

**1999 DRAFTING REQUEST**

**Bill**

Received: **03/26/99**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Peggy Rosenzweig (608) 266-2512**

By/Representing: **Gene**

This file may be shown to any legislator: **NO**

Drafter: **gibsom**

May Contact: **Dick Sweet - Leg. Council**

Alt. Drafters:

Subject: **Trade Regulation**

Extra Copies:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Sales of cigarettes in packs of less than 20

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 03/31/99			_____			
/1	gibsom 04/19/99	gilfokm 04/26/99	martykr 04/27/99	_____	lrb_docadmin 04/27/99	lrb_docadmin 05/11/99	

FE Sent For:

<END>

*Not Needed*

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May Contact: Dick Sweet - Leg. Council

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1?	rkite	1-4-26-99 kmg	km 4/27	cb 4/27			

FE Sent For:

<END>

-1019/661

3-24-99

Rosenzweig - 6-2512  
Glue -

can call Dick Sweet - has some language  
or distribution  
prohibit the sale of ~~the~~ cigarettes in  
packs of less than 20

also re: penalty - talk to Dick Sweet  
re: any provision he has - just use existing penalty

this prohibition is contained in the tobacco  
settlement language but expires in 2003  
Rosenzweig wants to see that it goes beyond  
2003

December 31, 2001.

a free offer in connection with the purchase of Tobacco Products, such as a "two-for-one" offer), or (2) the conducting of consumer testing or evaluation of Tobacco Products with persons who certify that they are Adults.

(h) **Ban on Gifts to Underage Persons Based on Proofs of Purchase.** Beginning one year after the MSA Execution Date, no Participating Manufacturer may provide or cause to be provided to any person without sufficient proof that such person is an Adult any item in exchange for the purchase of Tobacco Products, or the furnishing of credits, proofs-of-purchase, or coupons with respect to such a purchase. For purposes of the preceding sentence only, (1) a driver's license or other government-issued identification (or legible photocopy thereof), the validity of which is certified by the person to whom the item is provided, shall by itself be deemed to be a sufficient form of proof of age; and (2) in the case of items provided (or to be redeemed) at retail establishments, a Participating Manufacturer shall be entitled to rely on verification of proof of age by the retailer, where such retailer is required to obtain verification under applicable federal, state or local law.

(i) **Limitation on Third-Party Use of Brand Names.** After the MSA Execution Date, no Participating Manufacturer may license or otherwise expressly authorize any third party to use or advertise within any Settling State any Brand Name in a manner prohibited by this Agreement if done by such Participating Manufacturer itself. Each Participating Manufacturer shall, within 10 days after the MSA Execution Date, designate a person (and provide written notice to NAAG of such designation) to whom the Attorney General of any Settling State may provide written notice of any such third-party activity that would be prohibited by this Agreement if done by such Participating Manufacturer itself. Following such written notice, the Participating Manufacturer will promptly take commercially reasonable steps against any such non-de minimis third-party activity. Provided, however, that nothing in this subsection shall require any Participating Manufacturer to (1) breach or terminate any licensing agreement or other contract in existence as of July 1, 1998 (this exception shall not apply beyond the current term of any existing contract, without regard to any renewal or option term that may be exercised by such Participating Manufacturer); or (2) retrieve, collect or otherwise recover any item that prior to the MSA Execution Date was marketed, distributed, offered, sold, licensed or caused to be marketed, distributed, offered, sold or licensed by such Participating Manufacturer.

(j) **Ban on Non-Tobacco Brand Names.** No Participating Manufacturer may, pursuant to any agreement requiring the payment of money or other valuable consideration, use or cause to be used as a brand name of any Tobacco Product any nationally recognized or nationally established brand name or trade name of any non-tobacco item or service or any nationally recognized or nationally established sports team, entertainment group or individual celebrity. Provided, however, that the preceding sentence shall not apply to any Tobacco Product brand name in existence as of July 1, 1998. For the purposes of this subsection, the term "other valuable consideration" shall not include an agreement between two entities who enter into such agreement for the sole purpose of avoiding infringement claims.

(k) **Minimum Pack Size of Twenty Cigarettes.** No Participating Manufacturer may, beginning 60 days after the MSA Execution Date and through and including December 31, 2001, manufacture or cause to be manufactured for sale in any Settling State any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco). No Participating Manufacturer may, beginning 150 days after the MSA Execution Date and through and including December 31, 2001, sell or distribute in any Settling State any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing

less than 0.60 ounces of tobacco). Each Participating Manufacturer further agrees that following the MSA Execution Date it shall not oppose, or cause to be opposed (including through any third party or Affiliate), the passage by any Settling State of any legislative proposal or administrative rule applicable to all Tobacco Product Manufacturers and all retailers of Tobacco Products prohibiting the manufacture and sale of any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco).

(l) Corporate Culture Commitments Related to Youth Access and Consumption. Beginning 180 days after the MSA Execution Date each Participating Manufacturer shall:

1. promulgate or reaffirm corporate principles that express and explain its commitment to comply with the provisions of this Agreement and the reduction of use of Tobacco Products by Youth, and clearly and regularly communicate to its employees and customers its commitment to assist in the reduction of Youth use of Tobacco Products;
2. designate an executive level manager (and provide written notice to NAAG of such designation) to identify methods to reduce Youth access to, and the incidence of Youth consumption of, Tobacco Products; and
3. encourage its employees to identify additional methods to reduce Youth access to, and the incidence of Youth consumption of, Tobacco Products.

(m) Limitations on Lobbying. Following State-Specific Finality in a Settling State:

1. No Participating Manufacturer may oppose, or cause to be opposed (including through any third party or Affiliate), the passage by such Settling State (or any political subdivision thereof) of those state or local legislative proposals or administrative rules described in Exhibit F hereto intended by their terms to reduce Youth access to, and the incidence of Youth consumption of, Tobacco Products. Provided, however, that the foregoing does not prohibit any Participating Manufacturer from (A) challenging enforcement of, or suing for declaratory or injunctive relief with respect to, any such legislation or rule on any grounds; (B) continuing, after State-Specific Finality in such Settling State, to oppose or cause to be opposed, the passage during the legislative session in which State-Specific Finality in such Settling State occurs of any specific state or local legislative proposals or administrative rules introduced prior to the time of State-Specific Finality in such Settling State; (C) opposing, or causing to be opposed, any excise tax or income tax provision or user fee or other payments relating to Tobacco Products or Tobacco Product Manufacturers; or (D) opposing, or causing to be opposed, any state or local legislative proposal or administrative rule that also includes measures other than those described in Exhibit F.
2. Each Participating Manufacturer shall require all of its officers and employees engaged in lobbying activities in such Settling State after State-Specific Finality, contract lobbyists engaged in lobbying activities in such Settling State after State-Specific Finality, and any other third parties who engage in lobbying activities in such Settling State after State-Specific Finality on behalf of such Participating Manufacturer ("lobbyist" and



State of Wisconsin  
1999 - 2000 LEGISLATURE

RMR  
LRB-2622M-3  
MGG...  
mg

noon

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1

1 AN ACT <sup>Sen cat.</sup> relating to: sale and distribution of cigarettes in packages or  
2 containers with fewer than 20 cigarettes.

**Analysis by the Legislative Reference Bureau**

Under current law, a retailer is prohibited from selling cigarettes other than in a package or a container on which a cigarette tax stamp has been affixed. Although tax stamps are usually affixed to packages of 20 cigarettes, state law does not preclude the sale and affixing of tax stamps to packages with fewer than 20 cigarettes.

On November 23, 1998, Wisconsin and other states agreed to a settlement of lawsuits brought against the major U.S. tobacco product manufacturers. Under that settlement agreement, manufacturers that are bound by the agreement are prohibited from selling or distributing in Wisconsin or in these other states cigarettes in pack<sup>s</sup> or containers that contain fewer than 20 cigarettes, but this prohibition ends on December 31, 2001.

This bill prohibits the sale or giving away of cigarettes in packages or containers with fewer than 20 cigarettes, thus making the prohibition permanent in Wisconsin.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

3 SECTION 1. 134.66 (2) (e) of the statutes is renumbered 134.66 (2) (e) (intro.) and  
4 amended to read:

(intro)

1

134.66 (2) (e) No retailer, manufacturer, distributor, jobber or subjobber, no agent, employe or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber and no agent or employe of an independent contractor may sell do any of the following:

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1. Sell or provide for nominal or no considcration cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32 (1).

History: 1987 a. 336; 1989 a. 31; 1991 a. 95; 1993 a. 210, 312; 1995 a. 352; 1997 a. 214.

7

**SECTION 2.** 134.66 (2) (e) 2. of the statutes is created to read:

or no

8

134.66 (2) (e) 2. Sell or provide for nominal consideration cigarettes in a package or container with fewer than 20 cigarettes.

9

10

(END)



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 4/27/99

**To:** Senator Rosenzweig

**Relating to LRB drafting number:** LRB-2622

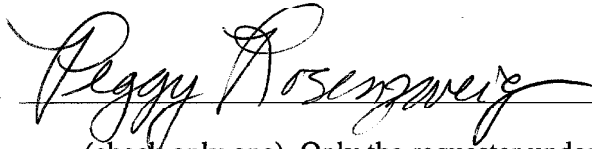
**Topic**

Sales of cigarettes in packs of less than 20

**Subject(s)**

Trade Regulation

1. **JACKET** the draft for introduction



in the **Senate**  or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mary Gibson-Glass, Senior Legislative Attorney  
Telephone: (608) 267-3215