

HOUSE BILL 2055

By Williams

AN ACT to amend Tennessee Code Annotated, Title 43 and Title 67, relative to the disposition of seized tobacco-related property.

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

SECTION 1. Tennessee Code Annotated, Section 67-4-1020, is amended by deleting subsections (a) - (d) and substituting the following:

(a) All manufactured tobacco products upon which all applicable tobacco taxes have not been paid and that are owned or possessed by any person in avoidance, evasion, or violation of this part, are declared to be contraband goods and subject to seizure by the commissioner, or any duly authorized representative, agent, or employee of the department, without a warrant, and such tobacco products must be delivered to the department for destruction.

(b)

(1) Any vehicle used to transport, for the purposes of distribution, gift, or sale, any unstamped tobacco products is declared to be contraband property and is subject to confiscation by the commissioner, or any duly authorized representative, agent, or employee of the department, without a warrant, and the vehicle must be delivered to the department for sale at public auction to the highest bidder after due advertisement, unless the vehicle is being used to transport such unstamped tobacco products in a manner otherwise authorized by this part.

(2) Any unstamped tobacco products found in any vehicle, except vehicles lawfully engaged in transporting unstamped tobacco products, are prima

facie evidence that the unstamped tobacco products were intended to be used for distribution, gift, or sale.

(c)

(1) Any coin-operated vending machine in which any unstamped tobacco products or tobacco products bearing a counterfeit or bogus tobacco tax stamp are found, stored, or possessed, is declared to be contraband property and is subject to confiscation by the commissioner, or any duly authorized representative, agent, or employee of the department, without a warrant, and the coin-operated vending machine must be delivered to the department for sale at public auction to the highest bidder after due advertisement.

(2) Any unstamped tobacco products or tobacco products bearing a counterfeit or bogus tobacco tax stamp that are found, stored, or possessed in a coin-operated vending machine are declared to be contraband goods and are subject to confiscation by the commissioner, or any duly authorized representative, agent, or employee of the department, without a warrant, and such tobacco products must be delivered to the department for destruction.

(3) Any vending machine found containing unstamped tobacco products or tobacco products bearing a counterfeit or bogus tobacco tax stamp in such vending machine is prima facie evidence that the vending machine and tobacco products were there for gift, sale, or distribution.

(d)

(1)

(A) Any tobacco products found, owned, stored, or possessed by any person bearing a counterfeit or bogus tobacco tax stamp are declared to be contraband property and are subject to confiscation by the commissioner, or any duly authorized representative, agent, or employee of the department, without a warrant, and such tobacco products must be delivered to the department for destruction.

(B) Any tobacco products described in subdivision (d)(1)(A) are prima facie evidence that such tobacco products were owned, stored, or possessed for gift, sale, or distribution.

(2)

(A) Any unstamped tobacco products found, owned, stored, or possessed at the same place or at the same time with any other tobacco products bearing counterfeit or bogus tax stamps are declared to be contraband property and are subject to confiscation by the commissioner, or any duly authorized representative, agent, or employee of the department, without a warrant, and such products must be delivered to the department for destruction.

(B) Any unstamped tobacco products described in subdivision (d)(2)(A) are prima facie evidence that such unstamped tobacco products were owned, stored, or possessed for gift, sale, or distribution.

SECTION 2. Tennessee Code Annotated, Section 67-4-1020(e)(2), is amended by deleting the language "sale in the manner as other property" and substituting "destruction in the manner as other tobacco products".

SECTION 3. Tennessee Code Annotated, Section 67-4-1020, is amended by adding the following as a new subsection:

The commissioner shall pay the proceeds of all sales resulting from seizures and confiscations of non-tobacco product property under this section into the state treasury, and ten percent (10%) of such proceeds must be set aside as expenses for the administration of this section.

SECTION 4. Tennessee Code Annotated, Section 67-4-1021(a)(2), is amended by deleting the subdivision and substituting the following:

(2) The department shall destroy all tobacco products seized and confiscated under this part. All other property seized and confiscated under this part must be sold at public sale by the department of general services, when the property has been turned over to it by the commissioner of revenue, as authorized by title 12, chapter 2, part 2;

SECTION 5. Tennessee Code Annotated, Section 67-4-1021(c)(2), is amended by deleting the subdivision and substituting the following:

(2) If the commissioner's ruling is adverse to the claimant, the department shall destroy the contraband tobacco products, and the department of general services shall sell any other contraband property as provided by subsection (a).

SECTION 6. Tennessee Code Annotated, Section 67-4-1021(h)(2), is amended by deleting the word "sold" and substituting the language "sold or destroyed".

SECTION 7. Tennessee Code Annotated, Section 67-4-1021(k), is amended by deleting the word "sold" and substituting the language "sold or destroyed".

SECTION 8. Tennessee Code Annotated, Section 67-4-1026(e), is amended by deleting the language ", or sell to the manufacturer, only for export,".

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.