

SENATE, No. 1228

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Senator SINAGRA

1 AN ACT concerning the sale of tobacco products, amending and
2 supplementing P.L.1948, c.65.

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

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7 1. (New section) a. A person shall not sell, offer for sale, give
8 away or deliver single cigarettes, as defined in section 102 of
9 P.L.1948, c.65 (C.54:40A-2) or cigarettes in packs of less than 20
10 cigarettes from a vending machine or in a retail establishment.

11 b. A person who owns a vending machine which dispenses, sells,
12 offers for sale, gives away or delivers single cigarettes or cigarettes in
13 packs of less than 20 cigarettes shall be fined not less than \$100 or
14 more than \$500 for each day the vending machine is determined to be
15 in violation of subsection a. of this section.

16 c. A person, either acting directly or indirectly through an agent,
17 who, at retail, sells or offers for sale, gives away, delivers or otherwise
18 furnishes to a person a single cigarette or cigarettes in packs of less
19 than 20 cigarettes shall be fined \$250 for a first offense and \$500 for
20 a second or subsequent offense.

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

28 b. The municipal court shall have jurisdiction over proceedings to
29 enforce and collect any penalty imposed because of a violation of any
30 provision of this act, if the violation has occurred within the territorial
31 jurisdiction of the court. The proceedings shall be summary and in
32 accordance with "the penalty enforcement law," N.J.S.2A:58-1 et seq.
33 Process shall be in the nature of a summons or warrant and shall be

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 issued by the local board of health or the municipal law enforcement
2 authority.

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

6 102. For the purposes of this act and unless otherwise required by
7 the context:

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

14 b. "Director" means the Director of the Division of Taxation, in the
15 Department of the Treasury.

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

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

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

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

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

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

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

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

45 i. "Licensed wholesale dealer" means any wholesale dealer, as
46 defined in this act, licensed under the provisions of this act.

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

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40 4. This act shall take effect on the 60th day after enactment.

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STATEMENT

45 This bill bans the sale of loose or single cigarettes and cigarettes in
46 packs of less than 20 cigarettes, whether sold by vending machine or

1 over-the-counter. The owner of a vending machine which dispenses
2 single cigarettes or cigarettes in packs of less than 20 would be fined
3 \$100 to \$500 for each day the vending machine operates in violation
4 of this prohibition. A first offense for over-the-counter sales would
5 result in a fine of \$250 for a first offense and \$500 for a second or
6 subsequent offense.

7 The sale of single cigarettes and cigarettes in packs of less than 20,
8 makes cigarettes available at lower cost, a marketing approach that is
9 especially attractive to minors who are less inclined to spend the \$2.25
10 or more price for a full pack of cigarettes.

11 The ban on the sale of single cigarettes and cigarettes in packs of
12 less than 20 are for the purpose of preventing minors from having
13 access to and using tobacco products. These provisions are consistent
14 with recent proposals made by Philip Morris USA for curbing use of
15 tobacco products by minors.

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20 Prohibits sale of single cigarettes and cigarettes in packs of less than
21 20.