

CHAPTER 36

TAXATION

HOUSE BILL 99-1216

BY REPRESENTATIVES Decker, Larson, Leyba, Morrison, Sinclair, Veiga, S. Williams, and Windels;
also SENATORS Perlmutter, Anderson, Chlouber, Hernandez, Pascoe, Phillips, Powers, Reeves, Rupert, and Weddig.

AN ACT

CONCERNING PROHIBITIONS ON THE SALE OF TOBACCO IN COLORADO THAT VIOLATES FEDERAL LAWS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 28 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-28-104.5. Federal requirements - placement of labels - penalty. (1) NO PERSON SHALL IMPORT INTO THIS STATE ANY PACKAGE OF CIGARETTES THAT VIOLATES ANY FEDERAL REQUIREMENT FOR THE PLACEMENT OF LABELS, WARNINGS, OR OTHER INFORMATION, INCLUDING HEALTH HAZARDS, REQUIRED TO BE PLACED ON THE CONTAINER OR INDIVIDUAL PACKAGE.

(2) NO PERSON SHALL SELL OR OFFER TO SELL A PACKAGE OF CIGARETTES OR AFFIX THE STAMP OR IMPRINT REQUIRED BY SECTION 39-28-104 ON A PACKAGE OF CIGARETTES UNLESS THAT PACKAGE OF CIGARETTES COMPLIES WITH ALL FEDERAL TAX LAWS, FEDERAL TRADEMARK AND COPYRIGHT LAWS, AND FEDERAL LAWS REGARDING THE PLACEMENT OF LABELS, WARNINGS, OR ANY OTHER INFORMATION UPON A PACKAGE OF CIGARETTES.

(3) NO PERSON SHALL SELL OR OFFER TO SELL A PACKAGE OF CIGARETTES OR AFFIX THE STAMP OR IMPRINT REQUIRED BY SECTION 39-28-104 ON A PACKAGE OF CIGARETTES IF THE PACKAGE IS MARKED AS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES OR IF ANY LABEL OR LANGUAGE HAS BEEN ALTERED FROM THE MANUFACTURER'S ORIGINAL PACKAGING AND LABELING TO CONCEAL THE FACT THAT THE PACKAGE WAS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES.

(4) (a) NO PERSON SHALL AFFIX A STAMP, LABEL, OR DECAL ON A PACKAGE OF

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

CIGARETTES TO CONCEAL THE FACT THAT THE PACKAGE WAS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES.

(b) NO PERSON SHALL SELL OR OFFER TO SELL A PACKAGE OF CIGARETTES ON WHICH A STAMP, LABEL, OR DECAL WAS AFFIXED TO CONCEAL THE FACT THAT THE PACKAGE WAS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES.

(5) THE VIOLATION OF ANY PROVISION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

(6) (a) ANY PACKAGE OF CIGARETTES FOUND FOR SALE AT RETAIL OR WHOLESALE AT ANY PLACE IN THIS STATE THAT IS MARKED FOR USE OUTSIDE OF THE UNITED STATES IS DECLARED TO BE CONTRABAND GOODS AND MAY BE SEIZED WITHOUT A WARRANT BY THE DEPARTMENT, BY ITS AGENTS OR EMPLOYEES, OR BY ANY PEACE OFFICER IN THIS STATE WHEN DIRECTED OR REQUESTED BY THE DEPARTMENT TO DO SO. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE DEPARTMENT TO CONFISCATE PACKAGES OF CIGARETTES THAT ARE SO MARKED IN QUANTITIES LESS THAN TEN CARTONS WHEN THE PACKAGES ARE HELD FOR PERSONAL CONSUMPTION AND NOT FOR RESALE.

(b) ANY CIGARETTES SEIZED BY VIRTUE OF THE PROVISIONS OF THIS SUBSECTION (6) SHALL BE CONFISCATED, AND THE DEPARTMENT SHALL DESTROY SUCH CONFISCATED GOODS.

SECTION 2. Article 28.5 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-28.5-111. Federal requirements - affixing labels - penalty. (1) NO PERSON SHALL IMPORT INTO THIS STATE ANY TOBACCO PRODUCT THAT VIOLATES ANY FEDERAL REQUIREMENT FOR THE PLACEMENT OF LABELS, WARNINGS, OR OTHER INFORMATION, INCLUDING HEALTH HAZARDS, REQUIRED TO BE PLACED ON THE CONTAINER OR INDIVIDUAL PACKAGE.

(2) NO PERSON SHALL SELL OR OFFER TO SELL ANY TOBACCO PRODUCT UNLESS THE PACKAGE OR CONTAINER OF THE TOBACCO PRODUCT COMPLIES WITH ALL FEDERAL TAX LAWS, FEDERAL TRADEMARK AND COPYRIGHT LAWS, AND FEDERAL LAWS REGARDING THE PLACEMENT OF LABELS, WARNINGS, OR ANY OTHER INFORMATION UPON A PACKAGE OR CONTAINER OF TOBACCO PRODUCTS.

(3) NO PERSON SHALL SELL OR OFFER TO SELL ANY TOBACCO PRODUCT IF THE PACKAGE OR CONTAINER IS MARKED AS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES OR IF ANY LABEL OR LANGUAGE HAS BEEN ALTERED FROM THE MANUFACTURER'S ORIGINAL PACKAGING AND LABELING TO CONCEAL THE FACT THAT THE PACKAGE OR CONTAINER OF TOBACCO PRODUCTS WAS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES.

(4) (a) NO PERSON SHALL AFFIX A STAMP, LABEL, OR DECAL ON A PACKAGE OR CONTAINER OF TOBACCO PRODUCTS TO CONCEAL THE FACT THAT THE PACKAGE OR CONTAINER OF TOBACCO PRODUCTS WAS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES.

(b) NO PERSON SHALL SELL OR OFFER TO SELL ANY TOBACCO PRODUCT ON WHICH A STAMP, LABEL, OR DECAL WAS AFFIXED TO CONCEAL THE FACT THAT THE PACKAGE OR CONTAINER OF TOBACCO PRODUCTS WAS MANUFACTURED FOR USE OUTSIDE OF THE UNITED STATES.

(5) THE VIOLATION OF ANY PROVISION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

(6) (a) ANY PACKAGE OR CONTAINER OF TOBACCO PRODUCTS FOUND AT ANY PLACE IN THIS STATE THAT IS MARKED FOR USE OUTSIDE OF THE UNITED STATES IS DECLARED TO BE CONTRABAND GOODS AND MAY BE SEIZED WITHOUT A WARRANT BY THE DEPARTMENT, ITS AGENTS OR EMPLOYEES, OR BY ANY PEACE OFFICER IN THIS STATE WHEN DIRECTED OR REQUESTED BY THE DEPARTMENT TO DO SO. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE DEPARTMENT TO CONFISCATE PACKAGES OR CONTAINERS OF TOBACCO PRODUCTS THAT ARE SO MARKED WHEN IT HAS REASON TO BELIEVE THAT THE OWNER POSSESSES THE TOBACCO PRODUCTS FOR PERSONAL USE AND NOT FOR RESALE.

(b) ANY TOBACCO PRODUCTS SEIZED BY VIRTUE OF THE PROVISIONS OF THIS SUBSECTION (6) SHALL BE CONFISCATED, AND THE DEPARTMENT SHALL DESTROY SUCH CONFISCATED GOODS.

SECTION 3. Effective date - applicability. This act shall take effect upon passage, and shall apply to offenses committed and cigarettes or tobacco products found on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 24, 1999