



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: Tobacco Product Manufacturers doing business in Virginia, their Importers, if applicable, and Stamping Agents authorized to affix Virginia Cigarette Revenue Stamps.

FROM: Gary L. Conover, Senior Assistant Attorney General
Chief, Tobacco Enforcement Section
Commonwealth of Virginia
Office of the Attorney General 

SUBJECT: Chapter 847, Acts of the 2009 Virginia General Assembly, related laws and penalties.

DATE: June 18, 2009

This important Notice is provided as a courtesy to advise you of recently enacted legislation related to reporting requirements applicable to persons or entities that affix Virginia Cigarette Revenue Stamps, and certification and reporting requirements applicable to persons or entities that sell cigarettes in or into Virginia. Please carefully review this Notice, along with the referenced provisions of law and internet web pages and, if necessary, consult a private attorney for advice concerning the meaning and implications of this recent enactment and related laws to assure that you thoroughly understand their content.

The 2009 Virginia General Assembly enacted Chapter 847, Acts of Assembly, which takes effect on July 1, 2009 and includes the following:

1. Establishes criminal penalties and minimum periods of confinement for the importation, transportation, distribution or sale of cigarettes in or into Virginia that are not on the Virginia Tobacco Directory as established and maintained pursuant to Va. Code § 3.2-4206.

2. Provides that any tobacco product manufacturer, stamping agent or importer of cigarettes, or any officer, employee, or agent of any such entity, who knowingly and with the intent to defraud, mislead, or deceive makes any materially false statement in any record required to be kept or filed with the Attorney General by Virginia Code § 3.2-4200 and subsequent sections is guilty of a Class 6 felony.
3. Provides that any tobacco product manufacturer, stamping agent or importer of cigarettes, or any officer, employee, or agent of any such entity, who knowingly and with the intent to defraud, mislead, or deceive makes any materially false statement in any record, report or return required by Virginia's cigarette and tobacco excise tax laws is guilty of a Class 6 felony.
4. Establishes registration and reporting requirements and penalties for persons engaged in "Delivery Sales" of cigarettes, and authorizes the Attorney General to assess applicable penalties. A separate Notice sent to persons and entities potentially engaged in such "Delivery Sales" is enclosed for your convenience.
5. Provides that false statements as described in paragraphs 2 and 3, above, and violations of the Cigarette Delivery Sales Law as described in paragraph 4, above, and as described in the enclosed Notice to persons and entities making cigarette "delivery sales," constitute "racketeering activity" under the Virginia Racketeer Influenced and Corrupt Organization (RICO) Act, violation of which is a felony and punishable as set forth at Va. Code § 18.2-515.

This Notice constitutes a summary of Chapter 847 and the above referenced related laws, and the official text of such laws controls in all instances and in any proceeding.

For your convenience and assistance, a copy of Chapter 847, 2009 Acts of Assembly is enclosed and is separately posted at this Office's web page:

http://www.vaag.com/LEGAL_LEGIS/Tobacco/index.html.

I encourage you and your counsel to carefully review this Notice, along with Chapter 847 and the full text of all referenced and related laws to assure that you thoroughly understand their content.

Thank you in advance for your cooperation and compliance with the above described provisions of Virginia law.