

Enrolled
Senate Bill 213

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CHAPTER

AN ACT

Relating to the Attorney General's regulation of tobacco; amending ORS 180.440 and 180.455.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 180.440 is amended to read:

180.440. (1) A person may not:

(a) Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family that is not included in the directory developed under ORS 180.425;

(b) Sell, offer for sale or possess for sale [*in this state*] cigarettes of a tobacco product manufacturer or brand family that the person acquired at a time when the tobacco product manufacturer or brand family was not included in the directory developed under ORS 180.425; or

(c) Possess in this state for sale in another jurisdiction cigarettes of a tobacco product manufacturer or brand family that the person acquired at a time when the tobacco product manufacturer or brand family was not included in the directory developed under ORS 180.425 and was not in compliance with the Master Settlement Agreement qualifying statute in the other jurisdiction or with statutes that supplement the qualifying statute in that jurisdiction.

(2) A person who sells, offers for sale, distributes, acquires, holds, owns, possesses, transports, imports or causes to be imported cigarettes that the person knows or should know are intended for sale or distribution in violation of subsection (1) of this section commits a Class A misdemeanor.

SECTION 2. ORS 180.455 is amended to read:

180.455. (1) Upon a determination that a distributor has violated ORS 180.440, the Department of Revenue may revoke or suspend the license of the distributor in the manner provided by ORS 323.140. Each stamp affixed and each offer to sell cigarettes in violation of ORS 180.440 constitutes a separate violation.

(2) Upon a determination that a person applying for a license under ORS 323.105 has violated ORS 180.440 at any time within the five years preceding the application, the department may refuse to issue the license. The department shall provide opportunity for hearing and judicial review in the manner provided in ORS 323.140.

(3)(a) Upon a determination that a person has violated ORS 180.440 (1)(b) or (c), the department may impose a civil penalty in an amount not to exceed the greater of \$5,000 or 500 percent of the retail value of the cigarettes sold, offered for sale or possessed for sale. Judicial review of an order imposing a civil penalty shall be as provided in ORS 305.445 and 305.501.

(b) Upon a determination that a person has violated ORS 180.440 (1)(a), the department may impose a civil penalty in an amount not to exceed \$5,000. Judicial review of an order imposing a civil penalty shall be as provided in ORS 305.445 and 305.501.

(4) The Attorney General may seek an injunction to restrain a threatened or actual violation of ORS 180.435 or 180.440 by a [*distributor*] **person** and to compel the [*distributor*] **person** to comply with those sections. In any action brought pursuant to this subsection, the state may recover the costs of investigation, the costs of the action [*and*], reasonable attorney fees[.] **and a civil penalty for each violation not to exceed \$5,000. The civil penalty must be imposed in the manner provided by ORS 183.745.**

(5) A person who violates ORS 180.440 (1) engages in an unlawful practice in violation of ORS 646.608.

Passed by Senate March 12, 2009

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Secretary of Senate

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President of Senate

Passed by House April 9, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State