

FEB 17 2005
Place On Calendar

HOUSE FILE 339
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 167)

Passed House, Date 2-23-05 Passed Senate, Date 4-13-05
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 1
Approved 5/3/05

A BILL FOR

1 An Act relating to the regulation of tobacco product retailers,
2 and making penalties applicable.

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

HF 339

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1 Section 1. Section 453A.3, subsection 1, paragraphs a and
2 b, Code 2005, are amended to read as follows:

3 a. A person, other than a retailer as defined in section
4 453A.1 or 453A.42, who violates section 453A.2, subsection 1,
5 is guilty of a simple misdemeanor.

6 b. An employee of a retailer as defined in section 453A.1
7 or 453A.42, who violates section 453A.2, subsection 1, commits
8 a simple misdemeanor punishable as a scheduled violation under
9 section 805.8C, subsection 3, paragraph "b".

10 Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005,
11 are amended to read as follows:

12 1. The alcoholic beverages division of the department of
13 commerce shall develop a tobacco compliance employee training
14 program not to exceed two hours in length for employees and
15 prospective employees of tobacco retailers, as defined in
16 sections 453A.1 and 453A.42, to inform the employees about
17 state and federal laws and regulations regarding the sale of
18 cigarettes and tobacco products to persons under eighteen
19 years of age and compliance with and the importance of laws
20 regarding the sale of cigarettes and tobacco products to
21 persons under eighteen years of age.

22 2. The tobacco compliance employee training program shall
23 be made available to employees and prospective employees of
24 tobacco retailers, as defined in sections 453A.1 and 453A.42,
25 at no cost to the employee, the prospective employee, or the
26 retailer, and in a manner which is as convenient and
27 accessible to the extent practicable throughout the state so
28 as to encourage attendance. Contingent upon the availability
29 of specified funds for provision of the program, the division
30 shall schedule the program on at least a monthly basis and the
31 program shall be available at a location in at least a
32 majority of counties.

33 Sec. 3. Section 453A.22, Code 2005, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 8. For the purposes of this section,

1 "retailer" means retailer as defined in sections 453A.1 and
2 453A.42 and "retail permit" includes permits issued to
3 retailers under division I or division II of this chapter.

4 Sec. 4. NEW SECTION. 453A.47A RETAILERS -- PERMITS --
5 FEES -- PENALTIES.

6 1. PERMITS REQUIRED. A person shall not engage in the
7 business of a retailer of tobacco products at any place of
8 business without first having received a permit as a tobacco
9 products retailer.

10 2. NO SALES WITHOUT PERMIT. A retailer shall not sell any
11 tobacco products until an application has been filed and the
12 fee prescribed paid for a permit and until such permit is
13 obtained and only while such permit is not suspended,
14 unrevoked, or unexpired.

15 3. NUMBER OF PERMITS. An application shall be filed and a
16 permit obtained for each place of business owned or operated
17 by a retailer.

18 4. RETAILER -- CIGARETTES AND TOBACCO PRODUCTS. A
19 retailer, as defined in section 453A.1, who holds a permit
20 under division I of this chapter is not required to also
21 obtain a retailer permit under this division. However, if a
22 retailer, as defined in section 453A.1, only holds a permit
23 under division I of this chapter and that permit is suspended,
24 revoked, or expired, the retailer shall not sell any
25 cigarettes or tobacco products during the time which the
26 permit is suspended, revoked, or expired.

27 5. SEPARATE PERMIT. A separate retail permit shall be
28 required of a distributor or subjobber if the distributor or
29 subjobber sells tobacco products at retail.

30 6. ISSUANCE. Cities shall issue retail permits to
31 retailers within their respective limits. County boards of
32 supervisors shall issue retail permits to retailers in their
33 respective counties, outside of the corporate limits of
34 cities. The city or county shall submit a duplicate of any
35 application for a retail permit and any retail permit issued

1 by the entity under this section to the Iowa department of
2 public health within thirty days of issuance.

3 7. FEES -- EXPIRATION.

4 a. All permits provided for in this division shall expire
5 on June 30 of each year. A permit shall not be granted or
6 issued until the applicant has paid the fees provided for in
7 this section for the period ending June 30 next, to the city
8 or county granting the permit. The fee for retail permits is
9 as follows when the permit is granted during the months of
10 July, August, or September:

- 11 (1) In places outside any city, fifty dollars.
- 12 (2) In cities of less than fifteen thousand population,
13 seventy-five dollars.
- 14 (3) In cities of fifteen thousand or more population, one
15 hundred dollars.

16 b. If any permit is granted during the months of October,
17 November, or December, the fee shall be three-fourths of the
18 above maximum schedule; if granted during the months of
19 January, February, or March, one-half of the maximum schedule,
20 and if granted during the months of April, May, or June, one-
21 fourth of the maximum schedule.

22 8. REFUNDS.

23 a. An unrevoked permit for which the retailer paid the
24 full annual fee may be surrendered during the first nine
25 months of the year to the officer issuing it, and the city or
26 county granting the permit shall make refunds to the retailer
27 as follows:

- 28 (1) Three-fourths of the annual fee if the surrender is
29 made during July, August, or September.
- 30 (2) One-half of the annual fee if the surrender is made
31 during October, November, or December.
- 32 (3) One-fourth of the annual fee if the surrender is made
33 during January, February, or March.

34 b. An unrevoked permit for which the retailer has paid
35 three-fourths of a full annual fee may be surrendered during

1 the first six months of the period covered by the payment, and
2 the city or county shall make refunds to the retailer as
3 follows:

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

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

8 c. An unrevoked permit for which the retailer has paid
9 one-half of a full annual fee may be surrendered during the
10 first three months of the period covered by the payment, and
11 the city or county shall refund to the retailer a sum equal to
12 one-fourth of an annual fee.

13 9. APPLICATION. Retailer permits shall be issued only
14 upon applications, accompanied by the fee indicated above,
15 made upon forms furnished by the department upon written
16 request. The failure to furnish such forms shall be no excuse
17 for the failure to file the form unless absolute refusal is
18 shown. The forms shall specify:

19 a. The manner under which the retailer transacts or
20 intends to transact business as a retailer.

21 b. The principal office, residence, and place of business,
22 for which the permit is to apply.

23 c. If the applicant is not an individual, the principal
24 officers or members of the applicant, not to exceed three, and
25 their addresses.

26 d. Such other information as the director shall by rules
27 prescribe.

28 10. RECORDS AND REPORTS OF RETAILERS.

29 a. The director shall prescribe the forms necessary for
30 the efficient administration of this section and may require
31 uniform books and records to be used and kept by each retailer
32 or other person as deemed necessary.

33 b. Every retailer shall, when requested by the department,
34 make additional reports as the department deems necessary and
35 proper and shall at the request of the department furnish full

1 and complete information pertaining to any transaction of the
2 retailer involving the purchase or sale or use of tobacco
3 products.

4 11. PENALTIES. The permit suspension and revocation
5 provisions and the civil penalties established in section
6 453A.22 shall apply to retailers under this division, in
7 addition to any other penalties imposed under this division.

8 EXPLANATION

9 This bill establishes permit requirements for tobacco
10 product retailers. The bill prohibits a person from engaging
11 in the business of a retailer of tobacco products at any place
12 of business without first having received a permit as a
13 tobacco product retailer. The bill provides for issuance of a
14 permit by a city or county board of supervisors, establishes
15 fees for a permit, provides for refunds, provides for
16 application for a permit, and provides that a cigarette
17 retailer who holds a permit is not required to also obtain a
18 tobacco product retailer permit. The bill authorizes the
19 director of revenue to prescribe the forms necessary for the
20 efficient administration of the tobacco product retailer
21 permit section and authorizes the director to require uniform
22 books and records to be used and kept by each retailer or
23 other person as deemed necessary. The bill requires tobacco
24 product retailers, when requested by the department of revenue
25 and finance, to make additional reports as the department
26 deems necessary and proper and, at the request of the
27 department, to furnish full and complete information
28 pertaining to any transaction of the retailer involving the
29 purchase or sale or use of tobacco products.

30 The bill also makes existing penalties and permit
31 suspension and revocation provisions for cigarette retailers
32 applicable to tobacco product retailers. The bill makes
33 conforming changes in the Code to reflect the establishment of
34 permit provisions for tobacco product retailers.

35

AN ACT
RELATING TO THE REGULATION OF TOBACCO PRODUCT RETAILERS, AND
MAKING PENALTIES APPLICABLE.

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

Section 1. Section 453A.3, subsection 1, paragraphs a and b, Code 2005, are amended to read as follows:

a. A person, other than a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, is guilty of a simple misdemeanor.

b. An employee of a retailer as defined in section 453A.1 or 453A.42, who violates section 453A.2, subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8C, subsection 3, paragraph "b".

Sec. 2. Section 453A.5, subsections 1 and 2, Code 2005, are amended to read as follows:

1. The alcoholic beverages division of the department of commerce shall develop a tobacco compliance employee training program not to exceed two hours in length for employees and prospective employees of tobacco retailers, as defined in sections 453A.1 and 453A.42, to inform the employees about state and federal laws and regulations regarding the sale of cigarettes and tobacco products to persons under eighteen years of age and compliance with and the importance of laws regarding the sale of cigarettes and tobacco products to persons under eighteen years of age.

2. The tobacco compliance employee training program shall be made available to employees and prospective employees of tobacco retailers, as defined in sections 453A.1 and 453A.42, at no cost to the employee, the prospective employee, or the retailer, and in a manner which is as convenient and accessible to the extent practicable throughout the state so

as to encourage attendance. Contingent upon the availability of specified funds for provision of the program, the division shall schedule the program on at least a monthly basis and the program shall be available at a location in at least a majority of counties.

Sec. 3. Section 453A.22, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For the purposes of this section, "retailer" means retailer as defined in sections 453A.1 and 453A.42 and "retail permit" includes permits issued to retailers under division I or division II of this chapter.

Sec. 4. NEW SECTION. 453A.47A RETAILERS -- PERMITS -- FEES -- PENALTIES.

1. PERMITS REQUIRED. A person shall not engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer.

2. NO SALES WITHOUT PERMIT. A retailer shall not sell any tobacco products until an application has been filed and the fee prescribed paid for a permit and until such permit is obtained and only while such permit is not suspended, unrevoked, or unexpired.

3. NUMBER OF PERMITS. An application shall be filed and a permit obtained for each place of business owned or operated by a retailer.

4. RETAILER -- CIGARETTES AND TOBACCO PRODUCTS. A retailer, as defined in section 453A.1, who holds a permit under division I of this chapter is not required to also obtain a retailer permit under this division. However, if a retailer, as defined in section 453A.1, only holds a permit under division I of this chapter and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during the time which the permit is suspended, revoked, or expired.

5. SEPARATE PERMIT. A separate retail permit shall be required of a distributor or subjobber if the distributor or subjobber sells tobacco products at retail.

6. ISSUANCE. Cities shall issue retail permits to retailers within their respective limits. County boards of supervisors shall issue retail permits to retailers 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 and any retail permit issued by the entity under this section to the Iowa department of public health within thirty days of issuance.

7. FEES -- EXPIRATION.

a. All permits provided for in this division 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 in this section for the period ending 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 months of July, August, or September:

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

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

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

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

8. REFUNDS.

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

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

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

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

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

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

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

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

9. APPLICATION. Retailer 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. The forms shall specify:

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

b. The principal office, residence, and place of business, for which the permit is to apply.

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

d. Such other information as the director shall by rules prescribe.

10. RECORDS AND REPORTS OF RETAILERS.

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

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 products.

11. PENALTIES. The permit suspension and revocation provisions and the civil penalties established in section 453A.22 shall apply to retailers under this division, in addition to any other penalties imposed under this division.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 339, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 5/3, 2005

THOMAS J. VILSACK
Governor