

REVENUE DIVISION OF DEPARTMENT OF TREASURY (EXCERPT)
Act 122 of 1941

205.14 Tobacco products; violation of federal requirements; prohibited conduct; placement of stamp; violation of subsection (1) or (2); penalties; enforcement; assessment of tax; court action; damages awarded; definitions.

Sec. 14.

(1) A person shall not acquire, possess, sell or distribute, or import into this state a tobacco product that violates any federal law or regulation, including, but not limited to, requirements concerning health warnings or other information on the container or individual package of tobacco products.

(2) A person shall not acquire, possess, sell or distribute, or import into this state a tobacco product or container of tobacco products if 1 or more of the following apply:

(a) The tobacco product or container of tobacco products bears any statement, label, stamp, sticker, or notice indicating that the manufacturer intended that the tobacco product be sold or distributed outside the United States, including, but not limited to, 1 or more of the following:

(i) A non-United States health warning.

(ii) Labels or markings stating "for export only", "U.S. tax exempt", "for use outside U.S.", or similar wording.

(b) The tobacco product, container of tobacco products, or any statement, label, stamp, sticker, or notice on a tobacco product or container of tobacco products has been altered from the manufacturer's original packaging to conceal the fact that the manufacturer intended that the tobacco product be sold or distributed outside the United States.

(c) The tobacco product or any statement, label, stamp, sticker, or notice on a tobacco product or container of tobacco products has been removed from the manufacturer's original packaging to conceal the fact that the manufacturer intended that the tobacco product be sold or distributed outside the United States.

(d) The person knew or should have known that the manufacturer intended the tobacco product to be sold or distributed outside the United States.

(e) The tobacco product was imported into the United States after January 1, 2000 in violation of 26 U.S.C. 5754.

(3) A person shall not place a stamp or a counterfeit stamp on a tobacco product unless that package of tobacco products complies with subsection (2) and all federal laws and regulations.

(4) A person that acquires, possesses, sells, offers for sale, imports, or distributes packages of tobacco products who knows or should know that the tobacco product is possessed, sold, offered for sale, imported, or distributed in violation of subsection (1) or (2) is subject to criminal charges as provided in section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428.

(5) A tobacco product or container of tobacco products that does not comply with subsection (1), (2), or (3) and books and records associated with those tobacco products are subject to seizure and confiscation by the department, a police officer, or designated agent under the same terms and conditions as provided in section 9 of the tobacco products tax act, 1993 PA 327, MCL 205.429. The department may revoke or suspend the license of a licensee under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, for a violation of this section.

(6) The department is authorized to obtain and exchange information with the United States customs service, any other federal law enforcement agency, or any state law enforcement agency for the purpose of enforcing this section.

(7) The department may assess tax due, penalty, and interest on tobacco products acquired, possessed, sold, or offered for sale in violation of this section.

(8) Any person who is injured by another person who violates this section may bring an action in circuit court for damages or equitable or injunctive relief including reasonable attorney fees. In awarding damages, the court may award up to 3 times the actual damages if the violation of this section is intentional. A manufacturer of tobacco products whose tobacco products are acquired, possessed, sold, distributed, or imported into this state in violation of subsection (1) or (2) is presumed to be injured under this subsection.

(9) As used in this section:

(a) "Licensee" means a person licensed under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436.

(b) "Stamp" or "counterfeit stamp" means those terms as defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422.

(c) "Tobacco product" means that term as defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422.

History: Add. 1998, Act 368, Imd. Eff. Oct. 20, 1998 ;-- Am. 1999, Act 182, Imd. Eff. Nov. 17, 1999

Compiler's Notes: Former MCL 205.14, which pertained to transfer of jurisdiction over records and funds, was repealed by Act 188 of 1970, Imd. Eff. Aug. 6, 1970.
Popular Name: Revenue Act