

HOUSE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 1266

1 AN ACT

2 To repeal sections 149.200, 149.203, 149.206,  
3 149.212 and 149.215, RSMo, and to enact in  
4 lieu thereof five new sections relating to  
5 the sale of cigarettes, with penalty  
6 provisions.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,**  
8 **AS FOLLOWS:**

9 Section A. Sections 149.200, 149.203, 149.206, 149.212 and  
10 149.215, RSMo, are repealed and five new sections enacted in lieu  
11 thereof, to be known as sections 149.200, 149.203, 149.206,  
12 149.212 and 149.215, to read as follows:

13 149.200 1. It is unlawful for any licensed wholesaler to  
14 sell or distribute in this state, to acquire, hold, own, possess  
15 or distribution in this state, or to import, or cause to be  
16 imported into this state for sale or distribution in this state,  
17 any cigarettes that do not comply with all requirements imposed  
18 by or pursuant to federal law and implementing regulations,  
19 including but not limited to the filing of ingredients lists  
20 pursuant to Section 7 of the federal Cigarette Labeling and  
21 Advertising Act (15 U.S.C. 1335a); the permanent imprinting on

1 the primary packaging of the precise warning labels in the  
2 precise format specified in Section 4 of the Federal Cigarette  
3 Labeling and Advertising Act (15 U.S.C. 1333); the rotation of  
4 label statements pursuant to Section 4(c) of the Federal  
5 Cigarette Labeling and Advertising Act (15 U.S.C. 1335(c));  
6 restrictions on the importation, transfer and sale of previously  
7 exported tobacco products pursuant to Section 9302 of Public Law  
8 105-33, the Balanced Budget Act of 1997, as amended; requirements  
9 of Title IV of Public Law 106-476, the Imported Cigarette  
10 Compliance Act of 2000.

11 2. It shall be unlawful for any licensed wholesaler to  
12 affix any tax stamp or meter impression required pursuant to this  
13 chapter to the package of any cigarettes that does not comply  
14 with the requirements of subsection 1 of this section.

15 3. This section shall not apply to cigarettes allowed to be  
16 imported or brought into the United States for personal use, or  
17 to cigarettes sold or intended to be sold as duty-free  
18 merchandise by a duty-free sales enterprise in accordance with  
19 the provisions of 19 U.S.C. 1555(b) and any implementing  
20 regulations; provided, however, that this act shall apply to any  
21 such cigarettes that are brought back into the customs territory  
22 for resale within the customs territory.

23 4. Any licensed wholesaler who knowingly violates this  
24 section is guilty of a class D felony.

25 5. As used in this section, "package" means a pack, box,

1 carton, or container of any kind in which cigarettes are offered  
2 for sale, sold or otherwise distributed to consumers.

3 149.203. 1. The director may revoke or suspend the license  
4 or licenses of any wholesaler pursuant to the procedures set  
5 forth in section 149.035, upon finding a violation of section  
6 149.200, or any implementing rule promulgated by the director  
7 pursuant to this chapter. In addition, the director may impose  
8 on any person a civil penalty in an amount not to exceed the  
9 greater of five hundred percent of the retail value of the  
10 cigarettes involved or five thousand dollars, upon finding a  
11 violation by such person of sections 149.200 to 149.215, or any  
12 implementing rule promulgated by the director pursuant to this  
13 chapter.

14 2. Cigarettes that are acquired, held, owned, possessed,  
15 transported in, imported into, or sold or distributed in this  
16 state in violation of sections 149.200 to 149.215 or sections  
17 196.1000 to 196.1003, RSMo, shall be deemed contraband pursuant  
18 to section 149.055 and are subject to seizure and forfeiture as  
19 provided therein. Any cigarettes shall be deemed contraband  
20 whether the violation of sections 149.200 to 149.215 is knowing  
21 or otherwise.

22 149.206. A violation of sections 149.200 to 149.215 shall  
23 constitute an unlawful trade practice as provided in section  
24 407.020, RSMo, and in addition to any remedies or penalties set  
25 forth in sections 149.200 to 149.215, shall be subject to any

1 remedies or penalties available for a violation of that section.

2 149.212. Sections 149.200 to 149.215 shall be enforced by  
3 the director provided, that at the request of the director or the  
4 director's duly authorized agent, the state highway patrol and  
5 all local police authorities shall enforce the provisions of  
6 sections 149.200 to 149.215. The attorney general has concurrent  
7 power with the prosecuting attorneys of the states to enforce the  
8 provisions of sections 149.200 to 149.215. Any person who sells,  
9 distributes, or manufactures cigarettes and sustains direct  
10 economic or commercial injury as a result of a violation of  
11 sections 149.200 to 149.215 may bring an action in good faith for  
12 appropriate injunctive relief.

13 149.215. 1. Notwithstanding the provisions of section  
14 149.192 to the contrary, a county or municipality may impose a  
15 tax of not more than five cents per individual package of  
16 cigarettes, for the purpose of funding the enforcement of the  
17 provisions of sections 149.200 to 149.212.

18 2. Such tax shall be authorized by a majority vote of the  
19 governing body of such county or municipality, or by a petition  
20 submitted to said county or municipality's governing body.

21 3. If such tax is submitted by petition, at least five  
22 percent of the registered voters of such county or municipality  
23 shall have signed said petition.

24 [149.200. 1. It is unlawful for any  
25 person to:  
26 (1) Sell or distribute in this state,  
27 to acquire, hold, own, possess or transport

1 for sale or distribution in this state, or to  
2 import, or cause to be imported into this  
3 state for sale or distribution in this state,  
4 any cigarettes that do not comply with all  
5 requirements imposed by or pursuant to  
6 federal law and implementing regulations,  
7 including but not limited to the filing of  
8 ingredients lists pursuant to Section 7 of  
9 the Federal Cigarette Labeling and  
10 Advertising Act (15 U.S.C. 1335a); the  
11 permanent imprinting on the primary packaging  
12 of the precise package warning labels in the  
13 precise format specified in Section 4 of the  
14 Federal Cigarette Labeling and Advertising  
15 Act (15 U.S.C. 1333); the rotation of label  
16 statements pursuant to Section 4(c) of the  
17 Federal Cigarette Labeling and Advertising  
18 Act (15 U.S.C. 1335(c)); restrictions on the  
19 importation, transfer and sale of previously  
20 exported tobacco products pursuant to Section  
21 9302 of Public Law 105-33, the Balanced  
22 Budget Act of 1997, as amended; requirements  
23 of Title IV of Public Law 106-476, the  
24 Imported Cigarette Compliance Act of 2000; or

25 (2) Alter the package of any  
26 cigarettes, prior to sale or distribution to  
27 the ultimate consumer, so as to remove,  
28 conceal or obscure:

29 (a) Any statement, label, stamp,  
30 sticker or notice indicating that the  
31 manufacturer did not intend the cigarettes to  
32 be sold, distributed or used in the United  
33 States, including but not limited to labels  
34 stating "For Export Only", "U.S. Tax Exempt",  
35 "For Use Outside U.S.", or similar wording;  
36 or

37 (b) Any health warning that is not the  
38 precise warning statement in the precise  
39 format specified in Section 4 of the Federal  
40 Cigarette Labeling and Advertising Act (15  
41 U.S.C. 1333).

42 2. It shall be unlawful for any person  
43 to affix any tax stamp or meter impression  
44 required pursuant to this chapter to the  
45 package of any cigarettes that does not  
46 comply with the requirements of subdivision  
47 (1) of subsection 1 of this section or that  
48 is altered in violation of subdivision (2) of  
49 subsection 1 of this section.

50 3. This section shall not apply to

1 cigarettes allowed to be imported or brought  
2 into the United States for personal use, or  
3 to cigarettes sold or intended to be sold as  
4 duty-free merchandise by a duty-free sales  
5 enterprise in accordance with the provisions  
6 of 19 U.S.C. 1555(b) and any implementing  
7 regulations; provided, however, that this act  
8 shall apply to any such cigarettes that are  
9 brought back into the customs territory for  
10 resale within the customs territory.

11 4. Any person who violates this  
12 section, whether acting knowingly or  
13 recklessly, is guilty of a class D felony.

14 5. As used in this section, "package"  
15 means a pack, box, carton or container of any  
16 kind in which cigarettes are offered for  
17 sale, sold or otherwise distributed to  
18 consumers.]

19 [149.203. 1. The director may revoke  
20 or suspend the license or licenses of any  
21 wholesaler pursuant to the procedures set  
22 forth in section 149.035 upon finding a  
23 violation of section 149.200, or any  
24 implementing rule promulgated by the director  
25 pursuant to this chapter. In addition, the  
26 director may impose on any person a civil  
27 penalty in an amount not to exceed the  
28 greater of five hundred percent of the retail  
29 value of the cigarettes involved or five  
30 thousand dollars, upon finding a violation by  
31 such person of sections 149.200 to 149.215,  
32 or any implementing rule promulgated by the  
33 director pursuant to this chapter.

34 2. Cigarettes that are acquired, held,  
35 owned, possessed, transported in, imported  
36 into, or sold or distributed in this state in  
37 violation of sections 149.200 to 149.215 or  
38 sections 196.1000 to 196.1003, RSMo, shall be  
39 deemed contraband pursuant to section 149.055  
40 and are subject to seizure and forfeiture as  
41 provided therein. Any cigarettes shall be  
42 deemed contraband whether the violation of  
43 sections 149.200 to 149.215 is knowing or  
44 otherwise.]

45 [149.206. A violation of sections  
46 149.200 to 149.215 shall constitute an  
47 unlawful trade practice as provided in  
48 section 407.020, RSMo, and in addition to any

1 remedies or penalties set forth in sections  
2 149.200 to 149.215, shall be subject to any  
3 remedies or penalties available for a  
4 violation of that section.]

5 [149.212. Sections 149.200 to 149.215  
6 shall be enforced by the director provided,  
7 that at the request of the director or the  
8 director's duly authorized agent, the state  
9 highway patrol and all local police  
10 authorities shall enforce the provisions of  
11 sections 149.200 to 149.215. The attorney  
12 general has concurrent power with the  
13 prosecuting attorneys of the states to  
14 enforce the provisions of sections 149.200 to  
15 149.215. Any person who sells, distributes,  
16 or manufactures cigarettes and sustains  
17 direct economic or commercial injury as a  
18 result of a violation of sections 149.200 to  
19 149.215 may bring an action in good faith for  
20 appropriate injunctive relief.]

21 [149.215. If any provision of sections  
22 149.200 to 149.212 is held invalid, the  
23 remainder of such sections shall not be  
24 affected.]