

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 1116

Short Title: Amend Tobacco Reserve/Ban Flavored Cigarettes. (Public)

Sponsors: Senators Albertson; Clodfelter and Rand.

Referred to: Commerce.

March 24, 2005

A BILL TO BE ENTITLED
AN ACT TO AMEND THE TOBACCO RESERVE FUND AND TO BAN THE SALE
OR DISTRIBUTION OF FLAVORED CIGARETTES TO PROMOTE THE
HEALTH AND WELLNESS OF THE STATE'S CITIZENS AND ECONOMIC
DEVELOPMENT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 66-291(b)(2) reads as rewritten:

"(2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the State in a particular year was greater than ~~the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the Inflation Adjustment)~~the Master Settlement Agreement payments, as determined pursuant to Section IX(i) of that agreement, including after final determination of all adjustments, that the manufacturer would have been required to make on account of the units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or".

SECTION 1.(b) If this section, or any portion of the amendment made to G.S. 66-291(b)(2) by this section, is held by a court of competent jurisdiction to be unconstitutional, then G.S. 66-291(b)(2) shall be deemed to be repealed in its entirety. If G.S. 66-291(b) shall thereafter be held by a court of competent jurisdiction to be unconstitutional, then this section shall be repealed, and G.S. 66-291(b)(2) shall be restored as if no amendments had been made by this section. Neither any judicial holding of unconstitutionality nor the repeal of G.S. 66-291(b)(2) shall affect, impair, or invalidate any other portion of Part 1 of Article 37 of Chapter 66 of the General Statutes

1 or the application of Part 1 of Article 37 of Chapter 66 of the General Statutes to any
2 other person or circumstance, and the remaining portions of Part 1 of Article 37 of
3 Chapter 66 of the General Statutes shall at all times continue in full force and effect.

4 **SECTION 2.** Article 52 of Chapter 14 of the General Statutes is amended by
5 adding a new section to read:

6 "**§ 14-401.22. Ban sale or distribution of flavored cigarettes.**

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

8 (1) Cigarette. – As defined in G.S. 105-113.4.

9 (2) Distribute. – To sell, furnish, give, or provide.

10 (3) Flavored cigarette. – A cigarette or any of its component parts
11 (including the tobacco, filter, or paper) that contains, as a constituent
12 (including a smoke constituent) or additive, an artificial or natural
13 flavor (other than tobacco or menthol) or an herb or spice, including
14 strawberry, grape, orange, clove, cinnamon, pineapple, vanilla,
15 coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a
16 characterizing flavor of the tobacco product or tobacco smoke.

17 (b) It shall be unlawful to distribute flavored cigarettes in this State. A violation
18 of this section is a Class 2 misdemeanor.

19 (c) This section shall not apply to the sale or delivery of flavored cigarettes by a
20 manufacturer, distributor, or wholesale dealer of cigarettes in the normal course of their
21 business for distribution outside of the State.

22 **SECTION 3.** Sections 1 and 3 of this act become effective October 1, 2005.
23 Section 2 of this act becomes effective December 1, 2005, and applies to offenses
24 committed on or after that date.