LOOSE CIGARETTES SALES

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ISSUE

How is the sale of individual ("loose") cigarettes regulated?

LOOSE CIGARETTE SALES

Federal regulations prohibit manufacturers, distributers, and retailers from selling individual cigarettes by prohibiting them from selling packages containing fewer than 20 cigarettes (21 CFR §§ 1141.14, 1140.16). These regulations took effect on June 22, 2010 (please see the Federal Register). They are typically enforced by undercover inspectors from the Food and Drug Administration (FDA) Center for Tobacco Products. Tobacco retailers who violate these regulations are given a warning for a first offense and may be subject to a civil money penalty (CMP), a no tobacco-sale order (NTSO), or both for subsequent offenses.

A CMP is a monetary fine assessed by the FDA for violations of tobacco regulations, including the sale of individual cigarettes. The amount of CMP is based on the number of offenses committed by the violator during a given period. Fines range from $250 for the second violation within one year to $11,000 for a sixth or subsequent violation within two years. The FDA may also (or alternatively) impose an NTSO preventing the violator from selling tobacco products indefinitely or for a specified period of time depending on the severity or frequency of violations. The FDA determines the most appropriate action or combination of actions in light of the circumstances, severity of the violations, or both.

Connecticut, as well as Massachusetts, New York, and Rhode Island had laws regulating the sale of individual cigarettes or incomplete packages before the passage of the federal regulations in 2010 (CGS § 12-314, N.Y. Pub. Health § 1399-gg, Mass. Gen. Laws Ch. 64C, § 33A, R.I. Gen Laws § 44-20-31). Connecticut law provides civil penalties and fines for violations of the state ban on loose cigarette sales CGS § 12-314 and 12-314b).

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