AN ACT concerning

Cigarettes - Direct Sales and Shipping

FOR the purpose of prohibiting a person engaged in the business of selling or distributing cigarettes from selling, shipping, or causing to be shipped cigarettes, ordered or purchased by mail or through a computer, telephonic, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; permitting a licensed retailer or an employee of a licensed retailer to deliver no more than a certain number of cartons of cigarettes directly to a consumer; establishing penalties for a violation of this Act by a licensee or other person engaged in the business of selling or distributing cigarettes; and generally relating to direct cigarette sales and shipping.

BY adding to
Article - Business Regulation
Section 16-223
Article - Business Regulation

16-223.

(A) THIS SECTION APPLIES TO A PERSON WHO IS ENGAGED IN THE BUSINESS OF SELLING OR DISTRIBUTING CIGARETTES.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PERSON COVERED UNDER THIS SECTION MAY NOT:

   (I) SELL OR SHIP CIGARETTES, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THIS STATE; OR

   (II) CAUSE CIGARETTES, ORDERED OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER UNLICENSED RECIPIENT IN THIS STATE.

(2) A LICENSED RETAILER MAY DELIVER NO MORE THAN TWO CARTONS OF CIGARETTES DIRECTLY TO A CONSUMER IF THE DELIVERY IS MADE BY THE LICENSED RETAILER OR AN EMPLOYEE OF THE LICENSED RETAILER.

(C) (1) A LICENSEE WHO SELLS OR SHIPS CIGARETTES IN VIOLATION OF THIS SECTION OR CAUSES CIGARETTES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS SUBJECT TO:

   (I) SUBJECT TO DISCIPLINE BY THE COMPTROLLER UNDER § 16-210 OF THIS SUBTITLE; AND

   (II) THE PENALTY SPECIFIED UNDER § 13-1015 OF THE TAX GENERAL ARTICLE, GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $50 FOR EACH CARTON OF CIGARETTES TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

(2) A PERSON OTHER THAN A LICENSEE WHO SELLS OR SHIPS CIGARETTES IN VIOLATION OF THIS SECTION OR CAUSES CIGARETTES TO BE SHIPPED IN VIOLATION OF THIS SECTION IS SUBJECT TO THE PENALTY SPECIFIED UNDER § 13-1015 OF THE TAX GENERAL ARTICLE, GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING $50 FOR EACH CARTON OF CIGARETTES TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.
SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.