

PACT ACT
Jenkins Act Registration & Reporting Requirements

On March 31, 2010, the federal Prevent All Cigarette Trafficking Act (Pact Act), 15 U.S.C. § 375, et seq. was signed into law. The Pact Act amended provisions of the Jenkins Act (15 U.S.C. §§ 375 - 378) regarding the shipment and packaging of tobacco products, compliance with state tax and licensing requirements, and the filing of certain reports with the state tobacco tax administrator.

The Jenkins Act, as amended, requires every person including cigarette manufacturers, wholesalers, distributors, and delivery sellers, who sell, transfer, or ship for profit cigarettes, roll-your-own (RYO) tobacco, and smokeless tobacco in interstate commerce to:

1. Register with the United State's Attorney General and the state tobacco tax administrator of each state into which shipments are made, and
2. File monthly reports with the state tobacco tax administrator, no later than the 10th of each month.

REGISTRATION

Every person who is required to register must file a statement with the Attorney General of the United States and the state tobacco tax administrator of the state into which shipments are made or advertisements or offers are disseminated. The statement must provide:

- The person's name, and trade name, if any;
- The address of the person's principal place of business and of any other place of business;
- The telephone number for each place of business;
- A principal electronic mail address;
- Any website addresses; and
- The name, address, and telephone number of an agent in the state authorized to accept service on behalf of the person.

In lieu of filing a statement, every person who is required to register is encouraged to file the federal form. The federal form can be found at (<http://www.atf.gov/forms/alcohol-tobacco/>).

Every person filing the federal form must also provide the name, address, and telephone number of an agent in the State of Hawaii authorized to accept service on behalf of the person.

The registration provisions apply to tobacco wholesalers, distributors, and manufacturers who ship cigarettes, RYO tobacco, and smokeless tobacco in interstate commerce. Interstate commerce includes commerce between a state and any place outside the state.

MONTHLY REPORTING REQUIREMENTS

On or before the 10th day of each calendar month, every person including cigarette manufacturers, wholesalers, distributors, and delivery sellers who sell, transfer, ship, advertise, or offer for sale cigarettes, RYO tobacco, and smokeless tobacco in interstate commerce must file a monthly report with the state tobacco tax administrator of the state into which shipments

are made. The monthly report must set forth every shipment of cigarettes, RYO tobacco, and smokeless tobacco made during the previous calendar month and be organized in the following manner:

- The name and address of the person to whom the shipment was made;
- The invoice or memoranda information relating to the specific customer (which must include brand and quantity of cigarettes, RYO tobacco, and smokeless tobacco; and
- The name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller.

The monthly reports should be filed using electronic media such as a CD or DVD or file formats such as portable document format (pdf), word (doc), or excel spreadsheet (xls).

DELIVERY SELLER

Delivery seller is any person who makes a delivery sale of cigarettes, RYO tobacco, or smokeless tobacco to a consumer when: (1) the seller is not in the physical presence of the buyer when the request for purchase or order is made or (2) the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes, RYO tobacco, or smokeless tobacco or the cigarettes, RYO tobacco, or smokeless tobacco is delivered by common carrier, private delivery service or other method of remote delivery.

Every delivery seller must comply with all shipping and record keeping requirements, all state, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if the delivery sales occurred entirely within the specific state, including laws imposing excise taxes, licensing and tax-stamping requirements, restrictions on sales to minors, and other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes, RYO tobacco, or smokeless tobacco and tax collection requirements.

PENALTIES

Violators the Jenkins Act, as amended by the PACT Act, are subject to criminal and civil penalties.

The registration statement and monthly reports as described above should be sent to:

Department of Taxation
Tobacco Tax Administrator
P.O. Box 259
Honolulu, HI 96809-0259

and

Department of the Attorney General
Tobacco Enforcement Unit
425 Queen Street
Honolulu, HI 96813

Database files including excel spreadsheets should be sent to: tax.directors.office@hawaii.gov, and to earl.r.hoke@hawaii.gov.

If you have any questions, please contact Earl R. Hoke, Jr. at 808-586-1203 or by email at: earl.r.hoke@hawaii.gov.