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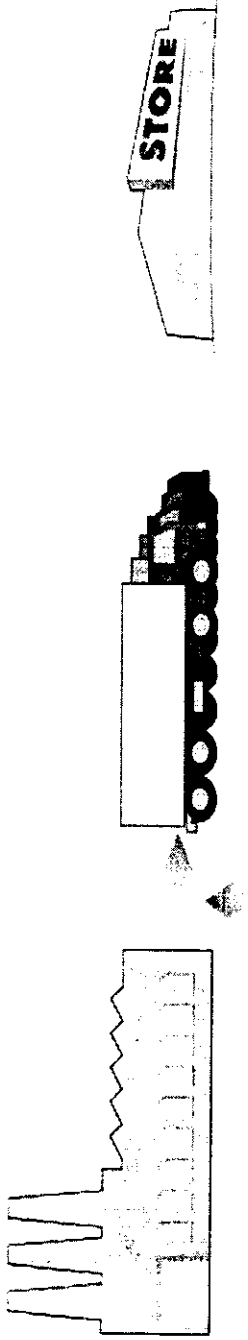
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# Anti-Counterfeiting Provisions of AB 460

Sections 10-56



100+ Manufacturers report shipments 120 Wholesale Dealers report to Wholesale Dealers to Taxation Dept. shipments to Retailers to Taxation Dept.

No Reporting by Retailers

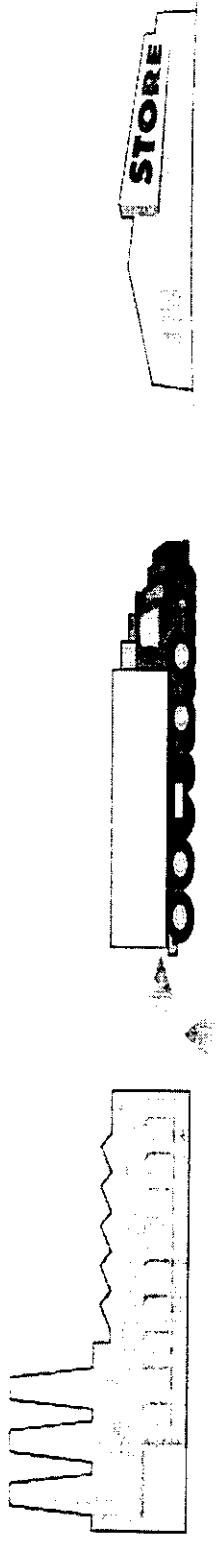
1 of 2

ASSEMBLY JUDICIARY

DATE: 4/3/03 ROOM: 3138 EXHIBIT 0

SUBMITTED BY: JOHN RUDRECHT

# Unlicensed Entities Sell Counterfeit Cigarettes to Wholesale Dealers or Retailers



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# Taxation Dept. Reports

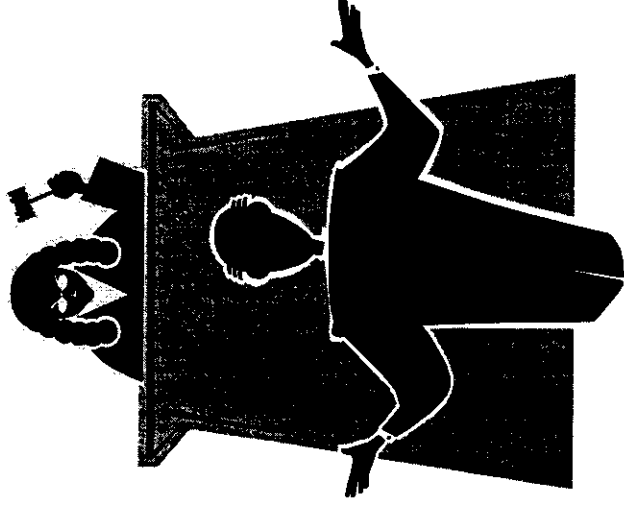
- Observe change in trends of prior cigarette sales (e.g. retail store that previous received 30 cartons of Brand XYZ every month for 6 months now orders zero)
- Report Change to Attorney General's office that would investigate inventory and reports required under Section 50.

File 30112

RECORDS

# Attorney General

- If investigation results in evidence of counterfeit cigarettes or other violations of law, Attorney General may bring criminal or civil action under Sections 34-36.



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# Counterfeit Cigarettes

- 1) Avoid state tax (\$.35 +?) per pack
- 2) Avoid federal tax (\$.39) per pack
- 3) Avoid MSA payments (\$.55) per pack
- 4) Alternative to # 4, avoid escrow payments (\$.35) per pack
- 5) Cause reduction in MSA payments through volume adjustment & still cause adverse health consequences
- 6) Ingredient list not filed with federal agency.
- 7) Cheap cigarettes more likely to be purchased by underage youth

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# Sections 57-72, AB 460 affect Current NRS 370A

- NRS Chapter 370A required for NV to avoid reduced MSA payments
- Requires Tobacco Manufacturers not signing MSA to deposit 1.5 cents per cigarette in escrow account
- Escrow account may only be used to pay health care related judgment/settlement
- Payment due on 4/15 in year after sales occurred
- Law reduces economic advantage of not signing MSA

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## Sections 57-72 (Strengthens NRS 370A)

- NPM must certify all brands and that has established an escrow account for past sales. Sec. 65
- NPM appoints registered agent for service of process in Nevada. Sec. 65(3)(a) & 68.
- Taxation Dept. List of all certified brands on Internet. Sec. 67.
- Prohibits placing cigarette stamps on any non-certified brand. Sec. 71.
- May require quarterly escrow payment. Sec. 70



# Amendment to NRS 370A

- MSA prohibits Amending "Model Act" (NRS Chapter 370A)
- Exception: Signatories have agreed that Sec. 73 Amendment is permitted.
- Current law permits NPM to withdraw amount that exceeds payment amount to applicable state
- Sec. 73 would eliminate windfall to NPMs that concentrate sales in a few states.

○ Sec 12



## Liggett Group Inc.

**John R. Long**  
Vice President & General Counsel

Tel 919-990-3516  
Fax 919-990-3505  
jlong@lvbrands.com

April 1, 2003

John Albrecht  
Chief Tobacco Counsel  
Nevada Attorney General's Office  
1325 Airmotive Way, Suite 340  
Reno, NV 89509

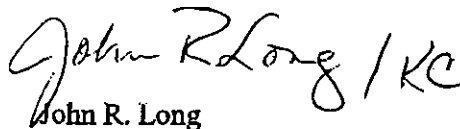
Re: Allocable Share Amendment, AB 460

Dear Mr. Albrecht:

Liggett Group Inc. is a Subsequent Participating Manufacturer under the Master Settlement Agreement (MSA), and we are writing in support of the Allocable Share Amendment, AB 460. We strongly support this legislation because it will close a loophole in the current Escrow Statute that provides a windfall to certain Non-Participating Manufacturers (NPMs). As the Escrow Statute is currently drafted, certain NPMs, with sales concentrated in a few states, pay significantly less money into escrow than they would pay as Participating Manufacturers. Such escrow amounts are inadequate to cover State claims in the event a State obtains a judgment against such NPMs. We believe that it is time to end the unfair advantage and impose requirements that are more evenhanded.

We are a small company that, like other Participating Manufacturers, has agreed to be bound to all the provisions of the MSA, including payment obligations and restrictions on advertising and merchandise distribution. Non-Participating Manufacturers (NPMs), unlike us, do not restrict their advertising, and some continue to distribute branded t-shirts and other items that target the youth market. To further support the goals of the MSA, including curbing youth smoking, it is time to close the loophole in the Escrow Statute and end the unfair advantage enjoyed by these NPMs.

Sincerely,

  
John R. Long

090512

100 Maple Lane • Mebane, NC 27302 • Tel 919-304-7700

# KING-MAKER MARKETING

April 1, 2003

VIA FACSIMILE: 775-688-1844

John Albrecht  
Chief Tobacco Counsel  
Nevada Attorney General's office  
1325 Airmotive Way  
Suite 340  
Reno, NV 89509

**Re: Allocable Share Amendment, AB 460**

Dear Mr. Albrecht:

King Maker marketing Inc.( KMM) is a Subsequent Participating Manufacturer under the Master Settlement Agreement (MSA), and we are writing in support of the Allocable Share Amendment and Complimentary Legislation, AB 460. We strongly support this legislation because it will close a loophole in the current Escrow Statute that provides a windfall to certain Non-Participating Manufacturers (NPMs). As the Escrow Statute is currently drafted, certain NPMs, with sales concentrated in a few states, pay significantly less money into escrow than they would pay as Participating Manufacturers. Such escrow amounts are inadequate to cover State claims in the event a State obtains a judgment against such NPMs. We believe that it is time to end the unfair advantage and impose requirements that are more evenhanded.

We are a small company that, like other Participating Manufacturers, has agreed to be bound to all the provisions of the MSA, including payment obligations and restrictions on advertising and merchandise distribution. Non-Participating Manufacturers (NPMs), unlike us, do not restrict their advertising, and some continue to distribute branded items that target the youth market. To further support the goals of the MSA, including curbing youth smoking, it is time to close the loophole in the Escrow Statute and end the unfair advantage enjoyed by these NPMs.

Sincerely,

*VR Bhavani*  
Bhavani Parameswar  
Vice-President and CFO

12 Route 17 North • Suite 304  
Paramus, NJ 07652  
(201) 843-0377 • 800-317-0377  
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Attorney General

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ANN WILKINSON  
Assistant Attorney General

April 2, 2003

TO: Assembly Judiciary Committee

FROM: John Albrecht  
Chief Tobacco Counsel

RE: Proposed Amendments to AB 460

The Attorney General supports AB 460, with amendments that clarify and strengthen the proposal. The Amendments are

1. Amend Section 4 with the following sentence: "A child assisting in an inspection under Nev. Rev. Stat. 202.2496 may not be charged with or found guilty of violating this section or detained by a merchant under Section 5 of AB 460.
2. Strike Subsection (1)(b) and (2) of Section 18 and delete Section 15. The current draft requires the entity to send or causes to be sent a cigarette. This may allow a manufacturer to not be licensed by selling to another entity who eventually sends into Nevada. In addition, broader language that a person who imports cigarettes should be used and not limited by the licensing requirement of federal law.
3. Amend Section 27, Subsection 2 describing the reporting requirements for wholesale dealers. The current language would require a wholesale dealer to report all shipments of cigarettes to other wholesale dealers and retailers "within and outside the borders of the state." It does not include language reporting on inventory and receipts of cigarettes. The amendment would require reports on only shipments made within the state and inventory of cigarettes and Nevada stamps held by the wholesale dealer.
4. Amend Section 37, Subsection 2, to clarify that both the local district attorney and the Attorney General has authority to investigate and prosecute violations of the counterfeit cigarettes provisions of the Act.

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*"Protecting Citizens, Solving Problems, Making Government Work"*

April 2, 2003

Page 2

5. A new section is added, called Section 56A, which authorizes private civil actions for injunctions by a retailer, wholesale dealer, or manufacturer who is economically injured by a party violating the counterfeit and contraband cigarettes provisions of this Act.
  
6. Section 57 to 72 should be amended to be codified into a separate Chapter of the NRS other than NRS Chapter 370A. NRS Chapter 370A is required by the tobacco Master Settlement Agreement and cannot be amended without express permission of the other states and the tobacco companies signing the MSA. If a state does amend its equivalent of NRS Chapter 370A, the state risks a reduction in its tobacco MSA payment. Sections 57-72 should not be an amendment to NRS Chapter 370A but a different chapter.
  
7. The only exception to # 6 is Section 73 of AB 460. That amendment is to repeal the allocable share release. That may be an amendment to NRS Chapter 370A.

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