

By: Representative McBride

To: Ways and Means

HOUSE BILL NO. 958

1 AN ACT TO ENACT THE RETAILERS' RIGHT TO CONTRACT ACT; TO
2 ENACT DEFINITIONS; TO ENACT REQUIREMENTS FOR CIGARETTE RETAILER'S
3 CONTRACTS; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** (1) A cigarette retailer and manufacturer shall
6 have the right to enter into contracts or agreements with each
7 other for the retailer to:

8 (a) Obtain, participate in and receive payments from
9 the manufacturer pursuant to the manufacturer's cigarette
10 merchandising, advertising, display or promotion programs, whether
11 permanent or temporary;

12 (b) Be compensated by the manufacturer for providing
13 space for the merchandising, advertising, display or promotion of
14 the manufacturer's products; and

15 (c) Purchase cigarettes.

16 (2) A contract or agreement described in subsection (1)
17 shall not directly or indirectly require the retailer to allocate:

18 (a) A percentage or fraction of all or any part of the
19 retailer's:

20 (i) Space available for product display, signage
21 or advertising; or

22 (ii) Cigarette category space, to a manufacturer
23 for any purpose; or

24 (b) A determined amount of such space, whether
25 expressed in footage, product facings or other forms of stated
26 measurement, to a manufacturer in order to receive, participate
27 in, or receive payment under, a manufacturer's promotions.



28 (3) A contract or agreement described in subsection (1)
29 shall not directly or indirectly restrict or limit:

30 (a) A retailer's cigarette category space; or

31 (b) A retailer's conduct of or participation in any
32 program or activity concerning the sale, display, merchandising,
33 promotion, pricing or advertising, in any manner, of any
34 manufacturer's products.

35 (4) As used in this section:

36 (a) "Manufacturer" means a cigarette manufacturer or
37 importer, directly or through its agent, representative, broker or
38 any other person or entity, who directly or indirectly offers to
39 supply, sell or deliver cigarettes or cigarette advertising,
40 merchandising or promotions to a cigarette retailer.

41 (b) "Cigarette category space" means such portion of
42 space in a store or on the premises as reserved, made available or
43 identified by a retailer for the display of products, signs,
44 advertising, promotion or other communications relating to
45 cigarettes.

46 (c) "Promotion" means any program or means by which:

47 (i) The effective price paid by a purchaser of
48 cigarettes is reduced from the regular price charged by the
49 retailer when a manufacturer's promotion is not in effect or
50 applicable; or

51 (ii) Additional cigarettes or other items are
52 offered to the consumer in connection with the purchase of
53 cigarettes.

54 (d) "Cigarette retailer" means every person, other than
55 a wholesale dealer, whose principal business is that of selling
56 merchandise at retail, who shall sell, or offer for sale tobacco
57 to the consumer. The sale of tobacco in quantity lots by
58 retailers to other retailers, transient vendors, or other persons,
59 shall not be construed as wholesale and shall not qualify such
60 retailer for a permit as a wholesaler.



61 **SECTION 2.** This act shall take effect and be in force from
62 and after July 1, 2002.

