

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/15/99 H3/25/99

A Bill

Act 1285 of 1999
HOUSE BILL 2001

5 By: Representative Broadway
6
7

For An Act To Be Entitled

9 "AN ACT RELATING TO THE SALE OF EXPORT CIGARETTES; AND
10 FOR OTHER PURPOSES."

Subtitle

11
12 "RELATING TO THE SALE OF EXPORT
13 CIGARETTES."
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. FINDINGS AND PURPOSE.

20 (1) Cigarette smoking presents serious public health concerns to the
21 state and to the citizens of the state. The surgeon general has determined
22 that smoking causes lung cancer, heart disease, and other serious diseases and
23 that there are hundreds of thousands of tobacco-related deaths in the United
24 States each year. These diseases most often do not appear until many years
25 after the person in question begins smoking.

26 (2) It is the policy of the state that consumers be adequately informed
27 about the adverse health effects of cigarette smoking by including warning
28 notices on each package of cigarettes.

29 (3) It is the policy of the state that consumers be adequately informed
30 about the adverse health effects of cigarette smoking by including warning
31 notices on each package of cigarettes.

32 (4) It is the intent of the legislature to align state law with federal
33 laws, regulations and policies relating to the manufacture, importation and
34 marketing of cigarettes, and in particular, the Federal Cigarette Labeling and
35 Advertising Act (15 U.S.C. Sec. 1331 and following) and 26 U.S.C. Sec. 5754.

36 (5) The legislature finds that consumers and retailers purchasing

1 cigarettes are entitled to be fully informed about any adverse health effects
2 of cigarette smoking by inclusion of warning notices on each package of
3 cigarettes and to be assured through appropriate enforcement measures that
4 cigarettes they purchase were manufactured for consumption within the United
5 States.

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7 SECTION 2. Definitions. For purposes of this act:

8 (1) "Cigarette" means any product that contains nicotine, is intended
9 to be burned or heated under ordinary conditions of use, and consists of or
10 contains (a) any roll of tobacco wrapped in paper or in any substance not
11 containing tobacco; or (b) tobacco, in any form, that is functional in the
12 product, which, because of its appearance, the type of tobacco used in the
13 filler or its packaging and labeling is likely to be offered to, or purchased
14 by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any
15 substance containing tobacco which, because of its appearance, the type of
16 tobacco used in the filler, or its packaging and labeling, is likely to be
17 offered to, or purchased by, consumers as a cigarette described in (a) of this
18 subsection. "Cigarette" includes "roll your own", which is any tobacco which,
19 because of its appearance, type, packaging, or labeling is suitable for use
20 and likely to be offered to, or purchased by, consumers as tobacco for making
21 cigarettes. For purposes of this definition of "cigarette", 0.09 ounces of
22 "roll your own" tobacco shall constitute one individual "cigarette".

23 (2) The term "package" means a pack, carton, or container of any kind
24 in which cigarettes are offered for sale, sold, or otherwise distributed or
25 intended for distribution, to consumers.

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27 SECTION 3. (a) No tax stamp may be affixed to, or made upon, any
28 package of cigarettes if:

29 (1) The package differs in any respect with the requirements of
30 the Federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec. 1331 and
31 following), for the placement of labels, warnings, or any other information
32 upon a package of cigarettes that is to be sold within the United States;

33 (2) The package has been imported into the United States after
34 January 1, 2000, in violation of 26 U.S.C. Sec. 5754;

35 (3) The package is labeled "For Export Only", "U.S. Tax Exempt",
36 "For Use Outside U.S.", or similar wording indicating that the manufacturer

1 did not intend that the product be sold in the United States;

2 (4) The package in any way violates federal trademark or
3 copyright laws; or

4 (5) The package, or a package containing individually stamped
5 packages, has been altered by adding or deleting the wording, labels, or
6 warnings described in subdivisions (1) through (5) of this subsection.

7 (b) Any person who sells or holds for sale cigarette packages to which
8 is affixed a tax stamp in violation of this section shall be subject to the
9 penalties prescribed in subsection (e) of this section.

10 (c) The Tobacco Control Board shall revoke a wholesale or retail
11 license of any person who sells or holds for sale cigarette packages to which
12 is affixed a tax stamp in violation of this section.

13 (d) The Department of Finance and Administration or the Tobacco Control
14 Board may seize and destroy or sell to the manufacturer only for export
15 packages that do not comply with this section.

16 (e) A violation of this section is a deceptive act or practice and
17 shall constitute a Class A misdemeanor.

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19 SECTION 4. All provisions of this act of a general and permanent nature
20 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
21 Revision Commission shall incorporate the same in the Code.

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23 SECTION 5. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.

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29 SECTION 6. All laws and parts of laws in conflict with this act are
30 hereby repealed.

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32 SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the
33 Eighty-second General Assembly that smoking of cigarettes is not only
34 hazardous to the health of the smoker but also presents serious public health
35 concerns; that federal law and regulations establish various policies relating
36 to the manufacture, importation and marketing of cigarettes; that it is urgent

1 that state law be aligned with the federal laws and regulations as soon as
2 possible to assure that consumers be adequately informed of the adverse
3 effects of cigarette smoking; and that this act is designed to align Arkansas
4 law with federal law to assure that only those cigarettes manufactured
5 according to specifications and packed in containers labeled with appropriate
6 warnings are available to Arkansas consumers and should be given effect
7 immediately. Therefore, an emergency is declared to exist and this act being
8 immediately necessary for the preservation of the public peace, health and
9 safety shall become effective on the date of its approval by the Governor. If
10 the bill is neither approved nor vetoed by the Governor, it shall become
11 effective on the expiration of the period of time during which the Governor
12 may veto the bill. If the bill is vetoed by the Governor and the veto is
13 overridden, it shall become effective on the date the last house overrides the
14 veto.

15 /s/ Broadway

18 APPROVED: 4/9/1999