

Assembly Bill No. 1595

CHAPTER 693

An act to add Article 3 (commencing with Section 104550) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, relating to tobacco.

[Approved by Governor October 6, 1999. Filed

with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1595, Migden. Cigar labeling.

Existing law contains various provisions regarding the prevention of tobacco use.

This bill would require each manufacturer, as defined, or importer of cigars to place, or cause to be placed, one of 3 specified warning labels on each retail package of cigars packaged for sale after September 1, 2000, and shipped for distribution in California.

The bill would authorize the imposition of penalties for violations of that requirement and would authorize actions to be brought by the Attorney General or by district attorneys, city attorneys of cities with a population greater than 750,000, and city prosecutors with the consent of the district attorney.

The bill would also provide that it does not affect certain pending lawsuits.

The people of the State of California do enact as follows:

SECTION 1. Article 3 (commencing with Section 104550) is added to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, to read:

Article 3. Cigar Labeling

104550. (a) Each manufacturer or importer of cigars shall place, or cause to be placed, labels bearing one of the following warnings on each retail package of cigars packaged for sale after September 1, 2000, and shipped for distribution in California:

“Warning: Cigars contain many of the same carcinogens found in cigarettes, and cigars are not a safe substitute for smoking cigarettes. This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm.”

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“Warning: Smoking cigars regularly poses risks of cancer of the mouth, throat, larynx, and esophagus similar to smoking cigarettes. This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm.”

“Warning: Smoking cigars causes lung cancer, heart disease, and emphysema, and may complicate pregnancy. This product contains chemicals known to the State of California to cause cancer and birth defects and other reproductive harm.”

(b) Commencing September 1, 2000, retail packages of cigars bearing the labels required by subdivision (a) shall be introduced in the distribution chain by the manufacturer or importer so that approximately equal numbers of retail packages of each brand of cigars will bear each of the labels required by subdivision (a) during each 12-month period, subject to any practical limitations of the printing equipment used by the manufacturer or importer for other similar conditions.

(c) For purposes of this article, “cigar” means any roll of tobacco

wrapped in leaf tobacco or in any substance containing tobacco, but shall not include any roll of tobacco wrapped in any substance which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

(d) The labels required in subdivision (a) shall appear on the outside surface of retail packages in which cigars are sold or on the cellophane overwrap of the packages and shall be displayed in a clear and reasonable manner so that all letters in the label appear in conspicuous and legible type in contrast by typography, layout, or color with all other printed material on the package. Display boxes or containers used to sell individual cigars are required to bear a warning label so that the warning can ordinarily be read by retail customers removing products from that box or container. Labels required by subdivision (a) may be preprinted, at the discretion of the manufacturer or importer, if firmly attached to the retail package or cellophane overwrap in such a way that the surface of the label is destroyed before the label can be removed from the package or overwrap.

(e) As used in this section, “retail package” means a pack, box, carton, pouch, or container of any kind in which cigars are offered for sale, sold, or otherwise distributed to consumers but does not include cellophane wrappers, tubes, or similar wrappings in which individual cigars are sold, and does not include shipping cartons or other containers not normally purchased by consumers.

(f) The warnings required by this section shall supersede the required warning language as stipulated by the parties in *People of*

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the State of California, ex rel. John Van DeKamp v. Safeway Stores, Inc., et al., San Francisco Superior Court No. 897576. It is the intent of the Legislature that the enactment of this section shall not affect the litigation in *People of the State of California, et al. v. General Cigar Company, et al.*, San Francisco Superior Court No. 996780; *People of the State of California and American Environmental Safety Institute v. Phillip Morris, Inc., et al.*, Los Angeles Superior Court No. BC194217; and *People of the State of California, et al. v. Tobacco Exporters International (USA), Ltd., et al.*, San Francisco Superior Court No. 301631.

(g) Any person who violates subdivision (a) shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) per day for each violation in addition to any other penalty established by law. A civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(h) Actions pursuant to this section may be brought by the Attorney General in the name of the people of the State of California, by any district attorney, by any city attorney of a city having a population in excess of 750,000 people and with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor.

104551. For purposes of this article, “manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished cigar.

104552. To the extent this article conflicts with any federal provision enacted subsequent to the effective date of this article that requires cigar manufacturers and importers to provide warning

labels on cigars, those federal provisions shall supersede the provisions of this article.

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