

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 1762\***

Short Title: Enforce Master Settlement Agreement. (Public)

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Sponsors: Representatives Cole; and Hill.

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Referred to: Finance.

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June 17, 2002

A BILL TO BE ENTITLED  
AN ACT TO ENHANCE THE ENFORCEMENT OF THE PROVISIONS OF THE  
MASTER SETTLEMENT AGREEMENT REGARDING CONTRIBUTIONS BY  
NONPARTICIPATING MANUFACTURERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-113.4C reads as rewritten:

**"§ 105-113.4C. Enforcement of Master Settlement Agreement Provisions.**

(a) The Master Settlement Agreement between the states and the tobacco product manufacturers, incorporated by reference into the consent decree referred to in S.L. 1999-2, requires each state to diligently enforce Article 37 of Chapter 66 of the General Statutes. The Office of the Attorney General and the Secretary of Revenue shall perform the following responsibilities in enforcing Article 37:

- (1) The Office of the Attorney General must give to the Secretary of Revenue a list of the nonparticipating manufacturers under the Master Settlement Agreement and the brand names of the products of the nonparticipating manufacturers.
- (2) The Office of the Attorney General must update the list provided under subdivision (1) of this section when a nonparticipating manufacturer becomes a participating manufacturer, another nonparticipating manufacturer is identified, or more brands or products of nonparticipating manufacturers are identified.
- (3) The Secretary of Revenue must require the taxpayers of the tobacco excise tax to identify the amount of tobacco products of nonparticipating manufacturers sold by the taxpayers, and may impose this requirement as provided in G.S. 66-290(10).
- (4) The Secretary of Revenue must determine the amount of State tobacco excise taxes attributable to the products of nonparticipating manufacturers, based on the information provided by the taxpayers, and must report this information to the Office of the Attorney General.

1 (b) No person may (i) pay, directly or indirectly, the required tobacco excise tax  
2 on; (ii) sell; (iii) possess for sale or (iv) possess for resale to any person in this State,  
3 any cigarettes unless the tobacco product manufacturer that makes or sells the cigarettes  
4 is a participating manufacturer, as defined in Section II(jj) of the Master Settlement  
5 Agreement, or in full compliance with G.S. 66-291(a)(2). For purposes of this  
6 subsection, the term 'cigarette' shall have the same meaning as set forth in G.S. 66-290."

7 **SECTION 2.** G.S. 14-401.18 reads as rewritten:

8 **"§ 14-401.18. Sale of certain packages of cigarettes prohibited.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Cigarette. – Defined in G.S. 105-113.4.

11 (2) Package. – Defined in G.S. 105-113.4.

12 (b) Offenses. – A person who sells or holds for sale (other than for export to a  
13 foreign country) a package of cigarettes that meets one or more of the following  
14 descriptions commits a Class A1 misdemeanor and engages in an unfair trade practice  
15 prohibited by G.S. 75-1.1:

16 (1) The package differs in any respect with the requirements of the Federal  
17 Cigarette Labeling and Advertising Act, 15 U.S.C. § 1331, for the  
18 placement of labels, warnings, or any other information upon a  
19 package of cigarettes that is to be sold within the United States.

20 (2) The package is labeled "For Export Only," "U.S. Tax Exempt," "For  
21 Use Outside U.S.," or has similar wording indicating that the  
22 manufacturer did not intend that the product be sold in the United  
23 States.

24 (3) The package was altered by adding or deleting the wording, labels, or  
25 warnings described in subdivision (1) or (2) of this subsection.

26 (4) The package was imported into the United States after January 1,  
27 2000, in violation of 26 U.S.C. § 5754.

28 (5) The package violates federal trademark or copyright ~~laws.~~ laws,  
29 federal laws governing the submission of ingredient information to  
30 federal authorities pursuant to 15 U.S.C. § 1335a, federal laws  
31 governing the import of certain cigarettes pursuant to 19 § U.S.C. 1681  
32 and 19 § U.S.C. 1681b, or any other provision of federal law or  
33 regulation.

34 (c) Contraband. – A package of cigarettes described in subsection (b) of  
35 this section is contraband and may be seized by a law enforcement  
36 officer. The procedure for seizure and disposition of this contraband is  
37 the same as the procedure under G.S. 105-113.31 and G.S. 105-113.32  
38 for non-tax-paid cigarettes."

39 **SECTION 3.** This act is effective when it becomes law.