

FIRST REGULAR SESSION

HOUSE BILL NO. 885

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEVENSON.

1927L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 407.934, RSMo, and to enact in lieu thereof one new section relating to tobacco retailer licensing, with a penalty provision.

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

Section A. Section 407.934, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.934, to read as follows:

407.934. 1. No person shall sell cigarettes or tobacco products unless the person has a retail sales tax license. **No retailer shall sell cigarettes or tobacco products unless the person has a tobacco sales license as defined in subsection 5 of this section.**

2. [Beginning January 1, 2002, the department of revenue shall permit persons to designate through the Internet or by including a place on all sales tax license applications for the applicant to designate himself or herself as a seller of tobacco products and to provide a list of all locations where the applicant sells such products.

3. On or before July first of each year, the department of revenue shall make available to the division of liquor control and the department of mental health a complete list of every establishment which sells cigarettes and other tobacco products in this state.

4.] The division of [liquor] **alcohol and tobacco** control shall have the authority to inspect stores and tobacco outlets for compliance with all laws related to access of tobacco products to minors. The division may employ a person seventeen years of age, with parental consent, to attempt to purchase tobacco for the purpose of inspection or enforcement of tobacco laws.

[5.] 3. The supervisor of the division of [liquor] **alcohol and tobacco** control shall not use minors to enforce the provisions of this chapter unless the supervisor promulgates rules that

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.

18 establish standards for the use of minors. The supervisor shall establish mandatory guidelines
19 for the use of minors in investigations by a state, county, municipal or other local law
20 enforcement authority which shall be followed by such authority and which shall, at a minimum,
21 provide for the following:

22 (1) The minor shall be seventeen years of age;

23 (2) The minor shall have a youthful appearance, and the minor, if a male, shall not have
24 facial hair or a receding hairline and if a female, shall not wear excessive makeup or excessive
25 jewelry;

26 (3) The state, county, municipal or other local law enforcement agency shall obtain the
27 consent of the minor's parent or legal guardian before the use of such minor on a form approved
28 by the supervisor;

29 (4) The state, county, municipal or other local law enforcement agency shall make a
30 photocopy of the minor's valid identification showing the minor's correct date of birth;

31 (5) Any attempt by such minor to purchase tobacco products shall be videotaped or
32 audiotaped with equipment sufficient to record all statements made by the minor and the seller
33 of the tobacco product;

34 (6) The minor shall carry his or her own identification showing the minor's correct date
35 of birth and shall, upon request, produce such identification to the seller of the tobacco product;

36 (7) The minor shall answer truthfully any questions about his or her age and shall not
37 remain silent when asked questions regarding his or her age;

38 (8) The minor shall not lie to the seller of the tobacco product to induce a sale of tobacco
39 products;

40 (9) The minor shall not be employed by the state, county, municipal or other local law
41 enforcement agency on an incentive or quota basis;

42 (10) The state, county, municipal or other local law enforcement agency shall, within
43 forty-eight hours, contact or take all reasonable steps to contact the owner or manager of the
44 establishment if a violation occurs;

45 (11) The state, county, municipal or other local law enforcement agency shall maintain
46 records of each visit to an establishment where a minor is used by the state, county, municipal
47 or other local law enforcement agency for a period of at least one year following the incident,
48 regardless of whether a violation occurs at each visit, and such records shall, at a minimum,
49 include the following information:

50 (a) The signed consent form of the minor's parent or legal guardian;

51 (b) A Polaroid photograph of the minor;

52 (c) A photocopy of the minor's valid identification, showing the minor's correct date of
53 birth;

54 (d) An information sheet completed by the minor on a form approved by the supervisor;
55 and

56 (e) The name of each establishment visited by the minor, and the date and time of each
57 visit.

58 [6.] **4.** If the state, county, municipal or other local law enforcement authority uses
59 minors in investigations or in enforcing or determining violations of this chapter or any local
60 ordinance and does not comply with the mandatory guidelines established by the supervisor of
61 [liquor] **alcohol and tobacco** control in subsection [5] **3** of this section, the supervisor of [liquor]
62 **alcohol and tobacco** control shall not take any disciplinary action against the establishment or
63 seller pursuant to this chapter based on an alleged violation discovered when using a minor and
64 shall not cooperate in any way with the state, county, municipal or other local law enforcement
65 authority in prosecuting any alleged violation discovered when using a minor.

66 **5.** Every retailer of cigarettes or tobacco products, as defined in section 149.011,
67 RSMo, located in this state shall, as a condition of carrying on such business, secure a
68 written license from the supervisor of the division of alcohol and tobacco control and pay
69 an annual fee of fifty dollars. The license shall be kept on public display in the retailer's
70 place of business at all times.

71 **6.** On approval of the application and payment of the license fee required in
72 subsection 5 of this section, the supervisor of alcohol and tobacco control shall grant the
73 applicant a license to conduct business in the state for a term to expire on the thirtieth day
74 of June next succeeding the date of such license. A separate license shall be required for
75 each place of business.

76 **7.** Every license issued under this section shall particularly describe the premises
77 at which cigarettes or tobacco products may be sold thereunder and such license shall not
78 be deemed to authorize or permit the sale of cigarettes or tobacco products at any premises
79 other than the premises described therein.

80 **8.** Applications for renewal of licenses shall be filed on or before the first day of
81 May of each calendar year.

82 **9.** Before any license is issued or renewed under this section, the supervisor of
83 alcohol and tobacco control shall require a statement from the director of revenue that the
84 applicant has paid all sales and use taxes due, including all penalties and interest, or does
85 not owe any sales or use tax.

86 **10.** Any person, firm, partnership, limited liability company or corporation who
87 sells or offers for sale in this state any cigarette or tobacco products without first having
88 obtained a license as required in this section from the supervisor of alcohol and tobacco
89 control authorizing the person or entity to sell such cigarettes or tobacco products is guilty

90 of a misdemeanor and upon a plea of guilty or finding of guilt is subject to a fine of not less
91 than one hundred dollars or more than one thousand dollars, or by imprisonment for not
92 more than one year, or by both such fine and imprisonment.

93 **11. The supervisor of alcohol and tobacco control may take action against the**
94 **license holder for unlawful sale or distribution of cigarettes or tobacco products in**
95 **violation of sections 407.920 to 407.934.**

96 **12. (1) There is hereby created in the state treasury a special trust fund to be**
97 **known as the "Alcohol and Tobacco Enforcement Trust Fund", which shall consist of**
98 **moneys collected under this section. The state treasurer shall be custodian of the fund. In**
99 **accordance with sections 30.170 and 30.180, RSMo, the state treasurer may approve**
100 **disbursements. Upon appropriation, money in the fund shall be used solely to support the**
101 **division of alcohol and tobacco control for enforcement of liquor control and tobacco**
102 **enforcement laws under chapters 311 and 312, RSMo, and sections 407.920 to 407.934.**

103 **(2) Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any**
104 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**
105 **the general revenue fund.**

106 **(3) The state treasurer shall invest moneys in the fund in the same manner as other**
107 **funds are invested. Any interest and moneys earned on such investments shall be credited**
108 **to the fund.**

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