

3/18/02 Returned to Judiciary

FILED FEB 15 2002

SENATE FILE 2198
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2041)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain cigarettes and tobacco products and
2 accessories, providing penalties, and making penalties
3 applicable.

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

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

SENATE FILE 2198
S-5050
1 Amend Senate File 2198 as follows:
2 1. Page 2, by striking lines 18 through 31.
3 2. By renumbering as necessary.
By O. GENE MADDOX
S-5050 FILED FEBRUARY 19, 2002

SF 2198

1 Section 1. Section 453A.1, Code 2001, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "Bidi cigarette" means a product
4 that contains tobacco that is wrapped in temburni or tendu
5 leaf or any other material identified by rules of the Iowa
6 department of public health that is similar in appearance or
7 characteristics to the temburni or tendu leaf.

8 NEW SUBSECTION. 23A. "Smoking herbs" means all substances
9 of plant origin and other derivatives including but not
10 limited to broom, calea, California poppy, damiana, hops,
11 ginseng, lobelia, jimson weed and other members of the Datura
12 genus, passion flower, and wild lettuce, which are processed
13 or sold primarily for use as smoking materials. "Smoking
14 herbs" does not include any substance of plant origin or other
15 derivative that is a controlled substance, as defined in
16 section 124.101, including but not limited to marijuana as
17 defined in that section, or any such substance that is
18 otherwise prohibited or regulated by law.

19 NEW SUBSECTION. 25A. "Tobacco accessories" means
20 cigarette papers, pipes, holders of smoking materials of all
21 types, cigarette rolling machines, and other items, designed
22 primarily for the smoking or ingestion of tobacco, tobacco
23 products, or cigarettes or of any illegal substance or of a
24 substance whose sale, giving, or otherwise supplying to
25 another person is prohibited by law.

26 Sec. 2. Section 453A.1, subsection 3, Code 2001, is
27 amended to read as follows:

28 3. "Cigarette" means any roll for smoking made wholly or
29 in part of tobacco, or any substitute for tobacco,
30 irrespective of size or shape and irrespective of tobacco or
31 any substitute for tobacco being flavored, adulterated, or
32 mixed with any other ingredient, ~~where~~ when such roll has a
33 wrapper or cover made of paper or any other material.

34 ~~Provided-the-definition-herein-shall-not-be-construed-to~~
35 "Cigarette" includes a bidi cigarette but does not include

1 cigars a cigar.

2 Sec. 3. NEW SECTION. 453A.5 TOBACCO ACCESSORIES AND
3 SMOKING HERBS -- PROHIBITIONS -- PERSONS UNDER LEGAL AGE --
4 PENALTIES.

5 1. A person shall not sell, give, or otherwise supply
6 tobacco accessories or smoking herbs to any person under
7 eighteen years of age.

8 2. A person who violates this section is subject to the
9 following penalties, as applicable:

10 a. For a first offense, a civil penalty of not less than
11 one hundred dollars but not to exceed five hundred dollars.

12 b. For a second offense within a two-year period, a civil
13 penalty of not less than two hundred dollars but not to exceed
14 five hundred dollars.

15 c. For a third or subsequent offense within a two-year
16 period, a civil penalty of not less than five hundred dollars
17 but not to exceed one thousand dollars.

18 Sec. 4. NEW SECTION. 453A.5A BIDI CIGARETTES --
19 PROHIBITIONS -- PENALTIES.

20 1. A person shall not sell, give, or otherwise supply bidi
21 cigarettes to a person under eighteen years of age.

22 2. A person who violates this section is subject to the
23 following penalties, as applicable:

24 a. For a first offense, a civil penalty of not less than
25 one hundred dollars but not to exceed five hundred dollars.

26 b. For a second offense within a two-year period, a civil
27 penalty of not less than two hundred dollars but not to exceed
28 five hundred dollars.

29 c. For a third or subsequent offense within a two-year
30 period, a civil penalty of not less than five hundred dollars
31 but not to exceed one thousand dollars.

32 EXPLANATION

33 This bill relates to certain cigarettes, tobacco products,
34 and tobacco accessories.

35 The bill defines "bidi cigarette" and also includes a bidi

1 cigarette in the definition of "cigarette". By including bidi
2 cigarettes in the definition of cigarettes, all other
3 provisions of Code chapter 453A (cigarette and tobacco taxes)
4 that apply to cigarettes in general also apply specifically to
5 bidi cigarettes, including payment of the tax on cigarettes,
6 affixing of stamps, and permit requirements. By reference to
7 this definition of cigarettes, the provisions of Code chapter
8 142A (tobacco use prevention and control) and of Code chapter
9 321 (motor vehicle and laws of the road) would also relate to
10 bidi cigarettes. Additionally, under the bill, existing law
11 relating to persons under legal age and cigarettes in general,
12 including existing penalties, would also apply to persons
13 under legal age and bidi cigarettes, specifically. The bill
14 also includes a duplicative section that prohibits the sale,
15 giving, or otherwise supplying of bidi cigarettes to persons
16 under 18 years of age. The separate section also includes
17 penalties for the sale, giving, or otherwise supplying of bidi
18 cigarettes to persons under 18 years of age that conflict with
19 the existing penalties for the sale, giving, or otherwise
20 supplying of cigarettes to persons under 18 years of age. The
21 penalties are: for a first offense, a civil penalty of not
22 less than \$100 but not to exceed \$500; for a second offense
23 within a two-year period, a civil penalty of not less than
24 \$200 but not to exceed \$500; and for a third or subsequent
25 offense within a two-year period, a civil penalty of not less
26 than \$500 but not to exceed \$1,000.

27 The bill defines "smoking herbs" and "tobacco accessories"
28 and provides that a person shall not sell, give, or otherwise
29 supply tobacco accessories or smoking herbs to any person
30 under 18 years of age. The penalties for violation of the
31 prohibition are: for a first offense, a civil penalty of not
32 less than \$100 but not to exceed \$500; for a second offense
33 within a two-year period, a civil penalty of not less than
34 \$200 but not to exceed \$500; and for a third or subsequent
35 offense within a two-year period, a civil penalty of not less

1 than \$500 but not to exceed \$1,000.

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35