

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of Senate Bill No. 118

"AN ACT TO AMEND ARKANSAS CODE 26-57-261."

Amendment No. 1 to Senate Bill No. 118.

Amend Senate Bill No. 118 as originally introduced:

Immediately following Section 1, insert the following new section:

"SECTION 2. Arkansas Code § 26-57-1303(c), concerning the prohibition against stamping, sale, or import of cigarettes not in the directory, is amended to read as follows:

(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 subsection (b) of this section; 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 subsection (b) of this section.

(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 subsection (b) of this section 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 subchapter 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 subsection (b) of this section and the cigarettes are lawfully stamped and sold within ~~fourteen (14)~~twenty-one (21) days of the date the 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)~~twenty-one (21) 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) No brand families may be purchased by or delivered to a wholesaler once the manufacturer and brand families are removed from the directory.

~~(4)~~(5) 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 subsection (b) of this section shall notify the purchaser of such cigarettes of that fact at the time of delivery of the cigarettes.

~~(5)~~(6)(A) 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 has been removed from the directory maintained by the Attorney General pursuant to subsection (b) of this section.

(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 this subsection."

AND

Page 2, on line 2, delete "SECTION 2." and substitute "SECTION 3."

AND

Page 2, at line 18, insert the following new section:

"SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that smoking poses a serious health risk to Arkansans; that the Master Settlement Agreement is a critical component in reducing the rate of smoking in Arkansas; and that the provisions of this act are immediately necessary for the continued effective administration and enforcement of provisions of the Master Settlement Agreement in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

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

By: Senator B. Johnson
BBC/BBC - 01-25-2005 10:12
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Secretary