

business shall cancel the ~~permit establishment's sales permits~~ and the purchaser shall apply for a new ~~permit sales permits~~ in the purchaser's name within thirty days of the sale.

Sec. 68. Section 523A.503, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The commissioner may, pursuant to chapter 17A, deny any permit application, or immediately suspend, or revoke, ~~or otherwise impose disciplinary action related to~~ any permit issued under this chapter for several reasons, including but not limited to:

Sec. 69. Section 523A.503, subsection 3, Code 2003, is amended to read as follows:

3. Except as provided in subsection 2, a permit shall not be revoked, or suspended, ~~or otherwise be the subject of disciplinary action~~ except after notice and hearing under chapter 17A.

Sec. 70. Section 523A.503, Code 2003, is amended by adding the following new subsection: **NEW SUBSECTION.** 6. The commissioner may impose a civil penalty in an amount not exceeding ten thousand dollars per violation against any person violating this chapter. Each day of a continuing violation constitutes a separate offense.

Sec. 71. Sections 506.7, 507B.11, 508.27, 511.18, 514.6, 514A.9, 514B.29, 515.132, 515.145, and 521.15, Code 2003, are repealed.

Sec. 72. Sections 514.6, 514E.5, and 514E.6, Code 2003, are repealed.

Approved April 26, 2004

CHAPTER 1111

CRIMINAL PENALTY SURCHARGES

H.F. 2530

AN ACT relating to the assessment of surcharges in criminal proceedings.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.302, subsection 2, Code Supplement 2003, is amended to read as follows:

2. A county shall not provide a penalty in excess of a five hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. The criminal penalty surcharge required by section ~~911.2~~ 911.1 shall be added to a county fine and is not a part of the county's penalty.

Sec. 2. Section 364.3, subsection 2, Code Supplement 2003, is amended to read as follows:

2. A city shall not provide a penalty in excess of a five hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be deposited in the account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section ~~911.2~~ 911.1 shall be added to a city fine and is not a part of the city's penalty.

Sec. 3. Section 602.8108, subsections 2 through 6, Code Supplement 2003, are amended to read as follows:

2. Except as otherwise provided, the clerk of the district court shall report and submit to the state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in subsections ~~3, 4, and 5, 6, and 7~~, the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative services agency within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

3. ~~When a court assesses a criminal surcharge under section 911.2, the amounts collected shall be distributed as follows:~~

a. The clerk of the district court shall ~~submit~~ remit to the state court administrator, not later than the fifteenth day of each month, ninety-five percent of ~~the surcharge collected~~ all moneys collected from the criminal penalty surcharge provided in section 911.1 during the preceding calendar month. The clerk shall remit the remainder to the county treasurer of the county that was the plaintiff in the action or to the city that was the plaintiff in the action.

b. Of the amount received from the clerk, the state court administrator shall allocate eighteen percent to be deposited in the victim compensation fund established in section 915.94 and eighty-two percent to be deposited in the general fund.

c. ~~4. Notwithstanding provisions of this subsection to the contrary, The clerk of the district court shall remit~~ all moneys collected from the drug abuse resistance education surcharge provided in section 911.2 ~~shall be remitted to the treasurer of state~~ court administrator for deposit in the general fund of the state and the amount deposited is appropriated to the governor's office of drug control policy for use by the drug abuse resistance education program and other programs directed for a similar purpose.

4. ~~5. When a court assesses the law enforcement initiative surcharge under section 911.3, the~~ The clerk of ~~the district~~ court shall remit to the treasurer of the state, all moneys collected from the assessment of the law enforcement initiative surcharge provided in section 911.3 to the state court administrator no later than the fifteenth day of each month, all the moneys collected during the preceding month, for deposit in the general fund of the state.

5. ~~6.~~ A court technology and modernization fund is established as a separate fund in the state treasury. The state court administrator shall allocate one million dollars of the moneys received under subsection 2 to be deposited in the fund, which shall be administered by the supreme court and shall be used to enhance the ability of the judicial branch to process cases more quickly and efficiently, to electronically transmit information to state government, local governments, law enforcement agencies, and the public, and to improve public access to the court system.

6. ~~7.~~ The state court administrator shall allocate all of the fines and fees attributable to commercial vehicle violation citations issued by motor vehicle division personnel of the state department of transportation to the treasurer of state for deposit in the road use tax fund.

Sec. 4. Section 805.8, subsection 1, Code 2003, is amended to read as follows:

1. APPLICATION. Except as otherwise indicated, violations of sections of the Code specified in sections 805.8A, 805.8B, and 805.8C are scheduled violations, and the scheduled fine for each of those violations is as provided in those sections, whether the violation is of state law or of a county or city ordinance. The criminal penalty surcharge required by section ~~911.2~~ 911.1 shall be added to the scheduled fine.

Sec. 5. Section 805.8C, subsection 3, paragraph a, Code 2003, is amended to read as follows:

a. For violations of section 142B.6, the scheduled fine is twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section ~~911.2~~ 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed.

If the civil penalty assessed for a violation of section 142B.6 is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

Sec. 6. Section 805.8C, subsection 3, paragraph c, unnumbered paragraph 1, Code 2003, is amended to read as follows:

For violations of section 453A.2, subsection 2, the scheduled fine is as follows and is a civil penalty, and the criminal penalty surcharge under section ~~911.2~~ 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed:

Sec. 7. Section 902.9, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The ~~criminal penalty surcharge~~ surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by those sections, and is ~~are~~ not a part of or subject to the maximums set in this section.

Sec. 8. Section 903.1, subsection 4, Code 2003, is amended to read as follows:

4. The ~~criminal penalty surcharge~~ surcharges required by sections 911.1, 911.2, and 911.3 shall be added to a fine imposed on a misdemeanor as provided in those sections, and is ~~are~~ not a part of or subject to the maximums set in this section.

Sec. 9. Section 909.10, subsection 1, Code 2003, is amended to read as follows:

1. As used in this section, unless the context otherwise requires, "delinquent amounts" means a fine, court-imposed court costs in a criminal proceeding, or ~~criminal~~ surcharge imposed pursuant to section 911.1 or 911.2, which remains unpaid after two years from the date that the fine, court costs, or surcharge was imposed, and which is not collected by the county attorney pursuant to section 602.8107. However, if the fine may be paid in installments pursuant to section 909.3, the fine is not a delinquent amount unless the installment remains unpaid after two years from the date the installment was due.

Sec. 10. Section 911.1, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

911.1 CRIMINAL PENALTY SURCHARGE.

1. A criminal penalty surcharge shall be levied against law violators as provided in this section. When a court imposes a fine or forfeiture for a violation of state law, or a city or county ordinance, except an ordinance regulating the parking of motor vehicles, the court or the clerk of the district court shall assess an additional penalty in the form of a criminal penalty surcharge equal to thirty percent of the fine or forfeiture imposed.¹

2. In the event of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses.

3. When a fine or forfeiture is suspended in whole or in part, the court shall reduce the surcharge in proportion to the amount suspended.

4. The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

5. The surcharge shall be remitted by the clerk of court as provided in section 602.6108,² subsection 3.

Sec. 11. Section 911.2, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

911.2 DRUG ABUSE RESISTANCE EDUCATION SURCHARGE.

1. In addition to any other surcharge, the court or clerk of the district court shall assess a drug abuse resistance education surcharge of ten dollars if a violation arises out of a violation of an offense provided for in chapter 321J or chapter 124, division IV.

2. In the event of multiple offenses, the surcharge shall be imposed for each applicable

¹ See chapter 1175, §282 herein

² Section "602.8108" probably intended

offense. The surcharge shall not be assessed for any offense for which the court defers the sentence or judgment or suspends the sentence.

3. The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

4. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 4.

Sec. 12. Section 911.3, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

911.3 LAW ENFORCEMENT INITIATIVE SURCHARGE.

1. In addition to any other surcharge, the court or clerk of the district court shall assess a law enforcement initiative surcharge of one hundred twenty-five dollars if an adjudication of guilt or a deferred judgment has been entered for a criminal violation under any of the following:

- a. Chapter 124, 155A, 453B, 713, 714, 715A, or 716.
- b. Section 719.8, 725.1, 725.2, or 725.3.

2. In the event of multiple offenses, the surcharge shall be imposed for each applicable offense.

3. The surcharge shall be remitted by the clerk of court as provided in section 602.8108, subsection 5.

Approved April 26, 2004

CHAPTER 1112

INTELLECTUAL PROPERTY COUNTERFEITING

H.F. 2395

AN ACT creating the criminal offense of intellectual property counterfeiting, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 714.26 INTELLECTUAL PROPERTY COUNTERFEITING.

1. DEFINITIONS. As used in this section unless the context otherwise requires:

a. "Counterfeit mark" means any unauthorized reproduction or copy of intellectual property, or intellectual property affixed to any item knowingly sold, offered for sale, manufactured, or distributed, or identifying services offered or rendered, without authority of the owner of the intellectual property.

b. "Intellectual property" means any trademark, service mark, trade name, label, term, device, design, or word adopted or used by a person to identify the items or services of the person.

c. "Retail value" means the highest value of an item determined by any reasonable standard at the time the item bearing or identified by a counterfeit mark is seized. If a seized item bearing or identified by a counterfeit mark is a component of a finished product, "retail value" also means the highest value, determined by any reasonable standard, of the finished product on which the component would have been utilized. The retail value shall be the retail value of the aggregate quantity of all items seized which bear or are identified by a counterfeit mark. For purposes of this paragraph, reasonable standard includes but is not limited to the¹ market

¹ See chapter 1175, §390 herein