Senate File 612 - Introduced

SENATE FILE 612
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1153)

A BILL FOR

An Act relating to cigarette and tobacco product regulations including vapor products by requiring the electronic filing of returns and other related matters, and providing penalties.
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 453A.1, subsection 27, Code 2025, is amended to read as follows:

27. "*State permit*" shall mean and include all permits issued by the department ~~to distributors, wholesalers, and retailers~~ under this chapter except the permits issued to retailers approved by cities and counties pursuant to sections 453A.13 and 453A.47A.

Sec. 2. Section 453A.6, subsection 8, paragraph a, Code 2025, is amended to read as follows:

a. Pay directly to the department, in lieu of the tax under subsection 1, a tax equal to three and six hundredths cents on each cigarette dispensed from such machine. Payments made under this paragraph shall be remitted to the department electronically.

Sec. 3. Section 453A.8, subsection 2, Code 2025, is amended to read as follows:

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

Sec. 4. Section 453A.13, subsection 2, paragraph a, Code 2025, is amended to read as follows:

a. The department shall issue state permits to distributors, wholesalers, and cigarette vendors, and retailers that make delivery sales of alternative nicotine products and vapor products, subject to the conditions provided in this subchapter. If an out-of-state retailer makes delivery sales of alternative nicotine products or vapor products, an application shall be filed with the department electronically and a permit shall be issued for the out-of-state retailer's principal place of business. Cities may ~~issue~~ approve retail ~~permits to retailers~~ permit applications for applicants with a place of business located within their respective limits. County boards of supervisors may ~~issue~~ approve retail ~~permits to retailers~~ permit applications for applicants with a place of business in their respective counties, outside of the corporate limits of cities. Upon approval of a retail permit application by a city or county, the department shall issue the permit to the applicant on behalf of the city or county, in the manner determined by the department. A city or county shall use the electronic portal of the department to process retail permit applications. A city or county that is unable to use the electronic portal of the department may request permission from the director to process retail applications by another method.

Sec. 5. Section 453A.13, subsection 2, paragraph c, Code 2025, is amended to read as follows:

c. ~~A city or county shall submit a duplicate of any application for a retail permit to the department within thirty days of the issuance.~~ The department shall submit the current list of all retail permits issued to the department of health and human services by the last day of each quarter of a state fiscal year.

Sec. 6. Section 453A.13, subsection 3, paragraph a, Code 2025, is amended to read as follows:

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

Sec. 7. Section 453A.13, subsection 5, unnumbered paragraph 1, Code 2025, is amended to read as follows:

Permits shall be issued only upon applications accompanied by the fee indicated above, and by an adequate bond as provided in section 453A.14, and upon forms furnished by the department ~~upon written request~~. ~~The failure to furnish such forms shall be no excuse for the failure to file the forms unless absolute refusal is shown.~~ Applications, any supporting documentation, and the associated fees required by this section shall be submitted to the department electronically. The forms shall set forth all of the following:

Sec. 8. Section 453A.13, subsection 9, unnumbered paragraph 1, Code 2025, is amended to read as follows:

Each permit issued shall describe clearly the place of business for which it is issued, shall be nonassignable, consecutively numbered, designating the kind of permit, and shall authorize the sale of cigarettes, alternative nicotine products, or vapor products in this state subject to the limitations and restrictions herein contained. The retail permits shall be upon forms furnished by the department ~~or on forms made available or approved by the department~~.

Sec. 9. Section 453A.14, subsection 1, unnumbered paragraph 1, Code 2025, is amended to read as follows:

~~No~~ A state or manufacturer's permit shall not be issued until the applicant files a bond, with good and sufficient surety, to be approved by the director, which bond shall be in favor of the state and conditioned upon the payment of taxes, damages, fines, penalties, and costs adjudged against the permit holder for violation of any of the provisions of this subchapter. The bonds shall be on forms prescribed by the director and shall be filed electronically. A bond filed under this section shall be in one of the following amounts:

Sec. 10. Section 453A.14, subsection 2, Code 2025, is amended to read as follows:

2. A person shall not engage in interstate business unless the person files a bond, with good and sufficient surety in an amount of not less than one thousand dollars. A bond required by

this subsection shall be on forms prescribed by the director and shall be filed electronically. The amount of the bond required of the person shall be fixed by the director, subject to the minimum limitation provided in this section. The bond is subject to approval by the director and shall be payable to the state in Des Moines, Polk county, and conditioned upon the payment of taxes, damages, fines, penalties, and costs adjudged against the person for violation of any of the requirements of this subchapter affecting the person, on a form prescribed by the director.

Sec. 11. Section 453A.15, subsection 7, Code 2025, is amended to read as follows:

7. ~~The director may require by rule that~~ Any reports required to be made under this subchapter shall be filed ~~by electronic transmission~~ electronically.

Sec. 12. Section 453A.16, Code 2025, is amended to read as follows:

453A.16 Manufacturer's permit.

The department may, upon application of any manufacturer, issue without charge to the manufacturer a manufacturer's permit. The application shall contain information as the director shall prescribe and the application shall be submitted to the department electronically. The holder of a manufacturer's permit is authorized to purchase stamps from the department, and must affix stamps to individual packages of cigarettes outside of this state, prior to their shipment into the state unless the cigarettes are shipped to an Iowa permitted distributor or an Iowa permitted distributor's agent.

Sec. 13. Section 453A.17, subsection 1, Code 2025, is amended to read as follows:

1. Every distributing agent in the state, now engaged, or who desires to become engaged, in the business of storing unstamped cigarettes which are received in interstate commerce for distribution or delivery only upon order received from without the state or to be sold outside the state, shall

file with the department electronically, an application for a distributing agent's permit, on a form prescribed by the director~~, to be furnished upon written request~~. ~~The failure to furnish shall be no excuse for the failure to file the same unless an absolute refusal is shown.~~ Said form shall set forth the name under which such distributing agent transacts or intends to transact such business as a distributing agent, the principal office and place of business in Iowa to which the permit is to apply, and if other than an individual, the principal officers or members thereof and their addresses. The director may require any other information in said application. No distributing agent shall engage in such business until such application has been filed and fee in the sum of one hundred dollars paid for the permit and until the permit has been obtained. Such permit shall expire on June 30 following the date of issuance. All of the provisions of the last two paragraphs of section 453A.14, relative to bonds, are incorporated herein and by this reference made applicable to distributing agents. Upon failure to furnish adequate bond as required, the permit shall be revoked without hearing. An application shall be filed and a permit obtained for each place of business owned or operated by a distributing agent.

Sec. 14. Section 453A.18, Code 2025, is amended to read as follows:

453A.18 Forms for records and reports.

The department shall ~~furnish or~~ make available in electronic form, without charge, to holders of the various permits, forms ~~in sufficient quantities~~ to enable permit holders to make the reports required to be made under this subchapter. The permit holders shall furnish at their own expense the books, records, and invoices, required to be used and kept, but the books, records, and invoices shall be in exact conformity to the forms prescribed for that purpose by the director, and shall be kept and used in the manner prescribed by the director. However, the director may, by express order in certain cases, authorize permit holders to keep their records in a manner and upon forms other than those prescribed. The authorization may be revoked at any time. A report, book, record, invoice, and any other document required to be submitted to the department under this subchapter shall be submitted electronically.

Sec. 15. Section 453A.23, subsections 1 and 2, Code 2025, are amended to read as follows:

1. Subject to this subchapter, a retailer's permit may be issued by the department to any dining car company, sleeping car company, railroad or railway company. The permit shall authorize the holder to keep for sale, and sell, cigarettes at retail on any dining car, sleeping car, or passenger car operated by the applicant in, through, or across the state of Iowa, subject to all of the restrictions imposed upon retailers under this subchapter. The application for the permit shall be in the form and contain the information required by the director and each application submitted under this section shall be submitted to the department electronically. Each permit is good throughout the state. Only one permit is required for all cars operated in this state by the applicant, but a duplicate of the permit shall be posted in each car in which cigarettes are sold and no further permit shall be required or tax levied for the privilege of selling cigarettes in the cars. ~~No cigarettes~~ Cigarettes shall not be sold in the cars without having affixed thereto stamps evidencing the payment of the tax as provided in this subchapter.

2. As a condition precedent to the issuing of a retailer's permit for railway car, the applicant shall file with the department a bond in favor of the state for the benefit of all parties interested in the amount of five hundred dollars conditioned upon the payment of all taxes, fines and penalties and costs in this subchapter. A bond filed under this subsection shall be on a form prescribed by the director and shall be filed electronically.

Sec. 16. Section 453A.24, subsection 2, Code 2025, is amended to read as follows:

2. The director may require by rule that common carriers or

the appropriate persons provide monthly reports to the department detailing all information the department deems necessary on shipments into and out of Iowa of cigarettes and tobacco products as set forth in this subchapter I and subchapter II of this chapter. ~~The director may require by rule that the reports~~ A report required to be submitted by the director pursuant to this section shall be filed ~~by electronic transmission~~ electronically.

Sec. 17. Section 453A.28, subsection 1, paragraph a, Code 2025, is amended to read as follows:

a. (1) If after any audit, examination of records, or other investigation the department finds that any person has sold cigarettes without stamps affixed or that any person responsible for paying the tax has not done so as required by this subchapter, the department shall fix and determine the amount of tax due, and shall assess the tax against the person, together with a penalty as provided in section 421.27.

(2) The taxpayer shall pay interest on the tax or additional tax at the rate determined under section 421.7 counting each fraction of a month as an entire month, computed from the date the tax was due. If any person fails to furnish evidence satisfactory to the director showing purchases of sufficient stamps to stamp unstamped cigarettes purchased by the person, the presumption shall be that the cigarettes were sold without the proper stamps affixed. Within three years after the report is filed or within three years after the report became due, whichever is later, the department shall examine the report and determine the correct amount of tax. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent report made with the intent to evade tax, or in the case of a failure to file a report, or if a person purchases or is in possession of unstamped cigarettes.

(3) For purposes of imposing penalties under this section and section 421.27, a person who fails to timely file or submit a required return, report, or other documentation upon which no tax is shown due is subject to a penalty in the amount of fifty

dollars for each occurrence.

Sec. 18. Section 453A.28, subsection 1, Code 2025, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* For purposes of this section and section 421.27, any application, bond, fee, report, return, remittance, or other documentation required to be submitted electronically under this subchapter that is filed in a manner other than in an electronic format specified by the department shall not be considered a valid submission unless the director has permitted submission of such application, bond, fee, report, return, remittance, or other documentation through an alternative method pursuant to section 453A.57.

Sec. 19. Section 453A.35, subsection 1, paragraph a, Code 2025, is amended to read as follows:

a. With the exception of revenues credited to the health care trust fund pursuant to paragraph "*b*", the proceeds derived from the sale of stamps and the payment of fees and penalties provided for under this chapter, and the permit fees received from all state permits issued by the department, shall be credited to the general fund of the state.

Sec. 20. Section 453A.35, subsection 2, Code 2025, is amended to read as follows:

2. All permit fees provided for in this chapter and collected by the department on behalf of cities in the issuance of permits granted by the cities shall be ~~paid~~ remitted by the department to the treasurer of the city where the permit is effective, ~~or to another city officer as designated by the council,~~ and shall be credited to the general fund of the city. Permit fees so collected by the department on behalf of counties shall be ~~paid~~ remitted to the county treasurer of the county where the permit is effective.

Sec. 21. Section 453A.39, subsection 2, paragraph a, Code 2025, is amended to read as follows:

a. All cigarette samples shall be shipped only to a distributor that has a permit to stamp cigarettes or little cigars with Iowa tax. All cigarette samples must have a cigarette stamp. The manufacturer shipping samples under this section shall send an affidavit to the director stating the shipment information, including the date shipped, quantity, and to whom the samples were shipped. The distributor receiving the shipment shall send an affidavit to the director stating the shipment information, including the date shipped, quantity, and from whom the samples were shipped. These affidavits shall be duly notarized and submitted to the director at the time of shipment and receipt of the samples. The distributor shall pay the tax on samples by separate remittance along with the affidavit. The affidavit and remittance required under this paragraph shall be submitted to the department electronically.

Sec. 22. Section 453A.40, subsection 2, Code 2025, is amended to read as follows:

2. Persons subject to the inventory tax imposed under this section shall take an inventory as of the close of the business day next preceding the effective date of the increased tax rate of those items subject to the inventory tax for the purpose of determining the tax due. These persons shall report the tax on forms provided by the department of revenue and remit the tax due within thirty days of the prescribed inventory date. The report and remittance required under this subsection shall be submitted to the department electronically. The department of revenue shall adopt rules as are necessary to carry out this section.

Sec. 23. Section 453A.45, subsection 5, paragraphs b, c, and d, Code 2025, are amended to read as follows:

b. The report shall be made on forms provided by the director. ~~The director may require by rule that the~~ A report required under this subsection shall be filed ~~by electronic transmission~~ electronically. A report required to be submitted electronically under this subsection that is filed in a manner other than in an electronic format specified by the department shall not be considered a valid submission unless the director has permitted the submission of such a report through an alternative method pursuant to section 453A.57.

c. Common carriers transporting tobacco products into this state shall file with the director reports of all such shipments other than those which are delivered to public warehouses of first destination in this state which are licensed under the provisions of chapter 554. Such reports shall be filed electronically with the department on or before the tenth day of each month and shall show with respect to deliveries made in the preceding month all of the following:

(1) The date.

(2) The point of origin.

(3) The point of delivery.

(4) The name of the consignee.

(5) A description and the quantity of tobacco products delivered.

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

d. Any person who fails or refuses to transmit to the director the required reports or whoever refuses to permit the examination of the records by the director shall be guilty of a serious misdemeanor. In addition, any person who fails to timely submit a report required under this section is subject to a penalty in the amount of fifty dollars for each occurrence.

Sec. 24. Section 453A.46, subsection 1, paragraph a, subparagraph (1), Code 2025, is amended to read as follows:

(1) On or before the twentieth day of each calendar month every distributor with a place of business in this state shall file a return with the director showing for the preceding calendar month the quantity and wholesale sales price of each tobacco product brought, or caused to be brought, into this state for sale; made, manufactured, or fabricated in this state for sale in this state; and any other information the director may require. Every licensed distributor outside this state shall in like manner file a return with the director showing for the preceding calendar month the quantity and wholesale sales

price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers and any other information the director may require. Returns shall be made upon forms ~~furnished or~~ made available in electronic form and prescribed by the director and shall contain other information as the director may require. Each return shall be accompanied by a remittance for the full tax liability shown on the return, less a discount as fixed by the director not to exceed five percent of the tax. Within three years after the return is filed or within three years after the return became due, whichever is later, the department shall examine it, determine the correct amount of tax, and assess the tax against the taxpayer for any deficiency. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax, or in the case of a failure to file a return.

Sec. 25. Section 453A.46, subsection 3, Code 2025, is amended to read as follows:

3. In addition to the tax or additional tax, the taxpayer shall also pay a penalty as provided in section 421.27 and be subject to the civil penalties set forth in sections 421.27; 453A.31, subsection 1, paragraph *"b"*; and 453A.50, subsection 3, as applicable. For purposes of imposing penalties under this section and section 421.27, a person who fails to timely file or submit a required return, report, or other documentation upon which no tax is shown due is subject to a penalty in the amount of fifty dollars for each occurrence.

Sec. 26. Section 453A.46, subsection 7, Code 2025, is amended by striking the subsection and inserting in lieu thereof the following:

7. A report, return, remittance, or other documentation required to be submitted under this subchapter shall be filed electronically. Any report, return, remittance, or other documentation required to be submitted electronically that is submitted in a manner other than in an electronic format

specified by the department shall not be considered a valid submission unless the director has permitted submission of such application, bond, fee, report, return, remittance, or other documentation through an alternative method pursuant to section 453A.57.

Sec. 27. Section 453A.47A, subsection 6, Code 2025, is amended to read as follows:

6. *Issuance.* Cities may ~~issue~~ approve retail ~~permits to retailers~~ permit applications of applicants located within their respective limits. County boards of supervisors may ~~issue~~ approve retail ~~permits to retailers~~ permit applications of applicants located in their respective counties, outside of the corporate limits of cities. ~~The city or county shall submit a duplicate of any application for a retail permit to the department within thirty days of issuance of a permit.~~ Upon approval of a retail permit application by a city or county, the department shall issue the permit to the applicant on behalf of the city or county, in the manner determined by the department. A city or county shall use the electronic portal of the department to process retail permit applications. A city or county that is unable to use the electronic portal of the department may request permission from the director to process retail applications by another method. The department shall submit the current list of all retail permits issued to the department of health and human services by the last day of each quarter of a state fiscal year.

Sec. 28. Section 453A.47A, subsection 7, paragraph a, unnumbered paragraph 1, Code 2025, is amended to read as follows:

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

Sec. 29. Section 453A.47A, subsection 9, unnumbered paragraph 1, Code 2025, is amended to read as follows:

Retail permits shall be issued only upon applications, accompanied by the fee indicated above, made upon forms furnished by the department ~~upon written request~~. ~~The failure to furnish such forms shall be no excuse for the failure to file the form unless absolute refusal is shown.~~ Applications, any supporting documentation, and the associated fees required by this section shall be submitted to the department electronically. The forms shall specify:

Sec. 30. Section 453A.47A, subsection 10, paragraph b, Code 2025, is amended to read as follows:

b. Every retailer shall, when requested by the department, make additional reports as the department deems necessary and proper and shall at the request of the department furnish full and complete information pertaining to any transaction of the retailer involving the purchase or sale or use of tobacco, tobacco products, alternative nicotine products, or vapor products. A report required to be submitted to the department pursuant to this subsection shall be submitted electronically.

Sec. 31. Section 453A.52, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Any certification form, notice, and supporting documentation and any payment required to be submitted to the department pursuant to this section shall be submitted to the department electronically, unless the director has permitted submission of such information through an alternative method pursuant to section 453A.57.

Sec. 32. Section 453A.52B, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Payment for any penalty imposed pursuant to this section shall be remitted to the department electronically, unless the director has permitted submission of such information through an alternative method pursuant to section 453A.57.

Sec. 33. Section 453A.52D, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notice to the department and any supporting documentation required to be submitted to the department pursuant to this section shall be submitted to the department electronically, unless the director has permitted submission of such information through an alternative method pursuant to section 453A.57.

Sec. 34. NEW SECTION. **453A.57 Submitting documents —— alternative method.**

A person subject to this chapter who is required to submit an application, bond, fee, report, return, remittance, or other documentation electronically and who is unable to do so, may request permission from the director to make a submission using an alternative method.

Sec. 35. Section 453D.5, subsection 1, Code 2025, is amended to read as follows:

1. No later than twenty calendar days after the end of each calendar quarter, and more frequently if so directed by the director, each stamping agent and distributor shall submit information as the director requires to facilitate compliance with this chapter, including but not limited to a list by brand family of the total number of cigarettes, or, in the case of roll-your-own tobacco, the equivalent stick count, for which the stamping agent or distributor affixed stamps during the previous calendar quarter or otherwise paid the tax due for the cigarettes. The stamping agent and distributor shall maintain, and make available to the director, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the director for a period of five years. Any information submitted pursuant to this subsection shall be submitted to the director electronically, unless the director has permitted submission of such information through an alternative method

pursuant to section 453A.57. Any information submitted pursuant to this subsection that is submitted in a manner other than in a format specified by the department shall not be considered a valid submission. Violations of this subsection are subject to civil penalties as established in section 453A.31, subsection 1, paragraph "*b*".

Sec. 36. CODE EDITOR DIRECTIVES.

1. The Code editor is directed to place new section 453A.57, as enacted by this Act, in subchapter IV titled "Uniformed Application of Chapter".

2. The Code editor may modify subchapter titles if necessary and is directed to correct internal references in the Code as necessary due to enactment of this section.

EXPLANATION

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

This bill relates to cigarette and tobacco product regulations including vapor products by requiring the electronic filing of returns and other related matters.

The bill specifies that cities and counties may approve tobacco-related retail permits but the department shall issue the permit to the applicant on behalf of the city or county. The bill requires the city or county to use the electronic portal of the department to process retail permit applications. If a city or county is unable to use the electronic portal of the department, the city or county may request permission from the director of revenue to process retail applications by another method.

The bill provides that all tobacco-related permit fees shall be collected by the department, and the department shall credit the fees to the city or county where the permit is in effect.

The bill specifies that a person who fails to timely file or submit a required return, report, or other documentation upon which no tax is shown due is subject to a penalty in the amount of $50 for each occurrence.

The bill requires cigarette and tobacco tax returns, reports, invoices, bonds, and payments to be filed with or submitted to the department electronically beginning on or after July 1, 2025.

The bill provides any report, return, remittance, or other documentation required to be submitted electronically that is submitted in a manner other than in an electronic format shall be considered not a valid submission. However, the bill does allow a person required to make a submission electronically to request permission from the director of revenue to make the submission in another manner.

The bill directs the Code editor to place new Code section 453A.57 (submitting documents —— alternative method) in subchapter IV.