HOUSE DOCKET, NO. 1596 FILED ON: 1/20/2011

# HOUSE . . . . . No. 1527

The Commonwealth of Massachusetts

PRESENTED BY:

***Tom Sannicandro***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act Banning the Sale of Cigars in Packages of Less Than Five.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Tom Sannicandro* | *7th Middlesex* |

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# HOUSE . . . . . No. 1527

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 1527) of Tom Sannicandro for legislation to ban the sale of cigars in packages of less than five. Public Health.

## The Commonwealth of Massachusetts

An Act Banning the Sale of Cigars in Packages of Less Than Five.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Section 1: Definitions

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco. "Cigar" does not mean any tobacco product that meets the definition of the term "cigarette" as defined in section 3(1) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1332.

Original package: the original pack, box, carton, or other container of cigars that was used for packaging the cigars by their manufacturer; and is intended for ultimate sale or transfer to consumers as a package and not intended to be broken for the sale or transfer of individual cigars.

Distribute: to give away, sell, deliver, dispense, or issue; to offer to give away, sell, deliver, dispense, or issue; or to cause or hire any person to give away, sell, deliver, dispense, or issue; or offer to give away, sell, deliver, dispense, or issue.

Person: any natural person, partnership, firm, joint stock company, corporation or employee thereof, or other legal entity whether public or private.

Retail tobacco store: an establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required by the municipality in which it is located and by and the Massachusetts Department of Revenue.

Section 2: Prohibition of Sales or Transfers of Fewer than Five Cigars

22 Except as specified in Section 3, a person engaged in the business of selling or otherwise
23 distributing cigars for commercial purposes may not sell or otherwise distribute a cigar to any
24 person in the Commonwealth of Massachusetts unless the cigar is contained in an original
25 package of at least five (5) cigars; and the package bears a health warning in the size and manner
26 described as required pursuant to 940 CMR 22.00.

27 Section 3: Exceptions

28 Sales or other distributions by and on the premises of a retail tobacco store as defined in
29 Section One; the sale or transfer of any cigar that has a wholesale price of more than two dollars
30 ($2.00) or a retail price of more than two dollars and fifty cents ($2.50); a person engaged in the
31 business of selling or otherwise distributing cigars for commercial purposes who sells or
32 otherwise distributes cigars to another person engaged in the business of selling or otherwise
33 distributing cigars for commercial purposes for the purpose of sale or other distribution outside
34 the boundaries of the Commonwealth of Massachusetts are exempt from Section 2.

35 Section 4: Violations

36 A violator of this section may receive a fine of one hundred dollars ($100.00) for a first
37 violation; in the case of a second violation within 24 months of the first violation a fine of two
38 hundred dollars ($200.00); and, in the case of three or more violations within 24 months of the
39 second or current violation, a fine of three hundred dollars ($300.00) for each violation. Each
40 calendar day an entity operates in violation of any provision of this law shall be deemed a
41 separate violation.

42 Section 5: Enforcement

43 The local board of health, the department of public health, the local inspection
44 department or the equivalent, and a municipal government or its agent shall enforce this section.

45 Section 6: Non-preemption

46 Nothing is this section shall preempt further limitations of the sale of tobacco products
47 by the commonwealth or any department, agency or political subdivision of the commonwealth.