

# VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

## CHAPTER 856

*An Act to amend and reenact §§ 58.1-1000 and 58.1-1012 of the Code of Virginia, relating to state cigarette tax; exclusive distributor.*

[H 2899]

Approved March 26, 2005

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-1000 and 58.1-1012 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:

"Carton" means 10 packs of cigarettes, each containing 20 cigarettes or nine packs each containing 25 cigarettes.

"Exclusive distributor" means any individual, corporation, limited liability company, or limited liability partnership with its principal place of business in the Commonwealth that has the sole and exclusive rights to sell to wholesale dealers in the Commonwealth a brand family of cigarettes manufactured by a tobacco product manufacturer as defined in § 3.1-336.1.

"Manufacturer" means any tobacco product manufacturer as defined in § 3.1-336.1.

"Pack" means a package containing either 20 or 25 cigarettes.

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

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

"Stamping agent" shall have the same meaning as provided in § 3.1-336.3.

"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 the~~ Commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside ~~this the~~ Commonwealth.

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

"Wholesale dealer" includes persons who sell cigarettes 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 to their stores for sale at retail.

§ 58.1-1012. Duties of wholesale dealer, manufacturer and exclusive distributor on shipping, delivering or sending out cigarettes.

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

B. Any manufacturer or exclusive distributor shall not be required to affix Virginia revenue stamps as required by subsection A, if such manufacturer or exclusive distributor is shipping, sending, selling, or delivering the cigarettes to a wholesale dealer in the Commonwealth who is a duly qualified wholesale dealer stamping agent in accordance with § 58.1-1011. The manufacturer or exclusive distributor who qualifies under this section and ships, sends, sells, or delivers cigarettes to a wholesale dealer shall keep on file a record of each such shipment, sale, or delivery and shall maintain such record for a period of three years.