

SECOND REGULAR SESSION

# SENATE BILL NO. 902

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time January 18, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4584S.011

## AN ACT

To amend chapter 149, RSMo, by adding thereto one new section relating to tobacco products that can be lawfully sold in Missouri.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 149, RSMo, is amended by adding thereto one new  
2 section, to be known as section 149.220, to read as follows:

**149.220. 1. Notwithstanding any law or rule to the contrary, any  
2 person licensed and required under chapter 149, to affix a tax stamp on  
3 cigarette packages or any retailer, who in good faith offers for sale or  
4 sells cigarettes that do not comply with state law, shall not be subject  
5 to any administrative, civil, or criminal seizures, forfeitures,  
6 suspensions, fines, or punishments for offering for sale or selling the  
7 noncompliant cigarette. The provisions of this section shall not relieve  
8 a wholesaler or retailer from any penalty imposed by law for the sale  
9 of cigarettes where a tax stamp has not been lawfully applied in  
10 accordance with this chapter.**

**11 2. In the event a cigarette is declared to be not in compliance  
12 with state law, cigarette wholesalers are prohibited from making  
13 further purchases from manufacturers of the noncompliant cigarette,  
14 but cigarette wholesalers may lawfully stamp and sell to retailers any  
15 inventory of the noncompliant cigarettes for thirty days from the  
16 declaration date, and retailers have sixty days from the declaration  
17 date to purchase from wholesalers and sell lawfully any of the  
18 noncompliant cigarette.**

**19 3. The declaration that a cigarette does not comply with state  
20 law shall be published immediately and conspicuously posted on the  
21 website of both the attorney general and the department of**

22 revenue. The director of the department of revenue shall also directly  
23 notify all wholesalers in writing, sent via United States mail, of the  
24 manufacturers and cigarette brands that are no longer lawful to sell in  
25 this state and, within five days of such notification, the wholesaler shall  
26 provide the director with a count of said manufacturer's cigarette  
27 brands that the wholesaler is holding in inventory for sale in this state.

28 4. The director of the department of revenue and attorney  
29 general shall notify a cigarette manufacturer, in writing sent via  
30 United States mail, thirty days prior to making such manufacturer's  
31 cigarette brands unlawful for sale in this state and shall state the  
32 reason or reasons such cigarettes shall no longer be lawfully sold. The  
33 cigarette manufacturer shall have the right to remedy any reason the  
34 director or attorney general gives for making it unlawful to sell such  
35 cigarette brands in this state and in the event said manufacturer  
36 provides such remedy, the director and attorney general shall cease  
37 any impending action to make such manufacturer's brands unlawful for  
38 sale. Any manufacturer who is aggrieved by any declaration of  
39 noncompliance shall have the right to seek relief, including injunctive  
40 relief, in a court of competent jurisdiction.

41 5. The definition of the terms "cigarette", "manufacturer", "tax  
42 stamp", and "wholesaler" are contained in section 149.011.

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