

**RULES
OF
DEPARTMENT OF REVENUE**

**CHAPTER 560-8
ALCOHOL AND TOBACCO DIVISION (TOBACCO)**

**SUBJECT 560-8-1
GENERAL PROVISIONS**

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Rule 560-8-1-.01 Definitions - General

As used in these rules:

- (a) **"Alternative nicotine product"** means any material that contains nicotine, but does not contain tobacco leaf, and is intended for human consumption, whether such material is chewed, absorbed, dissolved, or ingested by any other means. Such term shall include, but shall not be limited to, nicotine gel, pouches, or gum or dissolvable nicotine strips, sticks, lozenges, or pellets. Such term shall not include little cigars, cigars, cigarettes, loose tobacco or smokeless tobacco, consumable vapor products, or any product regulated as a drug or therapeutic device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
- (b) **"Carrier"** means any person whose business is to transport goods or people while acting in the capacity as common, private or contract transporter of a product or service using its facilities or those of other carriers.

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- (c) **"Cigar"** means any roll for smoking made wholly or in part of tobacco when the cover of the roll is also tobacco.
- (d) **"Cigarette"** means any roll for smoking made wholly or in part of tobacco when the cover of the roll is paper or any substance other than tobacco.
- (e) **"Closed system"** means any disposable container which is prefilled and sealed by the manufacturer, not easily refillable nor intended or designed to be refillable, and intended or used to dispense consumable vapor products by way of a vapor device that is intended or designed to be reused.
- (f) **"Code"** means the Official Code of Georgia Annotated.
- (g) **"Commissioner"** means the State Revenue Commissioner or the Commissioner's designated representative.
- (h) **"Consumable vapor product"** means any liquid solution, whether it contains nicotine or not, that is intended to be heated into an aerosol state and inhaled by an individual. Such term shall include, but shall not be limited to, e-liquid, e-juice, vape juice, and cartridges that are prefilled with such a solution. Such term shall not include any alternative nicotine product, cigar, cigarette, loose tobacco or smokeless tobacco, perfume, potpourri, essential oil, or product regulated as a drug or therapeutic device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
- (i) **"Consumer promotions"** means:
 - 1. A manufacturer's promotion of cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products that:
 - (i) Is only for use by the consumer;
 - (ii) Is designed and intended to induce the consumer to purchase a specified cigar, loose tobacco or smokeless tobacco product, vapor product, or alternative nicotine product; and
 - (iii) Features cigars, loose tobacco or smokeless tobacco product, vapor product, or alternative nicotine product packaged with distinct promotional labeling from the manufacturer.
 - 2. The promotional component of consumer promotions for cigars, little cigars, loose tobacco or smokeless tobacco, vapor product, or alternative nicotine product is not subject to state excise tax.

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- (j) **"Counterfeit cigarette"** means cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the trademark owner of a cigarette brand or the owner's designated agent.
- (k) **"Counterfeit vapor product"** means vapor products that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the trademark owner of a vapor product brand or the owner's designated agent.
- (l) **"Dealer"** means any person located within the borders of this state that sells or distributes cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products to a consumer in this state.
- (m) **"Department"** means the Georgia Department of Revenue.
- (n) **"Distributor"** means any person, other than a dealer, importer, or manufacturer:
 - 1. Who sells or distributes any or all of the following tobacco products in this state:
 - (i) cigarettes;
 - (ii) cigars, little cigars;
 - (iii) loose tobacco or smokeless tobacco;
 - (iv) vapor products; or
 - (v) alternative nicotine products.
 - 2. Who maintains a warehouse, warehouse personnel, and salespeople who regularly contact and call on dealers.
 - 3. Who is engaged in the business of importing cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products into this state or who purchases cigarettes, cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products from other manufacturers or distributors.
 - 4. Who sells cigarettes, cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products to dealers for resale in this state but is not in the business of selling cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products directly to the ultimate consumer.

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Such term shall not include any cigarette manufacturer, export warehouse proprietor, or cigarette importer with a valid permit under 26 U.S.C. Section 5712 if such person sells or distributes cigarettes in this state to cigarette distributors who hold valid and current licenses under Code Section 48-11-4 or include any export warehouse proprietor or another cigarette manufacturer with a valid permit under 26 U.S.C. Section 5712.

- (o) **"Distributor promotions"** means any of the following:
1. Manufacturer's promotions for cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products that are
 - (i) Only for use by a distributor who is licensed by this State; and
 - (ii) Intended to induce a distributor to purchase a specific product or products for resale to the retailer.
 2. Distributor promotions for cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products are:
 - (i) Monetary discounts offered directly to a distributor for the purchase of such products;
 - (ii) Free product offered to a distributor to induce it to purchase a specific product item of such products; or
 - (iii) Monetary discounts to pay within a certain time or purchase a large quantity of such products.

All such discounts and allowances are included in the computation of the wholesale cost price and subject to state excise tax.

- (p) **"Export cigarettes"** means any finished cigarette packaged and marked for export and not for consumption in the United States. Export cigarettes may also be referred to as Gray cigarettes
- (q) **"First taxable transaction"** means the first sale, receipt, purchase, possession, consumption, handling, distribution, or use of cigars, little cigars, cigarettes, loose tobacco or smokeless tobacco, or vapor products within this state.
- (r) **"Importer"** means any person who imports into this state from a foreign country, or who brokers in the United States, either directly or indirectly, for sale or

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distribution any of the following products in finished form: tobacco products, vapor products, or alternative nicotine products.

- (s) **"Individual"** means a natural person.
- (t) **"Licensee"** means any person who has been granted a license or permit by the Department concerning the manufacturing, importing, wholesaling, shipping, distribution, or sale of tobacco products, vapor products, or alternative nicotine products or who deals in such products.
- (u) **"Little cigars"** means cigars not weighing more than three pounds per thousand.
- (v) **"Loose tobacco or smokeless tobacco"** means granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but does not include cigarettes or cigars, little cigars, or tobacco purchased for the manufacture of cigarettes, cigars, or little cigars by cigarette manufacturers or cigar manufacturers.
- (w) **"Manufacturer"** means any person who manufactures, fabricates, assembles, processes, or labels any of the following products in finished form: tobacco products, vapor products, or alternative nicotine products.
- (x) **"Open system"** means any method or manner used to contain a consumable vapor product that is not a closed system.
- (y) **"Package"** means a pack, carton, or container of any kind in which tobacco products, vapor products, or alternative nicotine products are offered for sale, sold, otherwise distributed, or intended for distribution to consumers.
- (z) **"Person"** means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision whether public, private, or quasi-public.
- (aa) **"Place of business"** means the premises of a licensed manufacturer, importer, wholesaler or dealer described in the license application.

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- (bb) **"Premises"** means one physically identifiable business location operated by the same ownership and overall management with only one address registered as a single place of business with the local licensing authority and the state.
- (cc) **"Promotional activities"** means any activity other than those set forth in the definitions for "consumer promotions" and "distributor promotions" directed to the consumer by the manufacturer or importer, including solicitation of orders, demonstration and sampling, arranging of displays, distribution of literature, posting of advertising, exchange of fresh stock, and similar activities for promoting the sale or use of tobacco products, vapor products, or alternative nicotine products.
- (dd) **"Regulations"** means regulations promulgated by the Commissioner pursuant to the Code.
- (ee) **"Related machinery"** means any item, device, conveyance, or vessel of any kind or character used in manufacturing, packaging, labeling, stamping, transporting, distributing, selling, or possessing counterfeit cigarettes.
- (ff) **"Representative"** means a person, employee, agent, independent contractor, or salesperson acting on behalf of or at the direction of the licensee, with or without compensation, representing the licensee to a third party.
- (gg) **"Sale"** means any sale, transfer, exchange, theft, barter, gift, offer for sale, or offer for distribution, in any manner or by any means.
- (hh) **"Special event tobacco permit"** means a special event tobacco permit for off-premises sales of tobacco products for a special event at a temporary location offsite from the licensed location.
- (ii) **"Stamp"** means any impression, device, stamp, label, or print manufactured, printed, made, or affixed, as provided by the Commissioner.
- (jj) **"State"** means the State of Georgia.
- (kk) **"Tobacco product"** means cigars, cigarettes, little cigars, loose tobacco or smokeless tobacco, or any product derived either from tobacco or any of its derivatives.
- (ll) **"Tobacco-related objects"** means the same as set forth under O.C.G.A. § 16-12-170(1).
- (mm) **"Unregistered nonparticipating manufacturer"** means a manufacturer of cigarettes that:

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1. Is not a signatory to the Master Settlement Agreement (MSA) with the state.
 2. Is not registered with the Attorney General of the state.
- (nn) **"Vapor device"** means any system or device developed or intended to deliver a consumable vapor product to an individual who inhales from the device. Such term shall include, but not be limited to, an electronic nicotine delivery system, an electronic cigarette, electronic cigar, electronic pipe, vape pen, vape tool, or electronic hookah. Such term shall not include a fragrance or essential oil diffuser, an air freshener, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
- (oo) **"Vapor product"** means any consumable vapor product or vapor device.
- (pp) **"Vending machine"** means any coin-in-the-slot device or other automated device that accepts payment and is used for the automatic merchandising of cigars, cigarettes, or loose or smokeless tobacco.
- (qq) **"Vending machine operator"** means the person responsible for supplying products for, operation of, or maintenance of the vending machine.
- (rr) **"Warehouse"** means any place of business of a wholesaler, manufacturer, importer, or shipper which is used to store tobacco products, vapor products, or alternative nicotine products in accordance with the express written approval of the Commissioner.
- (ss) **"Wholesale cost price"** concerns cigars, loose tobacco or smokeless tobacco, or vapor products. It shall be computed as follows:
1. If a manufacturer is shipping to a state licensee untaxed cigars, loose tobacco or smokeless tobacco, or vapor products, the wholesale cost price shall be the manufacturer's invoice price at the time of sale, including the cost of shipping and handling, if not itemized. The value of any distributor promotions shall also be included in the wholesale cost price and shall not be subtracted or excluded from the wholesale cost price. Consumer promotions shall not be included in the wholesale cost price.
 2. If a distributor sells to another distributor untaxed cigars, loose tobacco or smokeless tobacco, or vapor products, the wholesale list price shall be the selling distributor's sales price, including the cost of shipping and handling, if not itemized. The value of any distributor promotions shall also be included in the wholesale cost price and shall not be subtracted or excluded

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from the wholesale cost price. Consumer promotions shall not be included in the wholesale cost price.

3. If a distributor sells to a dealer untaxed cigars, loose tobacco or smokeless tobacco, or vapor products, the wholesale list price shall be the selling distributor's sales price, including the cost of shipping and handling, if not itemized. The value of any distributor promotions shall also be included in the wholesale cost price and shall not be subtracted or excluded from the wholesale cost price. Consumer promotions shall not be included in the wholesale cost price.

Wholesale cost price is not used to calculate the excise taxes on consumable vapor products in a closed system pursuant to O.C.G.A. § 48-11-2(a)(5).

Authority: O.C.G.A. §§ 48-2-12, 48-11-1.

Rule 560-8-1-.02 Licensing - General

- (1) No person shall engage in or conduct the business of manufacturing, purchasing, selling, consigning, vending, dealing in, or distributing cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products in this state without first obtaining a license from the Commissioner.
- (2) The license issued by the Commissioner shall apply only to the premises for which it is issued. A separate license shall be required for each place of business.
- (3) No person shall store any cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products at any location other than that for which a license is issued except upon the written approval of the Commissioner.
- (4) Every person applying for a state license, permit, or registration shall apply on forms furnished and in a manner and format reasonably prescribed by the Commissioner; shall under oath answer all questions; shall supply all information, personnel statements, and information regarding an applicant's employees; and, if requested, shall furnish all certificates, affidavits, bonds, and other supporting data or documents, as reasonably required by the Commissioner. All license applications under these regulations shall be kept by the Commissioner as a permanent record. Willful failure to furnish the Commissioner with any of the required information shall constitute grounds for denial or revocation of a license.

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- (5) Applications for a state license, permit, or registration shall specify the premises of the licensee's place of business and such location shall not be changed without the express written approval of the Commissioner during the term of the license.
- (6) Any legal entity that is lawfully registered and doing business under the laws of this state or the laws of another state, and authorized by the Georgia Secretary of State to conduct business in Georgia, which seeks to obtain a license for tobacco products, vapor products, or alternative nicotine products shall apply for such license in the name of the legal entity as registered with the Office of the Secretary of State in this state. Provided:
 - (a) In its application, such legal entity shall provide the Commissioner with the name of its agent authorized to receive service of process under the laws of the state, and also provide the Commissioner with the address of its registered office together with a listing of current officers and their respective addresses.
 - (b) Any legal entity that is not required to register with the Office of the Secretary of State shall provide the Commissioner with the relevant information, including the name and address of a designated responsible corporate officer or partner.
 - (c) Any change in the status of a licensee's registered agent, sole proprietorship or responsible corporate officer, including but not limited to change of address or name, shall be reported to the Commissioner within five days of such occurrence.
 - (d) In the event that a legal entity shall fail to appoint or maintain a registered agent in this state as required by law, or whenever its registered agent cannot with due diligence be found at the registered office of the agent as designated in the entity's license application, the Commissioner shall be appointed as agent or designee to receive any citation issued by the Department for violation of relevant laws.
 - (e) Process may be served upon the Commissioner by leaving duplicate copies of such citations with the Commissioner.
 - (f) In the event that such notice of citation is served upon the Commissioner or one of the Commissioner's designated agents, the Commissioner shall immediately cause one of the copies of such citation to be forwarded to the legal entity at its registered office. No action on the citation shall occur within thirty (30) days from the date the Commissioner forwards the citation to the legal entity at its registered office.
 - (g) The Commissioner shall keep a record of all such citations received under this regulation for three years and shall record therein the time of receipt and disposition of that service.

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- (7) Licenses shall have the following valid periods and renewal dates:
- (a) Manufacturers, Importers, and Distributors -- The state license for manufacturers, importers, and distributors shall be valid for the state fiscal year (July 1 through June 30). Using the Georgia Tax Center, accessible through the Department's website, a licensee must apply for a license and annually renew the license. A licensee that desires to continue in business for the subsequent state fiscal year must submit an application at least thirty days (30) before the expiration of the license.
 - (b) Dealers -- The state license for dealers shall be valid for 12 months beginning on the date of issue for the initial license, and the first day of the month of issue for subsequent licenses and shall expire on the last day of the month preceding the month in which the initial license was issued. Using the Georgia Tax Center, a licensee must apply for a license and annually renew the license. A licensee that desires to continue in business for the subsequent year must submit an application at least thirty days (30) before the expiration of the license.
- (8) In the event a licensee ceases to be actively engaged in such business, the state license shall become invalid, and the licensee shall immediately notify and return the state license to the Department.
- (9) No license application will be granted where it would lead to a violation of local ordinances or is in contradiction with any Department regulations or other laws of the state.
- (10) No state license may be transferred from one person to another person. At the Commissioner's discretion, a transfer of license from one location to another location may be granted.
- (11) Any untrue, misleading, or omitted statement or information from such application shall be cause for the denial thereof and, if any license has been granted, shall constitute cause for revocation.
- (12) The failure of any applicant, or any person having any interest in any operation for which an application has been submitted, to meet any obligations imposed by the tax laws or any other law or regulation of the state shall constitute grounds for denial of the license, permit, or registration for which application is made.
- (13) To protect the public interest and welfare, the Commissioner may decline to issue a tobacco license to:

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- (a) Any person determined by the Commissioner, by reason of such person's business experience, financial standing, trade associations, personal associations, records of arrests, or reputation in any community in which they have resided, to be unlikely to maintain the operation for which they are seeking a license in conformity with federal, state, or local laws.
 - (b) Any person convicted of a felony who served any part of a criminal sentence, including probation, within ten (10) years immediately preceding the date of receipt of the license or renewal application.
 - (c) Any person convicted of a misdemeanor who served any part of a criminal sentence, including probation, within two (2) years immediately preceding the date of receipt of the license or renewal application and whose misdemeanor conviction is the result of a tobacco-related or vapor-related offense or whose misdemeanor conviction is for a crime involving moral turpitude.
- (14) The Commissioner may decline to issue a state license for the operation of a place of business when any person having any interest in the operation of the place of business or control over the place of business does not meet the same requirements as set forth for the licensee.
- (15) If the Commissioner has reason to believe that an applicant is not entitled to the license for which the applicant has applied, the Commissioner shall notify the applicant. The applicant shall have thirty (30) days from the date of the notice to request in writing a hearing on the application. Upon receipt of an applicant's written request, the Commissioner shall provide the applicant with due notice and opportunity for a hearing on the application conducted by the Commissioner or his or her duly appointed hearing officer pursuant to Regulation 560-8-6 *et seq.* If the Commissioner, after providing notice and opportunity for a hearing, determines that the applicant is not entitled to a license, the applicant shall be advised in writing of the findings upon which the license denial is based.

Authority: O.C.G.A. §§ 48-11-4, 48-11-6.

Rule 560-8-1-.03 Failure to Comply with Tax Laws - General

- (1) No application for any license pursuant to the Code and these regulations will be considered as long as the applicant, or any person or entity holding an interest in a business for which application is made, has failed to meet any obligations imposed by any tax law or regulation of this state.

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- (2) The failure of any licensee, or any person or entity holding an interest in a business for which a license has been issued, to meet any obligations imposed by any tax law of this state shall constitute grounds for suspension or revocation of the license.

Authority: O.C.G.A. §§ 48-2-12, 48-11-4, 48-11-6.

Rule 560-8-1-.04 Violations: Unlawful Activities - General

- (1) Any person holding any license, permit, or registration issued pursuant to the Code and these regulations who violates any provision of the Code or these regulations, or directs, consents to, permits, or acquiesces in such violation, either directly or indirectly, shall by such conduct, subject the license to suspension, revocation, or cancellation.
- a. For purposes of administering and enforcing the Code, any act committed by an employee, representative, or agent of a licensee shall be deemed to be an act of the licensee.
- (2) It shall be a violation of the Code and these regulations for any licensee, permittee, or registrant to permit any person to engage in any activity on the premises for which the license is issued or within the place of business that is in violation of the laws or regulations of any federal, state, county or municipal governing authority or regulatory agency.
- a. With respect to any such activity, it shall be rebuttably presumed that the act was done with the knowledge or the consent of the licensee; provided however, that this presumption may be rebutted only by evidence which precludes every other reasonable hypothesis such that the licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence could not have discovered or prevented such activity.

Authority: O.C.G.A. § 48-2-12.

Rule 560-8-1-.05 Inspection of Licensed Premises and Records - General

- (1) The Commissioner or the Commissioner's agents may enter the licensed premises of any person engaged in the manufacture, transportation, distribution, sale, storage, or possession of any cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco, vapor products, or alternative nicotine products at any time for the purpose of inspecting the premises and enforcing the Code and regulations. The Commissioner and the Commissioner's agents shall have access during the inspection to all areas of the premises and to all books, records,

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and supplies relating to the manufacture, transportation, distribution, sale, storage, or possession of cigarettes, cigars, little cigars, loose tobacco, smokeless tobacco, vapor products, and alternative nicotine products.

- (2) It shall be a violation of these regulations for any licensee, its employee, or anyone acting on behalf of or with the approval of the licensee, to hinder or interfere with an agent in the performance of the agent's duties or to fail to cooperate with all aspects of an inspection. Interference or hindrance of an agent shall include but not be limited to the following:
- (a) Disorderly conduct including behaving in any manner that tends to threaten, or to appear to threaten, the agent or members of the public during an inspection or performance of the agent's duty.
 - (b) Disturbing the peace including, but not limited to, exhibiting loud, boisterous, threatening, abusive, insulting, or indecent language during an inspection or performance of the agent's duty.

Authority: O.C.G.A. §§ 48-2-12, 48-11-4, 48-11-11, 48-11-19.

Rule 560-8-1-.06 Records - General

- (1) Each manufacturer, importer, distributor, or dealer shall retain for three years from the date of receipt by the Commissioner complete and accurate records of all tobacco products, vapor products, and alternative nicotine products manufactured, produced, purchased, or sold.
- (2) The records shall be of a kind and in a form prescribed by the Commissioner.
- (3) No manufacturer, importer, distributor, or dealer shall store any record concerning the shipping, invoicing, sale, payment, or storage of tobacco products, vapor products, or alternative nicotine products at any other location than that for which a license has been issued except upon the written approval of the Commissioner.

Authority: O.C.G.A. §§ 48-2-12, 48-11-2, 48-11-11, 48-11-14.

Rule 560-8-1-.07 Computation of Tax for Tobacco Products and Vapor Products - General

In using the alternate method for computing the tax on cigars, loose tobacco or smokeless tobacco, and vapor products, the wholesale cost price shall include all distributor promotions, and

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distributor promotions may not be subtracted or excluded from wholesale cost price. Any costs incurred for consumer promotions shall not be included in the calculation of the wholesale cost price.

Authority: O.C.G.A. §§ 48-2-12, 48-11-2, 48-11-3.

Rule 560-8-1-.08 Monthly Report of Shipments; Invoices - General

Every manufacturer or importer, distributor, and dealer of tobacco products, vapor products, or alternative nicotine products who ships any tobacco products, vapor products, or alternative nicotine products from a location outside this state to any distributor or dealer located within this state shall, on or before the tenth day of the month following such shipment, make a report of all such shipments to the Commissioner electronically using the Georgia Tax Center, accessible through the Department's website.

Authority: O.C.G.A. §§ 48-2-12, 48-11-10.

Rule 560-8-1-.09 Warehouse Monthly Reports - General

- (1) All warehouse operators shall make monthly reports on forms provided by the Commissioner. The reports shall disclose:
 - (a) The number of cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco products, vapor products, and alternative nicotine products on hand for both the first and last days of the calendar month;
 - (b) The number of cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco products, vapor products, and alternative nicotine products received, the number shipped into this state, the number shipped out of this state, and to whom all shipments were delivered.
- (2) The reports shall be made on or before the tenth day of each month and shall cover the preceding calendar month.

Authority: O.C.G.A. §§ 48-2-12, 48-11-10.

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Rule 560-8-1.10 Carrier's Monthly Reports - General

- (1) All carriers transporting tobacco products, vapor products, or alternative nicotine products into this state for delivery to distributors and retailers located within this state shall make monthly reports on forms provided by the Commissioner.
- (2) The reports shall disclose:
 - (a) The number of cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco products, vapor products, and alternative nicotine products transported, from whom the contents were shipped, and to whom such shipments were delivered.
 - (b) The number of non-tax paid cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco products, vapor products, and alternative nicotine products lost, stolen, or damaged in transit.
 - (c) The number of non-tax paid cigarettes, cigars, little cigars, loose tobacco or smokeless tobacco products, vapor products, and alternative nicotine products refused or returned to the carrier.
- (3) The reports shall be made on or before the tenth day of each month and shall cover the preceding calendar month.

Authority: O.C.G.A. §§ 48-2-12, 48-11-10, 48-11-11.

Rule 560-8-1.11 Sales to Minors - General

No licensee, employee of such licensee, representative, or any person acting on behalf of such licensee shall sell or barter, directly or indirectly, tobacco products, vapor products, tobacco-related objects, vapor-related objects, or alternative nicotine products to any person who is under 21 years of age. Any act committed by an employee, representative, or agent of a licensee shall be deemed to be an act of the licensee.

Authority: O.C.G.A. §§ 16-12-176, 48-2-12.

Rule 560-8-1.12 Export Cigarettes and Vapor Products - General

- (1) No licensee shall buy, sell, store, or distribute cigarettes or vapor products that are packaged with the label, "For Export Only, U.S. Tax Exempt, For Use Outside U.S.," or a

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label with similar wording, indicating that the manufacturer did not intend for the product to be sold in the United States.

- (2) The purchase or sale of such cigarettes or vapor products will result in the revocation or suspension of the license or other disciplinary action.

Authority: O.C.G.A. § 48-11-23.1.

Rule 560-8-1-13 Criminal Penalties - General

- (1) Superior Courts of the state have jurisdiction over certain offenses set forth in Chapter 11 of Title 48 of the Code that are punishable by fine or imprisonment or both.
- (2) Penalties for the following offenses are set forth in O.C.G.A. § 48-11-22 *et seq.*
 - (a) Transportation of unstamped or non-tax paid tobacco products or vapor products.
 - (b) Possession of unstamped or non-tax paid tobacco products or vapor products.
 - (c) Operation of unlicensed business or activity.
 - (d) Failure to file a report or filing false report.
 - (e) False entries or invoices.
 - (f) Possession, use, manufacture or other unlawful activities involving counterfeited stamps or tampering with metering machines.
 - (g) Swearing and testifying falsely with respect to matters governed by Chapter 11 of Title 48 of the Code.
 - (h) Possession or sale of counterfeit cigarettes or counterfeit vapor products.

Authority: O.C.G.A. §§ 48-2-12, 48-11-21 to 48-11-30.

Rule 560-8-1-14 Assessments, Civil Penalties, and Collection Actions- General

- (1) The Commissioner may make assessments, assess civil penalties, and take collection actions as set forth in O.C.G.A. §§ 48-11-12, 48-11-14, and 48-11-17:
 - (a) Assessment of deficiencies for nonpayment of taxes; penalties for incorrect or unfiled reports; penalties for deficiencies due to fraud.

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- (b) Assessment of penalties for failure to register; penalties for failure to timely report; penalties for failure to timely remit taxes.
- (c) Amount of unpaid tax as lien against property; seizure and sale.

Authority: O.C.G.A. §§ 48-2-12, 48-11-12, 48-11-14, 48-11-17.

Rule 560-8-1-.15 Manufacturer, Distributor, and Dealer to Make Accurate Invoice

- (1) The sale or delivery of any tobacco products, vapor products, or alternative nicotine products by a manufacturer, distributor, or dealer, or its agents or employees shall include a written invoice delivered contemporaneously with the sale or delivery to any manufacturer, distributor, or dealer.
- (2) Each sales invoice shall have printed or clearly written thereon:
 - (a) Name, address, and tobacco license number of the purchaser and the seller;
 - (b) Date of delivery or shipment and invoice number;
 - (c) Brand, type, and quantity of tobacco products, vapor products, and alternative nicotine products received;
 - (d) The place from which the tobacco products, vapor products, and alternative nicotine products were shipped.
- (3) A manufacturer, distributor, or dealer, or its agents or employees shall not, in a sale to a manufacturer, distributor, or dealer:
 - (a) Create or knowingly accept an invoice which falsely states prices or any terms of any sale;
 - (b) Issue an invoice which does not clearly specify the sum of Georgia excise tax.
- (4) All invoices shall:
 - (a) If excise tax has been paid, be boldly marked either "GEORGIA EXCISE TAX PAID" or similar language indicating state excise tax has been paid.
 - (b) If excise tax has not been paid, be boldly marked "PURCHASER RESPONSIBLE FOR EXCISE TAX" or "NO GEORGIA EXCISE TAX PAID - PURCHASER RESPONSIBLE."

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If an invoice is only for the sale of tax stamped cigarettes, then subsection (4) of this regulation shall not apply.

- (5) The Commissioner may suspend the tobacco license of any person or entity found to be in violation of this regulation.
- (6) The Commissioner may revoke such tobacco license after a hearing pursuant to O.C.G.A. § 48-11-6.

Authority: O.C.G.A. §§ 48-2-12, 48-11-2, 48-11-6.

Rule 560-8-1-.16 Invalid Checks

- (a) Dealers offering checks in payment for purchases of merchandise from a distributor, whether the dealer is the maker or endorser of such checks, shall upon notification that any such check has been dishonored make immediate payment for same. Dealers failing to comply with this regulation may be subject to a citation.
- (b) Distributors who receive a dishonored check from a dealer and secure a criminal warrant against the dealer must notify the Commissioner, in writing, within ten (10) days of the date of issuance of the warrant. Such notification shall include all pertinent information associated with the criminal warrant, including the county where the warrant was secured, the warrant number, docket number, and/or a copy of the warrant.

Authority: O.C.G.A. §§ 48-2-12, 48-11-3.

Rule 560-8-1-.17 Notification of Disciplinary Action

- (1) If any disciplinary action is taken against the licensee, its employees, or its place of business by any authority, the licensee shall notify the Commissioner within fifteen (15) days of such action.
 - (a) The notification must include the complete details of the action taken;
 - (b) Any licensee who fails to notify the Commissioner or the Commissioner's agents of such action within the prescribed time may be cited and required to appear before the Commissioner to show cause as to why the license should not be suspended, revoked, or cancelled.

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- (2) Disciplinary action as used in this regulation means any action taken by any municipal, county, state, or federal authority in this state or any other state against the licensee, its employees, or its place of business, including but not limited to:
- (a) Arrests by local, state, or federal authorities of the licensee or any of its employees;
 - (b) Citations issued by local, state, or federal authorities to the licensee or any of its employees;
 - (c) Indictments, presentments, or accusations in any local, state, or federal courts against the licensee or any of its employees;
 - (d) Convictions of the licensee or any of its employees or penalties imposed pursuant to a plea of nolo contendere or non vult against the licensee or any of its employees in any local, state, or federal court;
 - (e) Penalties imposed by any regulatory agency against the licensee or any of its employees; or
 - (f) Any other written charges or reprimand by local, state, or federal authorities.
- (3) Traffic citations written to the licensee or any of its employees need not be reported to the Commissioner or the Commissioner's agents.
- (4) The licensee shall report civil actions or accusations against the licensee, or any person having any interest in the operation of the place of business or control over the place of business in accordance with paragraph (1) of this regulation.

Authority: O.C.G.A. § 48-2-12.

Rule 560-8-1-.18 Subterfuge - General Provisions

Any act which may be construed as subterfuge in an effort to circumvent any of these regulations shall be deemed a violation of the regulation attempted to be circumvented.

Authority: O.C.G.A. § 48-2-12.