



**Substitute House Bill No. 6299**

**Public Act No. 11-37**

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

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

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 Subsection (a) of section 12-285 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

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

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

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

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

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

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

(5) "Dealer" means any person other than a distributor who is engaged in this state in the business of selling cigarettes, including any person operating and servicing fewer than twenty-five cigarette

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vending machines, and any person who is engaged in the business of selling taxed tobacco products, as defined in section 12-330a, at retail;

(6) "Licensed dealer" means a dealer licensed under the provisions of this chapter;

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

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

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

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

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

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

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

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

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

(a) As used in sections 12-326a to 12-326h, inclusive, as amended by this act, (1) "stamping agent" means a licensed distributor other than a

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buying pool, who purchases cigarettes at wholesale from manufacturers or other distributors for sale to licensed dealers and who maintains an established place of business, including a location used exclusively for such business, which has facilities in which a substantial stock of cigarettes and related merchandise for resale can be kept at all times, and who sells at least seventy-five per cent of such cigarettes to retailers who, at no time, shall own any interest in the business of the distributor as a partner, stockholder or trustee; (2) "subjobber" means a licensed distributor who purchases stamped cigarettes at wholesale for sale to licensed dealers who, at no time, shall own any interest in the business of the distributor as a partner, stockholder or trustee; (3) "chain store" means a licensed distributor (A) operating five or more retail stores with common ownership and control in this state for the sale of cigarettes, or franchising five or more retail stores in this state for the sale of cigarettes who shares in the gross profits generated by such stores and who purchases cigarettes at wholesale either from another distributor or direct from the manufacturer for sale to dealers but sells such cigarettes exclusively in or to retail stores such person is operating or franchising, or (B) operating and servicing twenty-five or more cigarette vending machines in this state who buys such cigarettes at wholesale and sells them exclusively in such vending machines; (4) "cost" means the basic cost of cigarettes plus the cost of doing business; (5) "basic cost of cigarettes" means (A) the lower of (i) the invoice cost of the cigarettes to the distributor or dealer, as the case may be, or (ii) the replacement cost in the quantity last purchased, plus (B) the full face value of any stamps which may be required by this chapter, if not already included in the invoice cost, minus (C) all trade discounts, if any, other than cash discounts; (6) "cost of doing business" means the costs, as computed for federal income tax purposes, that are related to the sale of cigarettes, including but not limited to labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, interest, licenses, taxes, insurance,

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advertising, preopening expenses and any central and regional administrative expenses, expressed as a percentage of the basic cost of cigarettes and applied thereto. In applying such percentage to the basic cost of cigarettes, any fractional part of a cent equal to one-tenth or more of one cent per carton of ten packages of cigarettes shall be rounded to the next higher cent.

Approved June 3, 2011