

Part 5 Smokeless Tobacco Products

59-14-501 Warning labels required.

- (1) All smokeless tobacco products sold within the state shall be affixed with an adhesive warning label which states: "Use of this product may cause oral cancer and other mouth disorders and is addictive." As used in this part, "smokeless tobacco products" means chewing tobacco and snuff.
- (2) The distributor, wholesaler, or manufacturer of smokeless tobacco products shall provide and pay for warning labels in accordance with specifications adopted by the Department of Health.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-502 Requirements for placement of warning labels.

Warning labels shall be securely affixed to each individual package of smokeless tobacco products within 72 hours after receipt of the products by any wholesaler, distributor, or retailer within this state. All smokeless tobacco products shall be affixed with warning labels before sale within the state. If any smokeless tobacco products are manufactured within the state, they shall be affixed with warning labels by the manufacturer when sold.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-503 Authority of commission.

The commission may adopt rules which permit smokeless tobacco products without affixed warning labels to remain in the hands of a wholesaler or distributor until the original case or crate is broken, unpacked, or sold. The commission may permit a manufacturer, wholesaler, or distributor to sell and export smokeless tobacco products to a regular dealer in smokeless tobacco products outside the state, without affixing the warning labels required by Section 59-14-501.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-504 Responsibility for placement of warning labels -- One label required.

It is the intent and purpose of this part to require all manufacturers, jobbers, wholesalers, and distributors to securely affix the warning labels required by Section 59-14-501. When warning labels are affixed as required by this part, no additional warning label is required, regardless of how often the articles are sold or resold in the state.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-505 Separate offenses -- Evidence of intended sale of products.

Each article, package, or container not having a warning label affixed, as required by Section 59-14-501, is considered a separate offense. The presence of any article, package, or container of smokeless tobacco products in the place of business of any person required by this chapter to affix warning labels is prima facie evidence that those articles, packages, or containers are intended for sale and are subject to this part.

Amended by Chapter 4, 1993 General Session

59-14-506 Contraband goods.

Any smokeless tobacco products without affixed warning labels as required by this part, which have been in the possession of any wholesaler, distributor, or retailer in this state for 72 hours or longer, or which have been sold by the wholesaler, distributor, or retailer, are contraband goods. Those contraband goods may be seized by the commission or its employees, or by any peace officer of the state or its political subdivisions, without a warrant. The contraband goods shall be destroyed.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-507 Penalty for violation.

Violation of this part is a class B misdemeanor.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-508 Federal laws to supersede these requirements.

In the event federal legislation requiring warning labels on smokeless tobacco products is enacted, the requirements of that legislation shall supersede the requirements of Sections 59-14-501 through 59-14-507.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-509 Restrictions on mail order or Internet sales.

(1) For purposes of this section:

- (a) "Distributor" means a person, wherever residing or located, who:
 - (i) is licensed in this state to purchase non-taxed tobacco products; and
 - (ii) stores, sells, or otherwise disposes of tobacco products.
- (b) "Licensed person" is as defined in Subsection 59-14-409(1).
- (c) "Order or purchase" includes:
 - (i) by mail or delivery service;
 - (ii) through the Internet or computer network;
 - (iii) by telephone; or
 - (iv) through some other electronic method.
- (d) "Retailer" means any person who sells tobacco products to consumers for personal consumption.

(2) A person, distributor, manufacturer, or retailer shall not:

- (a) cause tobacco products or cigarettes as defined in Section 59-22-202 to be ordered or purchased by anyone other than a licensed person; or
- (b) knowingly provide substantial assistance to a person who violates this section.

(3)

- (a) Each order or purchase of a tobacco product or cigarettes as defined in Section 59-22-202 in violation of Subsection (2) shall constitute a separate violation under this section.
- (b) In addition to the penalties in Subsection (4), a person who violates this section is subject to:
 - (i) a civil penalty in an amount not to exceed \$5,000 for each violation of this section;
 - (ii) an injunction to restrain a threatened or actual violation of this section; and
 - (iii) recovery by the state for:
 - (A) the costs of investigation;

- (B) the cost of expert witness fees;
 - (C) the cost of the action; and
 - (D) reasonable attorney's fees.
- (4) A person who knowingly violates this section has engaged in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the General Fund.

Enacted by Chapter 341, 2009 General Session