

## CHAPTER 52.

S. B. No. 184. Substitute for S. B. No. 108.

(Passed March 8, 1923. Approved March 8, 1923. In effect May 8, 1923)

**LICENSING AND SALE OF CIGARETTES, ETC.—ADVERTISING TOBACCO, CIGARS, CIGARETTES, ETC.—SMOKING ROOMS.**

**An Act amending Sections 1, 2 and 4, re-enacting Sections 3 and 5, Chapter 145, Laws of Utah, 1921, so as to make it unlawful to barter, sell or offer for sale cigarettes or cigarette papers in the State of Utah without a permit; providing for the granting, issuance and revocation of permits therefor, fixing the license fees for such permits and requiring a bond as a condition to the issuance thereof; providing for a stamp tax and stamps on all cigarettes, cigarette papers and wrappers and tubes sold in the State of Utah; declaring unlawful the making, altering, forging or counterfeiting of any such license or stamp, or having possession thereof, knowing the same to be forged, counterfeited, spurious or altered; prohibiting the furnishing of cigarettes or cigarette papers or wrappers or tobacco to minors; declaring to be a nuisance any building or place used for the sale or keeping for sale of cigarettes, or cigarette papers or wrappers in violation of the provisions of this Act; prohibiting the advertising of cigarettes, cigarette papers, cigars, chewing tobacco or smoking tobacco, except as provided herein; prohibiting smoking in certain public places and forbidding proprietors knowingly to permit minors to smoke tobacco in their places of business; providing penalties for the violations of the provisions of this Act, and repealing all acts or parts of acts in conflict with the provisions of this Act.**

*Be it enacted by the Legislature of the State of Utah:*

**SECTION 1. Sections amended or re-enacted.** That Sections 1, 2 and 4, Chapter 145, Laws of Utah, 1921, be amended as hereinafter set forth, and that Sections 3 and 5 of said chapter be re-enacted.

**Sec. 1. Permit for sale of cigarettes and cigarette papers—license—bond—fraud—penalties—tax stamps—enforcement—minors—nuisance.** It shall be unlawful for any person, firm or corporation to barter, sell or offer for sale, cigarettes or cigarette papers in the State of Utah, without first having obtained a permit therefor, which said permit may be granted and issued by the board of city commissioners of any city of the first or second class, the city council of any city of the third class, the board of trustees of any town, or the board of county commissioners in any territory outside of any city or town. Said permit shall be in force and effect for one year from and after the date of issuance, unless sooner revoked, and shall be granted only to a person, firm or corporation owning or operating the place from which such sales are to be made, which place shall be within the territorial limits of the body granting such permit. Each permit

shall be numbered and shall show the residence and place of business of the permit holder, and shall not be transferable. The body issuing such permit shall, on reasonable notice and hearing, revoke the permit of any person, firm or corporation violating any provision of this Act, and no permit can be issued to such person, firm or corporation within a period of two years thereafter. The body issuing such permits shall keep an accurate record thereof and of all revocations of permits, and upon revocation of any permit shall immediately certify the same to the State treasurer.

No permit shall be issued until the applicant shall have paid to the treasurer of the city, town or county, as the case may be, an annual license fee therefor as follows:

In cities of the first class .....	\$100.00
In cities of the second class .....	75.00
In cities of the third class .....	50.00
In towns, or other territory .....	25.00

All such license fees shall be credited to the general fund of the city, town or county collecting the same.

No permit shall be issued until the applicant therefor shall have filed with the city recorder, or clerk of the body issuing said permit, a bond to be approved by the board of county commissioners, board of city commissioners, or city council, as the case may be, which said bond shall be payable to the city, town or county issuing such permit, for the benefit of all parties interested, and shall be in the amount of five hundred (\$500.00) dollars and conditioned upon the faithful observance of all the provisions of this Act, and for the payment of all damages that may result from the unlawful sale of cigarettes or cigarette papers. Said bond shall be signed by the obligor as the principal and by a surety company authorized to do business in this State.

From and after the taking effect of this Act there is hereby imposed, and there shall be collected by and paid to the State treasurer, upon the sale of all cigarettes and cigarette papers, or wrappers and tubes sold in the State of Utah to consumers, the following taxes, to be paid at the time of sale and delivery to the consumer:

Class A. On cigarettes weighing not more than three pounds per thousand, one mill on each such cigarette;

Class B. On cigarettes weighing more than three pounds per thousand, two mills on each such cigarette;

Class C. On cigarette papers or wrappers or any papers made or prepared for the purpose of making cigarettes, made up in packages, books or sets; on each such package, book or set containing not more than

fifty papers, one-half cent; containing more than fifty papers but not more than one hundred papers, one cent; containing more than one hundred papers, one-half cent for each fifty papers or fractional part thereof.

Class D. On tubes, one cent for each fifty tubes or fractional part thereof.

All cigarettes sold in this State under the provisions of this Act shall be put up in packages containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80 or 100 cigarettes each. Before being delivered to the consumer, each package of cigarettes and each package, book or set of papers or of tubes, shall have securely affixed thereto a suitable stamp denoting the tax thereon, and said stamp shall be properly cancelled prior to such sale or removal for consumption, under such regulations as the State treasurer shall prescribe.

Any person, firm or corporation violating any provision of Section 1 of this Act shall be guilty of a misdemeanor; and all cigarettes, cigarette papers or wrappers, and papers made or prepared for the purpose of making cigarettes in his possession or in his place of business shall be confiscated and forfeited to the State.

It shall be unlawful for any person not authorized hereby, with the intent to defraud the State, to make, alter, forge or counterfeit any license or stamp provided for in this Act or to have in possession any forged, counterfeited, spurious or altered license or stamp, knowing the same to be forged, counterfeited, spurious or altered, and whoever is found guilty of any violation of this provision shall be fined not more than one thousand (\$1,000.00) dollars and be imprisoned in the State penitentiary not more than three years.

The State auditor shall prepare and have suitable stamps for use on each kind of package described herein. Upon requisition from the State treasurer, the State auditor shall deliver to his order the stamps designated in such requisition and shall charge the State treasurer with the stamps thus delivered, and shall keep an accurate record of all stamps coming into and leaving his hands. The State treasurer shall sell the stamps herein provided for, only to dealers holding permits issued as provided in this Act and the moneys received from the sale of such stamps shall be turned into the general fund of the State. The State treasurer shall redeem and make repayment for any unused stamps on written request made by any such dealer and pay for same out of any funds derived from the provisions of this Act. It shall be unlawful for a dealer to sell or dispose of such stamps to another dealer or to any person whomsoever, except as herein provided.

The State treasurer, in the enforcement of this Act, may call to his aid the attorney general, any county or district attorney or any peace

officer, and he is further authorized to appoint such clerks and additional help as may be needed to carry out the provisions of this Act. The compensation of all persons employed hereunder shall be fixed by the State board of examiners and all necessary expenses shall be paid from the revenues derived hereunder.

Any person who shall furnish to any minor under twenty-one years of age, by gift, sale or otherwise, any cigarette or cigarette paper or wrapper, or any paper made or prepared for the purpose of making cigarettes, or any tobacco of any kind whatsoever, shall be guilty of a misdemeanor, and shall be punished by fine of not less than twenty-five (\$25.00) dollars, nor more than two hundred ninety-nine (\$299.00) dollars, or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

Any person, firm or corporation maintaining a place where cigarettes or cigarette papers or tobacco are sold or kept with intent to sell in violation of the provisions of this Act, shall be deemed guilty of keeping and maintaining a nuisance, and the building or place so used for the sale or keeping for sale of cigarettes or cigarette papers or wrappers, or tobacco, in violation of the provisions of this Act, shall be deemed to be a nuisance, and such person, firm or corporation may be enjoined from maintaining such nuisance and such building or place abated as a nuisance, and the procedure for the actions to enjoin and abate such nuisance, or for contempt in violating an order of injunction, shall be, so far as applicable, the same as that now provided by the laws of this State enjoining and abating intoxicating liquor nuisances.

**Sec. 2. Advertising or display of tobacco, cigarettes, etc.** It shall be a misdemeanor for any person, company or corporation to write, print, publish, or circulate in any newspaper, magazine, periodical or circular written, printed or published within the State of Utah, or any street-sign, placard, or billboard, street-car, package of merchandise other than the merchandise licensed in this Act, or any other place of display, any advertisement of cigarettes or cigarette papers, cigars, chewing tobacco or smoking tobacco or any disguise or substitute of either of these except that a dealer in tobacco and cigars may have a sign on the front of his place of business stating that he is dealing in such articles, and excepting further that cigars, chewing tobacco and smoking tobacco may be advertised in any newspaper published within the State of Utah, provided, however, that nothing herein shall be so construed as to permit advertising of cigarettes in any manner.

Nor shall any cigarettes or cigarette papers, or any advertisement thereof, be displayed in any store-window, in the State of Utah, provided however, that nothing in this section contained shall be construed so as to prohibit the display of tobacco and the advertisements thereof, other than cigarettes and the advertisements thereof, in store windows.

**Sec. 3. Use of tobacco, etc., by minors unlawful.** It shall be a misdemeanor for the proprietor of any place of business to knowingly permit minors under twenty-one years of age to frequent such place of business while in the act of using tobacco in any form. The term "place of business" as here used shall apply to any and all such places as shops, stores, factories, public garages, offices, theatres, recreation and dance halls, pool room, cafes, cafeterias, cabarets, restaurants, hotels, lodging houses, street cars, inter-urban and railway passenger coaches and waiting rooms.

**Sec. 4. Smoking tobacco, etc., in enclosed place, except in smoking rooms, forbidden—smoking signs.** It shall be a misdemeanor for any person to smoke cigars, cigarettes or tobacco in any form in any enclosed public place within the State of Utah, except in extra rooms, compartments or coaches specially provided for smoking purposes. The term "enclosed public place" as here used shall be construed to mean the dining rooms in hotels, restaurants, cafes and cafeterias; theatres, passenger elevators, street cars, inter-urban and railway passenger coaches, motor and other passenger vehicles employed as common carriers, railway station waiting rooms, State, county and city buildings, excepting that the owner or proprietor of any hotel dining room, restaurant, cafe or cafeteria may designate the same as a public smoking room by a conspicuous sign at or near the entrance; provided further, that in any State, county or city building, any public officer who has a private office separate and apart from his public office, may if he so desires, designate such private office as a place where smoking may be permitted, and so long as such private office is so designated, smoking therein shall not be considered in violation of this Act.

**Sec. 5. "Unconstitutional" reservation.** If any section, subsections, clause, phrase or word of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

**Sec. 2.** All Acts or parts of Acts in conflict herewith are hereby repealed.

**Sec. 3.** This Act shall take effect upon approval.

Approved March 8, 1923.

(NOTE—This Act did not receive a vote of two-thirds of all the members elected to the House.)