

CHAPTER 96

AN ACT concerning the sale or distribution of cigarettes, and amending and supplementing P.L.1948, c.65.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.54:40A-4.2 Sale of single, less than packs of 20; violations, fine.

1. a. A person shall not sell, offer for sale, give away or deliver single cigarettes, as defined in section 102 of P.L.1948, c.65 (C.54:40A-2) or cigarettes in packs of less than 20 cigarettes from a vending machine or in a retail establishment.

b. A person who owns a vending machine that dispenses, sells, offers for sale, gives away or delivers single cigarettes or cigarettes in packs of less than 20 cigarettes shall be fined not less than \$100 or more than \$500 for each day that the vending machine is determined to be in violation of subsection a. of this section.

c. A person, either acting directly or indirectly through an agent, who, at retail, sells or offers for sale, gives away, delivers or otherwise furnishes to a person a single cigarette or cigarettes in packs of less than 20 cigarettes shall be fined \$250 for a first offense and \$500 for a second or subsequent offense.

C.54:40A-4.3 Enforcement of single, less than packs of 20 sale violations.

2. A penalty imposed under this act shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of this act, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

3. Section 102 of P.L.1948, c.65 (C.54:40A-2) is amended to read as follows:

C.54:40A-2 Cigarette tax definitions.

102. For the purposes of this act and unless otherwise required by the context:

a. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any other substance or substances other than tobacco, irrespective of size, shape or flavoring, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. A "single cigarette" is a cigarette sold or offered for sale individually.

b. "Director" means the Director of the Division of Taxation, in the Department of the Treasury.

c. "Distributor" means and includes any person, wherever resident or located, who brings or causes to be brought into this State unstamped cigarettes purchased directly from the manufacturers thereof and stores, sells or otherwise disposes of the same after they shall reach this State.

d. "Wholesale dealer" shall include any person, wherever resident or located, other than a distributor, as defined herein, who:

(1) Purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers or to other persons for the purposes of resale only; or

(2) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

e. "Retail dealer" means any person who is engaged in this State in the business of selling cigarettes at retail. Any person placing a cigarette vending machine at, on or in any premises shall be deemed to be a retail dealer for each such vending machine.

f. "Consumer" means any person except a distributor or a manufacturer who acquires for consumption, storage or use in this State cigarettes to which New Jersey revenue stamps have not been attached.

g. "Place of business" means and includes any place where cigarettes are sold or where cigarettes are brought or kept for the purpose of sale or consumption, including so far as applicable any vessel, vehicle, airplane, train or cigarette vending machine.

h. "Licensed distributor" means any distributor, as defined in this act, licensed under the provisions of this act.

i. "Licensed wholesale dealer" means any wholesale dealer, as defined in this act, licensed under the provisions of this act.

j. "Licensed retail dealer" means any retail dealer, as defined in this act, licensed under the provisions of this act.

k. "Licensed consumer" means any consumer, as defined in this act, licensed under the provisions of this act.

l. "Person" means any individual, firm, corporation, copartnership, joint venture, association, receiver, trustee, guardian, executor, administrator, or any other person acting in a fiduciary capacity, or any estate, trust or group or combination acting as a unit, the State Government and any political subdivision thereof, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

m. "Rules and regulations" means those made and promulgated by the director in the administration of this act.

n. "Sale" means any sale, transfer, exchange, theft, barter, gift, or offer for sale and distribution, in any manner or by any means whatsoever.

o. "Stamp" means any impression, device, stamp, label or print manufactured, printed or made as prescribed by the director.

p. "Taxpayer" means any person subject to a tax imposed by this act, or any person required to be licensed under this act.

q. "Treasurer" means the State Treasurer.

r. "Use" means the exercise of any right or power incidental to the ownership of cigarettes.

s. "Manufacturer" means and includes any person, wherever resident or located, who manufactures or produces, or causes to be manufactured or produced, cigarettes and sells, uses, stores or distributes the same regardless of whether they are intended for sale, use or distribution within or without this State.

t. "Manufacturer's representative" means and includes any person, employed by a manufacturer, who, for promotional purposes, sells, stores, handles or distributes cigarettes, within this State, limited exclusively to cigarettes manufactured by the employing manufacturer.

u. "Licensed manufacturer" means any manufacturer, as defined in this act, licensed under the provisions of this act.

v. "Licensed manufacturer's representative" means any manufacturer's representative, as defined in this act, licensed under the provisions of this act.

4. This act shall take effect on the first day of the third month following enactment.

Approved July 9, 2004.