

By: Senator(s) Burton

To: Business and Financial  
Institutions

SENATE BILL NO. 2904

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.

