

## **IC 24-3-6**

### **Chapter 6. Contraband Cigarettes**

#### **IC 24-3-6-1**

##### **"Commission"**

Sec. 1. As used in this chapter, "commission" refers to the alcohol and tobacco commission created by IC 7.1-2-1-1.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-2**

##### **"Distributor"**

Sec. 2. As used in this chapter, "distributor" means a distributor (as defined in IC 6-7-1-6) that holds a registration certificate issued under IC 6-7-1-16.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-3**

##### **"Importer"**

Sec. 3. As used in this chapter, "importer" means a person that brings cigarettes into the United States for sale or distribution.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-4**

##### **"Licensed"**

Sec. 4. As used in this chapter, "licensed" means holding a license issued under section 9 of this chapter.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-5**

##### **"Manufacturer"**

Sec. 5. As used in this chapter, "manufacturer" means a person that manufactures or otherwise produces cigarettes to be sold in the United States.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-6**

##### **"Person"**

Sec. 6. As used in this chapter, "person" has the meaning set forth in IC 6-7-1-4.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-7**

##### **"Retailer"**

Sec. 7. As used in this chapter, "retailer" means a person that sells cigarettes to a consumer. The term includes a distributor.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-8**

##### **"Stamp"**

Sec. 8. As used in this chapter, "stamp" has the meaning set forth

in IC 6-7-1-9.  
*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-9**

##### **Licenses; application, issuance, and renewal; revocation or suspension**

Sec. 9. (a) The commission may issue or renew a license to the following applicants:

- (1) An importer.
- (2) A manufacturer.

The commission shall prescribe the form of an application.

(b) An importer or manufacturer that conducts business in Indiana must apply under this section for a license for the importer's or manufacturer's principal place of business. An importer or manufacturer that is issued a license shall display the license at the importer's or manufacturer's principal place of business.

(c) The commission shall prescribe the form and duration of a license issued under this section. However, a license may not be valid for more than three (3) years from the date of issuance.

(d) A license issued under this section is nontransferable.

(e) The commission shall not issue or renew a license under this section if:

- (1) the applicant owes at least five hundred dollars (\$500) in taxes imposed under IC 6-7-1-12;
- (2) the commission revoked the applicant's license within two (2) years before the application;
- (3) the applicant commits an offense under IC 6-7-1-21;
- (4) the applicant does not comply with IC 24-3-3-12; or
- (5) the applicant violates IC 24-3-4.

(f) The commission may revoke or suspend a license issued under this section if the applicant:

- (1) is not eligible to receive or renew a license under subsection (e); or
- (2) violates this chapter.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-10**

##### **Stamped and unstamped cigarettes**

Sec. 10. (a) A distributor may apply a stamp only to cigarettes that are received from a licensed importer or licensed manufacturer.

(b) A distributor shall store stamped and unstamped cigarettes separately.

(c) A distributor may transfer unstamped cigarettes only as provided in IC 6-7-1-18.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-11**

##### **Selling or obtaining cigarettes**

Sec. 11. (a) A manufacturer or an importer may sell cigarettes in Indiana only to a distributor or a licensed importer.

(b) A manufacturer that sells cigarettes to a licensed importer under subsection (a) must be a licensed manufacturer.

(c) A distributor may sell cigarettes only to a distributor or a retailer.

(d) A distributor may obtain cigarettes only from another distributor, a licensed importer, or a licensed manufacturer.

(e) Except as provided in subsection (f), a retailer may obtain cigarettes only from a distributor.

(f) A retailer that is a holder of a certificate issued under IC 7.1-3-18.5 may purchase up to one thousand dollars (\$1,000) of cigarettes per week from another retailer that holds a certificate issued under IC 7.1-3-18.5.

*As added by P.L.160-2005, SEC.15.*

### **IC 24-3-6-12**

#### **Reporting information by distributor to attorney general**

Sec. 12. (a) This section does not apply to a distributor who:

- (1) is a licensed manufacturer; and
- (2) complies with section 13 of this chapter.

(b) A distributor shall report the following information for each place of business belonging to the distributor to the office of the attorney general not later than the fifteenth day of each month:

- (1) The number and brand of cigarettes:
  - (A) distributed;
  - (B) shipped into Indiana; or
  - (C) shipped within Indiana;during the immediately preceding month.
- (2) The name and address of each person to which cigarettes described in subdivision (1) were distributed or shipped.

*As added by P.L.160-2005, SEC.15.*

### **IC 24-3-6-12.3**

#### **Distributor reports under section 12 of chapter; when required**

Sec. 12.3. Notwithstanding section 12(b)(2) of this chapter, as added by P.L.160-2005, a distributor is not required to report the information required in section 12(b)(2) of this chapter, as added by P.L.160-2005, until the later of the following:

- (1) When the attorney general becomes capable of receiving the information reported in an electronic format.
- (2) July 1, 2008.

*As added by P.L.220-2011, SEC.386.*

### **IC 24-3-6-13**

#### **Documentation of transactions; preservation; review**

Sec. 13. (a) An importer or a manufacturer shall maintain documentation for each place of business belonging to the importer or manufacturer for each transaction other than a retail transaction with a consumer involving the sale, purchase, transfer, consignment, or receipt of cigarettes. The documentation must include:

- (1) the name and address of the parties to the transaction; and

(2) the quantity by brand style of cigarettes involved in the transaction.

(b) Subject to subsection (c), an importer or a manufacturer shall preserve documentation described in subsection (a) at the place of business at which each transaction occurs.

(c) The commission may allow an importer or a manufacturer with multiple places of business to preserve documentation described in subsection (a) at a centralized location. However, the importer or manufacturer shall provide duplicate documentation at each place of business upon request by the commission.

(d) An importer or a manufacturer shall maintain documentation under this section for five (5) years from the date of the transaction.

(e) The commission may:

(1) obtain access to; and

(2) inspect at reasonable times;

the documentation maintained under this section. The commission may share the documentation with other law enforcement officials.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-14**

##### **Inspection by commission or law enforcement officer**

Sec. 14. (a) The commission may enter and inspect, without a warrant during normal business hours or with a warrant during nonbusiness hours, the facilities and records of an importer or a manufacturer.

(b) If the commission or a law enforcement officer has knowledge or reasonable grounds to believe that a vehicle is transporting cigarettes in violation of this chapter, the commission or the law enforcement officer may stop and inspect the vehicle for cigarettes being transported in violation of this chapter.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-15**

##### **Civil penalty**

Sec. 15. (a) A person who violates this chapter is liable for a civil penalty equal to the greater of:

(1) five (5) times the value of the cigarettes involved in the violation; or

(2) one thousand dollars (\$1,000).

(b) A civil penalty under this section is in addition to any other penalty imposed.

*As added by P.L.160-2005, SEC.15.*

#### **IC 24-3-6-16**

##### **Right of action; notice to attorney general**

Sec. 16. (a) Either or both of the following may bring an action to prevent or restrain violations of this chapter:

(1) The attorney general or the attorney general's designee.

(2) A person that holds a valid permit under 26 U.S.C. 5712.

(b) A person that brings an action under subsection (a) shall

provide notice to the attorney general of the commencement of the action.

*As added by P.L.160-2005, SEC.15.*