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SENATE BILL NO. 455

Offered January 14, 2004

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A *BILL to amend and reenact §§ 58.1-1000 through 58.1-1010, 58.1-1012 through 58.1-1015, 58.1-1017, 58.1-1018, 58.1-1019, and 58.1-1021 of the Code of Virginia, relating to taxation; cigarettes and tobacco products.*

Patron—Whipple

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1000 through 58.1-1010, 58.1-1012 through 58.1-1015, 58.1-1017, 58.1-1018, 58.1-1019, and 58.1-1021 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1000. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Cost price" shall have the same meaning as used in § 58.1-602.

"Retail dealer" includes every person other than a wholesale dealer, as defined in this section, who sells or offers for sale any cigarettes or tobacco products.

"Retail sale" or "sale at retail" includes all sales except sales by wholesalers to retail dealers or other wholesalers for resale.

"Stamps" means the stamp or stamps by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The Department is hereby authorized to provide for the use of any type of stamp which will effectuate the purposes of this chapter including but not limited to decalcomania and metering devices.

"Storage" means any keeping or retention in this Commonwealth of cigarettes or tobacco products for any purpose except sale in the regular course of business or subsequent use solely outside this Commonwealth.

"Tobacco product" means any cigar, cheroot, stogie, perique, granulated, plug cut, crimp cut, ready rubbed or other smoking tobacco, snuff tobacco product, cavendish, plug and twist tobacco, fine cut or other chewing tobacco, shorts, refuse scraps, clippings, cuttings or sweepings of tobacco or all other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise or for both chewing and smoking, but shall not include any cigarette, as defined in § 3.1-336.1.

"Use" means the exercise of any right or power over cigarettes or tobacco products incident to the ownership thereof or by any transaction where possession is given, except that it shall not include the sale of cigarettes or tobacco products in the regular course of business.

"Wholesale dealer" includes persons who sell cigarettes or tobacco products at wholesale only to retail dealers for the purpose of resale only, or who sell at wholesale to institutional, commercial or industrial users. The phrase shall also include chain store distribution centers or houses which distribute cigarettes or tobacco products to their stores for sale at retail.

§ 58.1-1001. Tax levied; rate.

A. In addition to all other taxes now imposed by law, every person within this Commonwealth who sells, stores or receives cigarettes made of tobacco or any substitute thereof, for the purpose of distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax of ~~one and one-quarter mills~~ *three and three-quarter cents* on each such cigarette.

B. In addition to all other taxes now imposed by law, every person within this Commonwealth who sells, stores or receives tobacco products or any substitute thereof, for the purpose of distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax in the amount of three percent of the cost price of each such individual package containing a tobacco product or tobacco products.

§ 58.1-1002. Exemptions.

The tax levied shall not apply to free distribution of sample cigarettes in packages containing five or fewer cigarettes, sample tobacco products in packages containing an amount sufficient for five or fewer individual uses, or to any package of cigarettes or tobacco products customarily donated free of charge by manufacturers of cigarettes or tobacco products to employees in factories where cigarettes or tobacco products are manufactured in this Commonwealth, when such packages of cigarettes or tobacco products are not taxed by the federal government.

§ 58.1-1003. How paid; affixing of stamps; records of dealers.

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59 A. The taxes imposed by this chapter shall be paid by affixing stamps equaling the amount of the tax
60 in the manner and at the time herein set forth. *The amount of tax to be paid by a wholesale dealer for*
61 *tobacco products shall be calculated using that wholesale dealer's cost price for the tobacco products to*
62 *be stamped. The amount of tax to be paid by a retail dealer for tobacco products shall be calculated*
63 *using that retail dealer's cost price for the tobacco products to be stamped.* The stamps shall be affixed
64 to each individual package, bag, box or can in such a manner that their removal will require continued
65 application of water or steam. Time allowed for affixing stamps shall be as follows: Every wholesale or
66 retail dealer in this Commonwealth shall, within one hour after receipt of any unstamped cigarettes *or*
67 *tobacco products*, begin affixing to the same the requisite denominations and amount of stamp or stamps
68 that represent the proper tax levied by this chapter. Stamping shall be continued with reasonable
69 diligence by the wholesale or retail dealer until all of the unstamped cigarettes *or tobacco products* have
70 been stamped; however, any wholesale dealer engaged in interstate business shall be permitted to set
71 aside such part of his stock as may be necessary for the conduct of such interstate business without
72 affixing the stamps required by this chapter. Interstate stock shall be kept entirely separate from stamped
73 stock in such a manner as to prevent the commingling of the interstate stock with the stamped stock.

74 B. Every wholesale dealer shall at the time of shipping or delivering any cigarettes *or tobacco*
75 *products* make and retain a true duplicate invoice of the same which shall show full and complete
76 details of the sale or delivery of the taxable article. Wholesale and retail dealers shall also keep a record
77 of purchases of all cigarettes *or tobacco products*, and retain all books, records, and memoranda
78 pertaining to the purchase and sale of such cigarettes *or tobacco products*.

79 C. Any wholesaler or retailer who fails or refuses to comply with any of the above provisions shall
80 be guilty of a Class 1 misdemeanor.

81 § 58.1-1004. Retail dealers receiving cigarettes or tobacco products from outside Commonwealth to
82 mail duplicate invoice to Department.

83 Any retail dealer of cigarettes *or tobacco products* who purchases or receives such cigarettes *or*
84 *tobacco products* from without the Commonwealth, whether the same have been ordered or purchased
85 through a wholesaler in this Commonwealth, or by drop shipment or otherwise, shall within ~~twelve~~12
86 hours of receipt of such cigarettes *or tobacco products* mail by registered mail a true duplicate invoice
87 of all such purchases or receipts to the Department. The invoice shall carry the name of the person from
88 whom or through whom such purchases or shipments of the cigarettes *or tobacco products* were so
89 received, showing kinds and quantities. Any retail dealer failing or refusing to furnish duplicate invoices,
90 in both the manner and time allowed, shall be guilty of a Class 2 misdemeanor.

91 § 58.1-1005. Duties of carriers, etc., transporting cigarettes or tobacco products.

92 All common carriers, contract carriers, buses, and trucks transporting cigarettes *or tobacco products*
93 shall maintain a statement or record of all consignments or deliveries of cigarettes *or tobacco products*,
94 showing date, point of origin, point of delivery and to whom delivered, and time of delivery, and may
95 be required under regulations to be prescribed by the Department to transmit to the Department a
96 periodic statement of such consignments or deliveries. Any person who fails to maintain the statement or
97 record required by this section or who refuses to transmit to the Department the statement hereinabove
98 provided for shall be guilty of a Class 2 misdemeanor.

99 § 58.1-1006. Forms and kinds of containers, methods of breaking packages, and methods of affixing
100 stamps; penalty for interfering with enforcement of article.

101 The Department shall provide by rules and regulations forms and kinds of containers, the methods of
102 breaking packages and methods of affixing stamps that shall be employed by persons subject to the
103 cigarette *and tobacco product* tax, thereby making possible the enforcement of payment of the cigarette
104 *and tobacco product* tax by inspection. Any person subject to this tax engaging in or permitting such
105 practices as are prohibited by rules and regulations of the Department or any person who upon demand
106 of the Department or any of its officers or agents refuses to allow full inspection of the premises or any
107 part thereof, or in any way interferes with any agent of the Department in the performance of his duties
108 in enforcing this chapter, shall be guilty of a Class 2 misdemeanor.

109 § 58.1-1007. Documents touching purchase, sale, etc., of cigarettes or tobacco products to be kept for
110 three years, subject to inspection.

111 It shall be the duty of every person receiving, storing, selling, handling or transporting cigarettes *or*
112 *tobacco products* in any manner whatsoever, to preserve all invoices, books, papers, cancelled checks, or
113 other documents relating to the purchase, sale, exchange, receipt or transportation of all cigarettes *or*
114 *tobacco products* for a period of three years. All such invoices, books, papers, cancelled checks or other
115 memoranda and records shall be subject to audit and inspection by any duly authorized representative of
116 the Department at all times. Any person who fails or refuses to keep and preserve the records as herein
117 required, or who upon request by a duly authorized agent of the Department fails or refuses to allow an
118 audit or inspection of records as hereinabove provided, shall be guilty of a Class 2 misdemeanor.

119 § 58.1-1008. Monthly reports of wholesale dealers; penalty.

120 Every wholesale dealer qualifying as such with the Department shall be required to file a report

between the first and tenth of each month, covering the purchase or receipt by them of all cigarettes *or tobacco products* during the preceding month. The report shall give in detail the different kinds and quantities of cigarettes *or tobacco products* so purchased or received by them during the preceding month. The report shall also list all orders for cigarettes *or tobacco products* purchased through such wholesale dealer from without this Commonwealth on a drop shipment and consigned direct to the person ordering such cigarettes *or tobacco products* through such wholesale dealer. If, upon examination of invoices of any wholesale dealer, such dealer is unable to furnish evidence to the Department of sufficient stamp purchases to cover unstamped cigarettes *or tobacco products* purchased by him, the prima facie presumption shall arise that such cigarettes *or tobacco products* were sold without the proper stamps affixed thereto in violation of § 58.1-1003. Any wholesaler failing or refusing to file the report required by this section in the manner and time allowed shall be guilty of a Class 2 misdemeanor.

§ 58.1-1008.1. Monthly reports of tobacco product manufacturers.

Every manufacturer producing cigarettes *or tobacco products* in or shipping cigarettes *or tobacco products* into or within the Commonwealth shall file a report with the Department between the first and tenth day of each month identifying all purchasers of cigarettes *or tobacco products* by name and address with the quantities and brands of cigarettes *or tobacco products* purchased during the preceding month, and shall provide any other information the Department deems appropriate for the administration of this title or Article 5 (§ 3.1-336.1 et seq.) of Chapter 18 of Title 3.1. The Department shall have the power to enter upon the premises of any such manufacturer during its regular business hours to examine or cause to be examined, by any agent or representative designated by the Department for that purpose, any books, papers, records, invoices, or memoranda, etc., relating to (i) the information required in such report, or (ii) the manufacturer's compliance with this section.

Any manufacturer subject to the provisions of this section who fails or refuses to file the report required by this section, or who upon request by a duly authorized agent or representative of the Department fails or refuses to allow an audit or inspection of records as provided herein, is guilty of a Class 2 misdemeanor. In addition, the Department may impose a civil penalty not to exceed \$5,000 against any manufacturer subject to the provisions of this section for such failure or refusal. Each failure or refusal shall constitute a separate violation.

For the purposes of this section:

"Manufacturer" means tobacco product manufacturer, as that term is defined in § 3.1-336.1.

"Purchasers" means any person or persons purchasing or receiving cigarettes *or tobacco products* for resale, including wholesalers and retailers, or any other person or persons purchasing cigarettes *or tobacco products* directly from a manufacturer within the Commonwealth.

§ 58.1-1009. Preparation, design and sale of stamps; unlawful sale or purchase of stamps a felony; penalty.

The Department is hereby authorized and directed to have prepared and to sell stamps suitable for denoting the tax on all cigarettes *and tobacco products*. The Department shall design, adopt and promulgate the form and kind of stamps to be used. Stamps so adopted and promulgated shall be known as and termed "Virginia revenue stamps," and in any information or indictment, it shall be sufficient to describe the stamps as "Virginia revenue stamps."

Any person other than the Department who sells such revenue stamps, not affixed to cigarettes *or tobacco products* sold and delivered by them, whether the said stamps be genuine or counterfeit, shall be guilty of a Class 6 felony. Any person who purchases revenue stamps from anyone other than the Department, unless such stamps are already affixed to cigarettes *or tobacco products* being purchased by and delivered to him, or who uses or affixes, or causes to be used or affixed, any revenue stamps not purchased from the Department by the owner of the cigarettes *or tobacco products* being handled or stamped, whether such stamps are genuine or counterfeit, shall be guilty of a Class 6 felony. When wholesalers have qualified as such with the Department, as provided in § 58.1-1011, and purchase stamps as prescribed herein for use on taxable cigarettes sold and delivered by them, the Department shall allow on such sales of revenue stamps a discount of two and one-half cents per carton. In addition to any other penalties provided by law, the Department may revoke the permit issued, in accordance with § 58.1-1011, to any person who violates this section.

As used herein "carton" shall mean ~~ten~~10 packs of cigarettes, each containing ~~twenty~~20 cigarettes. All stamps prescribed by the Department shall be designed and furnished in such a fashion as to permit identification of the wholesale dealer or retail dealer that affixed the stamp to the particular package of cigarettes *or tobacco products*, by means of a serial number or other mark on the stamp. The Department shall maintain for not less than three years information identifying which wholesale dealer or retail dealer affixed the revenue stamp to each package of cigarettes *or tobacco products*.

§ 58.1-1010. Sale of unstamped cigarettes or tobacco products by wholesale dealers.

A. A wholesale dealer who is duly qualified as such under § 58.1-1011 may sell cigarettes *or tobacco products* without the Virginia revenue stamps affixed thereto, provided such cigarettes *or*

182 *tobacco products* are sold and shipped or delivered in interstate commerce to a person outside this
183 Commonwealth. Such wholesaler shall have on file a record of such sale, the original purchase order, a
184 copy of the invoice therefor, and a receipt from a common carrier, contract carrier, or post office
185 showing shipment for delivery in such other state, or, if delivered by such dealer to the purchaser at a
186 point outside of this Commonwealth, a receipt showing such delivery in addition to the record, original
187 purchase order and copy of the invoice relating to such sale.

188 B. Such duly qualified wholesaler may sell cigarettes *or tobacco products* without the Virginia
189 revenue stamps affixed thereto, provided:

190 1. Such cigarettes *or tobacco products* are sold to a person who is engaged in business as a dealer in
191 cigarettes *or tobacco products* in another state;

192 2. Such cigarettes *or tobacco products* are purchased exclusively for resale in the other state; and

193 3. Such cigarettes *or tobacco products* are at the time of sale properly stamped by the Virginia
194 wholesaler with revenue stamps authorized and issued by the other state for use upon such cigarettes *or*
195 *tobacco products*. A wholesaler shall have on file a record of each such sale, the original purchase
196 order, a copy of the invoice therefor, a receipt from the purchaser showing that such purchase was made
197 exclusively for resale in the other state, and a record showing the purchase and use of such revenue
198 stamps of the other state. Any such wholesaler with a place of business in a city located partly within
199 and partly without this Commonwealth, or in a county adjoining such city, shall not be required to
200 obtain such receipt from a purchaser from the other state, if the other state imposes a cigarette *or*
201 *tobacco products* tax and if the cigarette *or tobacco products* tax in the other state is at a higher rate
202 than the tax imposed by the Commonwealth of Virginia.

203 C. Cigarettes *or tobacco products* may be sold by duly qualified wholesalers, without revenue stamps
204 affixed thereto, when sold to the United States or to any instrumentality thereof for resale to or for the
205 use or consumption by members of the armed services of the United States, or when sold to the
206 Veterans Canteen Service of the Veterans Administration for resale to veterans of the armed services of
207 the United States who are hospitalized or domiciled in hospitals and homes of the Veterans
208 Administration, provided the books and records, including original purchase orders and copies of
209 invoices showing such sales, are kept on file.

210 D. Cigarettes *or tobacco products* may be sold by duly qualified wholesalers, without revenue stamps
211 affixed thereto, when sold and delivered to ships regularly engaged in foreign commerce or coastwise
212 shipping between points in this Commonwealth and points outside of this Commonwealth for resale to
213 or for use or consumption upon such ship or in foreign commerce.

214 E. The Department is authorized to adopt rules and regulations with respect to the enforcement of the
215 provisions of this section to prevent any evasion of the tax herein imposed.

216 A failure to comply with any provision of this section with respect to any sale of unstamped
217 cigarettes *or tobacco products* shall subject the wholesaler to the payment of the tax thereon imposed by
218 this chapter.

219 Any person who violates any of the provisions of this section shall be guilty of a Class 2
220 misdemeanor.

221 § 58.1-1012. Duties of wholesale dealer on shipping, delivering or sending out cigarettes or tobacco
222 products.

223 Every wholesale dealer in this Commonwealth shall, before shipping, delivering or sending out any
224 cigarettes *or tobacco products* to any dealer in this Commonwealth or for sale in this Commonwealth,
225 cause the same to have the requisite denominations and amount of stamps to represent the tax affixed as
226 stated herein, and every other wholesale dealer shall at the time of shipping or delivering any cigarettes
227 *or tobacco products* make a true duplicate invoice of the same, showing the date, amount and value of
228 each class of articles shipped or delivered, and retain a duplicate thereof. Wholesale dealers in this
229 Commonwealth who ship, deliver, or send any cigarettes *or tobacco products* to the United States
230 government for sale or distribution to any military, naval or marine reservation owned by the United
231 States government within this Commonwealth shall be required to carry out the provisions set out in this
232 chapter for such sales or deliveries.

233 § 58.1-1013. Penalty for failing to affix stamps; subsequent violations of article.

234 Any person within this Commonwealth who sells, stores or receives cigarettes *or tobacco products*
235 for the purpose of distribution to another within this Commonwealth and fails to properly affix the
236 required stamps to any cigarettes *or tobacco products* pursuant to the provisions of this chapter shall be
237 required to pay as part of the tax imposed hereunder, a penalty of ~~twenty-five dollars~~ \$25, to be assessed
238 and collected by the Department as other taxes are collected. Where willful intent exists to defraud the
239 Commonwealth of the tax levied under this chapter, such person shall be required to pay a penalty of
240 \$250. It shall be prima facie evidence of intent to defraud when the number of such unstamped
241 cigarettes exceeds ~~thirty~~ 30 packs, *or the number of such unstamped tobacco products exceeds 30*
242 *individual packages containing a tobacco product or tobacco products*.

243 Each pack of cigarettes not having proper stamps affixed thereto as herein required shall be deemed

a separate offense. Any cigarettes in the place of business of any person required by the provisions of this chapter to stamp the same shall be prima facie evidence that they are intended for sale.

Any person who has been found guilty of violating any of the provisions of this article and who, after being punished by fine, penalty, assessment or imprisonment, is guilty of a second or subsequent violation of this chapter shall, upon being found guilty of such second offense, have his or its permit revoked by the Department, and no further permit shall be issued or granted to such person for a period of one year from the date the permit has been revoked.

§ 58.1-1014. Permits required for transporting or distributing cigarettes or tobacco products.

Any person who transports or distributes cigarettes *or tobacco products* in any manner whatsoever within this Commonwealth who has not a permit issued under this chapter, shall, before transporting or distributing any of such tobacco products as enumerated and defined herein, secure a permit from the Department or be granted a waiver therefrom when the Commissioner is of the opinion that such permit is unnecessary. The Department shall, before issuing or waiving any such permit, ascertain from the applicant the nature of his business and the names of each county and city to which the applicant desires to transport or distribute cigarettes *or tobacco products*. A permit when so issued shall be conspicuously displayed on the vehicle for which it is issued. Failure to properly display the permit as required shall be deemed a violation of this section. Any person having been issued a permit who engages in any practices which are deemed by the Department to be injurious to the collection of the tax provided herein may have his permit revoked by the Department and no further permit shall be issued for six months and not then unless the Department is satisfied it is advisable. Duplicate permit cards will be issued to replace permits lost or damaged upon application. Any person found transporting or distributing cigarettes *or tobacco products* without first securing a permit as required above shall be guilty of a Class 1 misdemeanor.

§ 58.1-1015. Removal, reuse, unauthorized sale, etc., of stamps; counterfeit stamps; seizure and forfeiture; penalties.

A. Whoever removes or otherwise prepares any Virginia revenue stamp with intent to use, or cause the same to be used, after it has already been used, or buys, sells, offers for sale, or gives away any such washed or removed or restored stamps to any person for using or who used the same, or has in his possession any washed or restored or removed or altered stamp that has been removed from the article to which it has been previously affixed, or whoever for the purpose of indicating the payment of any tax hereunder reuses any stamp which has heretofore been used for the purpose of paying any tax provided in this article, or whoever manufactures, buys, sells, offers for sale, or has in his possession any reproduction or counterfeit of the Virginia revenue stamps provided for in this article, or whoever sells any Virginia revenue stamps not affixed to taxable cigarettes *or tobacco products* shall be subject to the penalty provided for in this section.

B. It shall be unlawful to sell or possess cigarettes *or tobacco products* that are affixed with a reproduction or counterfeit of Virginia revenue stamps. Such cigarettes *or tobacco products* and stamps shall be subject to seizure, forfeiture and destruction by the Department or any law-enforcement officer of the Commonwealth. All fixtures, equipment, materials and personal property used in substantial connection with the sale or possession of cigarettes *or tobacco products* that are affixed with a reproduction or counterfeit of Virginia revenue stamps in a knowing and intentional violation of this article shall be subject to seizure and forfeiture according to the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, applied mutatis mutandis.

C. Any person who knowingly violates subsection A with a total quantity of less than 40 revenue stamps shall be punished by a civil penalty of no more than \$1,000. Any person who knowingly violates subsection B shall, for a second or subsequent offense involving a total quantity of less than 40 revenue stamps, be punished by a civil penalty of no more than \$5,000 and, if applicable, the revocation by the Department of Taxation of his wholesale dealer license.

D. Any person who knowingly violates subsection B with a total quantity of 40 or more revenue stamps shall be punished by a civil penalty of no more than \$2,000. Any person who knowingly violates subsection B shall, for a second or subsequent offense involving a total quantity of 40 or more revenue stamps, be punished by a civil penalty of no more than \$50,000 and, if applicable, the revocation by the Department of Taxation of his wholesale dealer license.

The Attorney General is authorized to enforce the provisions of this section.

§ 58.1-1017. Sale, purchase, possession, etc., of cigarettes or tobacco products for purpose of evading tax.

It shall be unlawful for any person, except as otherwise provided by law, to sell, purchase, transport, receive or possess cigarettes *or tobacco products* unless the same have been stamped in the manner required by law, for the purpose of evading the payment of the taxes on such products. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

If a person who is not a regularly licensed dealer as provided in § 58.1-1011 has in his possession

305 within the Commonwealth more than ~~thirty~~ 30 packages of unstamped cigarettes, *or 30 individual*
306 *packages containing a tobacco product or tobacco products*, such possession shall be presumed to be
307 for the purpose of evading the payment of the taxes due thereon.

308 § 58.1-1018. Tax imposed on storage, use or consumption of cigarettes or tobacco products;
309 exemption of products on which sales tax has been paid.

310 An excise tax is hereby imposed on the storage, use or other consumption in this Commonwealth of
311 cigarettes *or tobacco products* purchased at retail in an amount equal to that set out in § 58.1-1001.
312 Every person storing, using or otherwise consuming in this Commonwealth cigarettes *or tobacco*
313 *products* purchased at retail shall be liable for the tax imposed by this article, and the liability shall not
314 be extinguished until the tax has been paid to this Commonwealth; however, if such cigarettes *or*
315 *tobacco products* have attached thereto the requisite stamps or if the excise tax imposed by Article 1
316 (§ 58.1-1000 et seq.) has been paid by the seller of such cigarettes *or tobacco products*, then the tax
317 imposed by this article shall not be due.

318 § 58.1-1019. Monthly returns and payment of tax.

319 Every person owning or having in his possession or custody cigarettes *or tobacco products*, the
320 storage, use or other consumption of which is subject to the tax imposed by this article, shall, on or
321 before the tenth day of the month following, file with the Department a return for the preceding month
322 in such form as may be prescribed by the Department showing the cigarettes *or tobacco products*
323 purchased by such person, and such other information as the Department may deem necessary for the
324 proper administration of this article. The return shall be accompanied by a remittance of the amount of
325 tax herein imposed.

326 § 58.1-1021. Documents touching purchase, sale, etc., of cigarettes or tobacco products to be kept for
327 three years, subject to inspection.

328 It shall be the duty of every person storing, using or otherwise consuming in this Commonwealth
329 cigarettes *or tobacco products* subject to the provisions of this article to keep and preserve all invoices,
330 books, papers, cancelled checks, or other memoranda touching the purchase, sale, exchange, receipt,
331 ownership, storage, use or other consumption of such cigarettes *or tobacco products* for a period of
332 three years. All such invoices, books, papers, cancelled checks, or other memoranda shall be subject to
333 audit and inspection by any duly authorized representative of the Department at any reasonable time.
334 Any person who fails or refuses to keep and preserve the records as herein required, or who upon
335 request by a duly authorized agent of the Department fails or refuses to allow an audit or inspection of
336 the records as herein provided, shall be guilty of a Class 2 misdemeanor.