

ASSEMBLY, No. 1255

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman RUSSO

1 AN ACT concerning the sale of tobacco products in vending machines,
2 amending P.L.1948, c.65 and supplementing chapter 3D of Title 26
3 of the Revised Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. (New section) a. A person shall not sell, offer for sale, give
9 away or deliver single cigarettes as defined in section 102 of P.L.1948,
10 c.65 (C.54:40A-2) from a vending machine at or on any public or
11 private premises.

12 b. The owner of a vending machine which dispenses single
13 cigarettes or a retail dealer shall be fined not less than \$100 or more
14 than \$500 for each day the machine is determined to be in violation of
15 subsection a. of this act.

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17 2. (New section) Any person, either acting directly or indirectly
18 through an agent, who, at retail, sells or offers for sale, gives away,
19 delivers or otherwise furnishes to a person a single cigarette shall be
20 fined \$250 for a first offense and \$500 for a second or subsequent
21 offense.

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23 3. (New section) a. A local board of health shall investigate all
24 bona fide complaints of violations it receives in its jurisdiction. Any
25 penalty recovered under the provisions of this act shall be recovered
26 by and in the name of the local board of health. The penalty recovered
27 shall be paid by the local board into the treasury of the municipality
28 wherein the violation occurred.

29 b. Municipal court shall have jurisdiction over proceedings to
30 enforce and collect any penalty imposed because of a violation of any
31 provision of this act, if the violation has occurred within the territorial
32 jurisdiction of the court. The proceedings shall be summary and in

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 accordance with "the penalty enforcement law" (N.J.S.2A:58-1 et
2 seq.). Process shall be in the nature of a summons or warrant and shall
3 be issued by the local board of health or the municipal law
4 enforcement authority.

5
6 4. Section 102 of P.L.1948, c.65 (C.54:40A-2) is amended to read
7 as follows:

8 102. For the purposes of this act and unless otherwise required by
9 the context:

10 a. "Cigarette" means any roll for smoking made wholly or in part
11 of tobacco, or any other substance or substances other than tobacco,
12 irrespective of size, shape or flavoring, the wrapper or cover of which
13 is made of paper or any other substance or material, excepting
14 tobacco. A "single cigarette" is a cigarette sold or offered for sale
15 individually.

16 b. "Director" means the Director of the Division of Taxation, in the
17 Department of the Treasury.

18 c. "Distributor" means and includes any person, wherever resident
19 or located, who brings or causes to be brought into this State
20 unstamped cigarettes purchased directly from the manufacturers
21 thereof and stores, sells or otherwise disposes of the same after they
22 shall reach this State.

23 d. "Wholesale dealer" shall include any person, wherever resident
24 or located, other than a distributor, as defined herein, who:

25 (1) Purchases cigarettes from any other person who purchases
26 from the manufacturer and who acquires such cigarettes solely for the
27 purpose of bona fide resale to retail dealers or to other persons for the
28 purposes of resale only; or

29 (2) Services retail outlets by the maintenance of an established
30 place of business for the purchase of cigarettes, including, but not
31 limited to, the maintenance of warehousing facilities for the storage
32 and distribution of cigarettes.

33 e. "Retail dealer" means any person who is engaged in this State in
34 the business of selling cigarettes at retail. Any person placing a
35 cigarette vending machine at, on or in any premises shall be deemed to
36 be a retail dealer for each such vending machine.

37 f. "Consumer" means any person except a distributor or a
38 manufacturer who acquires for consumption, storage or use in this
39 State cigarettes to which New Jersey revenue stamps have not been
40 attached.

41 g. "Place of business" means and includes any place where
42 cigarettes are sold or where cigarettes are brought or kept for the
43 purpose of sale or consumption, including so far as applicable any
44 vessel, vehicle, airplane, or train or cigarette vending machine.

45 h. "Licensed distributor" means any distributor, as defined in this
46 act, licensed under the provisions of this act.

- 1 i. "Licensed wholesale dealer" means any wholesale dealer, as
2 defined in this act, licensed under the provisions of this act.
- 3 j. "Licensed retail dealer" means any retail dealer, as defined in this
4 act, licensed under the provisions of this act.
- 5 k. "Licensed consumer" means any consumer, as defined in this act,
6 licensed under the provisions of this act.
- 7 l. "Person" means any individual, firm, corporation, copartnership,
8 joint venture, association, receiver, trustee, guardian, executor,
9 administrator, or any other person acting in a fiduciary capacity, or any
10 estate, trust or group or combination acting as a unit, the State
11 Government and any political subdivision thereof, and the plural as
12 well as the singular, unless the intention to give a more limited
13 meaning is disclosed by the context.
- 14 m. "Rules and regulations" means those made and promulgated by
15 the director in the administration of this act.
- 16 n. "Sale" means any sale, transfer, exchange, theft, barter, gift, or
17 offer for sale and distribution, in any manner or by any means
18 whatsoever.
- 19 o. "Stamp" means any impression, device, stamp, label or print
20 manufactured, printed or made as prescribed by the director.
- 21 p. "Taxpayer" means any person subject to a tax imposed by this
22 act, or any person required to be licensed under this act.
- 23 q. "Treasurer" means the State Treasurer.
- 24 r. "Use" means the exercise of any right or power incidental to the
25 ownership of cigarettes.
- 26 s. "Manufacturer" means and includes any person, wherever
27 resident or located, who manufactures or produces, or causes to be
28 manufactured or produced, cigarettes and sells, uses, stores or
29 distributes the same regardless of whether they are intended for sale,
30 use or distribution within or without this State.
- 31 t. "Manufacturer's representative" means and includes any person,
32 employed by a manufacturer, who, for promotional purposes, sells,
33 stores, handles or distributes cigarettes, within this State, limited
34 exclusively to cigarettes manufactured by the employing manufacturer.
- 35 u. "Licensed manufacturer" means any manufacturer, as defined in
36 this act, licensed under the provisions of this act.
- 37 v. "Licensed manufacturer's representative" means any
38 manufacturer's representative, as defined in this act, licensed under the
39 provisions of this act.
- 40 (cf: P.L.1985, c.515, s.15)
- 41
- 42 5. This act shall take effect on the first day of the fifth month after
43 enactment.

1 STATEMENT

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3 This bill bans the sale of loose or single cigarettes, whether sold by
4 machine or over-the counter. The owner of a vending machine which
5 dispenses single cigarettes would be fined \$100 to \$500 for each day
6 the machine operates in violation of this prohibition. A first offense for
7 over-the-counter sales would result in a fine of \$250 for a first offense
8 and \$500 for a second or subsequent offense.

9 Around the country, firms are beginning to market single cigarettes.
10 These are cigarettes which are sold loose, i.e., unpackaged. This
11 approach, which makes cigarettes available for about 25 cents apiece
12 is especially attractive to minors who are less inclined to spend the
13 \$2.50 or more necessary for a full pack.

14 Single cigarette vending machines are being promoted as a means
15 of quadrupling merchants' cigarette profits. Bar owners are being
16 encouraged to purchase these vending machines on the grounds that
17 the reduced cost of single cigarette purchases will leave their patrons
18 more money to spend on beverages.

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23 Prohibits sale of single cigarettes.

WITHDRAWN