

SENATE BILL 1215

By Black

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 17, Part 15, relative to the Prevention of  
Youth Access to Tobacco Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1503, is amended by adding the following language as new, appropriately numbered subdivisions:

( ) “Retail dealer” means each tobacco vending machine, place, store, booth, concession, truck or vehicle, or person that in any way sells or makes available tobacco products directly to the ultimate consumer;

( ) “Self-service display” means a display that contains a tobacco product and is located in an area openly accessible to consumers, and from which consumers can readily access tobacco products without the assistance of a salesperson. A display case that holds tobacco products behind locked doors does not constitute a self-service display;

SECTION 2. Tennessee Code Annotated, Section 39-17-1507, is amended by adding the following language as a new, appropriately designated subsection:

(c) It is unlawful for any person to sell tobacco products through a self-service display unless the display is a vending machine as permitted in subsection (a).

SECTION 3. Tennessee Code Annotated, Section 39-17-1509, is amended by adding the following language as a new, appropriately designated subsection:

(g)

(1) In addition to the assessment of a civil penalty for a second violation of § 39-17-1504(a) occurring within sixty (60) days, the commissioner may suspend for not more

than fifteen (15) days any retail dealer's license issued under § 39-17-1511 for the location where the violations occurred.

(2) In addition to the assessment of a civil penalty for a third violation of § 39-17-1504(a) occurring within one hundred twenty (120) days, the commissioner may suspend for not more than thirty (30) days any retail dealer's license issued under § 39-17-1511 for the location where the violations occurred.

(3) In addition to the assessment of a civil penalty for a fourth or subsequent violation of § 39-17-1504(a) occurring within one hundred eighty (180) days, the commissioner may suspend or revoke any retail dealer's license issued under § 39-17-1511 for the location where the violations occurred.

(4) Upon suspension or revocation of a license under this subsection, the retail dealer shall surrender the license to the commissioner.

SECTION 4. Tennessee Code Annotated, Title 39, Chapter 17, Part 15, is amended by adding the following language as a new, appropriately designated section:

**§ 39-17-1511.**

(a) Before engaging in the business of selling tobacco products in this state directly to the ultimate consumer, every person required to be licensed by this section shall obtain a license authorizing the person to engage in business as a retail dealer prior to the commencement of such business. All persons currently engaged in the business of selling tobacco products in this state as a retail dealer shall apply for a renewal of such license on or before May 31 of each year.

(b) The application for a license shall be made under oath on blanks furnished by the commissioner. The application shall include the following:

- (1) Name of the applicant;
- (2) Street address and telephone number of the applicant;

- (3) City or town in which the applicant's place of business is to be located;
- (4) Kind or nature of business to be conducted; and
- (5) Such other and further information as the commissioner may require.

(c)

(1) Applications for a retail dealers license shall be accompanied by the following fees:

(A) Retailer -- One hundred dollars (\$100) for each place, store, booth, concession, truck or vehicle where tobacco products are sold to the ultimate consumer; and

(B) Vending Machine -- Twenty-five dollars (\$25) for each machine.

(2) Upon receipt of the application referenced in subsection (b), together with the fee imposed by this subsection (c), the commissioner, upon the commissioner's approval of the application, shall issue within a reasonable time to the applicant a license to engage in business as a retail dealer.

(A) The license shall expire on May 31 of each year.

(B) If the license is mutilated, lost, or destroyed, a duplicate will be issued upon application, accompanied by a fee of twenty-five dollars (\$25.00).

(d) No license for the business of selling tobacco products in this state directly to the ultimate consumer shall be issued to a person under twenty-one (21) years of age.

(e) Any person who engages in any business or activity for which a license is required under this part without obtaining a license to do so, or who fails to file an application for renewal of a license before expiration of the current license, is subject to a specific penalty in the amount of the license fee for each month or part of a month

during which the activity or failure continues. In addition to this specific penalty, the commissioner may impose a penalty of no more than one hundred dollars (\$100) a day for each day during which the activity or failure occurs or continues. This discretionary penalty may also be imposed upon a person to whom a license has been issued, if the person continues to engage in the business or activity after receiving notice that the license is revoked or suspended by the commissioner.

(f) No license so issued shall be transferable and a separate license shall be required for each separate place of business or vending machine and such license shall be prominently displayed in the place of business or vending machine operated by the person to whom such license is issued.

(g) All information provided by licensees pursuant to subsection (b) shall remain current. Licensees shall notify the commissioner, in writing, within ten (10) days of any change in such information.

SECTION 5. This act shall take effect July 1, 2009, the public welfare requiring it.