

HOUSE No. 01527

The Commonwealth of Massachusetts

PRESENTED BY:

Tom Sannicandro

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Banning the Sale of Cigars in Packages of Less Than Five.

PETITION OF:

NAME:

Tom Sannicandro

DISTRICT/ADDRESS:

7th Middlesex

HOUSE No. 01527

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 1527) of Tom Sannicandro for legislation to ban the sale of cigars in packages of less than five. Public Health.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act Banning the Sale of Cigars in Packages of Less Than Five.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Be it enacted by the Senate and House of Representative in General Court assembled, and by
2 authority of the same, as follows:

3 Section 1: Definitions

4 Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing
5 tobacco. "Cigar" does not mean any tobacco product that meets the definition of the term
6 "cigarette" as defined in section 3(1) of the Federal Cigarette Labeling and Advertising Act, 15
7 U.S.C. Sec. 1332.

8 Original package: the original pack, box, carton, or other container of cigars that was used for
9 packaging the cigars by their manufacturer; and is intended for ultimate sale or transfer to
10 consumers as a package and not intended to be broken for the sale or transfer of individual
11 cigars.

12 Distribute: to give away, sell, deliver, dispense, or issue; to offer to give away, sell, deliver,
13 dispense, or issue; or to cause or hire any person to give away, sell, deliver, dispense, or issue; or
14 offer to give away, sell, deliver, dispense, or issue.

15 Person: any natural person, partnership, firm, joint stock company, corporation or employee
16 thereof, or other legal entity whether public or private.

17 Retail tobacco store: an establishment which is not required to possess a retail food permit
18 whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco
19 products and paraphernalia, in which the sale of other products is merely incidental, and in which
20 the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit
21 for the retail sale of tobacco products as required by the municipality in which it is located and
22 by and the Massachusetts Department of Revenue.

23

24 Section 2: Prohibition of Sales or Transfers of Fewer than Five Cigars

25 Except as specified in Section 3, a person engaged in the business of selling or otherwise
26 distributing cigars for commercial purposes may not sell or otherwise distribute a cigar to any
27 person in the Commonwealth of Massachusetts unless the cigar is contained in an original
28 package of at least five (5) cigars; and the package bears a health warning in the size and manner
29 described as required pursuant to 940 CMR 22.00.

30 Section 3: Exceptions

31 Sales or other distributions by and on the premises of a retail tobacco store as defined in Section
32 One; the sale or transfer of any cigar that has a wholesale price of more than two dollars (\$2.00)

33 or a retail price of more than two dollars and fifty cents (\$2.50); a person engaged in the business
34 of selling or otherwise distributing cigars for commercial purposes who sells or otherwise
35 distributes cigars to another person engaged in the business of selling or otherwise distributing
36 cigars for commercial purposes for the purpose of sale or other distribution outside the
37 boundaries of the Commonwealth of Massachusetts are exempt from Section 2.

38

39 Section 4: Violations

40 A violator of this section may receive a fine of one hundred dollars (\$100.00) for a first
41 violation; in the case of a second violation within 24 months of the first violation a fine of two
42 hundred dollars (\$200.00); and, in the case of three or more violations within 24 months of the
43 second or current violation, a fine of three hundred dollars (\$300.00) for each violation. Each
44 calendar day an entity operates in violation of any provision of this law shall be deemed a
45 separate violation.

46

47 Section 5: Enforcement

48 The local board of health, the department of public health, the local inspection department or the
49 equivalent, and a municipal government or its agent shall enforce this section.

50

51 Section 6: Non-preemption

52 Nothing in this section shall preempt further limitations of the sale of tobacco products by the
53 commonwealth or any department, agency or political subdivision of the commonwealth.