

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 3.2-4207 of the Code of Virginia, relating to the Master Settlement*
3 *Agreement; regulation of cigarette manufacturers.*

[S 1059]

Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 3.2-4207 of the Code of Virginia is amended and reenacted as follows:**

8 § 3.2-4207. Prohibition against stamping or sale or import of cigarettes not in the Directory.

9 A. It shall be unlawful for any person (i) to affix a stamp to a package or other container of
10 cigarettes of a tobacco product manufacturer or brand family not included in the Directory, or (ii) to
11 sell, offer or possess for sale in the Commonwealth, ship or otherwise distribute into or within the
12 Commonwealth, or import for personal consumption into the Commonwealth, cigarettes of a tobacco
13 product manufacturer or brand family not included in the Directory. For purposes of this article a person
14 shall be deemed to have received notice that cigarettes of a tobacco product manufacturer or brand
15 family are not included in the Directory at the time the Attorney General's website fails to list any such
16 cigarettes in the Directory or at the time any such cigarettes are removed from the Directory. A person
17 purchasing cigarettes for resale shall not be in violation of this section (i) if at the time of such
18 purchase the manufacturer and brand families of the cigarettes are included in the Directory and the
19 cigarettes are otherwise lawfully stamped and sold within 44 45 days of the date such manufacturer and
20 brand families were removed from the Directory or (ii) if, in the case of a retailer, the cigarettes are
21 sold or delivered to consumers within 44 45 days after receipt of delivery of such cigarettes from a
22 wholesaler, which cigarettes otherwise have been lawfully purchased from the same wholesaler. A
23 tobacco product manufacturer that is otherwise in compliance with the requirements of this chapter may,
24 for reasons satisfactory to the Attorney General, request removal of itself, or cigarettes in a brand
25 family that it manufactures or has manufactured, from the Directory. A person purchasing cigarettes for
26 resale shall not be in violation of this section if (1) at the time of such purchase, the manufacturer and
27 brand families of the cigarettes are included in the Directory and the cigarettes are otherwise lawfully
28 stamped and sold within 60 days of the date such cigarettes were removed from the Directory or (2) in
29 the case of a retailer, the cigarettes are sold or delivered to consumers within 60 days after receipt of
30 delivery of such cigarettes from a wholesaler and the cigarettes have been lawfully purchased from the
31 same wholesaler. The updates to the Directory required by subsection B of § 3.2-4206 shall contain a
32 notation indicating such voluntary removal. For purposes of this subsection, "reasons satisfactory to the
33 Attorney General" shall include cessation of the business operations of the tobacco products
34 manufacturer and voluntary discontinuance of a product line or brand family.

35 B. Any manufacturer, wholesaler or retail dealer selling cigarettes for resale of a manufacturer or
36 brand family that has been removed from the Directory shall notify the purchaser of such cigarettes of
37 that fact at the time of delivery of such cigarettes. Unless otherwise provided by contract or purchase
38 agreement, a purchaser shall be entitled to receive a refund from the such manufacturer, wholesaler or
39 retail dealer from whom the cigarettes were purchased of the purchase price of any cigarettes that are
40 the product of a manufacturer or brand family removed from the Directory. Any failure of such
41 manufacturer, wholesaler or retail dealer to provide the purchaser with the refund required under this
42 subsection shall (i) create a cause of action by the Attorney General against such manufacturer,
43 wholesaler or retail dealer in favor of the purchaser and (ii) subject such manufacturer, wholesaler or
44 retail dealer to a civil penalty of \$500 for each violation, which shall be payable to the Literary Fund.

45 C. The Commissioner shall, by regulation or guidelines, provide for the refund of the purchase price
46 of tax stamps that have been lawfully affixed to cigarettes that may not be sold pursuant to the
47 provisions of this section.