

**Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024**

H8110	.....	2
H8111	.....	3
H8112	.....	4
H8113	.....	5
H8114	.....	6
H8115	.....	7
H8116	.....	11
H8117	.....	12
HSB729	.....	13
SF2401	.....	16
SF2402	.....	23

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2556

H-8110

- 1 Amend the amendment, H-8095, to House File 2556, as follows:
2 1. Page 1, line 21, by striking <and other persons who
3 participated in the violation>
4 2. Page 1, line 26, by striking <or other persons>
5 3. Page 1, line 29, by striking <or participating person>
6 4. Page 2, line 5, by striking <or other persons>

OLSON of Polk

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2612

H-8111

- 1 Amend the amendment, H-8107, to House File 2612, as follows:
2 1. By striking page 1, line 2, through page 7, line 29.
3 2. By striking page 10, line 19, through page 12, line 6.
4 3. By renumbering as necessary.

STECKMAN of Cerro Gordo

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

Senate File 2275

H-8112

1 Amend Senate File 2275, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 1, line 12, by striking <of application for>

4 2. Page 1, by striking line 13 and inserting <the
5 pleading, motion, or petition that raises the challenge to the
6 constitutionality of the statute is filed.>

7 3. Page 1, by striking lines 14 through 23 and inserting:

8 <2. Failure to provide notice pursuant to subsection 1 shall
9 not constitute grounds for a dismissal of the appeal.>

COMMITTEE ON JUDICIARY

HOLT of Crawford, Chairperson

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2450

H-8113

1 Amend House File 2450 as follows:

2 1. Page 1, after line 31 by inserting:

3 <3. A prohibited person may request a review of the
4 determination made by the authority pursuant to subsection 2.

5 *a.* The request to review the determination shall be made
6 within thirty-five calendar days of the date the authority
7 provided written notice to the prohibited person. The request
8 to review the determination must be in writing and state the
9 specific reasons or legal basis for review.

10 *b.* Within sixty calendar days of the receipt of the request
11 to review, the authority shall approve, deny, or modify the
12 determination, if the authority finds that the determination
13 is based on a clear error of material fact or law, or if the
14 authority finds the determination was arbitrary, capricious, or
15 an abuse of discretion.

16 *c.* The authority shall issue its decision in writing and
17 provide written notice of the decision to the prohibited
18 person.

19 *d.* The decision of the authority pursuant to this subsection
20 shall be considered final agency action. A petition for
21 judicial review of the decision of the authority shall be filed
22 pursuant to section 17A.19.>

23 2. Page 1, line 32, by striking <3.> and inserting <4.>

LATHAM of Franklin

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2481

H-8114

1 Amend House File 2481 as follows:

2 1. Page 1, by striking lines 8 through 10 and inserting
3 <consist of moneys appropriated to or deposited in the fund
4 from the general fund of the state, moneys deposited pursuant
5 to subsection 6, and donations to the fund obtained from any
6 private source.>

FISHER of Tama

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2549

H-8115

1 Amend House File 2549 as follows:

2 1. Page 1, line 20, by striking <class "D" felony> and
3 inserting <simple misdemeanor punishable by confinement for no
4 more than ninety days and a fine of not more than one thousand
5 dollars>

6 2. Page 2, line 2, by striking <class "D" felony> and
7 inserting <simple misdemeanor punishable by confinement for no
8 more than ninety days and a fine of not more than one thousand
9 dollars>

10 3. Page 2, by striking lines 3 through 8 and inserting:

11 <Sec. ____ . NEW SECTION. **68A.507 Synthetic media —**
12 **restrictions — penalties.**

13 1. For the purposes of this section:

14 a. "*Creator*" means a person who utilizes or deploys
15 artificial intelligence, as defined in section 52.7, or other
16 digital technology to generate synthetic media.

17 b. "*Deceptive and fraudulent deepfake*" means synthetic media
18 that depicts a candidate or political party with the intent to
19 injure the reputation of the candidate or party or otherwise
20 deceive a voter and that does any of the following:

21 (1) Appears to a reasonable person to depict a real
22 individual saying or doing something that did not actually
23 occur in reality.

24 (2) Provides a reasonable person a fundamentally different
25 understanding or impression of an appearance, action, or speech
26 than a reasonable person would have from an unaltered, original
27 version of an image, audio recording, or video recording.

28 c. "*Synthetic media*" means an image, an audio recording,
29 or a video recording of an individual's appearance, action, or
30 speech that has been created or intentionally manipulated with
31 the use of generative adversarial network techniques or other
32 digital technology in a manner to create a realistic but false
33 image, audio, or video.

34 2. Except as provided in subsection 3, a person shall
35 not, within ninety days of an election at which a candidate

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

1 will appear on a ballot, distribute a synthetic media message
2 that the person knows or should have known is a deceptive and
3 fraudulent deepfake of a candidate or party on the ballot.

4 3. Subsection 2 does not apply if the synthetic media
5 includes a disclosure stating that the image, audio, or video
6 has been manipulated or generated by artificial intelligence.

7 a. For visual media, the text of the disclosure shall appear
8 in a size that is easily readable by the average viewer and
9 no smaller than the largest font size of other text appearing
10 in the visual media. If the visual media does not include
11 any other text, the disclosure shall appear in a size that is
12 easily readable by the average viewer. For visual media that
13 is video, the disclosure shall appear for the duration of the
14 video.

15 b. For media that consists of audio only, the disclosure
16 shall be read in a clearly spoken manner and in a pitch that can
17 be easily heard by the average listener, at the beginning of
18 the audio, at the end of the audio, and, if the audio is greater
19 than two minutes in length, interspersed within the audio at
20 intervals of not greater than two minutes each.

21 4. This section does not apply to a radio or television
22 broadcasting station, including a cable or satellite television
23 operator, programmer, or producer, that broadcasts a deceptive
24 and fraudulent deepfake prohibited by this section as part of
25 a bona fide newscast, news interview, news documentary, or
26 on-the-spot coverage of bona fide news events, if the broadcast
27 clearly acknowledges through content or a disclosure, in a
28 manner that can be easily heard or read by the average listener
29 or viewer, that there are questions about the authenticity of
30 the audio or visual media.

31 5. This section does not apply to a radio or television
32 broadcasting station, including a cable or satellite television
33 operator, programmer, or producer, when it is paid to broadcast
34 a deceptive and fraudulent deepfake and has made a good-faith
35 effort to establish the depiction is not a deceptive and

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

1 fraudulent deepfake.

2 6. This section does not apply to an internet site or a
3 regularly published newspaper, magazine, or other periodical
4 of general circulation, including an internet or electronic
5 publication, that routinely carries news and commentary of
6 general interest, and that publishes audio or visual media
7 prohibited by this section, if the publication clearly states
8 that the media does not accurately represent the speech or
9 conduct of the candidate. This section also does not apply
10 to an interactive computer service provider, cloud service
11 provider, or internet service provider.

12 7. This section does not apply to audio or visual media that
13 constitutes satire or parody.

14 8. Notwithstanding section 68A.701:

15 a. A candidate whose appearance, action, or speech is
16 depicted through the use of a deceptive and fraudulent deepfake
17 in violation of subsection 2 may seek injunctive or other
18 equitable relief prohibiting the publication of such deceptive
19 and fraudulent deepfake.

20 b. A person who violates subsection 2 is guilty of a simple
21 misdemeanor punishable by confinement for no more than ninety
22 days and a fine of not more than one thousand dollars.

23 c. A person who violates subsection 2 with the intent
24 to cause violence or bodily harm is guilty of a serious
25 misdemeanor.

26 d. A person who violates subsection 2 within five years of
27 a prior conviction for a violation of subsection 2 is guilty
28 of a class "D" felony.

29 e. A creator of a material distributed in violation of
30 subsection 2 is guilty of a simple misdemeanor punishable by
31 confinement for no more than ninety days and a fine of not more
32 than one thousand dollars.>

33 4. By renumbering as necessary.

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

SORENSEN of Adair

SCHOLTEN of Woodbury

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2576

H-8116

1 Amend House File 2576 as follows:

2 1. Page 1, before line 1 by inserting:

3 <Section 1. Section 124.414, subsection 1, paragraph b,
4 Code 2024, is amended to read as follows:

5 *b. "Drug paraphernalia" does not include ~~hypodermic~~ any of*
6 the following:

7 (1) Hypodermic needles or syringes if manufactured,
8 delivered, sold, or possessed for a lawful purpose.

9 (2) Equipment, products, or materials used to analyze or
10 test for the presence of fentanyl, a fentanyl analog, or a drug
11 adulterant within a controlled substance.>

12 2. Title page, line 1, by striking <establishing> and
13 inserting <relating to controlled substances, including drug
14 paraphernalia and the establishment of>

15 3. By renumbering as necessary.

SRINIVAS of Polk

ZABNER of Johnson

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House File 2576

H-8117

1 Amend House File 2576 as follows:

2 1. Page 1, line 4, before <provides> by inserting

3 <knowingly>

SRINIVAS of Polk

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

House Study Bill 729 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON MOHR)

A BILL FOR

1 An Act relating to state child care assistance program
2 reimbursement rates and eligibility for the children of
3 certain child care providers.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

H.F. _____

1 Section 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES —
2 REIMBURSEMENT RATES AND ELIGIBILITY — STATE CHILD CARE
3 ASSISTANCE.

4 1. The department of health and human services shall amend
5 its administrative rules pursuant to chapter 17A to set the
6 half-day reimbursement rates paid to child care providers
7 reimbursed under the state child care assistance program to
8 at least the sixty-fifth percentile, but no more than the
9 eightieth percentile, of the 2024 market rate survey conducted
10 by the department to analyze and evaluate the market rate of
11 child care services throughout the state.

12 2. a. The department of health and human services shall
13 extend the child care workforce one-year pilot program for
14 the state child care assistance program, implemented by the
15 department of health and human services beginning July 5, 2023,
16 until July 4, 2025.

17 b. The department of health and human services shall publish
18 data relating to children and families who receive state child
19 care assistance under paragraph "a" through utilization of
20 modernized, interactive displays found on the department's
21 internet site.

22 EXPLANATION

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

25 This bill relates to state child care assistance program
26 (CCA) reimbursement rates and eligibility for the children of
27 certain child care providers.

28 The bill requires the department of health and human
29 services (HHS) to set half-day reimbursement rates for child
30 care providers participating in the CCA program to at least
31 the 65th percentile, but not more than the 80th percentile, of
32 the 2024 market rate survey conducted by HHS to analyze and
33 evaluate the market rate of child care services throughout the
34 state.

35 On July 5, 2023, HHS initiated a one-year pilot program that

LSB 6354YC (5) 90

-1-

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1/2

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

H.F. _____

1 allows children of certain full-time child care providers to
2 qualify for CCA. The bill directs HHS to extend the pilot
3 program until July 4, 2025, and requires HHS to publish data
4 relating to children and families who receive CCA through the
5 pilot program through utilization of modernized, interactive
6 displays found on the department's internet site.

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

Senate File 2401 - Introduced

SENATE FILE 2401
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2393)
(SUCCESSOR TO SSB 3174)

A BILL FOR

1 An Act regulating the marketing of grain, by providing for
2 fees paid by grain dealers and warehouse operators into
3 the grain depositors and sellers indemnity fund, and the
4 payment of claims to reimburse sellers and depositors for
5 losses covered by the fund, and including effective date
6 provisions.

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

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2401

1 Section 1. Section 203.15, subsection 6, Code 2024, is
2 amended by striking the subsection.

3 Sec. 2. Section 203D.1, subsection 2, Code 2024, is amended
4 by striking the subsection.

5 Sec. 3. Section 203D.1, subsection 14, paragraph b, Code
6 2024, is amended to read as follows:

7 *b. "Purchased grain"* does not include grain that is subject
8 to an exempt transaction based on documentation satisfactory
9 to the department showing that the grain dealer did any of the
10 following:

11 (1) Purchased the grain from the United States government or
12 any of its subdivisions or agencies.

13 (2) Purchased the grain from a person licensed as a grain
14 dealer in any jurisdiction.

15 ~~(3) Purchased the grain under a credit sale contract.~~

16 ~~(4)~~ (3) Entered the grain in the company-owned paid
17 position as a cancellation of a collateral warehouse receipt.

18 ~~(5)~~ (4) Entered the grain in the company-owned paid
19 position as an intra-company location transfer.

20 Sec. 4. Section 203D.1, subsection 16, Code 2024, is amended
21 to read as follows:

22 16. *a. "Seller"* means a person who sells grain which the
23 person has produced or caused to be produced to a licensed
24 grain dealer, ~~but excludes a person who executes a credit sale~~
25 ~~contract as a seller as provided in [section 203.15](#).~~ However,
26 *"seller"*

27 *b. "Seller"* does not include any of the following:

28 ~~a.~~ (1) A person licensed as a grain dealer in any
29 jurisdiction who sells grain to a licensed grain dealer.

30 ~~b.~~ (2) A person who sells grain that is not produced in
31 this state unless such grain is delivered to a licensed grain
32 dealer at a location in this state as the first point of sale.

33 Sec. 5. Section 203D.5, subsections 4 and 5, Code 2024, are
34 amended to read as follows:

35 4. If on the last date of the fund's assessment year as

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2401

1 provided in [section 203D.3](#) the assets of the fund exceed ~~eight~~
2 sixteen million dollars, less any encumbered balances or
3 pending or unsettled claims, all of the following apply:

4 *a.* The participation fee shall be waived and shall not be
5 assessable or owing for the following assessment year of the
6 fund. However, the licensee shall continue to pay any owing
7 participation fee that was in effect on the prior September 1.

8 *b.* The per-bushel fee shall be waived and shall not be
9 assessable or owing.

10 5. The board shall reinstate the fees as provided in this
11 section if the assets of the fund, less any unencumbered
12 balances or pending or unsettled claims, are ~~three~~ eight
13 million dollars or less.

14 Sec. 6. Section 203D.6, subsection 4, paragraph d, Code
15 2024, is amended to read as follows:

16 *d.* That the claim derives from a covered transaction. For
17 purposes of this paragraph, a claim derives from a covered
18 transaction if the claimant is a seller who transferred
19 title to the grain to a licensed grain dealer ~~other than by~~
20 ~~credit-sale contract~~ within six months of the incurrence date
21 for a claim period as provided in [subsection 2](#), or if the
22 claimant is a depositor who delivered the grain to a licensed
23 warehouse operator.

24 Sec. 7. EMERGENCY RULES. The department of agriculture
25 and land stewardship shall adopt emergency rules under section
26 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph
27 "b", to implement the provisions of this Act and the adopted
28 rules shall be effective July 1, 2024. The rules adopted
29 in accordance with this section shall also be published as a
30 notice of intended action as provided in section 17A.4.

31 Sec. 8. ASSESSMENT OF FEES. A grain dealer licensed under
32 chapter 203 who is a party to a credit-sale contract shall
33 owe any participation fee or per-bushel fee assessed on grain
34 purchased under the credit-sale contract beginning on July 1 of
35 the fourth assessment quarter pursuant to section 203D.3A.

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2401

1 Sec. 9. EFFECTIVE DATE.

2 1. Except as provided in subsection 2, this Act takes effect
3 July 1, 2024.

4 2. The section of this Act requiring the department of
5 agriculture and land stewardship to adopt emergency rules takes
6 effect upon enactment.

7 EXPLANATION

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

10 BACKGROUND — GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND.

11 This bill amends provisions regulating marketers of grain,
12 referred to as grain dealers purchasing grain (Code chapter
13 203), and grain warehouse operators storing grain under
14 bailment (Code chapter 203C). The department of agriculture
15 and land stewardship (DALs) issues a license to each type of
16 marketer (licensee) doing business in this state, including
17 inspections and audits. A person selling grain to a licensed
18 grain dealer (seller) or a person depositing grain with a
19 licensed warehouse operator (depositor) may be reimbursed for
20 a loss incurred by the failure of the licensee to honor a
21 contractual obligation regarding the transaction (Code section
22 203D.6). Payments are made from the grain depositors and
23 sellers indemnity fund (indemnity fund) upon a determination
24 that the claim is eligible for payment by the Iowa grain
25 indemnity fund board (indemnity board) acting in cooperation
26 with DALs.

27 BACKGROUND — FEES. In addition to license fees deposited
28 into the general fund of the state (Code sections 203.6 and
29 203C.33), each licensee pays either one or two special fees
30 (indemnity fees) to support the indemnity fund, referred
31 to as a participation fee and per-bushel fee. A licensed
32 grain dealer pays both fees based on the number of bushels of
33 grain purchased during the grain dealer's last fiscal year
34 (coinciding with the grain dealer's license period). The term
35 "purchased grain" is used to designate those bushels purchased

LSB 6323SZ (1) 90

-3-

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3/6

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2401

1 for which a loss may be claimed under the indemnity fund and
2 therefore excluded from coverage (e.g., grain purchased from
3 the United States government or by credit-sale contract) (21
4 IAC 92.2). The rate for the participation fee is 0.014 cents
5 per bushel on all purchased grain with a minimum of \$50, and
6 the rate for the per-bushel fee is 0.25 cents per bushel on
7 all purchased grain. A licensed warehouse operator pays only
8 a participation fee, based on bulk warehouse capacity. The
9 rate of the participation fee is 0.014 cents per bushel of
10 bulk grain storage capacity, or \$500, whichever is less, with
11 a minimum of \$50. Indemnity fees are collected quarterly
12 during the assessment year: September 1, December 1, March 1,
13 and June 1 (Code section 203D.3). The indemnity board must
14 annually review the debits of and credits to the indemnity fund
15 and by May 1 determine whether the balance triggers a waiver or
16 reinstatement (Code section 203D.5). The triggered waiver or
17 reinstatement is effective on the first day of the following
18 assessment year (September 1). If a waiver is triggered before
19 then, a licensee is subject to pay the outstanding amount of
20 the participation fee that is otherwise owing for the current
21 assessment year. However, a licensed grain dealer is no longer
22 obligated to pay the outstanding amount of the per-bushel
23 fee otherwise owing for that period, unless the amount is
24 delinquent (Code section 203D.5).

25 BACKGROUND — CREDIT-SALE CONTRACTS. A credit-sale
26 contract (also referred to as deferred-payment contract,
27 deferred-pricing contract, or price-later contract) involves a
28 transaction for the sale of grain in which the sales price is
29 to be paid to the seller by the licensed grain dealer (buyer)
30 more than 30 days after the delivery of the grain to the buyer
31 (Code section 203.1). The delayed price arrangement may be
32 made on the basis of an expectation of higher price or tax
33 liability. In such a transaction, the seller becomes the
34 grain dealer's creditor. For regulations regarding the use of
35 credit-sale contracts by licensees, see Code sections 203.3,

LSB 6323SZ (1) 90
da/ns

-4-

4/6

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2401

1 203.8, 203.15, 203.17, and 203C.17.

2 BACKGROUND — PAYMENT OF CLAIMS. A claim by a seller or
3 depositor (claimant) for the reimbursement of a loss from the
4 indemnity fund begins on the incurrence date which is the
5 earlier of when the grain dealer's or warehouse operator's
6 state license ceases or when the grain dealer or warehouse
7 operator files a petition in bankruptcy (Code section 203D.6).
8 The claim must derive from a covered transaction, meaning that
9 it is timely filed, there is evidence of a loss incurred by a
10 claimant, and the claim derives from a covered transaction.
11 For a claimant who is a seller, a covered transaction requires
12 that title be transferred with six months of the incurrence
13 date. A covered transaction excludes sale by credit-sale
14 contract. The value of a loss incurred by a seller is based
15 on the sales price. If the sold grain was unpriced, the value
16 of a claim is presumed to be based upon the price paid on the
17 incurrence date at the nearest terminal. A seller or depositor
18 is entitled to be reimbursed 90 percent of a loss but not more
19 than \$300,000.

20 BILL'S PROVISIONS — INDEMNITY FEES TRIGGERS. The bill
21 adjusts both triggers waiving or reinstating the two indemnity
22 fees. The bill increases from \$8 million to \$16 million the
23 balance in the indemnity fund required to trigger a waiver and
24 increases from \$3 million to \$8 million the balance in the
25 indemnity fund required to trigger a reinstatement.

26 BILL'S PROVISIONS — INDEMNITY FUND (FEES AND REIMBURSEMENT
27 BASED ON CREDIT-SALE CONTRACT TRANSACTIONS). The bill provides
28 that grain purchased by credit-sale contract is no longer
29 excluded from the definition of purchased grain. Therefore, a
30 grain dealer must pay the participation fee and per-bushel fee
31 and a warehouse operator must pay the participation fee. It
32 also provides that the sale of grain by credit-sale contract is
33 no longer excluded from the meaning of a covered transaction.
34 A seller may therefore claim a loss resulting from this type
35 of transaction. In the case of a claim filed for a loss

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2401

1 resulting from a credit-sale contract for which no price was
2 established by the incurrence date, the unpriced valuation
3 would be determined in the manner described for unpriced grain.
4 The bill does not modify special regulations that apply to a
5 licensee's use of a credit-sale contract.

6 EMERGENCY RULEMAKING. The bill authorizes DALs to adopt
7 emergency rules in order to implement its provisions.

8 ASSESSMENT OF FEES. A grain dealer who is a party to a
9 credit-sale contract owing an indemnity fee assessed on grain
10 purchased by credit-sale contract is imposed on July 1 of the
11 fourth assessment quarter.

12 EFFECTIVE DATE. The bill takes effect July 1, 2024, except
13 for the provision authorizing DALs to adopt emergency rules
14 which takes effect upon enactment.

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

Senate File 2402 - Introduced

SENATE FILE 2402

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3101)

A BILL FOR

1 An Act relating to the regulation of vapor products, and
2 providing penalties.

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

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 Section 1. Section 453A.19, Code 2024, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5. For the purpose of enabling the
4 department to determine compliance with subchapter III, the
5 department shall have the right to inspect any premises of the
6 holder of an Iowa permit located within the state of Iowa where
7 vapor products are stored, transported, sold, or offered for
8 sale or exchanged, to examine all stocks of vapor products of
9 the permit holder, and to examine all of the records required
10 to be kept or any other records that may be kept incident to
11 the conduct of the vapor products business of the permit holder
12 or any other person dealing in vapor products. It shall be
13 unlawful for any such permit holder to fail to produce upon
14 demand of the department any records required to be kept, or to
15 hinder or prevent in any manner the inspection of the records
16 or the examination of the premises or stock as specified in
17 this subsection.

18 Sec. 2. Section 453A.35, subsection 1, paragraph b, Code
19 2024, is amended to read as follows:

20 *b.* The revenues generated from the tax on cigarettes
21 pursuant to [section 453A.6, subsection 1](#), and from the tax on
22 tobacco products as specified in section 453A.43, subsections
23 1, 2, 3, and 4, and from the fees and penalties specified in
24 subchapter III shall be credited to the health care trust fund
25 created in [section 453A.35A](#).

26 Sec. 3. Section 453A.35A, Code 2024, is amended to read as
27 follows:

28 **453A.35A Health care trust fund.**

29 1. A health care trust fund is created in the office of
30 the treasurer of state. The fund consists of the revenues
31 generated from the tax on cigarettes pursuant to section
32 453A.6, subsection 1, ~~and~~ from the tax on tobacco products
33 as specified in [section 453A.43, subsections 1, 2, 3, and 4](#),
34 and from the fees and penalties specified in subchapter III,
35 that are credited to the health care trust fund, annually,

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 pursuant to [section 453A.35](#). Moneys in the fund shall be
2 separate from the general fund of the state and shall not be
3 considered part of the general fund of the state. However, the
4 fund shall be considered a special account for the purposes
5 of [section 8.53](#) relating to generally accepted accounting
6 principles. Moneys in the fund shall be used only as specified
7 in [this section](#) and shall be appropriated only for the uses
8 specified. Moneys in the fund are not subject to [section 8.33](#)
9 and shall not be transferred, used, obligated, appropriated,
10 or otherwise encumbered, except as provided in [this section](#).
11 Notwithstanding [section 12C.7, subsection 2](#), interest or
12 earnings on moneys deposited in the fund shall be credited to
13 the fund.

14 2. Moneys in the fund shall be used only for purposes
15 related to health care, substance use disorder treatment and
16 prevention, and tobacco use prevention, cessation, and control,
17 including but not limited to the administration and enforcement
18 of subchapter III.

19 Sec. 4. NEW SECTION. 453A.52 Vapor products directory —
20 established — requirements.

21 1. By August 1, annually, following the date the director
22 first makes the vapor products directory available as specified
23 in [section 453A.52A](#), every vapor products manufacturer where
24 vapor products are sold in the state, whether directly or
25 through a distributor, wholesaler, retailer, or similar
26 intermediary or intermediaries, shall certify under penalty of
27 perjury on a form and in the manner prescribed by the director,
28 that the vapor products manufacturer agrees to comply with this
29 subchapter and to one of the following:

30 a. That the vapor products manufacturer has received a
31 marketing authorization or similar order for the vapor product
32 from the United States food and drug administration pursuant
33 to 21 U.S.C. §387j.

34 b. That the vapor product was marketed in the United
35 States as of August 8, 2016, the vapor products manufacturer

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 submitted a premarket tobacco product application for the vapor
2 product to the United States food and drug administration
3 pursuant to 21 U.S.C. §387j on or before September 9, 2020,
4 and the application either remains under review by the United
5 States food and drug administration or a final decision on the
6 application has not otherwise taken effect.

7 2. A vapor products manufacturer shall submit a
8 certification form that separately lists each of the vapor
9 products manufacturer's vapor products sold in this state.

10 3. Each initial and annual certification form required to
11 be submitted under this section shall be accompanied by both
12 of the following:

13 a. A copy of the marketing authorization or other order
14 for each vapor product issued by the United States food and
15 drug administration pursuant to 21 U.S.C. §387j, or evidence
16 that the premarket tobacco product application for each vapor
17 product was submitted to the United States food and drug
18 administration and a final authorization or order has not yet
19 taken effect.

20 b. A payment of one hundred dollars for each vapor product
21 listed in the certification.

22 4. A vapor products manufacturer required to submit a
23 certification form under this section shall notify the director
24 within thirty business days of any material change to the
25 certification form, including the issuance or denial of a
26 marketing authorization or other order by the United States
27 food and drug administration pursuant to 21 U.S.C. §387j, or
28 any other order or action by the United States food and drug
29 administration that affects the authorization of the vapor
30 product to be introduced or delivered into interstate commerce
31 for commercial distribution in the United States.

32 5. a. The director shall maintain and make publicly
33 available a vapor products directory that lists all
34 vapor products manufacturers and vapor products for which
35 certification forms have been submitted.

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 *b.* The director shall make the directory available on the
2 department's internet site.

3 *c.* The director shall update the directory as necessary in
4 order to correct mistakes, ensure accuracy, and add or remove
5 vapor products on at least a monthly basis.

6 6. *a.* The director shall provide a vapor products
7 manufacturer with notice and an opportunity to cure
8 deficiencies before removing the vapor products manufacturer or
9 a vapor product from the directory.

10 *b.* The director shall not remove a vapor products
11 manufacturer or the vapor products manufacturer's vapor product
12 from the directory until at least fifteen business days after
13 the vapor products manufacturer has been given notice of an
14 intended action. Notice shall be sufficient and be deemed
15 immediately received by a vapor products manufacturer if the
16 notice is sent either electronically or by facsimile to an
17 electronic mail address or facsimile number, as applicable,
18 provided by the vapor products manufacturer in the vapor
19 products manufacturer's most recent certification filed under
20 this section.

21 *c.* The vapor products manufacturer shall have fifteen
22 business days from the date of service of the notice of
23 intended action to establish that the vapor products
24 manufacturer or the vapor product should be included in the
25 directory.

26 *d.* A determination by the director to not include or to
27 remove a vapor products manufacturer or a vapor product from
28 the directory shall be subject to review by the filing of a
29 civil action for prospective declaratory or injunctive relief.

30 7. If a vapor product is removed from the directory, each
31 retailer, distributor, and wholesaler shall have twenty-one
32 business days from the day such vapor product is removed from
33 the directory to remove the vapor product from its inventory
34 and return the vapor product to the vapor products manufacturer
35 for disposal. After twenty-one business days following removal

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 from the directory, the vapor products of a vapor products
2 manufacturer identified in the notice of removal are contraband
3 and are subject to seizure, forfeiture, and destruction, and
4 shall not be purchased or sold in the state. The cost of such
5 seizure, forfeiture, and destruction shall be borne by the
6 person from whom the vapor products are confiscated.

7 Sec. 5. NEW SECTION. **453A.52A Vapor products —**
8 **requirements.**

9 Beginning October 1, 2024, or on the date the director
10 first makes the vapor products directory available for public
11 inspection on the department's internet site, whichever is
12 later, all of the following shall apply to vapor products in
13 this state:

14 1. A person shall not sell or offer for sale a vapor product
15 in this state that is not included in the vapor products
16 directory, and a vapor products manufacturer shall not sell,
17 either directly or through a distributor, wholesaler, retailer,
18 or similar intermediary or intermediaries, a vapor product
19 in this state that is not included in the vapor products
20 directory.

21 2. A retailer shall purchase vapor products for resale to
22 consumers only from a distributor or subjobber with a valid
23 license issued pursuant to this chapter.

24 Sec. 6. NEW SECTION. **453A.52B Penalties.**

25 1. A retailer, distributor, or wholesaler who sells or
26 offers for sale a vapor product in this state that is not
27 included in the vapor products directory established in
28 this subchapter shall be subject to all of the following, as
29 applicable:

30 a. A civil penalty of three hundred dollars per day for each
31 vapor product offered for sale in violation of this subsection
32 until the offending vapor product is removed from the market
33 or until the offending vapor product is properly listed on the
34 directory.

35 b. For a second violation within a period of two years, a

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 retailer shall be assessed a civil penalty of one thousand five
2 hundred dollars or the retailer's permit shall be suspended for
3 a period of thirty days.

4 *c.* For a third violation within a period of three years, a
5 retailer shall be assessed a civil penalty of one thousand five
6 hundred dollars and the retailer's permit shall be suspended
7 for a period of thirty days.

8 *d.* For a fourth violation within a period of three years, a
9 retailer shall be assessed a civil penalty of one thousand five
10 hundred dollars and the retailer's permit shall be suspended
11 for a period of sixty days.

12 *e.* For a fifth violation within a period of four years, the
13 retailer's permit shall be revoked.

14 2. A vapor products manufacturer whose vapor products are
15 not listed in the vapor products directory and are sold in this
16 state, whether directly or through a distributor, wholesaler,
17 retailer, or similar intermediary or intermediaries, is subject
18 to a civil penalty of one thousand dollars per day for each
19 vapor product offered for sale in violation of this subsection
20 until the offending vapor product is removed from the market
21 or until the offending vapor product is properly listed on the
22 directory.

23 3. Any vapor products manufacturer that knowingly makes a
24 false representation in any of the information required by this
25 subchapter is guilty of a serious misdemeanor for each false
26 representation.

27 4. Knowingly shipping or receiving vapor products in
28 violation of this subchapter is an unfair practice and a
29 violation of section 714.16.

30 5. In any action brought by the state to enforce this
31 subchapter, the state shall be entitled to recover the costs
32 of investigation and prosecution, expert witness fees, court
33 costs, and reasonable attorney fees.

34 Sec. 7. NEW SECTION. **453A.52C Compliance checks.**

35 1. Each distributor or retailer that distributes or sells

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 vapor products in this state shall be subject to unannounced
2 compliance checks conducted by the department or peace officers
3 as defined in section 801.4 for purposes of enforcing this
4 subchapter. Peace officers who conduct compliance checks
5 pursuant to this section shall forward the results of any
6 compliance check to the department in a manner prescribed by
7 the department within thirty business days after the compliance
8 check is conducted.

9 2. Any unannounced follow-up compliance checks of a
10 noncompliant retailer or distributor shall be conducted within
11 thirty business days after any violation of this subchapter.

12 3. The director shall publish the results of all compliance
13 checks performed under this section at least annually and shall
14 make the results available to the public upon request.

15 **Sec. 8. NEW SECTION. 453A.52D Agent for service of process.**

16 1. A nonresident vapor products manufacturer that has not
17 registered to do business in the state as a foreign corporation
18 or business entity shall, as a condition precedent to being
19 included or retained in the vapor products directory, appoint
20 and continually engage without interruption the services of
21 an agent in this state to act as agent for service of process
22 on whom all process, and any action or proceeding against the
23 vapor products manufacturer concerning or arising out of the
24 enforcement of this subchapter, may be served in any manner
25 authorized by law. Such service shall constitute legal and
26 valid service of process on the vapor products manufacturer.
27 The vapor products manufacturer shall provide the name,
28 address, telephone number, and proof of the appointment and
29 availability of such agent to the director.

30 2. The vapor products manufacturer shall provide notice
31 to the director thirty calendar days prior to termination of
32 the authority of an agent and shall further provide proof to
33 the satisfaction of the director of the appointment of a new
34 agent no less than five calendar days prior to the termination
35 of an existing agent appointment. In the event an agent

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 terminates an agency appointment, the manufacturer shall notify
2 the director of the termination within five calendar days and
3 shall include proof to the satisfaction of the director of the
4 appointment of a new agent.

5 3. A vapor products manufacturer whose vapor products
6 are sold in this state, who has not appointed and engaged
7 the services of an agent as required by this section, shall
8 be deemed to have appointed the secretary of state as its
9 agent for service of process. However, the appointment of the
10 secretary of state as agent shall not satisfy the condition
11 precedent for the vapor products manufacturer to be included or
12 retained in the vapor products directory.

13 Sec. 9. NEW SECTION. **453A.52E Proceeds paid to health care**
14 **trust fund.**

15 The revenues generated from the payment of fees and
16 penalties provided for under this subchapter shall be credited
17 to the health care trust fund created in section 453A.35A and
18 used for the administration and enforcement of this subchapter.

19 Sec. 10. NEW SECTION. **453A.52F Annual reports.**

20 By January 15, annually, following the date the director
21 first makes the vapor products directory available as specified
22 in section 453A.52A, the director shall submit a report to the
23 general assembly regarding the status of the vapor products
24 directory, vapor products manufacturers, the vapor products
25 included in the directory, revenue and expenditures related to
26 administration of this subchapter, and enforcement activities
27 undertaken pursuant to this subchapter.

28 Sec. 11. NEW SECTION. **453A.52G Adoption of rules.**

29 The director shall adopt rules pursuant to chapter 17A to
30 administer this subchapter.

31 Sec. 12. **CODE EDITOR DIRECTIVES.**

32 1. The Code editor is directed to create a new subchapter IV
33 in chapter 453A as follows: Subchapter IV shall be entitled
34 "Uniform Application of Chapter".

35 2. The Code editor shall transfer section 453A.56 to the new

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 subchapter IV.

2 3. The Code editor is directed to create a new subchapter
3 III in chapter 453A as follows: Subchapter III shall be
4 entitled "Vapor Products Directory and Regulation" and include
5 sections 453A.52A through 453A.52G.

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

9 EXPLANATION

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

12 This bill relates to the regulation of vapor products in
13 the state. The bill directs the Code editor to create a
14 new subchapter in Code chapter 453A (cigarette and tobacco
15 taxes and regulation of alternative nicotine products and
16 vapor products) to be entitled "Vapor Products Directory and
17 Regulation".

18 The bill requires that by August 1, annually, following the
19 date the director first makes the vapor products directory
20 publicly available, every vapor products manufacturer whose
21 vapor products are sold in the state, whether directly or
22 through an intermediary, shall certify under penalty of
23 perjury on a form and in the manner prescribed by the director
24 (director) of the department of revenue (DOR), that the vapor
25 products manufacturer agrees to comply with the new Code
26 subchapter and has either received a marketing authorization
27 or similar order for the vapor product from the federal food
28 and drug administration (FDA); or that the vapor product was
29 marketed in the United States as of August 8, 2016, the vapor
30 products manufacturer submitted a premarket tobacco product
31 application for the vapor product to the FDA on or before
32 September 9, 2020, and the application either remains under
33 review by the FDA or a final decision on the application has
34 not otherwise taken effect.

35 The certification must separately list each of the vapor

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Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 products manufacturer's vapor products sold in the state.
2 Each initial and annual certification form required to
3 be submitted shall be accompanied by a copy of either the
4 FDA marketing authorization or other order for each vapor
5 product; or evidence that the premarket tobacco product
6 application for each vapor product was submitted to the FDA
7 and a final authorization or order has not yet taken effect.
8 The certification must also be accompanied by a payment of
9 \$100 for each vapor product listed in the certification. A
10 vapor products manufacturer required to submit a certification
11 form shall notify the director within 30 business days of
12 any material change to the certification form, including any
13 change in the federal authorization for the vapor product. The
14 director shall maintain and make publicly available a vapor
15 products directory that lists all vapor products manufacturers
16 and vapor products for which certification forms have been
17 submitted. The directory shall be available on DOR's internet
18 site, and the director shall update the directory on at least a
19 monthly basis.

20 The director shall provide a vapor products manufacturer
21 with notice and an opportunity to cure deficiencies before
22 removing the vapor products manufacturer or a vapor product
23 from the directory. The bill provides the process and time
24 frames for removing a vapor products manufacturer or vapor
25 product from the directory. A determination by the director
26 to not include or to remove a vapor products manufacturer or
27 a vapor product from the directory shall be subject to review
28 by the filing of a civil action for prospective declaratory
29 or injunctive relief. If a vapor product is removed from the
30 directory, the bill provides the process and time frames by
31 which a retailer, distributor, or wholesaler must remove the
32 vapor product from inventory and return the vapor product to
33 the vapor products manufacturer for disposal. After the time
34 frame specified, the vapor products in the notice of removal
35 are contraband and are subject to seizure, forfeiture, and

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 destruction, and shall not be purchased or sold in the state.

2 The bill provides that beginning October 1, 2024, or on the
3 date the director first makes the vapor products directory
4 available for public inspection on DOR's internet site,
5 whichever is later, a person shall not sell or offer for sale
6 a vapor product in this state that is not included in the
7 vapor products directory and a vapor products manufacturer
8 shall not sell, either directly or through an intermediary,
9 a vapor product in this state that is not included in the
10 vapor products directory; and a retailer shall purchase vapor
11 products for resale to consumers only from a distributor or
12 subjobber with a valid license issued pursuant to Code chapter
13 453A.

14 The bill provides for civil penalties and licensee
15 discipline for a retailer, distributor, or wholesaler who sells
16 or offers for sale a vapor product in this state that is not
17 included in the vapor products directory, based on the number
18 of violations in a period of years.

19 A vapor products manufacturer whose vapor products are not
20 listed in the vapor products directory and are sold in this
21 state, whether directly or through an intermediary, is subject
22 to a civil penalty of \$1,000 per day for each vapor product
23 offered for sale in violation of the bill. A vapor products
24 manufacturer that knowingly makes a false representation in
25 any of the information required by the new Code subchapter is
26 guilty of a serious misdemeanor for each false representation.
27 A serious misdemeanor is punishable by confinement for no more
28 than one year and a fine of at least \$430 but not more than
29 \$2,560.

30 Under the bill, knowingly shipping or receiving vapor
31 products in violation of the new Code subchapter is an unfair
32 practice and a violation of Code section 714.16 (consumer
33 frauds).

34 The bill provides that each distributor or retailer that
35 distributes or sells vapor products in the state shall be

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 subject to unannounced compliance checks conducted by DOR
2 or peace officers for purposes of enforcing the new Code
3 subchapter. Peace officers who conduct compliance checks
4 shall forward the results to DOR as prescribed by DOR within
5 30 business days. Any unannounced follow-up compliance checks
6 of a noncompliant retailer or distributor shall be conducted
7 within 30 business days after any violation of the new Code
8 subchapter. The director shall publish the results of all
9 compliance checks performed at least annually and shall make
10 the results available to the public upon request.

11 The bill requires a nonresident vapor products manufacturer
12 that has not registered to do business in the state as a
13 foreign corporation or business entity to, as a condition
14 precedent to being included or retained in the vapor products
15 directory, appoint and continually engage without interruption
16 the services of an agent in this state to act as agent for the
17 service of process. The bill provides the requirements for
18 instances in which a vapor products manufacturer terminates
19 the authority of an agent or an agent terminates an agency
20 appointment. If a vapor products manufacturer whose vapor
21 products are sold in the state has not appointed and engaged
22 the services of an agent as required, the vapor products
23 manufacturer is deemed to have appointed the secretary of state
24 as its agent for service of process. However, the appointment
25 of the secretary of state as agent shall not satisfy the
26 condition precedent for the vapor products manufacturer to be
27 included or retained in the vapor products directory.

28 The bill provides that the revenues generated from the
29 payment of fees and penalties provided for under the new Code
30 subchapter shall be credited to the health care trust fund and
31 used for the administration and enforcement of the new Code
32 subchapter. The bill makes conforming changes in Code section
33 453A.35 (proceeds made to general fund — health care trust
34 fund) and Code section 453A.35A (health care trust fund) to
35 reflect this provision.

Iowa General Assembly
Daily Bills, Amendments and Study
Bills
February 29, 2024

S.F. 2402

1 The bill also makes a conforming change in Code section
2 453A.19 (examination of records and premises) to authorize
3 DOR, in determining compliance with the new Code subchapter,
4 to have the right to inspect any premises of the holder of
5 an Iowa permit located within the state of Iowa where vapor
6 products are stored, transported, sold, or offered for sale
7 or exchanged, to examine all stocks of vapor products of the
8 permit holder, and to examine all of the records required to
9 be kept or any other records that may be kept incident to the
10 conduct of the vapor products business of the permit holder or
11 any other person dealing in vapor products.

12 The bill requires that by January 15, annually, following
13 the director first makes the vapor products directory
14 publicly available, the director shall submit a report to the
15 general assembly regarding the status of the vapor products
16 directory, vapor products manufacturers, the vapor products
17 included in the directory, revenue and expenditures related
18 to administration of the new Code subchapter, and enforcement
19 activities undertaken pursuant to the new Code subchapter.

20 The bill directs the director to adopt administrative rules
21 to administer the new Code subchapter, and provides Code editor
22 directives to provide for creation of the new Code subchapter,
23 a conforming transfer, and other modifications necessitated by
24 the bill.