

FIRST REGULAR SESSION

HOUSE BILL NO. 1049

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1st time March 5, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2557L.011

AN ACT

To repeal section 149.203, RSMo, and to enact in lieu thereof three new sections relating to seizure and forfeiture of contraband cigarettes.

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

Section A. Section 149.203, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 149.203, 196.1001, and 196.1002, to read as follows:

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

2. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 149.200 to 149.215 [or sections 196.1000 to 196.1003, RSMo,] shall be [deemed contraband pursuant to section 149.055 and are] subject to seizure and forfeiture [as provided therein. Any cigarettes shall be deemed contraband whether the violation of sections 149.200 to 149.215 is knowing or otherwise] **in the same manner provided for the seizure and forfeiture of unstamped cigarettes under section 149.055.**

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.

196.1001. Sections 196.1000 to 196.1003 shall be enforced by the attorney general, provided that, at the request of the attorney general, the state highway patrol and all local police authorities shall enforce the provisions of sections 196.1000 to 196.1003.

196.1002. 1. Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this state in violation of sections 196.1000 to 196.1003 shall be deemed contraband and are subject to seizure and forfeiture by the attorney general.

2. All contraband cigarettes found in the possession, custody, or control of any person in violation of sections 196.1000 to 196.1003, and any motor vehicle, truck or other conveyance whatsoever used in the transportation of such cigarettes, and all paraphernalia, equipment, or other tangible personal property incident to the use of such purposes, found in the place, building, or vehicle where the cigarettes are found, may be seized by the attorney general or his duly authorized agents, or any peace officer within the state, at the request of the attorney general, and the same shall be, from the time of the seizure, forfeited to the state of Missouri, and a proper proceeding filed in a court of competent jurisdiction in the county of seizure, to maintain the seizure and prosecute the forfeiture as provided in this section. For purposes of this section, the department of revenue and any employees or agents thereof shall not be a duly authorized agent of the attorney general.

3. Any contraband cigarettes and property so seized, shall first be listed and appraised by the officer making the seizure and turned over to the county sheriff of the county in which the seizure is made and a receipt therefore taken; and the person making the seizure shall immediately make and file a written report thereof, showing the name of the person making the seizure, the place from which the contraband cigarettes and property were seized, the person from whom the contraband cigarettes and property were seized, and an inventory thereof, to the attorney general.

4. The prosecuting attorney of the county in which the seizures are made may, at the request of the attorney general, file in the circuit court forfeiture proceedings on behalf of the state of Missouri against the owner or person found in possession of such contraband cigarettes and property, if known, and if unknown in the name of the property seized. The clerk of the court shall issue summons to the owner or person in whose possession such property was found, directing him to answer within ten days. If the property is declared forfeited and a destruction order issued by a court of competent jurisdiction, the contraband cigarettes shall be disposed of by the attorney general.

5. The forfeiture provisions of this chapter shall only apply to persons having possession of or transporting contraband cigarettes with intent to barter, sell or give away

34 the same. The possession of contraband cigarettes in any quantity of five or more cartons
35 of ten packages each shall be prima facie evidence of intent to barter, sell or give away the
36 contraband cigarettes in violation of the provisions of this chapter.

37 **6. The duly authorized agents of the attorney general and any other officer**
38 **authorized to make seizures of contraband cigarettes under the provisions of this chapter**
39 **are hereby authorized and empowered to call upon the prosecuting attorneys of the**
40 **respective counties and the circuit attorney of the city of St. Louis and the attorney general**
41 **of the state of Missouri to represent them in any proceeding hereunder. Such**
42 **representation shall not be denied if the agent or officer acted within the scope of authority**
43 **granted in sections 196.1000 to 196.1003.**

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