

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2194

"AN ACT TO ENHANCE ENFORCEMENT OF ARKANSAS CODE §§ 26-57-260 AND 26-57-261."

Amendment No. 1 to House Bill No. 2194.

Amend House Bill No. 2194 as originally introduced:

Page 3, line 17, delete "A list" and substitute "An electronic mail address and facsimile number to which notices from the Attorney General may be sent, and a list"

AND

Page 6, delete lines 5 through 14 and substitute the following:

"(F) Notwithstanding the provisions of this section, in the case of any Nonparticipating manufacturer who has established a qualified escrow account pursuant to Arkansas Code §§ 26-57-260 and 26-57-261 that has been approved by the Attorney General, the Attorney General may not remove the Nonparticipating manufacturer or its brand families from the directory until at least fifteen (15) days after the Nonparticipating manufacturer has been given notice of such intended action. Notice shall be sufficient and be deemed immediately received by a Nonparticipating manufacturer if the notice is sent either electronically or by facsimile to an electronic mail address or facsimile number, as the case may be, provided by the Nonparticipating manufacturer in its most recent certification filed pursuant to section 3(a).

(c) Prohibition against stamping, sale, or import of cigarettes not in directory.

(1) It is unlawful for any person or entity to:

(A) Affix a tax stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family that the person or entity knows is not included in the directory maintained by the Attorney General pursuant to section 3(b); or

(B) Sell, offer, or possess for sale in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family that the person or entity knows is not included in the directory maintained by the Attorney General pursuant to section 3(b).

(2) Persons and entities are deemed to have received notice that cigarettes of a tobacco product manufacturer or a brand family are not



included in the directory maintained by the Attorney General pursuant to section 3(b) at the time the Attorney General's website fails to list any such cigarettes in the directory or at the time the Attorney General removes the cigarettes from the directory.

(3) A person or entity purchasing cigarettes for resale shall not be in violation of this act if:

(A) At the time of purchase the manufacturer and brand families of the cigarettes are included in the directory maintained by the Attorney General pursuant to section 3(b) and the cigarettes are lawfully stamped and sold within fourteen (14) days of the date such manufacturer and brand families were removed from the directory; or

(B) In the case of a retailer, the cigarettes are sold or delivered to retail customers within fourteen (14) days after receipt of delivery of such cigarettes from a wholesaler, so long as the cigarettes in question were lawfully purchased from the same wholesaler.

(4) Any manufacturer, wholesaler or retailer selling cigarettes for resale of a manufacturer or brand family that has been removed from the directory maintained by the Attorney General pursuant to section 3(b) shall notify the purchaser of such cigarettes of that fact at the time of delivery of the cigarettes.

(5) Unless otherwise provided by contract or purchase agreement, a purchaser shall be entitled to a refund of the purchase price, from the manufacturer, wholesaler, or retailer from whom the cigarettes were purchased, of any cigarettes that are the product of a manufacturer or a brand family that have been removed from the directory maintained by the Attorney General pursuant to section 3(b). The Department of Finance and Administration may, by regulation, provide for a refund of the price of tax stamps that have been lawfully affixed to cigarettes that may not be sold under section 3(c)."

AND

Page 8, delete lines 18 through 26 and substitute the following:

"(e) Quarterly escrow installments for new tobacco product manufacturers.

(1) To promote compliance with this act, the Attorney General may require any manufacturer added to the directory after the first publication of the directory on the Attorney General's website to make escrow deposits required by Arkansas Code §§ 26-57-260 and 26-57-261 in quarterly installment deposits through the first two years in which the sales covered by the deposits are made.

(2) The Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of each installment deposit."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Bryles
LDH/JMB - 031720031628
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Secretary