

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

State of Arkansas

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

82nd General Assembly

## A Bill

Regular Session, 1999

HOUSE BILL 2001

By: Representative Broadway

### For An Act To Be Entitled

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

### Subtitle

"RELATING TO THE SALE OF EXPORT  
CIGARETTES. "

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

#### SECTION 1. FINDINGS AND PURPOSE.

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

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

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

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

(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.

6  
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.

26  
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.

18  
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.

22  
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.

28  
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

that state law be aligned with the federal laws and regulations as soon as possible to assure that consumers be adequately informed of the adverse effects of cigarette smoking; and that this act is designed to align Arkansas law with federal law to assure that only those cigarettes manufactured according to specifications and packed in containers labeled with appropriate warnings are available to Arkansas consumers and should be given effect immediately. 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 the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/ Broadway