
SENATE COMMITTEE AMENDMENTS

Amendments proposed by Senate Committee on Judiciary B to Reengrossed House Bill No. 641 by Representative Thompson

1 AMENDMENT NO. 1

2 On page 1, line 2, after "5073(A)" insert "(1) and"

3 AMENDMENT NO. 2

4 On page 1, delete line 3, and insert:

5 "5076(A), (B), and (C), and 5077, R.S. 26:901(7), 904(A), 916(H), 918(B), and 921 and
6 R.S."7 AMENDMENT NO. 3

8 On page 1, at the beginning of line 4, after "47:" insert "842(11),"

9 AMENDMENT NO. 4

10 On page 1, line 4, after "847" delete "(A) and (B)"

11 AMENDMENT NO. 5

12 On page 1, line 5, delete "(c) and (i)" and insert "(c)(introductory paragraph) and (i)"

13 AMENDMENT NO. 6

14 On page 1, line 6, after "(f)," insert "and (7), and"

15 AMENDMENT NO. 7

16 On page 1, line 8, delete "847(C),"

17 AMENDMENT NO. 8

18 On page 2, line 2, after "5073(A)" insert "(1) and"

19 AMENDMENT NO. 9

20 On page 2, at the beginning of line 3, change "and (B)" to ", (B), and (C)"

21 AMENDMENT NO. 10

22 On page 2, line 4, after "(f)," insert "and (7), and"

23 AMENDMENT NO. 1124 On page 4, line 3, after ""importer"" insert "as established by documentation received directly
25 from that manufacturer or importer to the satisfaction of the attorney general"26 AMENDMENT NO. 12

27 On page 4, delete line 21 and insert:

28 "A.(1) Every tobacco product manufacturer whose cigarettes are sold in this
29 state, whether directly or through a distributor, retailer, or similar intermediary or

1 intermediaries, shall execute and deliver on a form prescribed by the attorney general
2 a certification to the secretary and attorney general, no later than the thirtieth day of
3 April each year, certifying under penalty of perjury that, as of the date of such
4 certification, such tobacco product manufacturer either: is a participating
5 manufacturer; or is in full compliance with R.S. 13:5061 et seq., including all
6 installment payments required by R.S. 13:5075~~(E)~~ (J). For the initial certification
7 submitted no later than the thirtieth of April each year, a manufacturer shall pay to
8 the attorney general a fee of five hundred dollars. The fees generated pursuant to this
9 Section shall be deposited in the Tobacco Settlement Enforcement Fund and used
10 solely and exclusively for purposes of enforcement of the Master Settlement
11 Agreement, pursuant to R.S. 39:98.7."

12 AMENDMENT NO. 13

13 On page 4, at the end of line 25, change "F" to "I"

14 AMENDMENT NO. 14

15 On page 5, between lines 24 and 25, insert the following:

16 "(7) Every tobacco product manufacturer shall include in its annual
17 certification a list of the names and addresses of all sales entity affiliates that may
18 transact business in the state on its behalf and shall provide supporting
19 documentation to establish to the satisfaction of the attorney general its status as a
20 sales entity affiliate pursuant to R.S. 13:5072(17)."

21 AMENDMENT NO. 15

22 On page 6, delete lines 12 through 14 and insert:

23 " * * *

24 AMENDMENT NO. 16

25 On page 7, line 14, after "possess" insert "for sale, in this state,"

26 AMENDMENT NO. 17

27 On page 7, line 15, after "received" delete the remainder of the line and insert ", imported,
28 or stamped"

29 AMENDMENT NO. 18

30 On page 7, delete line 16

31 AMENDMENT NO. 19

32 On page 10, between lines 19 and 20, insert:

33 "L.(1)Each manufacturer that sells cigarettes in the state and each importer
34 that imports cigarettes into the state shall:

35 (a) Submit its federal returns to the attorney general by sixty days after the
36 close of the quarter in which the returns were filed; or

37 (b) Submit to the United States Treasury a request or consent under Internal
38 Revenue Code Section 6103(c) authorizing the Alcohol and Tobacco Tax and Trade
39 Bureau and, in the case of a foreign manufacturer or importer, the U.S. Customs
40 Service to disclose the manufacturer's or importer's federal returns to the attorney
41 general as of sixty days after the close of the quarter in which the returns were filed.

42 (2) For purposes of this Subsection, "federal returns" mean all federal excise
43 tax returns and all monthly operational reports on Alcohol and Tobacco Tax and

1 Trade Bureau Form 5210.5, and all adjustments, changes, and amendments to the
2 foregoing."

3 AMENDMENT NO. 20

4 On page 11, between lines 8 and 9, insert:

5 "C. The attorney general, on behalf of the secretary, may seek an injunction
6 to restrain a threatened or actual violation of R.S. 13:5073(C) or 5075(A) or ~~(D)~~ (I)
7 by a stamping agent and to compel the stamping agent to comply with such
8 provisions. In any action brought pursuant to this Section, the state shall be entitled
9 to recover the costs of the investigation, action, and reasonable attorney fees."

10 AMENDMENT NO. 21

11 On page 14, line 25, after "26:" insert "901(7),"

12 AMENDMENT NO. 22

13 On page 14, after line 29, insert:

14 "(7) "Place of business" means the place where the tobacco orders are
15 received, or where the taxable tobacco articles are sold, or if sold by a retail dealer
16 upon a railroad train or on or from any other vehicle, the vehicle on which or from
17 which the taxable articles are sold by the retail dealer. It also includes the
18 establishment where vending machines are located.
19 * * *

20 AMENDMENT NO. 23

21 On page 15, line 21, after "importer" insert "as established by documentation received
22 directly from that manufacturer or importer to the satisfaction of the attorney general"

23 AMENDMENT NO. 24

24 On page 18, line 19, after "or" delete the remainder of the line and insert "sells, offers or
25 possesses for sale in this state, or imports for personal consumption in this state, cigarettes
26 received, imported, or stamped after"

27 AMENDMENT NO. 25

28 On page 18, line 24, change "failure" to "violation" and after "Paragraphs" delete the
29 remainder of the line and insert "(1) or (3) of Subsection H of this"

30 AMENDMENT NO. 26

31 On page 18, at the beginning of line 25, after "Section" insert "that was not knowing or
32 intentional"

33 AMENDMENT NO. 27

34 On page 20, line 10, after "case of a" delete the remainder of the line and insert "knowing
35 or intentional first violation of R.S. 26:916(H)(1) through (5), the stamping agent shall"

36 AMENDMENT NO. 28

37 On page 20, delete line 11

1 AMENDMENT NO. 29

2 On page 20, line 13, after "case of a" delete the remainder of the line and insert "second or
3 subsequent violation of R.S. 26:916(H)(1) through (5)."

4 AMENDMENT NO. 30

5 On page 20, delete line 14

6 AMENDMENT NO. 31

7 On page 20, line 16, after "case of" insert "a violation of" and change "through (6)" to "or
8 (5)"

9 AMENDMENT NO. 32

10 On page 21, at the beginning of line 4, after "47:" insert "842(11),"

11 AMENDMENT NO. 33

12 On page 21, line 4, after "847" delete "(A) and (B)"

13 AMENDMENT NO. 34

14 On page 21, line 5, delete "(c) and (i)" and insert "introductory paragraph of (c) and (c)(i)"

15 AMENDMENT NO. 35

16 On page 21, line 6, delete "847(C),"

17 AMENDMENT NO. 36

18 On page 21, between lines 11 and 12, insert:

19 (11) "Place of business" as used in this Chapter means the place where the
20 orders are received, or where the taxable articles are sold, or if sold upon a railroad
21 train or on or from any other vehicle, the vehicle on which or from which the taxable
22 articles are sold by the retail dealer. It also includes the establishment where vending
23 machines are located.

24 * * *

25 AMENDMENT NO. 37

26 On page 21, line 26, after "importer" insert "as established by documentation received
27 directly from that manufacturer or importer to the satisfaction of the attorney general"

28 AMENDMENT NO. 38

29 On page 22, delete line 8

30 AMENDMENT NO. 39

31 On page 23, line 25, after "sale" insert "and prior to selling the cigarettes in or into the state"

32 AMENDMENT NO. 40

33 On page 24, between lines 6 and 7, insert:

34

1 "C. Notwithstanding the provisions of Subsection A of this Section, unless
2 prior written approval is obtained from the attorney general in accordance with
3 regulations promulgated by the secretary pursuant to the Administrative Procedure
4 Act, stamping agents may sell cigarettes in or into the state, may purchase cigarettes
5 for resale in or into the state, and may affix a stamp required by this Chapter only if
6 the stamping agent purchased the cigarettes directly from the manufacturer or
7 importer of the cigarettes, who holds a valid permit issued pursuant to 26 USC 5713,
8 or from a sales entity affiliate whose name and address has been provided to the
9 attorney general pursuant to R.S. 13:5073(A)(7)."

10 AMENDMENT NO. 41

11 On page 24, line 7, change "C.(1)" to "D.(1)"

12 AMENDMENT NO. 42

13 On page 24, line 12, after "manufacturer" and before "importer" delete the comma "," and
14 insert "or" and after "importer" delete ", or sales entity affiliate"

15 AMENDMENT NO. 43

16 On page 24, line 14, change "any" to "either"

17 AMENDMENT NO. 44

18 On page 24, at the end of line 16, after "directory" delete the period "." and insert "; or,"

19 AMENDMENT NO. 45

20 On page 24, line 18, change "any" to "all"

21 AMENDMENT NO. 46

22 On page 24, line 20, change "Item (ii) of this Subparagraph" to "R.S. 47:849"

23 AMENDMENT NO. 47

24 On page 24, after line 26, insert the following:

25 "(3) A manufacturer or importer may sell unstamped cigarettes as permitted
26 under Paragraph (2) of this Subsection through its sales entity affiliate whose status
27 as a sales entity affiliate has been provided by the manufacturer or importer to the
28 satisfaction of the attorney general in accordance with R.S. 13:5073(A)(7) and prior
29 to the sales entity affiliate selling any cigarettes in or into the state. If the
30 manufacturer or importer does so:

31 (a) it may sell or otherwise transfer the unstamped cigarettes to its sales entity
32 affiliate in connection with the sale;

33 (b) the sales entity affiliate may possess, transport, or cause to be transported
34 the unstamped cigarettes in connection with the sale to the same extent the
35 manufacturer or importer could under this Section if it were making the sale directly;
36 and,

37 (c) in the case of sales permitted under Paragraph (2) of this Subsection, the
38 stamping agent will be deemed to have purchased the cigarettes directly from the
39 manufacturer or importer."

40 AMENDMENT NO. 48

41 On page 26, line 20, after "R.S. 13:5075" insert ", in each case identifying by name and
42 number of cigarettes the manufacturer and brand families of those cigarettes"

1 AMENDMENT NO. 49

2 On page 28, line 29, change "47:843, R.S. 47:851" to "47:843 and 851"

3 AMENDMENT NO. 50

4 On page 29, line 11, after "cigarettes" insert a semi-colon ";

5 AMENDMENT NO. 51

6 On page 29, line 12, after each "cigarettes" change the commas "," to semi-colons ";" and
7 after "and" insert a comma ".

8 AMENDMENT NO. 52

9 On page 29, at the beginning of line 23, after "cigarettes" and before "and" insert a comma
10 ".

11 AMENDMENT NO. 53

12 On page 29, line 25, change "(iii) and" to "and, (iii)"

13 AMENDMENT NO. 54

14 On page 36, line 6, after "importer." delete the remainder of the line, delete lines 7 through
15 10 and at the beginning of line 11, delete "or manufacturer."

16 AMENDMENT NO. 55

17 On page 36, line 16, after the period "." insert the following:

18 "The attorney general, commissioner, or secretary may also disclose any information
19 obtained under this Paragraph pursuant to an order by a court of competent jurisdiction or
20 if agreed upon in writing by the registered wholesale or retail tobacco dealer, sales entity
21 affiliate, importer, or manufacturer."