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SENATE BILL NO. 511

Senate Amendments in [ ] — February 11, 2002

A BILL to amend the Code of Virginia by adding a section numbered 58.1-1016.1, relating to cigarette tax; prohibition against stamping certain cigarettes; emergency.

Patron prior to Engrossment—Senator Puckett

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-1016.1 as follows:

§ 58.1-1016.1. Prohibition against stamping, transferring, or selling certain cigarettes.

A. In addition to the certification required pursuant to subsection C of § 3.1-336.2, every tobacco product manufacturer, as defined in § 3.1-336.1, whose cigarettes are sold in the Commonwealth shall annually certify, under penalty of perjury, that as of the date of certification, such tobacco product manufacturer is (i) a participating manufacturer (as defined in section II (jj) of the Master Settlement Agreement); or (ii) in full compliance with § 3.1-336.2. Such certification shall be executed and delivered to the Tax Commissioner, the Attorney General, and any wholesale or retail dealer who affixes stamps to cigarettes of such tobacco product manufacturer, no earlier than the sixteenth of April and no later than the thirtieth of April each year, and shall be accompanied by a list of each of the cigarette brands of such tobacco product manufacturer sold in the Commonwealth. The wholesale or retail dealers shall retain such certifications for a period of five years.

B. Wholesale or retail dealers may not affix, or cause to be affixed, Virginia revenue stamps to the cigarettes [*if the brand of cigarette is not among the brands included in the certification required by this section, or*] *if either (i) the tobacco product manufacturer of such cigarettes has not provided such dealer with the certification required by this section; or (ii) the Tax Commissioner has notified such dealer that such tobacco product manufacturer is in violation of* [~~*§ 3.1-336.2*~~ *subdivision A.2. of § 3.1-336.2*] *, or has filed a false certification under this section, and such dealer has not been notified by the Tax Commissioner that such violation has ceased. Any wholesale or retail dealer who affixes stamps to cigarettes in good faith reliance on the receipt of the certification required under subsection A, which certification is subsequently found by the Tax Commissioner to be false, shall be deemed to have lawfully affixed the stamps and shall not be subject to any of the penalties provided in this section.*

C. The Tax Commissioner shall prescribe the form of the certification required to be filed pursuant to this section.

D. In addition to any other penalties that may be imposed by law, the Tax Commissioner may impose a civil penalty not to exceed $5,000 against any tobacco product manufacturer or wholesale or retail dealer who violates this section, including but not limited to the filing of a false certification, and may seek to revoke the permit that has been issued to such person pursuant to this chapter.

2. That an emergency exists and this act is in force from its passage.