of two thousand
34 dollars.

35 *c.* For a third or subsequent violation, a civil penalty of

1 five thousand dollars.

2 DIVISION II

3 HEMP PRODUCTS AND CONSUMABLE HEMP PRODUCTS — RETAIL SALES

4 Sec. 8. NEW SECTION. 126.24 Hemp products and consumable
5 hemp products — retail sales — claims.

6 Unless a state or federal agency has substantiated and
7 approved the efficacy and safety claims of a product based
8 on competent and reliable scientific evidence, a person
9 engaging in the retail sale in this state of a hemp product
10 or a consumable hemp product as defined in section 204.2
11 that contains hemp-derived cannabidiol, shall include on
12 the product's principal display panel, a statement that the
13 product may or may not contain the ingredients stated on the
14 label, that the efficacy and safety of the product have not
15 been substantiated or approved by a state or federal agency
16 based on competent and reliable scientific evidence, and that
17 the consumer should use the product at the consumer's own
18 risk. The statement required under this section shall be
19 developed by the board of pharmacy and shall be consistent
20 with the rules adopted by the department of inspections and
21 appeals pursuant to chapter 204 and with applicable federal
22 regulations promulgated by the United States food and drug
23 administration. This section shall not apply to a medical
24 cannabidiol manufacturer licensed pursuant to chapter 124E.

25 EXPLANATION

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

28 This bill relates to the regulation of certain tobacco and
29 hemp-related products.

30 Division I of the bill requires a person who engages in
31 the business of a device retailer through a retail outlet
32 or delivery sales to receive and hold a permit as a tobacco
33 retailer, comply with provisions applicable to a tobacco
34 retailer, sell tobacco products in addition to devices at the
35 retail outlet or through delivery sales, and hold a permit

1 as a device retailer. The bill provides for the application
2 for and issuance of device retailer permits by cities and
3 counties depending upon the location of the retailer; requires
4 the payment of a fee for each permit; and provides for annual
5 expiration of the permits. The bill also requires device
6 retailer permit holders to keep certain records and submit
7 reports to the department of revenue; establishes requirements
8 for the sale of devices including that a device retailer shall
9 not sell, give, or otherwise supply a device to any person
10 under 21 years of age and must verify the age of all purchasers
11 of devices; and provides that a device retailer shall only
12 display and sell devices in a location where the device
13 retailer ensures that the devices are not visible to a person
14 younger than 21 years of age and where no person younger than
15 21 years of age is present or permitted to enter at any time.

16 The bill establishes requirements for the delivery sale
17 of devices including permit requirements and restrictions
18 including all devices delivered by delivery sale directly to
19 a resident of this state shall be delivered by a holder of
20 a device delivery sale permit; that a device delivery sale
21 permit holder shall only deliver devices by delivery sale to
22 a resident of this state who is at least 21 years of age, for
23 the resident's personal use and consumption and not for resale;
24 all devices delivered by delivery sale directly to a resident
25 of this state shall be conspicuously labeled with the words
26 "CONTAINS DEVICE: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED
27 FOR DELIVERY" or with an alternative wording preapproved by
28 the director of revenue; a device delivery sale permit holder
29 shall obtain valid proof of identity and age prior to delivery,
30 and shall obtain the signature of a person age 21 or older
31 as a condition of delivery; and that a device delivery sale
32 permit holder shall maintain records of devices delivered which
33 include certain information that must be maintained for five
34 years.

35 The bill provides for the imposition, collection, and

1 payment of sales and excise taxes on the retail sale, including
2 delivery sales, of devices. Moneys from permit fees, with the
3 exception of city and county permit fees, and excise taxes
4 imposed and collected under the bill, are to be deposited in
5 the specialty courts program fund created in the bill to be
6 used for the purpose of the support of specialty courts to
7 address underlying substance use disorder-related and mental
8 health-related issues that contribute to the contact of
9 individuals with the justice system.

10 The bill provides penalties for violations of the bill.
11 The applicable provisions of Code chapter 453A (cigarette and
12 tobacco taxes and regulation of alternative nicotine products
13 and vapor products) including penalties and license suspension
14 and revocation provisions and penalties applicable to those
15 other than permit holders apply to tobacco retailers who are
16 also device retailer permit holders or device delivery sale
17 permit holders as well as to those who are not permit holders.

18 Additionally, a person holding a device retailer permit
19 or a device delivery sale permit who violates the bill by
20 marketing or selling a device to be used or attempted to be
21 used in combination with a controlled substance to knowingly
22 or intentionally and primarily inject, ingest, inhale, or
23 otherwise introduce into the human body a controlled substance,
24 commits a serious misdemeanor and is also subject to permit
25 revocation. A serious misdemeanor is punishable by confinement
26 for no more than one year and a fine of at least \$430 but not
27 more than \$2,560.

28 If a person holding a device retailer permit or a device
29 delivery sale permit willfully violates the bill, the
30 department shall revoke the permit upon notice and hearing.

31 In addition to any other applicable penalties, a device
32 retailer permit holder or a device delivery sale permit holder
33 who violates the Code chapter is subject to a civil penalty
34 of \$500 for a first violation, a civil penalty of \$1,000 for
35 a second violation, and a third violation constitutes grounds

1 for suspension or revocation of the permit. A person other
2 than a device retailer permit holder or a device delivery sale
3 permit holder, including a person who engages in the business
4 of a device retailer at a place of business or through delivery
5 sales without holding an applicable, valid permit under the
6 bill, who violates the Code chapter is subject to a civil
7 penalty of \$1,000 for a first violation, a civil penalty of
8 \$2,000 for a second violation, and a civil penalty of \$5,000
9 for a third or subsequent violation.

10 Division II of the bill relates to claims made regarding
11 hemp products and consumable hemp products sold at retail.
12 The bill provides that unless a state or federal agency has
13 substantiated and approved the efficacy and safety claims of a
14 product based on competent and reliable scientific evidence,
15 a person engaging in the retail sale in this state of a hemp
16 product or a consumable hemp product that contains hemp-derived
17 cannabidiol, shall include on the product's principal display
18 panel, a statement that the product may or may not contain
19 the ingredients stated on the label, that the efficacy and
20 safety of the product have not been substantiated or approved
21 by a state or federal agency based on competent and reliable
22 scientific evidence, and that the consumer should use the
23 product at the consumer's own risk. The statement required
24 under the bill shall be developed by the board of pharmacy and
25 shall be consistent with the rules adopted by the department
26 of inspections and appeals pursuant to Code chapter 204 (Iowa
27 hemp Act) and with applicable United States food and drug
28 administration regulations. This provision of the bill does
29 not apply to a medical cannabidiol manufacturer licensed
30 pursuant to Code chapter 124E (medical cannabidiol Act). By
31 operation of law, the violation of this provision is a serious
32 misdemeanor as well as an unfair practice under Code section
33 714.16.