

TOBACCO PRODUCTS TAX ACT (EXCERPT)
Act 327 of 1993

205.426a Disbursement of stamps to wholesaler or unclassified acquirer; affixing stamp; resale of package or cigarette; inspection or inventory; exchanging or discontinuing unaffixed stamps; accepting, purchasing, or borrowing unaffixed stamps; appointment of stamping agent to affix stamps to individual packages; limitation; inquiries from department of state police.

Sec. 6a. (1) A wholesaler or unclassified acquirer may apply to the department for stamps to affix as provided in this act. The department may prescribe the method of shipment of the stamps. The department shall keep a record of all stamps disbursed, name of wholesaler or unclassified acquirer, and date of disbursement. The department may release the identity of the wholesaler or unclassified acquirer to whom specific stamps were disbursed to state or local police agencies.

(2) Except as otherwise provided in this subsection, before delivery, sale, or transfer to any person in this state, a wholesaler or an unclassified acquirer shall place or cause to be placed on the bottom of each individual package of cigarettes to be sold within this state a stamp provided by the department. If approved by the department, a stamp may be placed in a location other than the bottom of each individual package of cigarettes.

(3) Stamps must be firmly affixed in such a manner that the stamps cannot be removed without being mutilated or destroyed. A stamp must be affixed to each individual package in an aggregate denomination equal to the amount of the tax upon the contents of the individual package of cigarettes. A stamp is considered affixed if 90% or more of the stamp is affixed to the individual package.

(4) A retailer or person licensed under this act, other than a wholesaler or unclassified acquirer or a person acting as a transporter for a wholesaler or unclassified acquirer, shall not acquire for resale an individual package of cigarettes or a cigarette from an individual package unless that individual package of cigarettes has affixed to it a stamp as provided in this act.

(5) A retailer or vending machine operator shall not sell or offer for sale an individual package of cigarettes to the general public that does not have affixed the stamp required by this act. An individual package of cigarettes without a stamp may not be sold from, or placed or stored in, a vending machine. Except as otherwise provided by law, a person shall not sell a cigarette separately from its individual package.

(6) The department or its authorized agents may inspect the operations of a wholesaler and an unclassified acquirer for purposes of ensuring compliance with this act and to conduct an inventory of a wholesaler's or unclassified acquirer's stock of cigarettes, tobacco products other than cigarettes, and stamps during regular business hours and inspect the related statements and other records required in section 6. This inspection shall also verify that shipping cases and containers of tobacco products other than cigarettes bear any markings required by this act. An inspection under this section must be conducted during the regular business hours of the wholesaler or unclassified acquirer. Unless otherwise approved by the department, the regular business hours of a wholesaler or unclassified acquirer are those hours disclosed on that wholesaler's or unclassified acquirer's license application as required under section 3.

(7) The department or its authorized agents may inspect the operations of a secondary wholesaler, vending machine operator, or retailer, or the contents of a specific vending machine, during regular business hours. This inspection shall include inspection of all statements and other records required by section 6, of packages of cigarettes and tobacco products other than cigarettes, and of the contents of cartons and shipping or storage containers to ascertain that all individual packages of cigarettes have an affixed stamp of proper denomination as required by this act. This inspection may also verify that all the stamps were produced under the authority of the department and that shipping cases and containers of tobacco products other than cigarettes bear any markings required by this act. Unless otherwise approved by the department, the regular business hours of a secondary wholesaler or vending machine operator are those hours disclosed on that secondary wholesaler's or vending machine operator's license application as required under section 3. The regular business hours of a retailer are those hours that the retailer is open for business as evidenced by the retailer's commercial activity and signage, advertisements, or other information communicated to the general public.

(8) A person shall not prevent or hinder the department or its authorized agents from conducting an inspection authorized by this act.

(9) The department may require wholesalers and unclassified acquirers to exchange unaffixed stamps with the department as the department considers necessary. The department may require wholesalers, unclassified acquirers, secondary wholesalers, vending machine operators and retailers to discontinue offering for sale any unsold individual packages of cigarettes bearing a prior version of the stamp that the department has withdrawn from circulation. The department may set a reasonable timeline after which the prior version of the

stamp may no longer be offered for sale and the new version of the stamp is required. A secondary wholesaler, retailer, or vending machine operator may return cigarette packages bearing discontinued stamps to a wholesaler for credit. A wholesaler or unclassified acquirer may take credit on its tax returns for individual packages of cigarettes bearing discontinued stamps that are returned to the manufacturer for credit less the appropriate discount paid.

(10) Except as provided in subsection (11), a wholesaler or unclassified acquirer shall not give, sell, or lend any unaffixed stamps to another person and except as otherwise provided in this act, a person shall not accept, purchase, or borrow any unaffixed stamps from another person.

(11) Upon written authorization of the department, a wholesaler or unclassified acquirer licensed under this act may appoint a stamping agent to affix stamps to individual packages of cigarettes.

(12) Stamps may only be affixed to an individual package of cigarettes if the manufacturer of the cigarettes is identified on the lists of participating manufacturers or nonparticipating manufacturers maintained by the department pursuant to sections 6c and 6d.

(13) The department of state police shall initiate inquiries to or otherwise access data from the department to support or in furtherance of its enforcement activities under this act.

History: Add. 1997, Act 187, Imd. Eff. Dec. 30, 1997;—Am. 2012, Act 188, Imd. Eff. June 20, 2012;—Am. 2022, Act 171, Imd. Eff. July 21, 2022.