

House File 21 - Introduced

HOUSE FILE 21

BY A. MEYER

A BILL FOR

1 An Act relating to nicotine solution products, including
2 taxation of such products, making appropriations, and making
3 penalties applicable.

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

1 Section 1. Section 142A.2, subsection 8, Code 2023, is
2 amended to read as follows:

3 8. "Manufacturer" means manufacturer as defined in ~~section~~
4 sections 453A.1 and 453A.42.

5 Sec. 2. Section 142A.6, subsection 6, paragraph d, Code
6 2023, is amended to read as follows:

7 d. For the purpose of this subsection, manufacturer,
8 distributor, wholesaler, retailer, and distributing agent mean
9 as defined in section sections 453A.1 and 453A.42.

10 Sec. 3. Section 232C.4, subsection 3, Code 2023, is amended
11 to read as follows:

12 3. An emancipated minor shall remain subject to voting
13 restrictions under chapter 48A, gambling restrictions under
14 chapter 99B, 99D, 99F, 99G, or 725, internet fantasy sports
15 contest restrictions under chapter 99E, alcohol restrictions
16 under chapter 123, compulsory attendance requirements under
17 chapter 299, and cigarette, tobacco product, alternative
18 nicotine product, vapor product, and nicotine solution product
19 restrictions under chapter 453A.

20 Sec. 4. Section 321.216C, Code 2023, is amended to read as
21 follows:

22 **321.216C Use of driver's license or nonoperator's**
23 **identification card by underage person to obtain tobacco, tobacco**
24 **products, alternative nicotine products, vapor products, nicotine**
25 **solution products, or cigarettes.**

26 A person who is under the age of twenty-one, who alters
27 or displays or has in the person's possession a fictitious
28 or fraudulently altered driver's license or nonoperator's
29 identification card and who uses the license or card to violate
30 or attempt to violate section 453A.2, subsection 2, commits a
31 simple misdemeanor punishable as a scheduled violation under
32 section 805.8A, subsection 4. The court shall forward a copy
33 of the conviction to the department.

34 Sec. 5. Section 331.653, subsection 11, Code 2023, is
35 amended to read as follows:

1 11. Carry out duties relating to the seizure and forfeiture
2 of cigarettes, tobacco products, nicotine solution products,
3 vehicles, and other property used in violation of cigarette,
4 tobacco products, and nicotine solution products tax laws as
5 provided in [section 453A.32](#).

6 Sec. 6. Section 331.756, subsection 19, Code 2023, is
7 amended to read as follows:

8 19. Assist, at the request of the director of revenue, in
9 the enforcement of ~~eigar~~ and cigarette, tobacco product, and
10 nicotine solution product tax laws as provided in sections
11 453A.32 and [453A.49](#).

12 Sec. 7. Section 423.3, subsection 57, paragraph h, Code
13 2023, is amended to read as follows:

14 h. "*Tobacco*" means cigarettes, ~~eigars, chewing or pipe~~
15 ~~tobacco, or any other item that contains~~ tobacco products, and
16 nicotine solution products as defined in sections 453A.1 and
17 453A.42.

18 Sec. 8. Section 453A.1, Code 2023, is amended to read as
19 follows:

20 **453A.1 Definitions.**

21 The following words, terms, and phrases, when used in this
22 chapter, shall, for the purpose of [this chapter](#), have the
23 meanings respectively ascribed to them.

24 1. "*Alternative nicotine product*" means a product, not
25 consisting of or containing tobacco, that provides for the
26 ingestion into the body of nicotine, whether by chewing,
27 absorbing, dissolving, inhaling, snorting, or sniffing, or
28 by any other means. "*Alternative nicotine product*" does not
29 include cigarettes, tobacco products, or vapor products, or a
30 product that is regulated as a drug or device by the United
31 States food and drug administration under chapter V of the
32 federal Food, Drug, and Cosmetic Act.

33 2. "*Attorney general*" ~~shall mean~~ means the attorney
34 general of the state or the attorney general's duly authorized
35 assistants and employees.

1 3. "*Carton*" means a box or container of any kind in which
2 ten or more packages or packs of cigarettes or tobacco products
3 are offered for sale, sold, or otherwise distributed to
4 consumers.

5 4. "*Cigarette*" means any roll for smoking made wholly or in
6 part of tobacco, or any substitute for tobacco, irrespective of
7 size or shape and irrespective of tobacco or any substitute for
8 tobacco being flavored, adulterated, or mixed with any other
9 ingredient, where such roll has a wrapper or cover made of
10 paper or any other material. However, "*cigarette*" shall not be
11 construed to does not include cigars.

12 ~~5. "*Cigarette vending machine*" means any self-service device~~
13 ~~offered for public use which, upon payment or insertion of~~
14 ~~loose tobacco product, dispenses, or assembles and dispenses,~~
15 ~~cigarettes or tobacco products.~~

16 ~~6. "*Cigarette vendor*" means any person who by contract,~~
17 ~~agreement, or ownership takes responsibility for furnishing,~~
18 ~~installing, servicing, operating, or maintaining one or~~
19 ~~more cigarette vending machines for the purpose of selling~~
20 ~~cigarettes at retail.~~

21 ~~7. 5. "*Counterfeit stamp*" shall mean means any stamp,~~
22 ~~label, print, indicium, or character which evidences, or~~
23 ~~purports to evidence the payment of any tax levied by this~~
24 ~~chapter, and which stamp, label, print, indicium, or character~~
25 ~~has not been printed, manufactured, or made by authority of~~
26 ~~the director as hereinafter provided, and which has not been~~
27 ~~issued, sold, or circulated by the department or a bank as~~
28 ~~applicable pursuant to section 453A.8.~~

29 ~~8. 6. "*Delivery sale*" means any sale of an alternative~~
30 ~~nicotine product, or a vapor product, or a nicotine solution~~
31 ~~product to a purchaser in this state where the purchaser~~
32 ~~submits the order for such sale by means of a telephonic or~~
33 ~~other method of voice transmission, mail or any other delivery~~
34 ~~service, or the internet or other online service and the~~
35 ~~alternative nicotine product, or vapor product, or a nicotine~~

1 solution product is delivered by use of mail or a delivery
2 service. The sale of an alternative nicotine product, ~~or~~
3 vapor product, or a nicotine solution product shall constitute
4 a delivery sale regardless of whether the seller is located
5 in this state. "*Delivery sale*" does not include a sale to a
6 distributor or retailer of any alternative nicotine product, ~~or~~
7 vapor product, or a nicotine solution product not for personal
8 consumption.

9 ~~9.~~ 7. "*Department*" means the department of revenue.

10 ~~10.~~ 8. "*Director*" means the director of revenue or the
11 director's duly authorized assistants and employees.

12 ~~11.~~ 9. "*Distributing agent*" ~~shall mean and include~~
13 means every person in this state who acts as an agent of
14 any manufacturer outside of the state by storing cigarettes
15 received in interstate commerce from such manufacturer subject
16 to distribution or delivery to distributors upon orders
17 received by ~~said~~ the manufacturer in interstate commerce and
18 transmitted to ~~such~~ the distributing agent for fulfillment from
19 ~~such~~ the place of storage.

20 ~~12.~~ 10. "*Distributing agent's permit*" ~~shall mean and~~
21 ~~include~~ means permits issued by the department to distributing
22 agents.

23 ~~13.~~ 11. "*Distributor*" ~~shall mean and include~~ means every
24 person in this state who manufactures or produces cigarettes
25 or who ships, transports, or imports into this state or in any
26 manner acquires or possesses cigarettes without stamps affixed
27 for the purpose of making a "first sale" of the same cigarettes
28 within the state.

29 ~~14.~~ "*Drop shipment*" ~~shall mean and include any delivery~~
30 ~~of cigarettes received by any person within this state when~~
31 ~~payment for such cigarettes is made to the shipper or seller by~~
32 ~~or through a person other than the consignee.~~

33 ~~15.~~ 12. "*First sale*" ~~shall mean and include~~ means the first
34 sale or distribution of cigarettes in intrastate commerce, or
35 the first use or consumption of cigarettes within this state.

1 ~~16.~~ 13. "*Individual packages of cigarettes*" shall mean
2 and include means every package of cigarettes or quantity of
3 cigarettes assembled and ordinarily sold at retail.

4 ~~17.~~ 14. "*Manufacturer*" shall mean and include means every
5 person who ships cigarettes into this state from outside the
6 state.

7 ~~18.~~ 15. "*Manufacturer's permit*" shall mean and include
8 means permits issued by the department to a manufacturer.

9 16. "*Nicotine solution product*" means any cartridge, bottle,
10 or other package that contains nicotine, including nicotine
11 made or derived from tobacco or sources other than tobacco,
12 in a solution or other substance that is consumed or meant
13 to be consumed through the use of a heating element, power
14 source, electronic circuit, or other electronic, chemical, or
15 mechanical means that produces vapor or aerosol. "*Nicotine*
16 *solution product*" includes any alternative nicotine product,
17 vapor product, or other product that contains an integrated,
18 nonrefillable or nonreusable nicotine solution product
19 component.

20 ~~19.~~ 17. "*Package*" or "*pack*" means a container of any kind
21 in which cigarettes or tobacco products are offered for sale,
22 sold, or otherwise distributed to consumers.

23 ~~20.~~ 18. "*Person*" shall mean and include means every
24 individual, firm, association, joint stock company, syndicate,
25 partnership, corporation, trustee, agency or receiver, or
26 respective legal representative.

27 ~~21.~~ 19. "*Place of business*" is construed to mean and
28 include means any place where cigarettes are sold or where
29 cigarettes are stored within or without the state of Iowa by
30 the holder of an Iowa permit or kept for the purpose of sale
31 or consumption; ~~or if.~~ "*Place of business*" includes a vehicle
32 or train on which or from which cigarettes are sold from any
33 vehicle or train, the vehicle or train on which or from which
34 such cigarettes are sold shall constitute a place of business;
35 ~~or and,~~ and, for a business within or without the state that

1 conducts delivery sales, any place where alternative nicotine
 2 products, ~~or~~ vapor products, or nicotine solution products are
 3 sold or where alternative nicotine products, ~~or~~ vapor products,
 4 or nicotine solution products are kept for the purpose of sale,
 5 including delivery sales.

6 ~~22.~~ 20. "*Previously used stamp*" ~~shall mean and include~~
 7 means any stamp which is used, sold, or possessed for the
 8 purpose of sale or use, to evidence the payment of the tax
 9 herein imposed on an individual package of cigarettes after
 10 ~~said the stamp has, anterior to such use, sale, or possession,~~
 11 ~~been used on a previous or separate individual package of~~
 12 ~~cigarettes to evidence the payment of the tax as aforesaid.~~

13 ~~23.~~ 21. "*Retailer*" ~~shall mean and include~~ means every
 14 person in this state who ~~shall sell, distribute, or offer~~
 15 sells, distributes, or offers for sale for consumption or
 16 ~~possess~~ possesses for the purpose of sale for consumption,
 17 cigarettes, alternative nicotine products, ~~or~~ vapor products,
 18 or nicotine solution products, irrespective of quantity or
 19 amount or the number of sales.

20 ~~24.~~ 22. "*Retail permit*" ~~shall mean and include~~ means
 21 permits issued to retailers.

22 ~~25.~~ 23. "*Self-service display*" means any manner of product
 23 display, placement, or storage from which a person purchasing
 24 the product may take possession of the product, prior to
 25 purchase, without assistance from the retailer or employee of
 26 the retailer, in removing the product from a restricted access
 27 location.

28 ~~26.~~ 24. "*Stamps*" "*Stamp*" or "*stamps*" means the stamp or
 29 stamps printed, manufactured, or made by authority of the
 30 director and issued, sold, or circulated by the department or a
 31 bank as applicable pursuant to section 453A.8 and by the use of
 32 which the tax levied is paid. ~~It~~ "*Stamp*" or "*stamps*" also means
 33 any impression, indicium, or character fixed upon packages
 34 of cigarettes by a metered stamping machine or device ~~which~~
 35 ~~may be~~ authorized by the director to the holder of state or

1 manufacturers' permits and by the use of which the tax levied
2 is paid.

3 ~~27.~~ 25. "*State permit*" ~~shall mean and include~~ means permits
4 issued by the department to distributors, wholesalers, and
5 retailers.

6 ~~28.~~ 26. "*Tobacco products*" means cigars; little cigars as
7 defined in section 453A.42, ~~subsection 6;~~ cheroots; stogies;
8 periques; granulated, plug cut, crimp cut, ready rubbed,
9 and other smoking tobacco; snuff, snuff flour; cavendish;
10 plug and twist tobacco; fine-cut and other chewing tobaccos;
11 shorts; ~~or~~ refuse scraps, clippings, cuttings, and sweepings
12 of tobacco, and other kinds and forms of tobacco, prepared in
13 such manner as to be suitable for chewing or smoking in a pipe
14 or otherwise, or both for chewing and smoking; but does not
15 mean cigarettes.

16 ~~29.~~ 27. "*Vapor product*" means any noncombustible product,
17 which may or may not contain nicotine, that employs a heating
18 element, power source, electronic circuit, or other electronic,
19 chemical, or mechanical means, regardless of shape or size,
20 that can be used to produce vapor from a solution or other
21 substance. "*Vapor product*" includes an electronic cigarette,
22 electronic cigar, electronic cigarillo, electronic pipe, or
23 similar product or device, and any cartridge or other container
24 of a solution or other substance, which may or may not contain
25 nicotine, that is intended to be used with or in an electronic
26 cigarette, electronic cigar, electronic cigarillo, electronic
27 pipe, or similar product or device. "*Vapor product*" does not
28 include a product regulated as a drug or device by the United
29 States food and drug administration under chapter V of the
30 federal Food, Drug, and Cosmetic Act.

31 28. "Vending machine" means any self-service device
32 offered for public use which, upon payment or the insertion of
33 loose tobacco product, dispenses or assembles and dispenses
34 cigarettes, tobacco products, alternative nicotine products,
35 vapor products, or nicotine solution products.

1 29. "Vendor" means any person who by contract, agreement,
2 or ownership takes responsibility for furnishing, installing,
3 servicing, operating, or maintaining one or more vending
4 machines for the purpose of selling cigarettes, tobacco
5 products, alternative nicotine products, vapor products, or
6 nicotine solution products at retail.

7 ~~30. "Wholesaler" shall mean and include~~ means every person
8 other than a distributor or distributing agent who engages in
9 the business of selling or distributing cigarettes within the
10 state, for the purpose of resale.

11 Sec. 9. Section 453A.2, subsections 1, 2, 3, and 8, Code
12 2023, are amended to read as follows:

13 1. A person shall not sell, give, or otherwise supply any
14 tobacco, tobacco products, alternative nicotine products, vapor
15 products, nicotine solution products, or cigarettes to any
16 person under twenty-one years of age.

17 2. A person under twenty-one years of age shall not
18 smoke, use, possess, purchase, or attempt to purchase any
19 tobacco, tobacco products, alternative nicotine products, vapor
20 products, nicotine solution products, or cigarettes.

21 3. Possession of tobacco, tobacco products, alternative
22 nicotine products, vapor products, nicotine solution products,
23 or cigarettes by an individual under twenty-one years of
24 age does not constitute a violation under [this section](#) if
25 the individual under twenty-one years of age possesses the
26 tobacco, tobacco products, alternative nicotine products, vapor
27 products, nicotine solution products, or cigarettes as part
28 of the individual's employment and the individual is employed
29 by a person who holds a valid permit under [this chapter](#) or
30 who lawfully offers for sale or sells cigarettes, ~~or~~ tobacco
31 products, alternative nicotine products, vapor products, or
32 nicotine solution products.

33 8. a. A person shall not be guilty of a violation of this
34 section if conduct that would otherwise constitute a violation
35 is performed to assess compliance with tobacco, tobacco

1 products, alternative nicotine products, vapor products,
2 nicotine solution products, or cigarette laws if any of the
3 following applies:

4 (1) The compliance effort is conducted by or under the
5 supervision of law enforcement officers.

6 (2) The compliance effort is conducted with the advance
7 knowledge of law enforcement officers and reasonable measures
8 are adopted by those conducting the effort to ensure that use
9 of tobacco, tobacco products, alternative nicotine products,
10 vapor products, nicotine solution products, or cigarettes by
11 individuals under twenty-one years of age does not result from
12 participation by any individual under twenty-one years of age
13 in the compliance effort.

14 *b.* For the purposes of [this subsection](#), “*law enforcement*
15 *officer*” means a peace officer as defined in [section 801.4](#) and
16 includes persons designated under [subsection 4](#) to enforce this
17 section.

18 Sec. 10. Section 453A.4, subsection 1, Code 2023, is amended
19 to read as follows:

20 1. If a person holding a permit under [this chapter](#) or an
21 employee of such a permittee has a reasonable belief based on
22 factual evidence that a driver’s license as defined in section
23 321.1, subsection 20A, or nonoperator’s identification card
24 issued pursuant to [section 321.190](#) offered by a person who
25 wishes to purchase tobacco, tobacco products, alternative
26 nicotine products, vapor products, nicotine solution
27 products, or cigarettes is altered or falsified or belongs
28 to another person, the permittee or employee may retain
29 the driver’s license or nonoperator’s identification card.
30 Within twenty-four hours, the card shall be delivered to the
31 appropriate city or county law enforcement agency of the
32 jurisdiction in which the permittee’s premises are located, and
33 the permittee shall file a written report of the circumstances
34 under which the card was retained. The local law enforcement
35 agency may investigate whether a violation of [section 321.216](#),

1 321.216A, or 321.216C has occurred. If an investigation is not
2 initiated or probable cause is not established by the local
3 law enforcement agency, the driver's license or nonoperator's
4 identification card shall be delivered to the person to whom it
5 was issued. The local law enforcement agency may forward the
6 card with the report to the state department of transportation
7 for investigation, in which case, the state department
8 of transportation may investigate whether a violation of
9 section 321.216, 321.216A, or 321.216C has occurred. The
10 state department of transportation shall return the card to
11 the person to whom it was issued if an investigation is not
12 initiated or probable cause is not established.

13 Sec. 11. Section 453A.5, subsection 1, Code 2023, is amended
14 to read as follows:

15 1. The alcoholic beverages division of the department of
16 commerce shall develop a tobacco compliance employee training
17 program not to exceed two hours in length for employees and
18 prospective employees of retailers, as defined in sections
19 453A.1 and 453A.42, to inform the employees about state and
20 federal laws and regulations regarding the sale of tobacco,
21 tobacco products, alternative nicotine products, vapor
22 products, nicotine solution products, and cigarettes to persons
23 under twenty-one years of age and compliance with and the
24 importance of laws regarding the sale of tobacco, tobacco
25 products, alternative nicotine products, vapor products,
26 nicotine solution products, and cigarettes to persons under
27 twenty-one years of age.

28 Sec. 12. Section 453A.6, subsections 2 and 3, Code 2023, are
29 amended to read as follows:

30 2. The ~~said~~ tax shall be paid only once by the person
31 making the "first sale" in this state, and shall become due
32 and payable as soon as such cigarettes are subject to a "first
33 sale" in Iowa, it being intended to impose the tax as soon as
34 such cigarettes are received by any person in Iowa for the
35 purpose of making a "first sale" of ~~same~~ the cigarettes. If

1 the person making the "first sale" did not pay such tax, ~~it~~
2 the tax shall be paid by any person into whose possession such
3 cigarettes come until ~~said~~ the tax has been paid in full.
4 ~~No~~ A person, however, shall not be required to pay a tax on
5 cigarettes brought into this state on or about the person in
6 quantities of forty cigarettes or less, when such cigarettes
7 have had the individual packages or seals ~~thereof~~ of the
8 packages in which the cigarettes were contained broken and when
9 such cigarettes are actually used by ~~said~~ the person and not
10 sold or offered for sale.

11 3. Payment of the tax shall be evidenced by stamps purchased
12 from the department or a bank authorized to sell stamps
13 pursuant to section 453A.8 by a distributor or manufacturer
14 and securely affixed to each individual package of cigarettes
15 in amounts equal to the tax ~~as~~ imposed by this chapter, or
16 by the impressing of an indicium upon individual packages of
17 cigarettes, under regulations prescribed by the director.

18 Sec. 13. Section 453A.6, subsection 8, unnumbered paragraph
19 1, Code 2023, is amended to read as follows:

20 Any permit holder owning, renting, leasing, or otherwise
21 operating a ~~cigarette~~ vending machine into which loose tobacco
22 products are inserted and from which assembled cigarettes are
23 dispensed shall do all the following:

24 Sec. 14. Section 453A.7, subsection 1, Code 2023, is amended
25 to read as follows:

26 1. The director of the department of administrative
27 services shall have printed or manufactured, ~~cigarette and~~
28 ~~little cigar tax~~ stamps of such design, size, denomination,
29 and type and in such quantities as ~~may be~~ determined by the
30 director of revenue. The stamps shall be ~~so~~ manufactured as
31 to render ~~them~~ the stamps easy to be securely attached to each
32 ~~individual package of cigarettes and little cigars or cigarette~~
33 ~~papers~~. The ~~cigarette and little cigar tax~~ stamps shall be
34 in the possession of and under the control of the director of
35 revenue and the director shall keep accurate records of all

1 ~~cigarette and little cigar tax~~ stamps.

2 Sec. 15. Section 453A.8, subsections 2 and 3, Code 2023, are
3 amended to read as follows:

4 2. Orders for ~~cigarette tax~~ stamps, including the payment
5 for such stamps, shall be sent ~~direct~~ to the department on a
6 form to be prescribed by the director, except as provided in
7 subsection 6.

8 3. a. The department may ~~make~~ issue refunds on unused
9 stamps to the person who purchased the stamps at a price equal
10 to the amount paid for the stamps when proof satisfactory to
11 the department is furnished that any stamps upon which a refund
12 is requested were properly purchased from the department and
13 paid for by the person requesting the refund. In making the
14 refund, the department shall prepare a voucher showing the
15 amount of refund due and to whom payable and shall authorize
16 the department of administrative services to issue a warrant
17 upon order of the director to pay the refund out of any funds in
18 the state treasury not otherwise appropriated.

19 b. The director may ~~promulgate~~ adopt rules providing for
20 refunds of the face value of stamps, less any discount, affixed
21 to any ~~cigarettes~~ package, the contents of which have become
22 unfit for use and consumption, unsalable, or for any other
23 legitimate loss which may occur, upon proof of such loss.
24 ~~Refund~~ Refunds shall be made in the same manner as provided for
25 unused stamps.

26 Sec. 16. Section 453A.10, Code 2023, is amended to read as
27 follows:

28 **453A.10 Affixing of stamps by distributors.**

29 Except as provided in [section 453A.17](#), every distributor
30 holding an Iowa permit shall cause to be affixed, within or
31 without the state of Iowa, upon every individual package
32 of cigarettes received by the distributor in this state or
33 for distribution in this state, upon which ~~no~~ a sufficient
34 ~~tax~~ stamp is not already affixed, a stamp or stamps of
35 an amount equal to the tax due ~~thereon~~ on the package of

1 cigarettes. Such stamps shall be affixed within forty-eight
2 hours, exclusive of a Sunday or a holiday, from the hour the
3 cigarettes were received, and shall be affixed before such
4 distributor sells, offers for sale, consumes, or otherwise
5 distributes or transports the same cigarettes. It shall be
6 unlawful for any person, other than a distributing agent or
7 distributor, bonded pursuant to [section 453A.14](#), or common
8 carrier to receive or accept delivery of any cigarettes without
9 stamps affixed to evidence the payment of the tax, or without
10 having in the distributor's, distributing agent's, or common
11 carrier's possession the requisite amount or number of stamps
12 necessary to stamp such cigarettes, ~~and the~~. The possession
13 of any unstamped cigarettes, without the possession of the
14 requisite amount or number of stamps, shall be prima facie
15 evidence of the violation of this provision. As used in this
16 section, "holiday" means the same as defined in [section 421.9A](#).

17 Sec. 17. Section 453A.11, Code 2023, is amended to read as
18 follows:

19 **453A.11 Cancellation of stamps.**

20 Stamps affixed to a package of cigarettes shall not
21 be canceled by any letter, numeral, or other mark of
22 identification or otherwise mutilated in any manner that will
23 prevent or hinder the department in making an examination as
24 to the genuineness of the stamp. However, the director may
25 ~~require such cancellation of~~ cancel the tax stamps affixed
26 to packages of cigarettes ~~which is~~ as necessary to carry out
27 ~~properly~~ the provisions of [this subchapter](#). A person who
28 cancels or causes the cancellation of stamps in violation of
29 this section shall be considered in possession of unstamped
30 cigarettes and ~~is~~ subject to the penalty for possession of
31 unstamped cigarettes as provided in section 453A.31, subsection
32 ~~1, paragraph "a"~~.

33 Sec. 18. Section 453A.13, Code 2023, is amended to read as
34 follows:

35 **453A.13 Distributor's, wholesaler's, vendor's, and retailer's**

1 **permits.**

2 1. *Permits required.* Every distributor, wholesaler,
3 ~~cigarette~~ vendor, and retailer, now engaged or who desires to
4 become engaged in the sale or use of cigarettes, upon which a
5 tax is required to be paid, and every retailer now engaged or
6 who desires to become engaged in selling, offering for sale, or
7 distributing alternative nicotine products, ~~or~~ vapor products,
8 or nicotine solution products, including through delivery
9 sales, shall obtain a state or retail permit as a distributor,
10 wholesaler, ~~cigarette~~ vendor, or retailer, as the case may be.

11 2. *Issuance or denial.*

12 a. The department shall issue state permits to distributors,
13 wholesalers, ~~and cigarette~~ vendors, and retailers that make
14 delivery sales of alternative nicotine products, ~~and~~ vapor
15 products, and nicotine solution products subject to the
16 conditions provided in [this subchapter](#). If an out-of-state
17 retailer makes delivery sales of alternative nicotine
18 products, ~~or~~ vapor products, or nicotine solution products, an
19 application shall be filed with the department and a permit
20 shall be issued for the out-of-state retailer's principal place
21 of business. Cities may issue retail permits to retailers
22 with a place of business located within their respective
23 limits. County boards of supervisors may issue retail permits
24 to retailers with a place of business in their respective
25 counties, outside of the corporate limits of cities.

26 b. The department may deny the issuance of a permit
27 to a distributor, wholesaler, vendor, or retailer who is
28 substantially delinquent in the payment of a tax due, or the
29 interest or penalty on the tax, administered by the department
30 at the time of application. If the applicant is a partnership,
31 a permit may be denied if a partner is substantially delinquent
32 on any delinquent tax, penalty or interest. If the applicant
33 is a corporation, a permit may be denied if any officer having
34 a substantial legal or equitable interest in the ownership of
35 the corporation owes any delinquent tax, interest, or penalty

1 of the applicant corporation.

2 *c.* The department, or a city or county, shall submit
3 a duplicate of any application for a retail permit to the
4 alcoholic beverages division of the department of commerce
5 within thirty days of the issuance. The alcoholic beverages
6 division of the department of commerce shall submit the current
7 list of all retail permits issued to the ~~Iowa~~ department of
8 public health and human services by the last day of each
9 quarter of a state fiscal year.

10 3. *Fees — expiration.*

11 *a.* All permits provided for in **this subchapter** shall expire
12 on June 30 of each year. A permit shall not be granted or
13 issued until the applicant has paid for the period ending June
14 30 next, to the department or the city or county granting the
15 permit, the fees provided for in **this subchapter**. The annual
16 state permit fee for a distributor, ~~cigarette vendor, and~~
17 wholesaler, or vendor is one hundred dollars when the permit
18 is granted during the months of July, August, or September.
19 However, whenever a state permit holder operates more than one
20 place of business, a duplicate state permit shall be issued for
21 each additional place of business on payment of five dollars
22 for each duplicate state permit, but refunds as provided in
23 this subchapter do not apply to any duplicate permit issued.

24 *b.* The fee for retail permits is as follows when the permit
25 is granted during the months of July, August, or September:

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

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

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

31 *c.* If any permit is granted during the months of October,
32 November, or December, the fee shall be three-fourths of
33 the above maximum schedule; if granted during the months of
34 January, February, or March, one-half of the maximum schedule,
35 and if granted during the months of April, May, or June,

1 one-fourth of the maximum schedule.

2 4. *Refunds.*

3 a. An unrevoked permit for which the holder has paid the
4 full annual fee may be surrendered during the first nine months
5 of ~~said~~ the year to the officer issuing it, and the department,
6 or the city or county granting the permit shall make refunds to
7 the holder as follows:

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

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

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

14 b. An unrevoked permit for which the holder has paid
15 three-fourths of a full annual fee may be so surrendered during
16 the first six months of the period covered by ~~said~~ the payment
17 and the department, city, or county shall make refunds to the
18 holder as follows:

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

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

23 c. An unrevoked permit for which the holder has paid
24 one-half of a full annual fee may be surrendered during the
25 first three months of the period covered by that payment, and
26 the department, city, or county shall refund to the holder a
27 sum equal to one-fourth of an annual fee.

28 5. *Application — bond.* Permits shall be issued only upon
29 applications accompanied by the fee indicated above, and by an
30 adequate bond as provided in [section 453A.14](#), and upon forms
31 furnished by the department upon written request. The failure
32 to furnish ~~such~~ the forms shall not be ~~an~~ an excuse for ~~the~~
33 failure to file the forms unless absolute refusal is shown.
34 The forms shall ~~set forth~~ specify all of the following:

35 a. The manner under which the distributor, wholesaler,

1 vendor, or retailer, transacts or intends to transact such
2 business as a distributor, wholesaler, vendor, or retailer.

3 *b.* The principal office, residence, and place of business
4 where the permit is to apply.

5 *c.* If the applicant is not an individual, the principal
6 officers or members and their addresses.

7 *d.* Any other information as the director shall ~~by rules~~
8 prescribe by rule.

9 *6. No sales without permit.* A distributor, wholesaler,
10 ~~cigarette~~ vendor, or retailer shall not sell any cigarettes,
11 alternative nicotine products, ~~or~~ vapor products, or nicotine
12 solution products until such application has been filed and
13 the fee prescribed paid for a permit and until such permit is
14 obtained and only while such permit is unrevoked and unexpired.

15 *7. Number of permits — trucks.* An application shall be
16 filed and a permit obtained for each place of business owned or
17 operated by a distributor, wholesaler, or retailer, ~~excepting~~
18 except that ~~no~~ a permit need not be obtained for a delivery or
19 sales truck of a distributor or wholesaler holding a permit,
20 provided that the director may by regulation require that ~~said~~
21 the truck bear the distributor's or wholesaler's name, and that
22 the permit number of the place of business for and from which
23 ~~it~~ the truck operates be conspicuously displayed on the outside
24 of the body of the truck, immediately under the name.

25 *8. Group business.* Any person who operates both as a
26 distributor and wholesaler in the same place of business shall
27 only be required to obtain a state permit for the particular
28 place of business where such operation of ~~said~~ the business
29 is conducted. A separate retail permit, however, shall be
30 required if any distributor or wholesaler sells cigarettes at
31 both retail and wholesale.

32 *9. Permit — form and contents.* Each permit issued shall
33 describe clearly the place of business for which ~~it~~ the permit
34 is issued, shall be nonassignable, consecutively numbered,
35 designating the kind of permit, and shall authorize the sale of

1 cigarettes, alternative nicotine products, ~~or~~ vapor products,
2 or nicotine solution products in this state subject to the
3 limitations and restrictions ~~herein contained~~ specified under
4 this chapter. The retail permits shall be upon forms furnished
5 by the department or on forms made available or approved by the
6 department.

7 10. *Permit displayed.* The permit shall, at all times, be
8 publicly displayed by the distributor, wholesaler, vendor, or
9 retailer at the place of business so as to be easily seen by
10 the public and the persons authorized to inspect the place
11 of business. The proprietor or keeper of any building or
12 place where cigarettes, alternative nicotine products, vapor
13 products, nicotine solution products, tobacco, or tobacco
14 products are kept for sale, or with intent to sell, shall upon
15 request of any agent of the department or any peace officer
16 exhibit the permit. A refusal or failure to exhibit the permit
17 is prima facie evidence that the cigarettes, alternative
18 nicotine products, vapor products, nicotine solution products,
19 tobacco, or tobacco products are kept for sale or with intent
20 to sell in violation of [this subchapter](#).

21 Sec. 19. Section 453A.15, subsections 4, 5, and 6, Code
22 2023, are amended to read as follows:

23 4. Every permit holder or other person shall, when requested
24 by the department, make additional reports as the department
25 deems necessary and proper and shall at the request of the
26 department furnish full and complete information pertaining to
27 any transaction of the permit holder or other person involving
28 the purchase or sale or use of cigarettes or purchase of
29 cigarette stamps.

30 5. Every person engaged in the business of selling
31 cigarettes in interstate commerce only, who has, by furnishing
32 the bond required in [section 453A.14](#), been permitted to set
33 aside or store cigarettes in this state for the conduct of
34 such interstate business without the stamps affixed ~~thereto~~
35 to the cigarettes, shall be required to keep ~~such~~ records and

1 make ~~such~~ reports to the department as are required by the
2 department.

3 6. If any distributor, manufacturer, or other person
4 fails or refuses to pay any tax, penalties, or cost of an
5 ~~audit hereinafter provided~~, and it becomes necessary to bring
6 suit or to intervene in any manner for the establishment or
7 collection of ~~said~~ the claims, in any judicial proceedings, any
8 report filed in the office of the director by the distributor,
9 manufacturer, or other person, or the distributor's,
10 manufacturer's, or other person's representative, or a
11 ~~copy thereof~~ of the report, certified to by the director,
12 showing the number of cigarettes sold by the distributor,
13 the distributor's representative, the manufacturer, or the
14 other person, upon which a tax, penalty, or cost of audit
15 has not been paid, or any audit made by the department from
16 the books or records of the distributor, manufacturer, or
17 other person when signed and sworn to by the agent of the
18 department making the audit as being made from the books or
19 records of the distributor, manufacturer, or other person from
20 or to whom the distributor, manufacturer, or other person
21 has bought, received, or delivered cigarettes, whether from
22 a transportation company or otherwise, such report or audit
23 shall be admissible in evidence in such proceedings and shall
24 be prima facie evidence of the contents thereof. However, the
25 incorrectness of the report or audit may be shown.

26 Sec. 20. Section 453A.17, Code 2023, is amended to read as
27 follows:

28 **453A.17 Distributing agent's permit.**

29 1. Every distributing agent in the state, now engaged,
30 or who desires to become engaged, in the business of storing
31 unstamped cigarettes which are received in interstate commerce
32 for distribution or delivery only upon order received from
33 without the state or to be sold outside the state, shall
34 ~~file with the department~~, an application with the department
35 for a distributing agent's permit, on a form prescribed by

1 the director, ~~to be~~ and furnished by the department upon
 2 written request. The failure of the department to furnish
 3 an application shall not be ~~an~~ an excuse for the failure to
 4 file the ~~same~~ application unless an absolute refusal is shown.
 5 ~~Said~~ The application form shall ~~set forth~~ specify the name
 6 under which ~~such~~ the distributing agent transacts or intends to
 7 transact ~~such~~ business as a distributing agent, the principal
 8 office and place of business in Iowa to which the permit is
 9 to apply, and if other than an individual, the principal
 10 officers or members ~~thereof~~ of the distributing agent and their
 11 addresses. The director may require any other information in
 12 ~~said~~ the application. ~~No~~ A distributing agent shall not engage
 13 in ~~such~~ business until ~~such~~ the application has been filed
 14 ~~and,~~ a fee in the sum of one hundred dollars has been paid for
 15 the permit, ~~and~~ until the permit has been obtained. ~~Such~~ The
 16 permit shall expire on June 30 following the date of issuance.
 17 ~~All of the~~ The provisions of ~~the last two paragraphs~~ of section
 18 453A.14, relative to bonds, are incorporated ~~herein~~ and by
 19 this reference ~~made~~ applicable to distributing agents. Upon
 20 failure to furnish adequate bond as required, the permit shall
 21 be revoked without hearing. An application shall be filed and
 22 a permit obtained for each place of business owned or operated
 23 by a distributing agent.

24 2. Upon receipt of the application, the bond, and the permit
 25 fee, the department may issue to every distributing agent for
 26 the place of business designated a nonassignable consecutively
 27 numbered permit, authorizing the storing, and distribution of
 28 unstamped cigarettes within this state when the distribution
 29 is made upon interstate orders only. A distributing agent
 30 may also transport unstamped cigarettes in the agent's own
 31 conveyances to the state boundary for distribution outside the
 32 state, and any nonresident customer of the distributor may
 33 purchase and convey unstamped cigarettes to the state line for
 34 distribution outside the state. The nonresident purchaser
 35 shall have in possession an invoice evidencing the purchase of

1 the unstamped cigarettes, which must be exhibited upon request
2 to any peace officer or agent charged with the enforcement of
3 this subchapter.

4 3. Cigarettes set aside for interstate business must be kept
5 separate from intrastate stock and those cigarettes not ~~se~~ kept
6 separate shall be considered as intrastate stock and subject to
7 the same requirements as cigarettes possessed for the purpose
8 of a "first sale".

9 4. It is unlawful for any distributing agent to sell at
10 retail cigarettes from automobiles, trucks, or any similar
11 conveyances.

12 Sec. 21. Section 453A.19, Code 2023, is amended to read as
13 follows:

14 **453A.19 Examination of records and premises.**

15 1. For the purpose of enabling the department to determine
16 the tax liability of permit holders or any other person dealing
17 in cigarettes or to determine whether a tax liability has been
18 incurred, the department shall have the right to inspect any
19 premises of the holder of an Iowa permit located within or
20 without the state ~~of Iowa~~ where cigarettes are manufactured,
21 produced, made, stored, transported, sold, or offered for sale
22 or exchange, and to examine all of the records required to be
23 kept or any other records that may be kept incident to the
24 conduct of the cigarette business of ~~said~~ the permit holder or
25 any other person dealing in cigarettes.

26 2. The ~~said~~ authorized officers shall also have the right,
27 ~~as an~~ incident to determining the ~~said~~ tax liability, or
28 whether a tax liability has been incurred, to examine all
29 stocks of cigarettes and cigarette stamps and ~~for the foregoing~~
30 ~~purpose said authorized officers shall also have the right to~~
31 remain upon ~~said~~ the premises for such length of time as ~~may be~~
32 necessary to fully determine ~~said~~ the tax liability, or whether
33 a tax liability has been incurred.

34 3. It shall be unlawful for ~~any of the foregoing~~ permit
35 holders to fail to produce upon demand of the department any

1 records required ~~herein~~ to be kept or to hinder or prevent
2 in any manner the inspection of ~~said~~ the records or the
3 examination of ~~said~~ the premises.

4 4. In the case of any departmental inspection conducted
5 under this section requiring department personnel to travel
6 outside the state of Iowa, any additional costs incurred by the
7 department for out-of-state travel expenses shall be borne by
8 the permittee. These additional costs shall be those costs in
9 excess of the costs of a similar inspection conducted at the
10 geographical point located within the state of Iowa nearest to
11 the out-of-state inspection point. In lieu of conducting an on
12 premises out-of-state inspection, the department ~~shall have the~~
13 ~~authority to~~ may direct the permittee to assemble and transport
14 all records described in subsection 1, to the nearest practical
15 and convenient geographical location in Iowa for inspection by
16 the department.

17 Sec. 22. Section 453A.21, Code 2023, is amended to read as
18 follows:

19 **453A.21 Cigarettes retailer may not sell.**

20 Unless a retail permit holder ~~shall~~ also ~~hold~~ holds a state
21 permit, it shall be unlawful for a the retailer to sell or have
22 in the retailer's possession cigarettes upon which ~~the stamp~~
23 ~~tax has~~ stamps have not been affixed.

24 Sec. 23. Section 453A.32, subsection 6, Code 2023, is
25 amended to read as follows:

26 6. The provisions of this section applying to cigarettes
27 shall also apply to tobacco products and nicotine solution
28 products taxed under subchapter II of this chapter.

29 Sec. 24. Section 453A.33, Code 2023, is amended to read as
30 follows:

31 **453A.33 Seizure not to affect criminal prosecution.**

32 The seizure, forfeiture, and sale of cigarettes, tobacco
33 products, nicotine solution products, and other property under
34 the terms and conditions ~~set out~~ specified in section 453A.32,
35 shall not constitute any defense to the person owning or having

1 control or possession of the property from criminal prosecution
2 for any act or omission made or offense committed under this
3 chapter or from liability to pay penalties provided by this
4 chapter.

5 Sec. 25. Section 453A.35, subsection 1, paragraph a, Code
6 2023, is amended to read as follows:

7 a. With the exception of revenues credited to the health
8 care trust fund pursuant to paragraph "b" and the revenues
9 generated from the tax on nicotine solution products pursuant
10 to section 453A.43A, the proceeds derived from the sale of
11 stamps and the payment of fees and penalties provided for under
12 this chapter, and the permit fees received from all permits
13 issued by the department, shall be credited to the general fund
14 of the state.

15 Sec. 26. Section 453A.36, subsections 1, 2, 3, 4, 5, 6, and
16 7, Code 2023, are amended to read as follows:

17 1. Except as otherwise provided in [this subchapter](#), it is
18 unlawful for any person to have in the person's possession for
19 sale, distribution, or use, or for any other purpose, in excess
20 of forty cigarettes, or to sell, distribute, use, or present
21 as a gift or prize cigarettes upon which a tax is required to
22 be paid by [this subchapter](#), without having affixed to each
23 individual package of cigarettes, the proper stamp evidencing
24 the payment of the tax ~~and the~~. The absence of the stamp on the
25 individual package of cigarettes is notice to all persons that
26 the tax has not been paid and is prima facie evidence of the
27 nonpayment of the tax.

28 2. ~~No~~ A person, other than a common carrier and a
29 distributor's truck bearing the distributor's name and permit
30 number in plain view on the outside of such truck, shall not
31 transport within this state cigarettes upon which a tax is
32 required to be paid, without having stamps affixed to each
33 individual package of ~~said~~ cigarettes; ~~and no~~. A person shall
34 not fail or refuse, upon demand of agent of the department, or
35 any peace officer to stop any vehicle transporting cigarettes

1 for a full and complete inspection of the cargo carried.

2 3. ~~No~~ A person shall not use, sell, offer for sale, or
3 possess for the purpose of use or sale, within this state, any
4 previously used stamp or stamps, ~~or~~ attach any ~~such~~ previously
5 used stamps to an individual package of cigarettes, ~~nor shall~~
6 ~~any person~~ purchase stamps from any person other than the
7 department or a bank authorized to sell stamps pursuant to
8 section 453A.8, or sell stamps purchased from the department or
9 a bank authorized to sell stamps pursuant to section 453A.8.

10 4. ~~No~~ A person shall not knowingly use, consume, or smoke,
11 within this state, cigarettes upon which a tax is required to
12 be paid, without ~~said~~ the tax having been paid.

13 5. ~~No~~ A person, ~~unless the person be~~ other than the holder
14 of a permit, or the permit holder's representative, shall
15 not solicit the sale of cigarettes, ~~provided that.~~ However,
16 this section subsection shall not prevent solicitation by a
17 nonpermit holder for the sale of cigarettes to any state permit
18 holder.

19 6. Any sales of tobacco, tobacco products, alternative
20 nicotine products, vapor products, nicotine solution products,
21 or cigarettes made through a ~~cigarette~~ vending machine are
22 subject to rules and penalties relative to retail sales of
23 tobacco, tobacco products, alternative nicotine products, vapor
24 products, nicotine solution products, and cigarettes provided
25 for in this chapter. Cigarettes shall not be sold through
26 ~~any cigarette~~ a vending machine unless the cigarettes have
27 been properly stamped or metered as provided by under this
28 subchapter, and in case of violation of this provision, the
29 permit of the dealer authorizing retail sales of cigarettes
30 shall be revoked. Payment of the permit fee as provided
31 in section 453A.13 authorizes a ~~cigarette~~ vendor to sell
32 tobacco, tobacco products, alternative nicotine products,
33 vapor products, nicotine solution products, and cigarettes
34 through vending machines. However, tobacco, tobacco products,
35 alternative nicotine products, vapor products, nicotine

1 solution products, and cigarettes shall not be sold through
2 a vending machine unless the vending machine is located in
3 a place where the retailer ensures that no person younger
4 than twenty-one years of age is present or permitted to
5 enter at any time. Tobacco, tobacco products, alternative
6 nicotine products, vapor products, nicotine solution products,
7 and cigarettes shall not be sold through ~~any cigarette a~~
8 vending machine if such products are placed together with
9 any nontobacco product, other than matches, in the ~~cigarette~~
10 vending machine. ~~This section subsection~~ does not require a
11 retail permit holder to buy a ~~cigarette~~ vendor's permit if the
12 retail permit holder is in fact the owner of the ~~cigarette~~
13 vending machines and the machines are operated in the location
14 described in the retail permit.

15 7. a. It shall be unlawful for a person other than a
16 retailer as defined in [section 453A.1](#) or [453A.42](#) who holds a
17 valid retail permit, as applicable, to sell tobacco, tobacco
18 products, alternative nicotine products, vapor products,
19 nicotine solution products, or cigarettes at retail.

20 b. A state permit holder shall not sell or distribute
21 cigarettes at wholesale to any person in the state ~~of Iowa~~
22 who does not hold a permit authorizing the retail sale
23 of cigarettes or who does not hold a state permit as a
24 manufacturer, distributing agent, wholesaler, or distributor.

25 Sec. 27. Section 453A.36A, subsection 1, Code 2023, is
26 amended to read as follows:

27 1. Except as provided in [section 453A.36, subsection 6](#),
28 a retailer shall not sell or offer for sale tobacco, tobacco
29 products, alternative nicotine products, vapor products,
30 nicotine solution products, or cigarettes through the use of
31 a self-service display.

32 Sec. 28. Section 453A.39, Code 2023, is amended to read as
33 follows:

34 453A.39 Tobacco, tobacco products, alternative nicotine
35 products, vapor products, nicotine solution products, and

1 **cigarette samples — restrictions — administration.**

2 1. A manufacturer, distributor, wholesaler, retailer, or
3 distributing agent, or agent thereof, shall not give away
4 cigarettes or tobacco products at any time in connection with
5 the manufacturer's, distributor's, wholesaler's, retailer's, or
6 distributing agent's business or for promotion of the business
7 or product, except as provided in **subsection 2.**

8 2. *a.* All cigarette samples shall be shipped only to a
9 distributor that has a permit to stamp cigarettes ~~or little~~
10 ~~cigars with Iowa tax.~~ All cigarette samples must have a
11 cigarette stamp. The manufacturer shipping samples under this
12 section shall send an affidavit to the director stating the
13 shipment information, including the date shipped, quantity, and
14 to whom the samples were shipped. The distributor receiving
15 the shipment shall send an affidavit to the director stating
16 the shipment information, including the date shipped, quantity,
17 and from whom the samples were shipped. These affidavits shall
18 be duly notarized and submitted to the director at the time of
19 shipment and receipt of the samples. The distributor shall
20 pay the tax on samples by separate remittance along with the
21 affidavit.

22 *b.* A manufacturer, distributor, wholesaler, retailer, or
23 distributing agent or agent thereof shall not give away any
24 tobacco, tobacco products, alternative nicotine products, vapor
25 products, nicotine solution products, or cigarettes to any
26 person under twenty-one years of age, or within five hundred
27 feet of any playground, school, high school, or other facility
28 when such facility is being used primarily by persons under age
29 twenty-one for recreational, educational, or other purposes.

30 *c.* Proof of age shall be required if a reasonable person
31 could conclude on the basis of outward appearance that a
32 prospective recipient of a sample may be under twenty-one years
33 of age.

34 Sec. 29. Section 453A.40, subsections 1 and 3, Code 2023,
35 are amended to read as follows:

1 1. All persons required to obtain a permit or to be licensed
2 under [section 453A.13](#) or [section 453A.44](#) having in their
3 possession and held for resale on the effective date of an
4 increase in the tax rate cigarettes, little cigars, ~~or~~ tobacco
5 products, or nicotine solution products upon which the tax
6 under [section 453A.6](#), ~~or 453A.43~~, or [453A.43A](#) has been paid,
7 unused ~~cigarette tax~~ stamps which have been paid for under
8 section 453A.8, unused metered imprints which have been paid
9 for under [section 453A.12](#), or tobacco products or nicotine
10 solution products for which the tax has not been paid under
11 section 453A.46 shall be subject to an inventory tax on the
12 items as provided in [this section](#).

13 3. The rate of the inventory tax on each item subject to
14 the tax as specified in [subsection 1](#) is equal to the difference
15 between the amount paid on each item under [section 453A.6](#),
16 453A.8, [453A.12](#), ~~or 453A.43~~, or [453A.43A](#) prior to the tax
17 increase and the amount that is to be paid on each similar item
18 under [section 453A.6](#), 453A.8, [453A.12](#), ~~or 453A.43~~, or [453A.43A](#)
19 after the tax increase except that in computing the rate of the
20 inventory tax any discount allowed or allowable under section
21 453A.8 shall not be considered.

22 Sec. 30. Section 453A.42, Code 2023, is amended to read as
23 follows:

24 **453A.42 Definitions.**

25 When used in [this subchapter](#), unless the context clearly
26 indicates otherwise, the following terms shall have the
27 meanings, respectively, ascribed to them in [this section](#):

28 1. "Alternative nicotine product" means the same as defined
29 in section 453A.1.

30 ~~1-~~ 2. "Business" means any trade, occupation, activity,
31 or enterprise engaged in for the purpose of selling or
32 distributing tobacco products or nicotine solution products in
33 this state.

34 ~~2-~~ 3. "Consumer" means any person who has title to or
35 possession of tobacco products or nicotine solution products in

1 storage, for use or other consumption in this state.

2 ~~3. 4. "Delivery sale" means any sale of an alternative~~
3 ~~nicotine product or a vapor product to a purchaser in this~~
4 ~~state where the purchaser submits the order for such sale by~~
5 ~~means of a telephonic or other method of voice transmission,~~
6 ~~mail or any other delivery service, or the internet or other~~
7 ~~online service and the alternative nicotine product or vapor~~
8 ~~product is delivered by use of mail or a delivery service. The~~
9 ~~sale of an alternative nicotine product or vapor product shall~~
10 ~~constitute a delivery sale regardless of whether the seller~~
11 ~~is located in this state. "Delivery sale" does not include a~~
12 ~~sale to a distributor or retailer of any alternative nicotine~~
13 ~~product or vapor product not for personal consumption the same~~
14 ~~as defined in section 453A.1.~~

15 ~~4. 5. "Director" means the director of the department of~~
16 ~~revenue.~~

17 ~~5. 6. "Distributor" means any and each of the following:~~

18 ~~a. Any person engaged in the business of selling tobacco~~
19 ~~products or nicotine solution products in this state who~~
20 ~~brings, or causes to be brought, into this state from without~~
21 ~~the state any tobacco products or nicotine solution products~~
22 ~~for sale~~†~~.~~

23 ~~b. Any person who makes, manufactures, or fabricates tobacco~~
24 ~~products or nicotine solution products in this state for sale~~
25 ~~in this state~~†~~.~~

26 ~~c. Any person engaged in the business of selling tobacco~~
27 ~~products or nicotine solution products without this state who~~
28 ~~ships or transports tobacco products or nicotine solution~~
29 ~~products to retailers in this state, to be sold by those~~
30 ~~retailers.~~

31 ~~6. 7. "Little cigar" means any roll for smoking which meets~~
32 ~~all of the following conditions:~~

33 ~~a. Is made wholly or in part of tobacco, irrespective of~~
34 ~~size or shape and irrespective of the tobacco being flavored,~~
35 ~~adulterated, or mixed with any other ingredient~~†~~.~~

1 ~~b.~~ Is not a cigarette as defined in section 453A.1,
2 ~~subsection 4, and.~~

3 ~~c.~~ Either weighs not more than three pounds per thousand,
4 irrespective of retail price, or weighs more than three pounds
5 per thousand and has a retail price of not more than two
6 and one-half cents per little cigar. For purposes of this
7 subsection, the retail price is the ordinary retail price in
8 this state, not including retail sales tax, use tax, or the tax
9 on little cigars imposed by [section 453A.43](#).

10 ~~7.~~ 8. "Manufacturer" means a person who manufactures and
11 sells tobacco products or nicotine solution products.

12 9. "Nicotine solution product" means the same as defined in
13 section 453A.1.

14 ~~8.~~ 10. "Person" means ~~any individual, firm, association,~~
15 ~~partnership, joint stock company, joint adventure, corporation,~~
16 ~~trustee, agency, or receiver, or any legal representative of~~
17 any of the foregoing the same as defined in section 453A.1.

18 ~~9.~~ 11. "Place of business" means any place where
19 tobacco products or nicotine solution products are sold or
20 where tobacco products or nicotine solution products are
21 manufactured, stored, or kept for the purpose of sale or
22 consumption, including any vessel, vehicle, airplane, train, or
23 vending machine; ~~or~~ and for a business within or without the
24 state that conducts delivery sales, any place where alternative
25 nicotine products, ~~or~~ vapor products, or nicotine solution
26 products are sold or where alternative nicotine products, ~~or~~
27 vapor products, or nicotine solution products are kept for the
28 purpose of sale, including delivery sales.

29 ~~10.~~ 12. "Retail outlet" means each place of business from
30 which tobacco products are sold to consumers.

31 ~~11.~~ 13. "Retailer" means any person engaged in the business
32 of selling tobacco, tobacco products, alternative nicotine
33 products, ~~or~~ vapor products, or nicotine solution products to
34 ultimate consumers.

35 ~~12.~~ 14. "Sale" means any transfer, exchange, or barter,

1 in any manner or by any means whatsoever, for a consideration,
2 and includes and means all sales made by any person. It
3 "Sale" includes a gift by a person engaged in the business
4 of selling tobacco products or nicotine solution products,
5 for advertising, as a means of evading the provisions of this
6 subchapter, or for any other purposes whatsoever.

7 ~~13.~~ 15. "Snuff" means any finely cut, ground, or powdered
8 tobacco that is not intended to be smoked.

9 ~~14.~~ 16. "Storage" means any keeping or retention of tobacco
10 products or nicotine solution products for use or consumption
11 in this state.

12 ~~15.~~ 17. "Subjobber" means any person, other than a
13 manufacturer or distributor, who buys tobacco products or
14 nicotine solution products from a distributor and sells them to
15 persons other than the ultimate consumers.

16 ~~16.~~ 18. "Tobacco products" means ~~eigars; little eigars~~
17 ~~as defined herein; cheroots; stogies; periques; granulated,~~
18 ~~plug cut, crimp cut, ready rubbed, and other smoking tobacco;~~
19 ~~snuff; cavendish; plug and twist tobacco; fine-cut and other~~
20 ~~chewing tobaccos; shorts; refuse scraps, clippings, cuttings~~
21 ~~and sweepings of tobacco, and other kinds and forms of tobacco,~~
22 ~~prepared in such manner as to be suitable for chewing or~~
23 ~~smoking in a pipe or otherwise, or both for chewing and~~
24 ~~smoking; but shall not include cigarettes as defined in section~~
25 ~~453A.1, subsection 4~~ the same as defined in section 453A.1.

26 ~~17.~~ 19. "Use" means the exercise of any right or power
27 incidental to the ownership of tobacco products or nicotine
28 solution products.

29 20. "Vapor product" means the same as defined in section
30 453A.1.

31 ~~18.~~ 21. "Wholesale sales price" means the established price
32 for which a manufacturer sells a tobacco product or a nicotine
33 solution product to a distributor, exclusive of any discount
34 or other reduction.

35 Sec. 31. Section 453A.43, subsection 1, paragraphs a and b,

1 Code 2023, are amended to read as follows:

2 *a.* A tax is imposed upon all tobacco products in this state
3 and upon any person engaged in business as a distributor of
4 tobacco products, at the rate of twenty-two percent of the
5 wholesale sales price of the tobacco products, except little
6 cigars and snuff as ~~defined in section 453A.42.~~

7 *b.* In addition to the tax imposed under paragraph "a", a
8 tax is imposed upon all tobacco products in this state and upon
9 any person engaged in business as a distributor of tobacco
10 products, at the rate of twenty-eight percent of the wholesale
11 sales price of the tobacco products, except little cigars and
12 snuff as ~~defined in section 453A.42.~~

13 Sec. 32. NEW SECTION. 453A.43A Tax on nicotine solution
14 products.

15 1. A tax is imposed upon all nicotine solution products
16 in this state and upon any person engaged in business as a
17 distributor of nicotine solution products, at the rate of
18 twenty-six percent of the wholesale sales price of the nicotine
19 solution products.

20 2. The taxes on nicotine solution products shall be imposed
21 at the time the distributor does any of the following:

22 *a.* Brings, or causes to be brought, into this state from
23 outside the state nicotine solution products for sale.

24 *b.* Makes, manufactures, or fabricates nicotine solution
25 products in this state for sale in this state.

26 *c.* Ships or transports nicotine solution products to
27 retailers in this state, to be sold by those retailers.

28 3. *a.* A tax is imposed upon the use or storage by consumers
29 of nicotine solution products in this state, and upon the
30 consumers, at the rate of twenty-six percent of the cost of the
31 nicotine solution products.

32 *b.* The taxes imposed by this subsection shall not apply
33 if the taxes imposed by subsection 1 on the nicotine solution
34 products have been paid.

35 4. Any nicotine solution product with respect to which a

1 tax has once been imposed under this subchapter shall not again
2 be subject to tax under this subchapter, except as provided in
3 section 453A.40.

4 5. The tax imposed by this section shall not apply with
5 respect to any nicotine solution product which under the
6 Constitution and laws of the United States may not be made the
7 subject of taxation by this state.

8 6. The tax imposed by this section shall be in addition to
9 all other occupation or privilege taxes or license fees now or
10 hereafter imposed by any city or county.

11 7. All excise taxes imposed on nicotine solution products
12 and collected under this chapter by a distributor or any
13 individual are deemed to be held in trust for the state of
14 Iowa.

15 **Sec. 33. NEW SECTION. 453A.43B Health promotion trust fund**
16 **— nicotine solution products revenue — use of moneys.**

17 1. A health promotion trust fund is created in the
18 office of the treasurer of state. The fund consists of the
19 revenues generated from the tax on nicotine solution products
20 pursuant to section 453A.43A that are credited to the health
21 promotion trust fund, annually. Moneys in the fund shall be
22 separate from the general fund of the state and shall not be
23 considered part of the general fund of the state. However, the
24 fund shall be considered a special account for the purposes
25 of section 8.53 relating to generally accepted accounting
26 principles. Moneys in the fund shall be used only as specified
27 in this section and shall be appropriated only for the uses
28 specified. Moneys in the fund are not subject to section 8.33
29 and shall not be transferred, used, obligated, appropriated,
30 or otherwise encumbered, except as provided in this section.
31 Notwithstanding section 12C.7, subsection 2, interest or
32 earnings on moneys deposited in the fund shall be credited to
33 the fund.

34 2. The revenue generated from the tax on nicotine solution
35 products pursuant to section 453A.43A shall be credited to

1 the health promotion trust fund created in this section on an
2 annual basis.

3 3. Of the revenues generated and credited to the fund on an
4 annual basis, ten percent of the total amount is appropriated
5 annually to the department of health and human services for
6 tobacco use prevention and control efforts pursuant to chapter
7 142A and ninety percent of the total amount is appropriated
8 annually to the judicial branch to be used to create and
9 maintain civil and criminal specialty courts involving
10 individuals with substance use disorder or mental health
11 issues.

12 Sec. 34. Section 453A.44, Code 2023, is amended to read as
13 follows:

14 **453A.44 Licenses — distributors, and subjobbers.**

15 1. ~~No~~ A person shall not engage in the business of a
16 distributor or subjobber of tobacco products or nicotine
17 solution products at any place of business without first having
18 received a license from the director ~~to engage in that business~~
19 as a distributor or subjobber at that place of business.

20 2. ~~Every~~ An application for such a license shall be made on
21 a form prescribed by the director and shall state ~~the~~ all of
22 the following:

23 a. The name and address of the applicant; ~~if.~~

24 (1) If the applicant is a firm, partnership, or association,
25 the name and address of each of its members; ~~if.~~

26 (2) If the applicant is a corporation, the name and address
27 of each of its officers; ~~the.~~

28 b. The address of ~~its~~ the applicant's principal place of
29 business; ~~the.~~

30 c. The place where the business to be licensed is to be
31 conducted; ~~and such.~~

32 d. Such other information as the director may require for
33 the purpose of the administration of **this subchapter**.

34 3. A person without this state who ships or transports
35 tobacco products or nicotine solution products to retailers

1 in this state, to be sold by those retailers, may ~~make~~
 2 ~~application~~ apply for a license as a distributor, be granted a
 3 license by the director, and thereafter be subject to all the
 4 provisions of this subchapter and entitled to act as a licensed
 5 distributor.

6 4. a. Each application for a distributor's license shall
 7 be accompanied by a fee of one hundred dollars, except that an
 8 applicant holding a permit pursuant to subchapter I of this
 9 chapter shall not be required to pay an additional fee. The
 10 application shall be accompanied by a corporate surety bond
 11 issued by a surety licensed to do business in this state, in
 12 the sum of one thousand dollars, conditioned upon the true and
 13 faithful compliance by the distributor with all the provisions
 14 of this subchapter and the payment when due of all taxes,
 15 penalties, and accrued interest arising in the ordinary course
 16 of business or by reason of any delinquent money which may be
 17 due the state of Iowa. ~~This~~ The bond shall be in a form to be
 18 fixed by the director and approved by the attorney general.
 19 Whenever it is the opinion of the director that the bond given
 20 by a licensee is inadequate in amount to fully protect the
 21 state, the director shall require either an increase in the
 22 amount of ~~said~~ the bond or an additional bond, in ~~such an~~
 23 amount ~~as~~ the director deems sufficient. Any bond required by
 24 this subchapter, or a reissue ~~thereof~~, or a substitute ~~therefor~~
 25 of the bond, shall be kept in full force and effect during the
 26 entire period covered by the license.

27 b. A separate application for a license shall be made for
 28 each place of business where a distributor proposes to engage
 29 in business as ~~such~~ a distributor under this subchapter.

30 5. Each application for a subjobber's license shall
 31 be accompanied by a fee of ten dollars, except that ~~no~~ an
 32 applicant holding a permit pursuant to subchapter I of this
 33 chapter shall not be required to pay an additional fee.

34 6. A distributor or subjobber applying for a license between
 35 January 1 and June 30 of any year shall be required to pay only

1 one-half of the license fee provided for in [this section](#).

2 7. The director, upon receipt of the application, and
3 bond in the case of the distributor, in proper form, and
4 payment of the applicable license fee required ~~by subsection~~
5 ~~4 or subsection 5~~ under this section, shall unless otherwise
6 provided by [this subchapter](#), issue the applicant a license in
7 form as prescribed by the director, ~~which~~. The license shall
8 permit the applicant to whom it is issued to engage in business
9 as a distributor or subjobber at the place of business shown in
10 the application. The director shall assign a permit number to
11 each person licensed as a distributor at the time of issuance
12 of the person's first license, which shall be inscribed upon
13 all licenses issued to that distributor.

14 8. Each license shall expire on June 30 following its
15 date of issue unless sooner revoked by the director or unless
16 the business with respect to which the license was issued is
17 transferred. In either case the holder of the license shall
18 immediately surrender it to the director.

19 9. ~~No~~ A license shall not be transferable to any other
20 person.

21 10. The director may revoke, cancel, or suspend the license
22 or licenses of any distributor or subjobber for violation of
23 any of the provisions of [this subchapter](#), or any other act
24 applicable to the sale of tobacco products or nicotine solution
25 products, or any rule or regulations promulgated by the
26 director in furtherance of [this subchapter](#). ~~No~~ A license shall
27 not be revoked, canceled, or suspended except after notice and
28 a hearing by the director as provided in [section 453A.48](#).

29 11. ~~No~~ A license shall not be issued under this
30 subchapter to any person within one year of the date of final
31 determination of a revocation of any previous license held by
32 the person.

33 12. When the surety upon any bond issued pursuant to the
34 provisions of [this subchapter](#) ~~shall have~~ has fulfilled the
35 conditions of ~~such~~ the bond and compensated the state for any

1 loss occasioned by any act or omission of the person bonded
2 under this subchapter, ~~such~~ the surety shall be subrogated to
3 all the rights of the state in connection with the transaction
4 ~~wherein such~~ that resulted in the loss occurred.

5 Sec. 35. Section 453A.45, Code 2023, is amended to read as
6 follows:

7 **453A.45 Licensees, duties.**

8 1. *a.* Every distributor shall keep at each licensed place
9 of business complete and accurate records for that place of
10 business, including itemized invoices, of tobacco products
11 or nicotine solution products held, purchased, manufactured,
12 brought in or caused to be brought in from without the state,
13 or shipped or transported to retailers in this state, and of
14 all sales of tobacco products or nicotine solution products
15 made, except sales to the ultimate consumer.

16 *b.* When a licensed distributor sells tobacco products
17 or nicotine solution products exclusively to the ultimate
18 consumer at the address given in the license, an invoice of
19 those sales is not required, but itemized invoices shall be
20 made of all tobacco products or nicotine solution products
21 transferred to other retail outlets owned or controlled by that
22 licensed distributor. All books, records, and other papers
23 and documents required by this subsection to be kept shall
24 be preserved for a period of at least three years after the
25 date of the documents or the date of the entries appearing
26 in the records, unless the director, in writing, authorized
27 their destruction or disposal at an earlier date. At any time
28 during usual business hours, the director, or the director's
29 duly authorized agents or employees, may enter any place of
30 business of a distributor, without a search warrant, and
31 inspect the premises, the records required to be kept under
32 this subsection, and the tobacco products or nicotine solution
33 products contained ~~therein~~ at the place of business, to
34 ~~determine if all the provisions of full compliance with this~~
35 ~~subchapter are being fully complied with.~~ If the director,

1 or any ~~such~~ agent or employee of the director, is denied
2 free access or is hindered or interfered with in making the
3 examination, the license of the distributor at that premises is
4 subject to revocation by the director.

5 2. Every person who sells tobacco products or nicotine
6 solution products to persons other than the ultimate consumer
7 shall render with each sale itemized invoices showing the
8 seller's name and address, the purchaser's name and address,
9 the date of sale, and all prices and discounts. The person
10 shall preserve legible copies of all ~~these~~ invoices for three
11 years from the date of sale.

12 3. Every retailer and subjobber shall procure itemized
13 invoices of all tobacco products or nicotine solution products
14 purchased. The invoices shall show the name and address of the
15 seller and the date of purchase. The retailer and subjobber
16 shall preserve a legible copy of each invoice for three
17 years from the date of purchase. Invoices shall be available
18 for inspection by the director or the director's authorized
19 agents or employees at the retailer's or subjobber's place of
20 business.

21 4. Records of all deliveries or shipments of tobacco
22 products or nicotine solution products from any public
23 warehouse of first destination in this state which is subject
24 to the provisions of and licensed under [chapter 554](#) shall be
25 kept by the warehouse and be available to the director for
26 inspection. ~~They~~ The records shall show the name and address
27 of the consignee, the date, the quantity of tobacco products
28 or nicotine solution products delivered, and such other
29 information as the ~~commissioner~~ director may require. ~~These~~
30 The records shall be preserved for three years from the date of
31 delivery of the tobacco products or nicotine solution products.

32 5. a. The transportation of tobacco products or nicotine
33 solution products into this state by means other than common
34 carrier ~~must~~ shall be reported to the director within thirty
35 days with the following exceptions:

1 (1) The transportation of not more than fifty cigars, not
2 more than ten ounces of snuff or snuff powder, or not more
3 than one pound of smoking or chewing tobacco or other tobacco
4 products not ~~specifically mentioned herein~~, specified in this
5 subparagraph.

6 (2) Transportation by a person with a place of business
7 outside the state, who is licensed as a distributor under
8 section 453A.44, or tobacco products or nicotine solution
9 products sold by such person to a retailer in this state.

10 b. The report shall be made on forms provided by the
11 director. The director may require by rule that the report be
12 filed by electronic transmission.

13 c. Common carriers transporting tobacco products or nicotine
14 solution products into this state shall file with the director
15 reports of all ~~such~~ shipments other than those which are
16 delivered to public warehouses of first destination in this
17 state which are licensed under the provisions of **chapter 554**.
18 ~~Such~~ The reports shall be filed on or before the tenth day of
19 each month and shall show with respect to deliveries made in
20 the preceding month all of the following:

21 (1) The date.

22 (2) The point of origin.

23 (3) The point of delivery.

24 (4) The name of the consignee.

25 (5) A description and the quantity of tobacco products or
26 nicotine solution products delivered.

27 (6) Such other information as the director may require.

28 d. Any person who fails or refuses to transmit to the
29 director the required reports or ~~whoever~~ who refuses to permit
30 the examination of the records by the director shall be guilty
31 of a serious misdemeanor.

32 Sec. 36. Section 453A.46, Code 2023, is amended to read as
33 follows:

34 **453A.46 Distributors, — monthly returns, — interest, and**
35 **penalties.**

1 1. *a.* On or before the twentieth day of each calendar
2 month every distributor with a place of business in this state
3 shall file a return with the director showing for the preceding
4 calendar month the quantity and wholesale sales price of each
5 tobacco product or nicotine solution product brought~~7~~ or caused
6 to be brought~~7~~ into this state for sale~~7~~ or made, manufactured,
7 or fabricated in this state for sale in this state~~7~~, and any
8 other information the director may require. Every licensed
9 distributor outside this state shall in like manner file a
10 return with the director showing for the preceding calendar
11 month the quantity and wholesale sales price of each tobacco
12 product or nicotine solution product shipped or transported
13 to retailers in this state to be sold by those retailers and
14 any other information the director may require. Returns shall
15 be made upon forms furnished or made available in electronic
16 form and prescribed by the director and shall contain other
17 information as the director may require. Each return shall be
18 accompanied by a remittance for the full tax liability shown
19 on the return, less a discount as fixed by the director not to
20 exceed five percent of the tax. Within three years after the
21 return is filed or within three years after the return became
22 due, whichever is later, the department shall examine ~~it~~ the
23 return, determine the correct amount of tax, and assess the
24 tax against the taxpayer for any deficiency. The period for
25 examination and determination of the correct amount of tax is
26 unlimited in the case of a false or fraudulent return made with
27 the intent to evade tax~~7~~ or in the case of a failure to file a
28 return.

29 *b.* The three-year limitation period may be extended by a
30 taxpayer by signing a waiver agreement form provided by the
31 department. The agreement ~~must~~ shall stipulate the extension
32 period and the tax period to which the extension applies. The
33 agreement ~~must~~ shall also stipulate that a claim for refund
34 may be filed by the taxpayer at any time during the extension
35 period.

1 2. *a.* All taxes shall be due and payable not later than
2 the twentieth day of the month following the calendar month in
3 which ~~they~~ the taxes were incurred, and shall bear interest at
4 the rate in effect under [section 421.7](#) counting each fraction
5 of a month as an entire month, computed from the date the tax
6 was due.

7 *b.* The director may reduce or abate interest when in
8 the director's opinion the facts warrant the reduction or
9 abatement. The exercise of this power shall be subject to the
10 approval of the attorney general.

11 3. In addition to the tax or additional tax, the taxpayer
12 shall also pay a penalty as provided in [section 421.27](#) and
13 shall be subject to the civil penalties ~~set forth~~ specified
14 in [sections 421.27; 453A.31, subsection 1](#), paragraph "b"; and
15 [453A.50, subsection 3](#), as applicable.

16 4. The department shall notify any person assessed
17 pursuant to [this section](#) by sending a written notice of the
18 determination by mail to the principal place of business of the
19 person as shown on the person's application for permit, and if
20 an application was not filed by the person, to the person's
21 last known address. A determination by the department of
22 the amount of tax, penalty, and interest due, or the amount
23 of refund for excess tax paid, is final, unless the person
24 aggrieved by the determination appeals to the director for a
25 revision of the determination within sixty days from the date
26 of the notice of determination of tax, penalty, and interest or
27 refund owing or unless the taxpayer contests the determination
28 by paying the tax, interest, and penalty and timely filing a
29 claim for a refund. The director shall grant a hearing and
30 upon the hearing, the director shall determine the correct tax,
31 penalty, and interest or refund due and notify the appellant
32 of the decision by mail. Judicial review of action of the
33 director may be sought in accordance with [chapter 17A](#) and
34 [section 422.29](#).

35 5. The director may recover the amount of any tax due and

1 unpaid, interest, and any penalty in a civil action. The
 2 collection of ~~such~~ a tax, interest, or penalty shall not be a
 3 bar to any prosecution under [this subchapter](#).

4 6. On or before the twentieth day of each calendar month,
 5 every consumer who, during the preceding calendar month, has
 6 acquired title to or possession of tobacco products or nicotine
 7 solution products for use or storage in this state, upon which
 8 tobacco products or nicotine solution products the tax imposed
 9 by [section 453A.43](#) or [section 453A.43A](#) has not been paid, shall
 10 file a return with the director showing the quantity of tobacco
 11 products ~~se~~ or nicotine solution products acquired. The return
 12 shall be made upon a form furnished and prescribed by the
 13 director, and shall contain other information ~~as~~ the director
 14 may require. The return shall be accompanied by a remittance
 15 for the full unpaid tax liability shown by ~~it~~ the return.
 16 Within three years after the return is filed or within three
 17 years after the return became due, whichever is later, the
 18 department shall examine ~~it~~ the return, determine the correct
 19 amount of tax, and assess the tax against the taxpayer for any
 20 deficiency. The period for examination and determination of
 21 the correct amount of tax is unlimited in the case of a false or
 22 fraudulent return made with the intent to evade tax, or in the
 23 case of a failure to file a return.

24 7. The director may require by rule that returns be filed by
 25 electronic transmission.

26 Sec. 37. Section 453A.47, Code 2023, is amended to read as
 27 follows:

28 **453A.47 Refunds, and credits.**

29 Where tobacco products or nicotine solution products upon
 30 which the tax imposed by [this subchapter](#) has been reported and
 31 paid are shipped or transported by the distributor to consumers
 32 to be consumed without the state or to retailers or subjobbers
 33 without the state to be sold by those retailers or subjobbers
 34 without the state or are returned to the manufacturer by the
 35 distributor or destroyed by the distributor, refund of ~~such~~ the

1 tax or credit may be made to the distributor in accordance with
 2 regulations prescribed by the director. Any overpayment of the
 3 tax imposed under [section 453A.43](#) or [section 453A.43A](#) may be
 4 made to the taxpayer in accordance with regulations prescribed
 5 by the director. The director shall cause any ~~such~~ refund of
 6 a tax to be paid out of the general fund of the state, and so
 7 much of ~~said~~ the general fund as ~~may be~~ necessary is ~~hereby~~
 8 appropriated for that purpose.

9 Sec. 38. Section 453A.47A, Code 2023, is amended to read as
 10 follows:

11 **453A.47A Retailers — permits — fees — penalties.**

12 1. *Permits required.* A person shall not engage in
 13 the business of a retailer of tobacco, tobacco products,
 14 alternative nicotine products, ~~or~~ vapor products, or nicotine
 15 solution products at any place of business, or through delivery
 16 sales, without first having received a permit as a retailer.

17 2. *No sales without permit.* A retailer shall not sell
 18 any tobacco, tobacco products, alternative nicotine products,
 19 ~~or~~ vapor products, or nicotine solution products until
 20 an application has been filed, ~~and~~ the fee prescribed for
 21 the permit paid, for a permit and until such the permit is
 22 obtained, and only while such the permit is not suspended,
 23 unrevoked, or unexpired.

24 3. *Number of permits.* An application shall be filed and a
 25 permit obtained for each place of business owned or operated by
 26 a retailer located in the state. If an out-of-state retailer
 27 makes delivery sales of alternative nicotine products, ~~or~~ vapor
 28 products, or nicotine solution products, an application shall
 29 be filed with the department and a permit shall be issued for
 30 the out-of-state retailer's principal place of business.

31 4. *Retailer — multiple permits not required — effect of*
 32 *suspension.* A retailer, as defined in [section 453A.1](#), who holds
 33 a permit under [subchapter I of this chapter](#) is not required to
 34 also obtain a retail permit under [this subchapter](#). However,
 35 if a retailer, as defined in [section 453A.1](#), only holds a

1 permit under subchapter I of this chapter and that permit is
2 suspended, revoked, or expired, the retailer shall not sell any
3 tobacco, tobacco products, alternative nicotine products, ~~or~~
4 vapor products, or nicotine solution products during the time
5 which the permit is suspended, revoked, or expired.

6 5. *Separate permit.* A separate retail permit shall be
7 required of a distributor or subjobber if the distributor or
8 subjobber sells tobacco, tobacco products, alternative nicotine
9 products, ~~or~~ vapor products, or nicotine solution products at
10 retail.

11 6. *Issuance.* Cities may issue retail permits to retailers
12 located within their respective limits. County boards of
13 supervisors may issue retail permits to retailers located in
14 their respective counties, outside of the corporate limits of
15 cities. The city or county shall submit a duplicate of any
16 application for a retail permit to the alcoholic beverages
17 division of the department of commerce within thirty days of
18 issuance of a permit. The alcoholic beverages division of the
19 department of commerce shall submit the current list of all
20 retail permits issued to the ~~Iowa~~ department of ~~public~~ health
21 and human services by the last day of each quarter of a state
22 fiscal year.

23 7. *Fees — expiration.*

24 a. All permits provided for in this subchapter shall expire
25 on June 30 of each year. A permit shall not be granted or
26 issued until the applicant has paid the fees provided for in
27 this section for the period ending June 30 next, to the city or
28 county granting the permit. The fee for retail permits is as
29 follows when the permit is granted during the month of July,
30 August, or September:

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

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

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

1 *b.* If any permit is granted during the month of October,
2 November, or December, the fee shall be three-fourths of the
3 above maximum schedule; if granted during the month of January,
4 February, or March, one-half of the maximum schedule; and if
5 granted during the month of April, May, or June, one-fourth of
6 the maximum schedule.

7 8. *Refunds.*

8 *a.* An unrevoked permit for which the retailer paid the full
9 annual fee may be surrendered during the first nine months of
10 the year to the officer issuing it, and the city or county
11 granting the permit shall make refunds to the retailer as
12 follows:

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

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

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

19 *b.* An unrevoked permit for which the retailer has paid
20 three-fourths of a full annual fee may be surrendered during
21 the first six months of the period covered by the payment,
22 and the city or county shall make refunds to the retailer as
23 follows:

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

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

28 *c.* An unrevoked permit for which the retailer has paid
29 one-half of a full annual fee may be surrendered during the
30 first three months of the period covered by the payment, and
31 the city or county shall refund to the retailer a sum equal to
32 one-fourth of an annual fee.

33 9. *Application.* Retail permits shall be issued only upon
34 applications, accompanied by the fee indicated above under
35 this section, made upon forms furnished by the department upon

1 written request. The failure to furnish ~~such~~ the forms shall
2 not be ~~an~~ an excuse for the failure to file the form unless
3 absolute refusal is shown. The forms shall specify:

4 *a.* The manner under which the retailer transacts or intends
5 to transact business as a retailer.

6 *b.* The principal office, residence, and place of business,
7 for which the permit ~~is to apply~~ applies.

8 *c.* If the applicant is not an individual, the principal
9 officers or members of the applicant, not to exceed three, and
10 their addresses.

11 *d.* Such other information as the director ~~shall by rules~~
12 prescribe prescribes by rule.

13 10. *Records and reports of retailers.*

14 *a.* The director shall prescribe the forms necessary for
15 the efficient administration of this section and may require
16 uniform books and records to be used and kept by each retailer
17 or other person as deemed necessary.

18 *b.* Every retailer shall, when requested by the department,
19 make additional reports as the department deems necessary and
20 proper and shall at the request of the department furnish full
21 and complete information pertaining to any transaction of the
22 retailer involving the purchase or sale or use of tobacco,
23 tobacco products, alternative nicotine products, ~~or~~ vapor
24 products, or nicotine solution products.

25 11. *Penalties.* The permit suspension and revocation
26 provisions and the civil penalties established in section
27 453A.22 shall apply to retailers under this subchapter, in
28 addition to any other penalties imposed under this subchapter.

29 Sec. 39. Section 453A.47B, Code 2023, is amended to read as
30 follows:

31 **453A.47B Requirements for mailing or shipping — alternative**
32 **nicotine products, or vapor products, or nicotine solution**
33 **products**.

34 A retailer shall not mail, ship, or otherwise cause to be
35 delivered any alternative nicotine product, or vapor product,

1 or nicotine solution product in connection with a delivery sale
2 unless the retailer meets all of the following conditions:

3 1. Prior to sale to the purchaser, the retailer verifies
4 that the purchaser is at least twenty-one years of age through
5 or by one of the following:

6 a. A commercially available database, or aggregate of
7 databases, that is regularly used by government and businesses
8 for the purpose of age and identity verification.

9 b. Obtaining a copy of a valid government-issued document
10 that provides the name, address, and date of birth of the
11 purchaser.

12 2. The retailer uses a method of mailing, shipping, or
13 delivery that requires the signature of a person who is at
14 least twenty-one years of age before the shipping package is
15 released to the purchaser.

16 Sec. 40. Section 453A.47C, Code 2023, is amended to read as
17 follows:

18 **453A.47C Sales and use tax on delivery sales — alternative**
19 **nicotine products, ~~or~~ vapor products, or nicotine solution**
20 **products.**

21 1. A delivery sale of alternative nicotine products, ~~or~~
22 vapor products, or nicotine solution products within this state
23 shall be subject to the sales tax provided in chapter 423,
24 subchapter II.

25 2. The use in this state of alternative nicotine products,
26 ~~or~~ vapor products, or nicotine solution products purchased for
27 use in this state through a delivery sale shall be subject to
28 the use tax provided in [chapter 423, subchapter III](#).

29 3. A retailer required to possess or possessing a permit
30 under [section 453A.13](#) or [453A.47A](#) to make delivery sales of
31 alternative nicotine products, ~~or~~ vapor products, or nicotine
32 solution products within this state shall be deemed to have
33 waived all claims that such retailer lacks physical presence
34 within this state for purposes of collecting and remitting
35 sales and use tax.

1 4. A retailer making taxable delivery sales of alternative
2 nicotine products, ~~or vapor products,~~ or nicotine solution
3 product within this state shall remit to the department all
4 sales and use tax due on such sales at the times and in the
5 manner provided by [chapter 423](#).

6 5. The director shall adopt rules pursuant to [chapter 17A](#) to
7 administer [this section](#).

8 Sec. 41. Section 453A.48, Code 2023, is amended to read as
9 follows:

10 **453A.48 Investigations, and hearings, and testimonial powers.**

11 1. The director, ~~or the director's~~ duly authorized agents,
12 may conduct investigations, inquiries, and hearings for the
13 purpose of enforcing the provisions of [this subchapter](#), and, in
14 connection with such investigations, inquiries, and hearings,
15 ~~the director and the director's~~ duly authorized agents shall
16 have all the powers conferred upon the director and the
17 director's examiners by ~~Iowa statutes~~ law, and the provisions
18 of ~~such~~ these laws shall apply to all such investigations,
19 inquiries, and hearings.

20 2. A hearing conducted under [this subchapter](#) shall be
21 preceded by ten days' notice in writing of the subject of the
22 hearing, including, ~~in the case of~~ suspension or revocation of
23 a license, a statement of the nature of the charges against
24 the licensee. The notice shall be sent by mail to the last
25 known address of the licensee or other person involved in the
26 hearing, and the service shall be complete upon mailing. After
27 every hearing the director shall make ~~the director's~~ written
28 findings and an order ~~in writing~~. The findings and order shall
29 be filed in the office of the director, and a copy sent by mail
30 or otherwise to the person to whom the notice was directed.

31 3. The director may exchange information with the officers
32 and agencies of other states administering laws relating to the
33 taxation of tobacco products or nicotine solution products.

34 4. ~~No~~ A person shall not be excused from testifying or
35 from producing, pursuant to a subpoena, any books, papers,

1 records, or memoranda in any investigation or upon any hearing,
 2 upon the ground that the testimony or evidence, documentary or
 3 otherwise, may tend to incriminate the person or subject the
 4 person to a criminal penalty, ~~but no.~~ However, a person shall
 5 not be prosecuted or subjected to any criminal penalty for or
 6 on account of any transaction made or thing concerning which
 7 the person may testify or produce evidence, documentary or
 8 otherwise, before the director or an employee or agent ~~thereof~~
 9 of the director; provided that ~~such~~ immunity shall extend only
 10 to a natural person who, in obedience to a subpoena, gives
 11 testimony under oath or produces evidence, documentary or
 12 otherwise, pursuant to a subpoena. ~~No~~ A person ~~so~~ testifying
 13 in response to a subpoena shall not be exempt from prosecution
 14 and punishment for perjury committed in ~~so~~ testifying.

15 5. Any person aggrieved by an order of the director fixing
 16 a tax, penalty, or interest under [section 453A.43](#) or section
 17 453A.43A may, within sixty days from the date of notice of the
 18 order, appeal to the board of review in the manner provided
 19 by law or unless the taxpayer contests the determination by
 20 paying the tax, interest, and penalty and timely filing a
 21 claim for refund. Judicial review of any other action of the
 22 director may be sought in accordance with ~~the terms of the Iowa~~
 23 ~~administrative procedure Act,~~ [chapter 17A](#).

24 Sec. 42. Section 453A.51, Code 2023, is amended to read as
 25 follows:

26 **453A.51 Assessment of cost of audit.**

27 The department may employ auditors or other persons to
 28 audit and examine the books and records of a permit holder or
 29 other person dealing in tobacco products or nicotine solution
 30 products to ascertain whether the permit holder or other person
 31 has paid the amount of the taxes required to be paid by the
 32 permit holder or other person under ~~the provisions of this~~
 33 chapter. If the taxes have not been paid, ~~as required,~~ the
 34 department shall assess against the permit holder or other
 35 person, as an additional penalty, the reasonable expenses and

1 costs of the investigation and audit.

2 Sec. 43. Section 805.8C, subsection 3, Code 2023, is amended
3 to read as follows:

4 3. *Violations related to smoking, tobacco, tobacco products,*
5 *alternative nicotine products, vapor products, nicotine solution*
6 *products, and cigarettes.*

7 a. For violations described in [section 142D.9, subsection 1](#),
8 the scheduled fine is fifty dollars, and is a civil penalty,
9 and the crime services surcharge under [section 911.1](#) shall
10 not be added to the penalty, and the court costs pursuant
11 to [section 805.9, subsection 6](#), shall not be imposed. If
12 the civil penalty assessed for a violation described in
13 section 142D.9, subsection 1, is not paid in a timely manner,
14 a citation shall be issued for the violation in the manner
15 provided in [section 804.1](#). However, a person under age
16 eighteen shall not be detained in a secure facility for failure
17 to pay the civil penalty. The complainant shall not be charged
18 a filing fee.

19 b. For violations of [section 453A.2, subsection 1](#), by an
20 employee of a retailer, the scheduled fine is as follows:

21 (1) If the violation is a first offense, the scheduled fine
22 is one hundred thirty-five dollars.

23 (2) If the violation is a second offense, the scheduled fine
24 is three hundred twenty-five dollars.

25 (3) If the violation is a third or subsequent offense, the
26 scheduled fine is six hundred forty-five dollars.

27 c. For violations of [section 453A.2, subsection 2](#), the
28 scheduled fine is as follows and is a civil penalty, and the
29 crime services surcharge under [section 911.1](#) shall not be added
30 to the penalty, and the court costs pursuant to section 805.9,
31 subsection 6, shall not be imposed:

32 (1) If the violation is a first offense, the scheduled fine
33 is seventy dollars.

34 (2) If the violation is a second offense, the scheduled fine
35 is one hundred thirty-five dollars.

1 (3) If the violation is a third or subsequent offense, the
2 scheduled fine is three hundred twenty-five dollars.

3 EXPLANATION

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

6 This bill imposes a tax on nicotine solution products
7 and requires the licensing of nicotine solution products
8 distributors, subjobbers, retailers, and delivery sale
9 retailers, similar to the licensing of tobacco product
10 distributors, subjobbers, retailers, and delivery sale
11 retailers.

12 The bill defines "nicotine solution product" as any
13 cartridge, bottle, or other package that contains nicotine,
14 including nicotine made or derived from tobacco or sources
15 other than tobacco, in a solution or other substance that is
16 consumed or meant to be consumed through the use of a heating
17 element, power source, electronic circuit, or other electronic,
18 chemical, or mechanical means that produces vapor or aerosol.
19 "Nicotine solution product" includes any alternative nicotine
20 product, vapor product, or other product that contains an
21 integrated, nonrefillable or nonreusable nicotine solution
22 product component.

23 The bill imposes a tax upon all nicotine solution products
24 in this state and upon any person engaged in business as a
25 distributor of nicotine solution products, at the rate of 26
26 percent of the wholesale sales price of the nicotine solution
27 product. The tax is imposed at the time the distributor brings
28 or causes to be brought into the state from outside the state
29 nicotine solution products for sale; makes, manufactures, or
30 fabricates nicotine solution products in the state for sale in
31 this state; or ships or transports nicotine solution products
32 to retailers in this state, to be sold by those retailers. The
33 tax is also imposed upon the use or storage by consumers of
34 nicotine solution products in this state and upon the consumers
35 at the rate of 26 percent of the cost of the nicotine solution

1 products. The tax on consumers does not apply if the taxes
2 imposed on distributors for the nicotine solution products have
3 been paid.

4 The bill creates a health promotion trust fund in the office
5 of the treasurer of state. The fund consists of the revenues
6 generated from the tax on nicotine solution products that
7 are credited to the health promotion trust fund, annually.
8 Moneys in the fund are separate from the general fund of the
9 state, are to be used only as specified in the bill, and are
10 appropriated only for the uses specified. Moneys in the fund
11 are not subject to reversion, and interest or earnings on
12 moneys deposited in the fund shall be credited to the fund.

13 Revenue generated from the tax on nicotine solution products
14 shall be credited to the health promotion trust fund on an
15 annual basis. Of the revenues generated and credited to the
16 fund on an annual basis, 10 percent of the total amount is
17 appropriated annually to the department of health and human
18 services for tobacco use prevention and control efforts
19 pursuant to Code chapter 142A and 90 percent of the total
20 amount is appropriated annually to the judicial branch to be
21 used to create and maintain civil and criminal specialty courts
22 involving individuals with substance use disorder or mental
23 health issues.

24 The bill makes applicable to delivery sales of nicotine
25 solution products, provisions that are applicable to delivery
26 sales of alternative nicotine products and vapor products,
27 including the imposition of sales and use taxes.

28 The bill also makes applicable to nicotine solution products
29 provisions similarly applicable to the use, sale, and taxation
30 of tobacco products including required maintenance of itemized
31 invoices, records, and reports; filing of monthly returns
32 and the tax liability; imposition of interest and penalties;
33 refunds and credits; inventory tax provisions; criminal and
34 civil penalties; auditing and auditing costs; and seizure
35 and forfeiture of products in the control of a person that

1 are being sold, distributed, removed, or otherwise used in
2 violation of the bill.

3 The bill also makes applicable to nicotine solution
4 products, provisions and penalties under Code chapter 453A
5 relating to the sale or other provision to, or the purchase or
6 other use or possession by, persons under 21 years of age of
7 cigarettes, tobacco products, and other products; the giving
8 away of samples of cigarettes, tobacco products, and other
9 products to persons under 21 years of age near locations used
10 by persons primarily under 21 years of age; and self-service
11 sales of cigarettes, tobacco products, and other products.