



General Assembly

**Substitute Bill No. 6299**

January Session, 2011

\* \_\_\_\_\_HB06299GL\_\_\_\_\_031111\_\_\_\_\_\*

**AN ACT CONCERNING CHAIN STORE CIGARETTE DISTRIBUTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 12-285 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2011*):

4 (a) When used in this chapter, unless the context otherwise requires:

5 (1) "Person" means any individual, firm, fiduciary, partnership,  
6 corporation, limited liability company, trust or association, however  
7 formed;

8 (2) "Distributor" means (A) any person in this state engaged in the  
9 business of manufacturing cigarettes; (B) any person, other than a  
10 buying pool, as defined herein, who purchases cigarettes at wholesale  
11 from manufacturers or other distributors for sale to licensed dealers,  
12 and who maintains an established place of business, including a  
13 location used exclusively for such business, which has facilities in  
14 which a substantial stock of cigarettes and related merchandise for  
15 resale can be kept at all times, and who sells at least seventy-five per  
16 cent of such cigarettes to retailers who, at no time, shall own any  
17 interest in the business of the distributor as a partner, stockholder or  
18 trustee; (C) any person operating five or more retail stores in this state  
19 for the sale of cigarettes, or franchising five or more retail stores in this

20 state for the sale of cigarettes who shares in the gross profits generated  
21 by such stores and who purchases cigarettes at wholesale for sale to  
22 dealers but sells such cigarettes exclusively to retail stores such person  
23 is operating or franchising; (D) any person operating and servicing  
24 twenty-five or more cigarette vending machines in this state who buys  
25 such cigarettes at wholesale and sells them exclusively in such vending  
26 machines. If a person qualified as a distributor in accordance with this  
27 subparagraph, in addition sells cigarettes other than in vending  
28 machines, such person shall be required to be qualified as a distributor  
29 in accordance with subparagraph (B) of this subdivision and have an  
30 additional distributor's license for purposes of such other sales; (E) any  
31 person who imports into this state unstamped cigarettes, at least  
32 seventy-five per cent of which are to be sold to others for resale; and  
33 (F) any person operating storage facilities for unstamped cigarettes in  
34 this state;

35 (3) "Cigarette vending machine" means a machine used for the  
36 purpose of automatically merchandising packaged cigarettes through  
37 the insertion of the proper amount of coins therein by the purchaser,  
38 but does not mean a restricted cigarette vending machine;

39 (4) "Restricted cigarette vending machine" means a machine used  
40 for the dispensing of packaged cigarettes which automatically  
41 deactivates after each individual sale, cannot be left operable after a  
42 sale and requires, prior to each individual sale, a face-to-face  
43 interaction or display of identification between an employee of the  
44 area, facility or business where such machine is located and the  
45 purchaser;

46 (5) "Dealer" means any person other than a distributor who is  
47 engaged in this state in the business of selling cigarettes, including any  
48 person operating and servicing fewer than twenty-five cigarette  
49 vending machines, and any person who is engaged in the business of  
50 selling taxed tobacco products, as defined in section 12-330a, at retail;

51 (6) "Licensed dealer" means a dealer licensed under the provisions

52 of this chapter;

53 (7) "Stamp" means any stamp authorized to be used under this  
54 chapter by the Commissioner of Revenue Services and includes heat-  
55 applied decals;

56 (8) "Sale" or "sell" includes or applies to gifts, exchanges and barter;  
57 and

58 (9) "Buying pool" means and includes any combination, corporation,  
59 association, affiliation or group of retail dealers operating jointly in the  
60 purchase, sale, exchange or barter of cigarettes, the profits from which  
61 accrue directly or indirectly to such retail dealers, provided any person  
62 holding a distributor's license issued prior to June 29, 1951, shall be  
63 deemed to be a distributor within the terms of this section.

64 Sec. 2. Subsection (a) of section 12-286 of the general statutes is  
65 repealed and the following is substituted in lieu thereof (*Effective July*  
66 *1, 2011*):

67 (a) (1) The commissioner shall, after May 25, 1994, require for an  
68 initial application for a distributor's license, in addition to such other  
69 information deemed to be necessary, the filing of three affidavits from  
70 three recognized manufacturers of cigarettes stating such  
71 manufacturers' intent to supply the distributor if the applicant is  
72 granted a license. A chain store shall be exempt from filing such  
73 affidavits. Any pending application on May 25, 1994, and any person  
74 purchasing the business of a licensed distributor shall be exempt from  
75 filing such affidavits. For purposes of this subsection, "chain store"  
76 means the operator or franchisor of five or more retail establishments,  
77 [with common ownership and control.]

78 (2) The commissioner may make public a list of recognized  
79 manufacturers of cigarettes.

80 Sec. 3. Section 12-288 of the general statutes is repealed and the  
81 following is substituted in lieu thereof (*Effective July 1, 2011*):

82 Each person engaging in, or intending to engage in, the business of  
83 selling cigarettes in this state as a distributor shall secure a license from  
84 the Commissioner of Revenue Services before engaging or continuing  
85 to engage in such business. Subject to the provisions of section 12-286,  
86 as amended by this act, such license shall be renewable annually. The  
87 annual fee for a distributor's license shall be one thousand two  
88 hundred fifty dollars, provided in the case of a distributor who sells  
89 cigarettes as a distributor exclusively to retail stores which such  
90 distributor is operating, the fee for such distributor's license shall be:  
91 (1) Three hundred fifteen dollars annually if such distributor operates  
92 or franchises less than fifteen such retail stores; (2) six hundred twenty-  
93 five dollars annually if such distributor operates or franchises fifteen or  
94 more but less than twenty-five such retail stores; and (3) one thousand  
95 two hundred fifty dollars annually if such distributor operates or  
96 franchises twenty-five or more such retail stores. Such license shall be  
97 valid for a period beginning with the date of license to the thirtieth day  
98 of September next succeeding the date of license unless sooner revoked  
99 by the commissioner as provided in section 12-295 or unless the person  
100 to whom such license was issued discontinues business, in either of  
101 which cases the holder of the license shall immediately return it to the  
102 Commissioner of Revenue Services.

103 Sec. 4. Subsection (a) of section 12-326a of the general statutes is  
104 repealed and the following is substituted in lieu thereof (*Effective July*  
105 *1, 2011*):

106 (a) As used in sections 12-326a to 12-326h, inclusive, as amended by  
107 this act, (1) "stamping agent" means a licensed distributor other than a  
108 buying pool, who purchases cigarettes at wholesale from  
109 manufacturers or other distributors for sale to licensed dealers and  
110 who maintains an established place of business, including a location  
111 used exclusively for such business, which has facilities in which a  
112 substantial stock of cigarettes and related merchandise for resale can  
113 be kept at all times, and who sells at least seventy-five per cent of such  
114 cigarettes to retailers who, at no time, shall own any interest in the

115 business of the distributor as a partner, stockholder or trustee; (2)  
116 "subjobber" means a licensed distributor who purchases stamped  
117 cigarettes at wholesale for sale to licensed dealers who, at no time,  
118 shall own any interest in the business of the distributor as a partner,  
119 stockholder or trustee; (3) "chain store" means a licensed distributor  
120 (A) operating five or more retail stores with common ownership and  
121 control in this state for the sale of cigarettes, or franchising five or more  
122 retail stores in this state for the sale of cigarettes who shares in the  
123 gross profits generated by such stores and who purchases cigarettes at  
124 wholesale either from another distributor or direct from the  
125 manufacturer for sale to dealers but sells such cigarettes exclusively in  
126 or to retail stores such person is operating or franchising, or (B)  
127 operating and servicing twenty-five or more cigarette vending  
128 machines in this state who buys such cigarettes at wholesale and sells  
129 them exclusively in such vending machines; (4) "cost" means the basic  
130 cost of cigarettes plus the cost of doing business; (5) "basic cost of  
131 cigarettes" means (A) the lower of (i) the invoice cost of the cigarettes  
132 to the distributor or dealer, as the case may be, or (ii) the replacement  
133 cost in the quantity last purchased, plus (B) the full face value of any  
134 stamps which may be required by this chapter, if not already included  
135 in the invoice cost, minus (C) all trade discounts, if any, other than  
136 cash discounts; (6) "cost of doing business" means the costs, as  
137 computed for federal income tax purposes, that are related to the sale  
138 of cigarettes, including but not limited to labor costs, including salaries  
139 of executives and officers, rent, depreciation, selling costs, maintenance  
140 of equipment, delivery costs, interest, licenses, taxes, insurance,  
141 advertising, preopening expenses and any central and regional  
142 administrative expenses, expressed as a percentage of the basic cost of  
143 cigarettes and applied thereto. In applying such percentage to the basic  
144 cost of cigarettes, any fractional part of a cent equal to one-tenth or  
145 more of one cent per carton of ten packages of cigarettes shall be  
146 rounded to the next higher cent.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2011</i>	12-285(a)
Sec. 2	<i>July 1, 2011</i>	12-286(a)
Sec. 3	<i>July 1, 2011</i>	12-288
Sec. 4	<i>July 1, 2011</i>	12-326a(a)

**GL**      *Joint Favorable Subst.*