

# 54:40A-4.2

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2004 **CHAPTER:** 96

**NJSA:** 54:40A-4.2 (Prohibits sale or distribution of cigarettes in packs of less than 20)

**BILL NO:** A1770 (Substituted for S857)

**SPONSOR(S)** Sires and Burzichelli

**DATE INTRODUCED** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Consumer Affairs

**SENATE:** Health, Human Services and Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** February 5, 2004

**SENATE:** May 20, 2004

**DATE OF APPROVAL:** July 9, 2004

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) 1<sup>st</sup> reprint enacted

**A1770**

[SPONSOR'S STATEMENT:](#) (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** [ASSEMBLY:](#) [Yes](#)

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**S857**

[SPONSOR'S STATEMENT:](#) (Begins on 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

P.L. 2004, CHAPTER 96, *approved July 9, 2004*  
Assembly, No. 1770 (*First Reprint*)

1 **AN ACT** concerning the sale or distribution of cigarettes, and  
2 amending and supplementing P.L.1948, c.65.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) a. A person shall not sell, offer for sale, give  
8 away or deliver single cigarettes, as defined in section 102 of  
9 P.L.1948, c.65 (C.54:40A-2) or cigarettes in packs of less than 20  
10 cigarettes from a vending machine or in a retail establishment.

11 b. A person who owns a vending machine that dispenses, sells,  
12 offers for sale, gives away or delivers single cigarettes or cigarettes in  
13 packs of less than 20 cigarettes shall be fined not less than \$100 or  
14 more than \$500 for each day that the vending machine is determined  
15 to be in violation of subsection a. of this section.

16 c. A person, either acting directly or indirectly through an agent,  
17 who, at retail, sells or offers for sale, gives away, delivers or otherwise  
18 furnishes to a person a single cigarette or cigarettes in packs of less  
19 than 20 cigarettes shall be fined \$250 for a first offense and \$500 for  
20 a second or subsequent offense.

21

22 2. (New section) A penalty imposed under this act shall be  
23 collected pursuant to the "Penalty Enforcement Law of 1999,"  
24 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before  
25 the municipal court having jurisdiction. An official authorized by  
26 statute or ordinance to enforce the State or local health codes or a law  
27 enforcement officer having enforcement authority in that municipality  
28 may issue a summons for a violation of the provisions of this act, and  
29 may serve and execute all process with respect to the enforcement of  
30 this section consistent with the Rules of Court. A penalty recovered  
31 under the provisions of this subsection shall be recovered by and in the  
32 name of the State by the local health agency. The penalty shall be paid  
33 into the treasury of the municipality in which the violation occurred for  
34 the general uses of the municipality.

35

36 3. Section 102 of P.L.1948, c.65 (C.54:40A-2) is amended to read  
37 as follows:

38 102. For the purposes of this act and unless otherwise required by

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup> Assembly ACO committee amendments adopted January 22, 2004.**

1 the context:

2 a. "Cigarette" means any roll for smoking made wholly or in part  
3 of tobacco, or any other substance or substances other than tobacco,  
4 irrespective of size, shape or flavoring, the wrapper or cover of which  
5 is made of paper or any other substance or material, excepting  
6 tobacco. A "single cigarette" is a cigarette sold or offered for sale  
7 individually.

8 b. "Director" means the Director of the Division of Taxation, in the  
9 Department of the Treasury.

10 c. "Distributor" means and includes any person, wherever resident  
11 or located, who brings or causes to be brought into this State  
12 unstamped cigarettes purchased directly from the manufacturers  
13 thereof and stores, sells or otherwise disposes of the same after they  
14 shall reach this State.

15 d. "Wholesale dealer" shall include any person, wherever resident  
16 or located, other than a distributor, as defined herein, who:

17 (1) Purchases cigarettes from any other person who purchases  
18 from the manufacturer and who acquires such cigarettes solely for the  
19 purpose of bona fide resale to retail dealers or to other persons for the  
20 purposes of resale only; or

21 (2) Services retail outlets by the maintenance of an established  
22 place of business for the purchase of cigarettes, including, but not  
23 limited to, the maintenance of warehousing facilities for the storage  
24 and distribution of cigarettes.

25 e. "Retail dealer" means any person who is engaged in this State in  
26 the business of selling cigarettes at retail. Any person placing a  
27 cigarette vending machine at, on or in any premises shall be deemed to  
28 be a retail dealer for each such vending machine.

29 f. "Consumer" means any person except a distributor or a  
30 manufacturer who acquires for consumption, storage or use in this  
31 State cigarettes to which New Jersey revenue stamps have not been  
32 attached.

33 g. "Place of business" means and includes any place where  
34 cigarettes are sold or where cigarettes are brought or kept for the  
35 purpose of sale or consumption, including so far as applicable any  
36 vessel, vehicle, airplane, train or cigarette vending machine.

37 h. "Licensed distributor" means any distributor, as defined in this  
38 act, licensed under the provisions of this act.

39 i. "Licensed wholesale dealer" means any wholesale dealer, as  
40 defined in this act, licensed under the provisions of this act.

41 j. "Licensed retail dealer" means any retail dealer, as defined in this  
42 act, licensed under the provisions of this act.

43 k. "Licensed consumer" means any consumer, as defined in this act,  
44 licensed under the provisions of this act.

45 l. "Person" means any individual, firm, corporation, copartnership,  
46 joint venture, association, receiver, trustee, guardian, executor,

1 administrator, or any other person acting in a fiduciary capacity, or any  
2 estate, trust or group or combination acting as a unit, the State  
3 Government and any political subdivision thereof, and the plural as  
4 well as the singular, unless the intention to give a more limited  
5 meaning is disclosed by the context.

6 m. "Rules and regulations" means those made and promulgated by  
7 the director in the administration of this act.

8 n. "Sale" means any sale, transfer, exchange, theft, barter, gift, or  
9 offer for sale and distribution, in any manner or by any means  
10 whatsoever.

11 o. "Stamp" means any impression, device, stamp, label or print  
12 manufactured, printed or made as prescribed by the director.

13 p. "Taxpayer" means any person subject to a tax imposed by this  
14 act, or any person required to be licensed under this act.

15 q. "Treasurer" means the State Treasurer.

16 r. "Use" means the exercise of any right or power incidental to the  
17 ownership of cigarettes.

18 s. "Manufacturer" means and includes any person, wherever  
19 resident or located, who manufactures or produces, or causes to be  
20 manufactured or produced, cigarettes and sells, uses, stores or  
21 distributes the same regardless of whether they are intended for sale,  
22 use or distribution within or without this State.

23 t. "Manufacturer's representative" means and includes any person,  
24 employed by a manufacturer, who, for promotional purposes, sells,  
25 stores, handles or distributes cigarettes, within this State, limited  
26 exclusively to cigarettes manufactured by the employing manufacturer.

27 u. "Licensed manufacturer" means any manufacturer, as defined in  
28 this act, licensed under the provisions of this act.

29 v. "Licensed manufacturer's representative" means any  
30 manufacturer's representative, as defined in this act, licensed under the  
31 provisions of this act.

32 (cf: P.L.1985, c.515, s.15)

33

34 4. This act shall take effect on the <sup>1</sup>[60th day after] first day of the  
35 third month following<sup>1</sup> enactment.

36

37

38

39

40 Prohibits sale or distribution of cigarettes in packs of less than 20.

**ASSEMBLY, No. 1770**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Assemblyman ALBIO SIRES**

**District 33 (Hudson)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Salem, Cumberland and Gloucester)**

**Co-Sponsored by:**

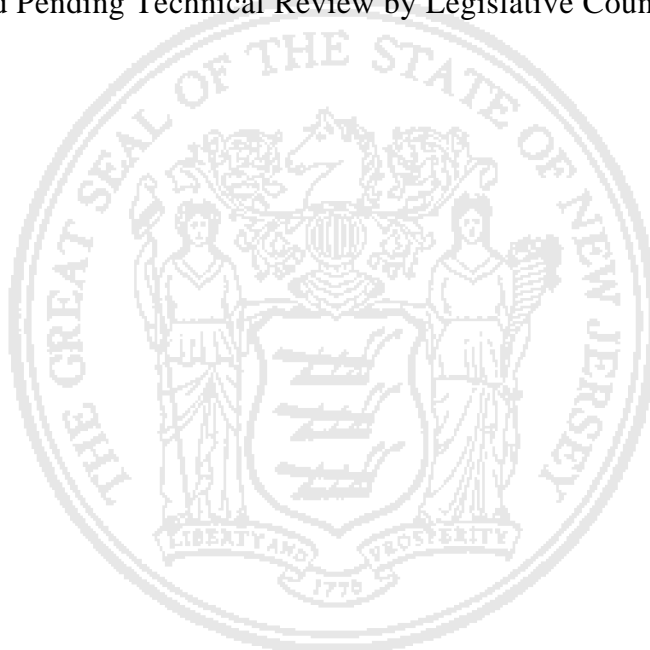
**Assemblymen Fisher, R.Smith and Van Drew**

**SYNOPSIS**

Prohibits sale or distribution of cigarettes in packs of less than 20.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



A1770 SIRES, BURZICHELLI

2

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9 P.L.1948, c.65 (C.54:40A-2) or cigarettes in packs of less than 20  
10 cigarettes from a vending machine or in a retail establishment.

11 b. A person who owns a vending machine that dispenses, sells,  
12 offers for sale, gives away or delivers single cigarettes or cigarettes in  
13 packs of less than 20 cigarettes shall be fined not less than \$100 or  
14 more than \$500 for each day that the vending machine is determined  
15 to be in violation of subsection a. of this section.

16 c. A person, either acting directly or indirectly through an agent,  
17 who, at retail, sells or offers for sale, gives away, delivers or otherwise  
18 furnishes to a person a single cigarette or cigarettes in packs of less  
19 than 20 cigarettes shall be fined \$250 for a first offense and \$500 for  
20 a second or subsequent offense.

21

22 2. (New section) A penalty imposed under this act shall be  
23 collected pursuant to the "Penalty Enforcement Law of 1999,"  
24 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before  
25 the municipal court having jurisdiction. An official authorized by  
26 statute or ordinance to enforce the State or local health codes or a law  
27 enforcement officer having enforcement authority in that municipality  
28 may issue a summons for a violation of the provisions of this act, and  
29 may serve and execute all process with respect to the enforcement of  
30 this section consistent with the Rules of Court. A penalty recovered  
31 under the provisions of this subsection shall be recovered by and in the  
32 name of the State by the local health agency. The penalty shall be paid  
33 into the treasury of the municipality in which the violation occurred for  
34 the general uses of the municipality.

35

36 3. Section 102 of P.L.1948, c.65 (C.54:40A-2) is amended to read  
37 as follows:

38 102. For the purposes of this act and unless otherwise required by  
39 the context:

40 a. "Cigarette" means any roll for smoking made wholly or in part  
41 of tobacco, or any other substance or substances other than tobacco,  
42 irrespective of size, shape or flavoring, the wrapper or cover of which  
43 is made of paper or any other substance or material, excepting

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

- 1 tobacco. A "single cigarette" is a cigarette sold or offered for sale  
2 individually.
- 3 b. "Director" means the Director of the Division of Taxation, in the  
4 Department of the Treasury.
- 5 c. "Distributor" means and includes any person, wherever resident  
6 or located, who brings or causes to be brought into this State  
7 unstamped cigarettes purchased directly from the manufacturers  
8 thereof and stores, sells or otherwise disposes of the same after they  
9 shall reach this State.
- 10 d. "Wholesale dealer" shall include any person, wherever resident  
11 or located, other than a distributor, as defined herein, who:
- 12 (1) Purchases cigarettes from any other person who purchases  
13 from the manufacturer and who acquires such cigarettes solely for the  
14 purpose of bona fide resale to retail dealers or to other persons for the  
15 purposes of resale only; or
- 16 (2) Services retail outlets by the maintenance of an established  
17 place of business for the purchase of cigarettes, including, but not  
18 limited to, the maintenance of warehousing facilities for the storage  
19 and distribution of cigarettes.
- 20 e. "Retail dealer" means any person who is engaged in this State in  
21 the business of selling cigarettes at retail. Any person placing a  
22 cigarette vending machine at, on or in any premises shall be deemed to  
23 be a retail dealer for each such vending machine.
- 24 f. "Consumer" means any person except a distributor or a  
25 manufacturer who acquires for consumption, storage or use in this  
26 State cigarettes to which New Jersey revenue stamps have not been  
27 attached.
- 28 g. "Place of business" means and includes any place where  
29 cigarettes are sold or where cigarettes are brought or kept for the  
30 purpose of sale or consumption, including so far as applicable any  
31 vessel, vehicle, airplane, train or cigarette vending machine.
- 32 h. "Licensed distributor" means any distributor, as defined in this  
33 act, licensed under the provisions of this act.
- 34 i. "Licensed wholesale dealer" means any wholesale dealer, as  
35 defined in this act, licensed under the provisions of this act.
- 36 j. "Licensed retail dealer" means any retail dealer, as defined in this  
37 act, licensed under the provisions of this act.
- 38 k. "Licensed consumer" means any consumer, as defined in this act,  
39 licensed under the provisions of this act.
- 40 l. "Person" means any individual, firm, corporation, copartnership,  
41 joint venture, association, receiver, trustee, guardian, executor,  
42 administrator, or any other person acting in a fiduciary capacity, or any  
43 estate, trust or group or combination acting as a unit, the State  
44 Government and any political subdivision thereof, and the plural as  
45 well as the singular, unless the intention to give a more limited  
46 meaning is disclosed by the context.



1 m. "Rules and regulations" means those made and promulgated by  
2 the director in the administration of this act.

3 n. "Sale" means any sale, transfer, exchange, theft, barter, gift, or  
4 offer for sale and distribution, in any manner or by any means  
5 whatsoever.

6 o. "Stamp" means any impression, device, stamp, label or print  
7 manufactured, printed or made as prescribed by the director.

8 p. "Taxpayer" means any person subject to a tax imposed by this  
9 act, or any person required to be licensed under this act.

10 q. "Treasurer" means the State Treasurer.

11 r. "Use" means the exercise of any right or power incidental to the  
12 ownership of cigarettes.

13 s. "Manufacturer" means and includes any person, wherever  
14 resident or located, who manufactures or produces, or causes to be  
15 manufactured or produced, cigarettes and sells, uses, stores or  
16 distributes the same regardless of whether they are intended for sale,  
17 use or distribution within or without this State.

18 t. "Manufacturer's representative" means and includes any person,  
19 employed by a manufacturer, who, for promotional purposes, sells,  
20 stores, handles or distributes cigarettes, within this State, limited  
21 exclusively to cigarettes manufactured by the employing manufacturer.

22 u. "Licensed manufacturer" means any manufacturer, as defined in  
23 this act, licensed under the provisions of this act.

24 v. "Licensed manufacturer's representative" means any  
25 manufacturer's representative, as defined in this act, licensed under the  
26 provisions of this act.

27 (cf: P.L.1985, c.515, s.15)

28

29 4. This act shall take effect on the 60th day after enactment.

30

31

32

#### STATEMENT

33

34 This bill amends and supplements the "Cigarette Tax Act,"  
35 P.L.1948, c.65 (C.54:40A-1 et seq.) to prohibit the sale of cigarettes  
36 in quantities of less than 20.

37 Under the provisions of the bill, a violator is subject to the  
38 following civil penalties:

- 39 1. for dispensing single cigarettes or cigarettes in packs of  
40 less than 20 from a vending machine, a fine against the  
41 machine's owner ranging from \$100 to \$500 for each day  
42 that it operates in violation of this prohibition; and
- 43 2. for over-the-counter sales, a fine of \$250 for a first offense  
44 and \$500 for a second or subsequent offense.

45 The penalties are to be collected pursuant to the "Penalty  
46 Enforcement Law of 1999." A penalty recovered under the bill would

1 be recovered by and in the name of the State by the local health  
2 agency, and paid into the treasury of the municipality in which the  
3 violation occurred for the general uses of the municipality.

4 The national Tobacco Master Settlement Agreement of 1998  
5 included a provision that prohibited the manufacture, distribution and  
6 sale of cigarettes in packages of less than 20 by the participating  
7 tobacco companies. This provision of the agreement, however,  
8 expired after December 31, 2001 in any state in which legislation was  
9 not enacted to prohibit these practices. The agreement prohibits the  
10 tobacco companies from opposing such legislation; and, to date, at  
11 least 19 states have statutorily prohibited the sale or distribution of  
12 single cigarettes or cigarettes in packages of less than 20.

13 The purpose of this bill is to codify that prohibition into State law  
14 in order to prevent any effort by cigarette manufacturers or retailers  
15 to make cigarettes more accessible to New Jersey youths by selling  
16 them in smaller, more affordable quantities.

# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 1770**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 22, 2004

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No.1770.

Assembly Bill No.1770 amends and supplements the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) to prohibit the sale of cigarettes in quantities of less than 20.

Under the provisions of the bill, a violator is subject to the following civil penalties:

- \* for dispensing single cigarettes or cigarettes in packs of less than 20 from a vending machine, a fine against the machine's owner ranging from \$100 to \$500 for each day that it operates in violation of this prohibition; and
- \* for retail sales, a fine of \$250 for a first offense and \$500 for a second or subsequent offense.

The penalties are to be collected pursuant to the "Penalty Enforcement Law of 1999." A penalty recovered under the bill would be recovered by and in the name of the State by the local health agency, and paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

The national Tobacco Master Settlement Agreement of 1998 included a provision that prohibited the manufacture, distribution and sale of cigarettes in packages of less than 20 by the participating tobacco companies. This provision of the agreement, however, expired after December 31, 2001 in any state in which legislation was not enacted to continue the prohibition of this practice. To date, at least 19 states have statutorily prohibited the sale or distribution of single cigarettes or cigarettes in packages of less than 20. The national agreement prohibits the tobacco companies from opposing such legislation.

The purpose of this bill is to codify that prohibition against the sale or distribution of single cigarettes or cigarettes in packages of less than 20 into State law in order to prevent any effort by cigarette manufacturers or retailers to make cigarettes more accessible to New Jersey youths by selling them in smaller, more affordable quantities.

This bill was pre-filed for introduction in the 2004 legislative

session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

COMMITTEE AMENDMENTS

The committee amendment is technical in nature. For administrative efficiency, the effective date was changed from the "60th day after enactment" to the "first day of the third month following enactment."

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 1770**

**STATE OF NEW JERSEY**

DATED: MAY 6, 2004

The Senate Health, Human Services and Senior Citizens Committee reports favorably Assembly Bill No. 1770 (1R).

This bill amends and supplements the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) to prohibit the sale of cigarettes in quantities of less than 20.

Under the provisions of the bill, a violator is subject to the following civil penalties:

- for dispensing single cigarettes or cigarettes in packs of less than 20 from a vending machine, a fine against the machine's owner ranging from \$100 to \$500 for each day that it operates in violation of this prohibition; and
- for retail sales, a fine of \$250 for a first offense and \$500 for a second or subsequent offense.

The penalties are to be collected pursuant to the "Penalty Enforcement Law of 1999." A penalty recovered under the bill would be recovered by and in the name of the State by the local health agency, and paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

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The purpose of this bill is to codify that prohibition against the sale or distribution of single cigarettes or cigarettes in packages of less than 20 into State law in order to prevent any effort by cigarette manufacturers or retailers to make cigarettes more accessible to New Jersey youths by selling them in smaller, more affordable quantities.

This bill is identical to Senate Bill No. 857 SCA (Kean/Rice), which the committee also reported favorably on this date.

**SENATE, No. 857**

**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

INTRODUCED FEBRUARY 5, 2004

**Sponsored by:**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**SYNOPSIS**

Prohibits sale or distribution of cigarettes in packs of less than 20.

**CURRENT VERSION OF TEXT**

As introduced.



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2 amending and supplementing P.L.1948, c.65.

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39 licensed under the provisions of this act.
- 40 l. "Person" means any individual, firm, corporation, copartnership,  
41 joint venture, association, receiver, trustee, guardian, executor,  
42 administrator, or any other person acting in a fiduciary capacity, or any  
43 estate, trust or group or combination acting as a unit, the State  
44 Government and any political subdivision thereof, and the plural as  
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12 ownership of cigarettes.
- 13 s. "Manufacturer" means and includes any person, wherever  
14 resident or located, who manufactures or produces, or causes to be  
15 manufactured or produced, cigarettes and sells, uses, stores or  
16 distributes the same regardless of whether they are intended for sale,  
17 use or distribution within or without this State.
- 18 t. "Manufacturer's representative" means and includes any person,  
19 employed by a manufacturer, who, for promotional purposes, sells,  
20 stores, handles or distributes cigarettes, within this State, limited  
21 exclusively to cigarettes manufactured by the employing manufacturer.
- 22 u. "Licensed manufacturer" means any manufacturer, as defined in  
23 this act, licensed under the provisions of this act.
- 24 v. "Licensed manufacturer's representative" means any  
25 manufacturer's representative, as defined in this act, licensed under the  
26 provisions of this act.
- 27 (cf: P.L.1985, c.515, s.15)

28

29 4. This act shall take effect on the 60th day after enactment.

30

31

32 STATEMENT

33

34 This bill amends and supplements the "Cigarette Tax Act,"  
35 P.L.1948, c.65 (C.54:40A-1 et seq.) to prohibit the sale of cigarettes  
36 in quantities of less than 20.

37 Under the provisions of the bill, a violator is subject to the  
38 following civil penalties:

- 39 -- for dispensing single cigarettes or cigarettes in packs of less than  
40 20 from a vending machine, a fine against the machine's owner ranging  
41 from \$100 to \$500 for each day that it operates in violation of this  
42 prohibition; and
- 43 -- for over-the-counter sales, a fine of \$250 for a first offense and  
44 \$500 for a second or subsequent offense.

45 The penalties are to be collected pursuant to the "Penalty  
46 Enforcement Law of 1999." A penalty recovered under the bill would

1 be recovered by and in the name of the State by the local health  
2 agency, and paid into the treasury of the municipality in which the  
3 violation occurred for the general uses of the municipality.

4 The national Tobacco Master Settlement Agreement of 1998  
5 included a provision that prohibited the manufacture, distribution and  
6 sale of cigarettes in packages of less than 20 by the participating  
7 tobacco companies. This provision of the agreement, however,  
8 expired after December 31, 2001 in any state in which legislation was  
9 not enacted to prohibit these practices. The agreement prohibits the  
10 tobacco companies from opposing such legislation; and, to date, at  
11 least 19 states have statutorily prohibited the sale or distribution of  
12 single cigarettes or cigarettes in packages of less than 20.

13 The purpose of this bill is to codify that prohibition into State law  
14 in order to prevent any effort by cigarette manufacturers or retailers  
15 to make cigarettes more accessible to New Jersey youths by selling  
16 them in smaller, more affordable quantities.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 857**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 6, 2004

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 857.

As amended by committee, this bill amends and supplements the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) to prohibit the sale of cigarettes in quantities of less than 20.

Under the provisions of the bill, a violator is subject to the following civil penalties:

-- for dispensing single cigarettes or cigarettes in packs of less than 20 from a vending machine, a fine against the machine's owner ranging from \$100 to \$500 for each day that it operates in violation of this prohibition; and

-- for over-the-counter sales, a fine of \$250 for a first offense and \$500 for a second or subsequent offense.

The penalties are to be collected pursuant to the "Penalty Enforcement Law of 1999." A penalty recovered under the bill would be recovered by and in the name of the State by the local health agency, and paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

The national Tobacco Master Settlement Agreement of 1998 included a provision that prohibited the manufacture, distribution and sale of cigarettes in packages of less than 20 by the participating tobacco companies. This provision of the agreement, however, expired after December 31, 2001 in any state in which legislation was not enacted to prohibit these practices. The agreement prohibits the tobacco companies from opposing such legislation; and, to date, at least 19 states have statutorily prohibited the sale or distribution of single cigarettes or cigarettes in packages of less than 20.

The purpose of this bill is to codify that prohibition into State law in order to prevent any effort by cigarette manufacturers or retailers to make cigarettes more accessible to New Jersey youths by selling them in smaller, more affordable quantities.

The committee amended the bill to change the effective date from

the 60th day after enactment to the first day of the third month following enactment.

As amended by committee, this bill is identical to Assembly Bill No. 1770 (1R)(Sires/Burzichelli), which the committee also reported favorably on this date.