

By: Armbrister

S.B. No. 1253

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain practices in the merchandising of cigarettes;
3 providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter H, Chapter 161, Health and Safety
6 Code, is amended by adding Section 161.0875 to read as follows:

7 Sec. 161.0875. MERCHANDISING OF CIGARETTES. (a) In this
8 section, "manufacturer" means a person who manufactures or produces
9 cigarettes.

10 (b) Subject to Subsection (d), a manufacturer may provide,
11 and a retailer may participate in, a program in which the retailer
12 is compensated for promoting the manufacturer's cigarettes by:

13 (1) providing merchandising services, shelf space,
14 advertising, or stocking services or displaying the cigarettes in a
15 particular manner; or

16 (2) conducting a consumer promotion or price discount
17 program and providing the program to consumers.

18 (c) A manufacturer may:

19 (1) offer and enter into a retailer agreement or
20 program described by Subsection (b);

21 (2) pay or provide other compensation to a retailer
22 for participating in a retailer agreement or program described by
23 Subsection (b); and

24 (3) provide consumer promotions and discounts to a

1 retailer for the retailer to provide to consumers.

2 (d) A manufacturer may not, directly or indirectly:

3 (1) condition a retailer's participation in or receipt
4 of a consumer promotion or price discount described by Subsection
5 (b) or (c) on the retailer's conduct relating to the manufacturer's
6 cigarettes or the retailer's conduct relating to any other
7 manufacturer's cigarettes, except as provided by Subsection (e);

8 (2) require or cause the retailer to allocate a
9 specified percentage or fraction of the retailer's shelf,
10 advertising, stocking, or display space to the manufacturer's
11 cigarettes or otherwise control a retailer's determination of the
12 size or location of the space that the retailer uses to merchandise,
13 advertise, stock, or display cigarettes;

14 (3) prohibit or restrict a retailer's merchandising,
15 advertising, stocking, or displaying of another manufacturer's
16 cigarettes;

17 (4) prohibit or restrict a retailer's participation in
18 a program of another manufacturer; or

19 (5) require a retailer to raise the price of another
20 manufacturer's cigarettes or otherwise prevent the retailer from
21 setting, continuing, or reducing the price for which the retailer
22 offers another manufacturer's cigarettes.

23 (e) A manufacturer may require a retailer participating in
24 or receiving a consumer promotion or price discount described by
25 Subsection (b) or (c) to provide the promotion or discount to
26 consumers and display and advertise the promotion and the promoted
27 or discounted product to consumers.

1 (f) A manufacturer commits an offense if the manufacturer
2 violates this section. An offense under this subsection is a Class C
3 misdemeanor.

4 SECTION 2. This Act takes effect September 1, 2003.