

## NOTICE

### TOBACCO PRODUCTS REPORTING Chapter 486P, Hawaii Revised Statutes Obligation to Report Number of Cigarettes Sold

Legislation in connection with tobacco sales within the State was passed in the 2000 Regular Legislative Session and signed by Governor Cayetano. Effective date is June 6, 2000.

This law establishes a reporting requirement that requires tobacco product manufacturers who sell tobacco products to consumers within this State to file a report with the attorney general setting forth certain information; the intent was to assist in the enforcement of Chapter 675.

#### §486P-1 DEFINITIONS.

As used in this chapter:

"Attorney general" means the attorney general of the State of Hawaii.

"Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers, including but not limited to "menthol", "lights", "kings", and "100s", and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

"Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;
- (2) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or
- (3) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in [paragraph] (1) of this definition.

The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette", 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette".

"Master Settlement Agreement" shall have the same meaning as in section 675-2.

"Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

"Participating manufacturer" has the meaning given that term in section 11(jj) of the Master Settlement Agreement and all amendments thereto.

"Qualified escrow fund" shall have the same meaning as in section 675-2.

"Tobacco product manufacturer" means any person that is a "tobacco product manufacturer" as defined in section 675-2.

"Units sold" shall have the same meaning as in section 675-2.

#### §486P-2 REPORTS TO ATTORNEY GENERAL.

(a) Except as provided in subsection (b), any tobacco product manufacturer selling cigarettes to consumers within this State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) shall file a report with the attorney general setting forth:

- (1) Its name and trade name (if any);
- (2) The address of its principal place of business;
- (3) A memorandum or a copy of the invoice covering each and every shipment of cigarettes made during the previous calendar quarter into this State; and
- (4) Other information as may be required by the attorney general.

The memorandum or copy of the invoice shall include the name and address of the person to whom the shipment was made, the brand, and the quantity of cigarettes shipped. The attorney general may prescribe the format the report shall take. The report shall be filed with the attorney general not later than the thirtieth day of each calendar quarter covering the previous calendar quarter.

(b) In lieu of the reports required to be provided in subsection (a), any tobacco product manufacturer that is a signatory to the Master Settlement Agreement, as defined in section 675-2, and whose cigarettes are sold to consumers within this State (whether directly by the manufacturer or through a distributor, retailer, or similar intermediary or intermediaries), may file with the attorney general copies of reports that the tobacco product manufacturer submits to the department of taxation regarding its sales activities in this State.

(c) Information provided to the attorney general pursuant to this section that tends to identify customers of tobacco product manufacturers, terms of sale (including price), and non-aggregated sales volume data shall be exempt from disclosure under section 92F-11.

(d) Notwithstanding any law to the contrary, the department of taxation shall provide to the attorney general any information necessary for the proper administration and enforcement of this chapter and chapter 675, including: access to inspect, examine, and use the tax returns and records that are required to be filed pursuant to this chapter, chapter 245, chapter 675, or Title 15 United States Code section 376 by any entity engaged in the business of manufacturing, wholesaling, distributing, or dealing in cigarettes or tobacco products on file with the department of taxation. For purposes of this chapter "entity" means one or more individuals, a company, corporation, a partnership, an association, or any other type of legal entity.

(e) Any entity that is required to file a return or report pursuant to this chapter, chapter 245, chapter 675, or Title 15 United States Code section 376 shall also provide any information that the department of the attorney general may deem necessary, for the proper administration of this chapter or chapter 675.

#### §486P-3 PENALTIES.

(a) The attorney general may bring a civil action against any entity that fails to file the reports required under this chapter.

(b) The attorney general may bring a civil action against any entity engaged in the business of manufacturing, wholesaling, distributing, importing, or dealing in cigarettes or tobacco products who fails to provide the information that the department of the attorney general may deem necessary, for the proper administration of this chapter or chapter 675.

(c) Notwithstanding the existence of other remedies at law, the attorney general may apply for a temporary or permanent injunction restraining any entity from the sale, use, possession, acquisition, receipt, transportation, or distribution of cigarettes manufactured by a tobacco product manufacturer who knowingly fails to report, provide information, or meet the certification requirements of this chapter. The injunction shall be issued without bond.

(d) The State shall be awarded its attorney's fees and expenses incurred in prosecuting violations of this chapter.

§486P-7 USE AND DISCLOSURE OF INFORMATION.

The information received by the attorney general under this chapter shall be used only for purposes of enforcement of this chapter, chapter 245, and chapter 675; provided that the attorney general may share any information with authorities of other states or the federal government for the purpose of enforcement of similar state statutes upon receipt of adequate assurance from those authorities that the information will be used only for that purpose.

Information received by the attorney general under this chapter that tends to identify customers of tobacco product manufacturers, terms of sale, including price, and nonaggregated sales volume data, shall be exempt from disclosure under section 92F-11.

Questions concerning this law should be directed to:

State of Hawaii  
Department of the Attorney General  
Criminal Justice Division - Tobacco Enforcement Unit  
425 Queen Street  
Honolulu, Hawaii 96813  
(808) 586-1203