

§1555-C. Delivery sales of premium cigars

The following requirements apply to delivery sales of premium cigars within the State beginning October 1, 2009. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

1. License required. It is unlawful for any person to accept an order for a delivery sale of premium cigars to a consumer in the State unless that person is licensed under this chapter as a tobacco retailer. The following penalties apply to violations of this subsection.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation. [PL 2003, c. 444, §2 (NEW).]

B. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 2 or 4 commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

[PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

2. Requirements for accepting order for delivery sale. The following provisions apply to acceptance of an order for a delivery sale of premium cigars.

A. When accepting the first order for a delivery sale from a consumer, the tobacco retailer shall obtain the following information from the person placing the order:

(1) A copy of a valid government-issued document that provides the person's name, current address, photograph and date of birth; and

(2) An original written statement signed by the person documenting that the person:

(a) Is of legal age to purchase tobacco products in the State;

(c) Understands that providing false information may constitute a violation of law; and

(d) Understands that it is a violation of law to purchase premium cigars for subsequent resale or for delivery to persons who are under the legal age to purchase premium cigars. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

B. If an order is made as a result of advertisement over the Internet, the tobacco retailer shall request the e-mail address of the purchaser and shall receive payment by credit card or check prior to shipping. [PL 2003, c. 444, §2 (NEW).]

C. Prior to shipping the premium cigars, the tobacco retailer shall verify the information provided under paragraph A against a commercially available database derived solely from government records consisting of age and identity information, including date of birth. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

D. A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation. [PL 2003, c. 444, §2 (NEW).]

E. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 1 or 4 commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged. [PL 2009, c. 652, Pt. A, §30 (AMD).]

[PL 2009, c. 652, Pt. A, §30 (AMD).]

3. Requirements for shipping a delivery sale.

[PL 2009, c. 398, §3 (RP); PL 2009, c. 398, §6 (AFF).]

4. Reporting requirements. No later than the 10th day of each calendar month, a tobacco retailer that has made a delivery sale of premium cigars or shipped or delivered premium cigars into the State in a delivery sale in the previous calendar month shall file with the Department of Administrative and

Financial Services, Bureau of Revenue Services a memorandum or a copy of each invoice that provides for each delivery sale the name and address of the purchaser and the brand or brands and quantity of premium cigars sold. The following penalties apply to violations of this subsection.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged for each violation. [PL 2003, c. 444, §2 (NEW).]

B. A person who violates this subsection after having been previously adjudicated as violating this subsection or subsection 1 or 2 commits a civil violation for which a fine of not less than \$1,000 and not more than \$5,000 may be adjudged. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

[PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

5. Unlawful ordering. It is unlawful to submit ordering information for premium cigars by delivery sale under subsection 2, paragraph A in the name of another person. A person who violates this subsection commits a civil violation for which a fine of not more than \$10,000 may be adjudged. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

6. Rulemaking. The department and the Department of Administrative and Financial Services shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 444, §2 (NEW).]

7. Forfeiture. Any premium cigar sold or attempted to be sold in a delivery sale that does not meet the requirements of this section is deemed to be contraband and is subject to forfeiture in the same manner as and in accordance with the provisions of Title 36, section 4372-A. [PL 2009, c. 398, §3 (AMD); PL 2009, c. 398, §6 (AFF).]

8. Enforcement. The Attorney General may bring an action to enforce this section in District Court or Superior Court and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties and equitable relief and may seek to prevent or restrain actions in violation of this section by any person or any person controlling such person. In addition, a violation of this section is a violation of the Maine Unfair Trade Practices Act. [PL 2003, c. 444, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 444, §2 (NEW). PL 2009, c. 398, §3 (AMD). PL 2009, c. 398, §6 (AFF). PL 2009, c. 652, Pt. A, §30 (AMD).

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