

No. TT-20

August 23, 1999

TO: Cigarette Manufacturers, Wholesalers, Subwholesalers, and Other Interested Parties

SUBJECT: Cigarette "Primary Source" Legislation

The 1999 Maryland General Assembly enacted House Bill 667, effective July 1, 1999, to address the problem of cigarettes being shipped into Maryland without the proper authorization of the brand owner. The new law, commonly known as "primary source" legislation, specifically deals with issues surrounding the sale and shipment of "gray market" cigarettes and the direct sale and shipment of cigarettes to consumers in Maryland that are ordered over the Internet or through other methods.

Gray market products are products typically produced for export outside the United States and then are reintroduced into the United States without the authorization of the manufacturer. Although gray market products may have the same brand name as products normally distributed in the United States, sometimes the makeup or formula of the product may be substantially different. Normally, such products are clearly marked "for export outside the United States only."

House Bill 667 requires that any person who ships cigarettes into Maryland must be (1) the brand owner (i.e. the manufacturer), (2) the United States importer for the brand, or (3) the designated Maryland agent of the brand owner or United States importer. Additionally, both the shipper and recipient must hold any required license to sell, ship, or receive the product, and the product shipped must conform with any federal or state labeling requirements.

Shippers must assure that they have "brand owner" or agent status and be prepared to produce documentation to substantiate that designation. Additionally, licensed Maryland wholesalers and subwholesalers must assure product they receive for resale in Maryland comes from a "primary source" supplier. Maryland licensees may be asked to produce proof of this status for products in their inventory.

Entities who make sales and shipments of cigarettes directly to Maryland consumers, even if they are the brand owner, are advised that such sales are illegal. Moreover, any entity shipping cigarettes into Maryland must comply with the federal Jenkins Act requiring the shipper to notify the state of specific transactions and sales.

House Bill 667 provides that the shipment of cigarettes into Maryland by a person other than a "primary source" supplier is a felony, with criminal penalties of up to \$50 per carton in fines and/or two years imprisonment and confiscation of any conveyance used to transport that product in Maryland.

We will continue to vigorously enforce Maryland's cigarette tax laws, including provisions of House Bill 667, to protect Maryland revenues and consumers.

Charles W. Ehart, DPA
Director

From our website, you can

- get forms and publications
- fill out the interactive Combined Registration Application online to register for new business tax accounts
- see if you are among the owners of millions in unclaimed funds
- get tax regulations

Forms and publications by Fax: 410-974-FAXX (974-3299)

For the deaf or hard-of-hearing:

TTY users call via Maryland Relay at 711 in Maryland or 1-800-735-2258 from anywhere TTY: 410-767-1967 (Baltimore Metro Area)

If you need a reasonable accommodation for a disability, please contact us before you visit.

If you need the information in this brochure in an alternate format, contact: Office of Communications 410-260-7995 (voice); 410-260-7157 (TTY)

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Goldstein Treasury Building
Annapolis, Maryland 21404-2999
410-260-7314 from Central Maryland or
1-888-784-0145 from elsewhere in Maryland
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