

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 176

An Act to amend the Code of Virginia by adding a section numbered 3.1-336.8:1, relating to the Master Settlement Agreement; enforcement requirements for tobacco product manufacturers; national sales information.

[H 644]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 3.1-336.8:1 as follows:

§ 3.1-336.8:1. Additional information required.

A. When used in this section, the term "applicable returns" means the following returns or reports relating to cigarettes that are filed or required to be filed with the Alcohol and Tobacco Tax and Trade Bureau, United States Department of Treasury, after the effective date of this section; Alcohol and Tobacco Tax and Trade Bureau Form 5000.24, Alcohol and Tobacco Tax and Trade Bureau Form 5210.5 and Alcohol and Tobacco Tax and Trade Bureau Form 5220.6 as well as any successor returns or reports intended to replace Forms 5000.24, 5210.5, or 5220.6.

B. As a condition of selling cigarettes in the Commonwealth, every tobacco product manufacturer, as defined in § 3.1-336.1, whose cigarettes are to be sold in the Commonwealth whether directly or through a distributor, importer, retailer, or similar intermediary or intermediaries shall, at the election of such tobacco product manufacturer, either:

(1) submit to the Attorney General a true and correct copy of each and every applicable return of such tobacco product manufacturer; or

(2) submit to the United States Treasury a request or consent under Internal Revenue Code section 6103 (c) authorizing the Alcohol and Tobacco Tax and Trade Bureau to disclose the applicable returns of such manufacturer to the Attorney General.

A foreign tobacco product manufacturer whose cigarettes are imported into the United States by an importer or importers shall submit, or shall cause each of its importers to submit, to the Attorney General each and every applicable return that includes any information about cigarettes of that foreign tobacco product manufacturer imported into the United States.

The Attorney General shall not disclose any applicable returns or any information contained therein, except as provided in subsection C, notwithstanding any statute of this state that otherwise authorizes or requires the disclosure of information by the Attorney General.

C. The Attorney General's Office shall compile data on cigarette shipments from the applicable returns and shall share such data with other states that are signatories to the Master Settlement Agreement, as defined in § 3.1-336.1, provided that such states impose protections against disclosure of the applicable returns, or any information from applicable returns, that are equivalent to the protections provided under subsection B. No other disclosures of the applicable returns, or of information from the applicable returns, may be made by the Attorney General.

D. A tobacco product manufacturer who does not comply with the requirements of subsection B shall, after 30 days' notice by the Commonwealth to such tobacco product manufacturer of the compliance failure, lose its authority to sell cigarettes in the Commonwealth unless such tobacco product manufacturer has brought itself into compliance by the end of the 30-day period.

E. Any tobacco manufacturer or importer who intentionally provides any applicable return containing materially false information shall be guilty of a Class 6 felony. The provision of each applicable return containing one or more false statements shall constitute a separate offense.

F. The Attorney General may promulgate regulations to implement and carry out the provisions of this section.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.