

FIRST REGULAR SESSION

HOUSE BILL NO. 672

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SUTHERLAND.

Read 1st time March 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1910L.011

AN ACT

To amend chapter 149, RSMo, by adding thereto one new section relating to which tobacco products 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 section, to be
2 known as section 149.220, to read as follows:

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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