

By Senator Argenziano

3-1284A-03

1                                   A bill to be entitled  
2           An act relating to retail tobacco sales;  
3           authorizing and providing guidelines for the  
4           operation of certain merchandising,  
5           advertising, display, or consumer discount or  
6           promotional programs by cigarette manufacturers  
7           and retailers; prohibiting certain restrictions  
8           by such manufacturers; providing a cause of  
9           action for an injury or threat of injury to a  
10          business; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. (1) A cigarette retailer may participate  
15 in a cigarette manufacturer's merchandising, advertising,  
16 display, or consumer discount or promotional program in which  
17 the retailer:

18           (a) Provides cigarette merchandising, shelf-space,  
19 advertising, stocking, or display to the manufacturer;

20           (b) Conducts the manufacturer's consumer promotion and  
21 discount programs and provides such promotions and discounts  
22 to consumers; and

23           (c) Is paid or compensated by the manufacturer for  
24 performing such activities.

25           (2) A cigarette manufacturer may:

26           (a) Offer and enter into such retailer programs;

27           (b) Pay, or provide other compensation to retailers  
28 for participating in such programs; and

29           (c) Provide consumer promotions and discounts to  
30 retailers for the retailers to furnish to consumers.

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1           (3) A cigarette manufacturer may not, directly or  
2 indirectly:

3           (a) Condition a retailer's receipt of consumer  
4 promotions or consumer price discounts on the retailer's  
5 conduct or actions relating to the manufacturer's products or  
6 the products of any other manufacturer, except for  
7 requirements that the retailer provide the promotion or  
8 discount to consumers and advertise and display the promotion  
9 and the promoted product to consumers;

10           (b) Require or cause the retailer to allocate a  
11 specified percentage or fraction of merchandising, stocking,  
12 display, shelf, or advertising space to the manufacturer;

13           (c) Prevent, restrict, or limit a retailer from  
14 stocking, advertising, displaying, or participating in a  
15 program for another manufacturer's product;

16           (d) Prevent, restrict, or limit the retailer from  
17 determining the size or location of the space that the  
18 retailer uses to stock, display, promote, or advertise  
19 cigarettes; or

20           (e) Require the retailer to raise its prices on, or  
21 prevent the retailer from setting, retaining, or reducing its  
22 prices on, another manufacturer's products.

23           (4) With respect to any contract or agreement entered  
24 into before July 1, 2003, the requirements of this act shall  
25 apply and be enforceable upon the original date of expiration  
26 of such contract or agreement, exclusive of any renewal or  
27 extension thereof.

28           Section 2. Any person threatened with injury to his or  
29 her business or property or whose business or property is  
30 injured by a violation of section 1 may file an action in any  
31 court of competent jurisdiction for appropriate injunctive or

1 other equitable relief, damages sustained, and, as determined  
2 by the court, taxable costs and reasonable attorney's fees.

3 Section 3. This act shall take effect July 1, 2003.

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6 SENATE SUMMARY

7 Establishes guidelines for the operation of certain  
8 cigarette merchandising, advertising, or promotional  
9 programs. Prohibits certain acts. (See bill for details.)

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