



**G. THOMAS SURTEES**  
Commissioner

# State of Alabama Department of Revenue

(www.revenue.alabama.gov)  
50 North Ripley Street  
Montgomery, Alabama 36132  
September 12, 2006

**CYNTHIA UNDERWOOD**  
Assistant Commissioner  
**LEWIS A. EASTERLY**  
Secretary

## NOTICE

### ALL TOBACCO DISTRIBUTORS

#### Subject: Act 2006-619 Cigarette Delivery Sales

Act number 2006-619 was passed in Alabama's 2006 Legislative Session and became effective April 26, 2006. The Act established the category of delivery sales of cigarettes or retail cigarette sales in which the order is placed by phone, fax or the Internet or where cigarettes are delivered to the consumer through a delivery service, and provides penalties for violations. The conditions under which a cigarette delivery sale may be made in Alabama are as follows:

1. *Section 13A-12-3.2*

- No person shall make a delivery sale of cigarettes to any individual under the legal minimum age which is 19.
- Each person accepting a delivery sale shall comply with the state's laws imposing excise taxes, sales taxes, license and stamping requirements, and escrow payment obligations.
- Persons failure to comply with the above provisions:
  - shall be guilty of a Class A misdemeanor, and
  - shall be subject to the revocation of any license or permit pertaining to the sale or distribution of cigarettes or other tobacco products pursuant to Chapter 25 of Title 40.

2. *Section 13A-12-3.3, .4 & .5* No person, other than a delivery service, shall mail, ship, or otherwise cause to be delivered a shipping package in connection with a delivery sale unless the following occur:

- The person, prior to the first delivery sale to the prospective consumer, obtains a written certification signed by the consumer which certifies the consumer's current address and that they are at least the legal minimum age.
- The person informs the prospective consumer in writing all of the following:
  - Signing another person's name to the above certification is illegal.
  - Sales of cigarettes to individuals under the legal minimum age are illegal.
  - The purchase of cigarettes by individuals under the legal minimum age is illegal.
- The person makes a good faith effort to verify the date of birth of the consumer by comparing it against a commercially available database or by obtaining a photocopy or other image of a valid government-issued identification.
- The person must provide to the prospective consumer a notice including all of the following:

- A statement that cigarette sales to consumers below the legal minimum age are illegal.
- A statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age.
- One of the warnings set forth in Section 4 (a) (1) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. §1333 (a) (1), rotated quarterly.
- A statement that cigarette sales are subject to tax under Section 40-25-2, and an explanation of how such tax has been, or is to be, paid with respect to the delivery sale.
  
- A statement meets the requirements if all the following occur:
  - The statement is clear and conspicuous.
  - The statement is contained in a printed box set apart from the other contents of the communication.
  - The statement is printed in bold, capital letters.
  - The statement is printed with a degree of color contrast between the background and the printed statement.
  - For printed material delivered electronically, the statement appears at both the top and bottom of the electronic mail message or both the top and bottom of the Internet website homepage.
- The person receives payment for the delivery sale from the prospective consumer by a credit or debit card that has been issued in the consumer's name, or by check, or other written instrument in the consumer's name.
- The person ensures that the shipping package is delivered to the same address as is provided on the government-issued identification or as included in the commercially available database.

3. *Section 13A-12-3.5 Each person, other than a delivery service, who mails, ships, or otherwise causes to be delivered a shipping package in connection with a delivery sale shall do all of the following:*

- Include as part of the shipping documents a clear and conspicuous statement stating: **“Cigarettes: Alabama Law Prohibits Shipping to Individuals Under 19 Years of Age and Requires the Payment of All Applicable Taxes.”**
- Use a method of mailing, shipping, or delivery requiring the consumer's signature before the package is released to the consumer.
- Ensure that the shipping package is not delivered to any post office box.

4. *Section 13A-12-3.6 Each person making a delivery sale of cigarettes to a consumer located within this state shall file with the Alabama Department of Revenue for each individual sale all of the following information:*

- A statement setting forth such person's name, trade name, and address of such person's principal place of business and any other place of business.
- No later than the 10<sup>th</sup> day of each calendar month, provide the Department with a report to include the following information:

- The name and address of the consumer to whom the delivery sale was made.
- The brand style(s) of the cigarettes that were sold in the delivery sale.
- The quantity of cigarettes that was sold in the delivery sale.
- An indication of whether or not the cigarettes sold in the delivery sale bore a tax stamp evidencing payment of the tax under Section 40-25-2 (*or payment of the appropriate state-administered county tax*).

*Each person engaged in business within this state who makes an out-of-state sale shall, for each individual sale, submit to the appropriate tax official of the state in which the consumer is located the information required above.*

*Violation of this section shall, in addition to any other penalty provided by law, be subject to penalties provided for in §40-25-13 which includes a fine up to \$200 or imprisonment not to exceed 90 days for each offense.*

5. *Section 13A-12-3.7*

- Each person making a delivery sale shall collect and remit to the Alabama Department of Revenue all excise taxes imposed by this state regarding the delivery sale and maintain evidence of the payment unless the person is located outside the state and includes a statement on the outside of the shipping package stating: ***“Alabama law requires the payment of state taxes on this shipment of cigarettes. You are legally responsible for all applicable unpaid taxes on these cigarettes.”***
- The statement meets the requirements if:
  - The statement is clear and conspicuous.
  - The statement is contained in a printed box set apart from the shipping label and other marking on the shipping package.
  - The statement is printed in bold, capital letters.
  - The statement is printed with a degree of color contrast between the background and the printed statement.
  - The statement is located on the same side of the package as the shipping label.

Questions regarding this notice may be directed to:

Alabama Department of Revenue  
Sales, Use & Business Tax Division  
Tobacco Tax Section  
P. O. Box 327555  
Montgomery, Alabama 36132-7555  
(334) 242-9627