

TITLE III COMMUNITY PROTECTION

CHAPTER 8 CIGARETTE LICENSE

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3-8-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(2))

2. "Retailer" shall mean and includes every person in this State who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(19))

3. "Place of business" shall mean and includes any place where cigarettes are sold or where cigarettes are stored, within or without the State of Iowa, by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(17))

3-8-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Scranton, Iowa, without a valid permit for each place of business. The Permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13)

3-8-3 ISSUANCE. The City Council shall issue or renew a Permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5.

(Code of Iowa, Sec. 453A.13(2)(a))

3-8-4 EXPIRATION. Permits expire on June 30 of each year.

(Code of Iowa, Sec. 453A.13(3))

3-8-5 FEES. The fee for Permits issued or renewed in July, August, or September is \$75. The fee for Permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.

(Code of Iowa, Sec. 453A.13(3))

3-8-6 REFUNDS.

1. An unrevoked Permit for which the holder has 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:

- a. Three-fourths of the annual fee if the surrender is made during July, August, or September.
- b. One-half of the annual fee if the surrender is made during October, November, or December.
- c. One-fourth of the annual fee if the surrender is made during January, February, or March.

2. An unrevoked Permit for which the retailer has paid three-fourths of a full annual fee may be so 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:

- a. A sum equal to one-half of an annual fee if the surrender is made during October, November or December.
- b. A sum equal to one-fourth of an annual fee if the surrender is made during January, February or March.

3. 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.

(Code of Iowa, Sec. 453A.13(4))

3-8-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Sections 453A.2, 453A.36, subsection 6 or 453A.39, of the Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the Permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:

a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

(Code of Iowa, Sec. 453A.22(2)(a))

b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.

(Code of Iowa, Sec. 453A.22(2)(b))

c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.

(Code of Iowa, Sec. 453A.22(2)(c))

d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.

(Code of Iowa, Sec. 453A.22(2)(d))

e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

(Code of Iowa, Sec. 453A.22(2)(e))

f. If an employee of a retailer violates section 453A.2, subsection 1, of the Code of Iowa, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 4 against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

(Amended in 2008)

2. If a retail Permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.

(Code of Iowa, Sec. 453A.22(6))

3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

(Code of Iowa, Sec. 453A.22(7))

3-8-8 PERMITS NOT TRANSFERABLE. A Permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid Permit moves the place of business, the City Council, if it decides to issue a new Permit for the new place of business, shall not charge any additional fee for the unexpired term of the original Permit if the retailer has not received a refund for surrender of the original Permit.

3-8-9 DISPLAY. The Permit shall be displayed in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13(10))