

Senate Bill 213

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Attorney General Hardy Myers for Department of Justice)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Expands scope of prohibition on cigarette sales of tobacco product manufacturers not listed on Attorney General directory to include sales occurring out-of-state or over Internet. Authorizes imposition of civil penalty for violation of prohibition.

A BILL FOR AN ACT

1
2 Relating to the Attorney General's regulation of tobacco; amending ORS 180.440 and 180.455.

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

4 **SECTION 1.** ORS 180.440 is amended to read:

5 180.440. (1) A person may not:

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

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

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

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

19 **SECTION 2.** ORS 180.455 is amended to read:

20 180.455. (1) Upon a determination that a distributor has violated ORS 180.440, the Department
21 of Revenue may revoke or suspend the license of the distributor in the manner provided by ORS
22 323.140. Each stamp affixed and each offer to sell cigarettes in violation of ORS 180.440 constitutes
23 a separate violation.

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 imposing a civil penalty shall be as provided in ORS 305.445 and 305.501.

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

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

11 (5) A person who violates ORS 180.440 (1) engages in an unlawful practice in violation of ORS
12 646.608.

13
