

CHAPTER 112: CIGARETTE TAX

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§ 112.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CIGARETTE. A roll of tobacco or any substitute thereof wrapped in paper and used for smoking.

CONSUMER. A person who comes into possession of tobacco for the purpose of consuming it, giving it away or disposing of it in any way.

DEALER. Any person dealing directly with the manufacturer of cigarettes in their purchase and in the business of selling cigarettes as a first seller.

FIRST SELLER. Includes all persons who make the initial or first sale or distribution of cigarettes within the city.

PACKAGE. The individual package, box, or other container from which sales of cigarettes are normally made or intended to be made.

PERSON. Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals.

RETAILER. Includes persons, other than a dealer or wholesaler as defined in this section, who is engaged in the business of selling cigarettes at retail, who shall sell or offer for sale cigarettes, irrespective of quantity, number of sales, giving the same away, or exposing the same where it may be taken, or purchased, or otherwise acquired.

SALE. Any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for a consideration, or any agreement therefor.

WHOLESALER. Includes any persons whose principal business is that of a wholesale jobber and who is known to the trade as such, who sells cigarettes for only the purpose of resale or giving them away, or exposing the same where they may be taken or purchased or otherwise acquired by the retailer. (Prior Code, § 615.010) (Ord. 297, passed 2-1-2000)

§ 112.02 PERMIT REQUIRED.

Every person engaged in the retail business of selling cigarettes or offering or displaying the same for sale within the city shall procure a permit therefor for each place of business that he or she desires to have for the sale of cigarettes in the city.

(Prior Code, § 615.020) (Ord. 297, passed 2-1-2000)

§ 112.03 APPLICATION; REGISTRATION FEE.

Every person desiring to engage in the sale of cigarettes at retail within the city shall file an application for a cigarette permit, which application shall be made upon a form prescribed, prepared, and furnished by the City Collector, and shall set forth such information as he or she shall require. Every person procuring a cigarette permit shall pay to the City Collector the sum of \$5 as a registration fee for each permit issued for each such place of business.

(Prior Code, § 615.030) (Ord. 297, passed 2-1-2000)

§ 112.04 ASSIGNMENT; VALIDITY.

Cigarette permits shall not be assignable and shall be valid only for the persons in whose names they are issued and for the transaction of business in the place designated therein.

(Prior Code, § 615.040) (Ord. 297, passed 2-1-2000)

§ 112.05 DISPLAY OF PERMIT.

Each cigarette permit issued under the provisions of this chapter shall at all times be conspicuously displayed at the place for which issued.

(Prior Code, § 615.050) (Ord. 297, passed 2-1-2000)

§ 112.06 EXPIRATION OF PERMIT.

All cigarette permits shall expire on June 30 next after the date of such permit unless sooner suspended, surrendered, or revoked by the City Collector.

(Prior Code, § 615.060) (Ord. 297, passed 2-1-2000)

§ 112.07 DUPLICATE PERMITS.

Whenever any cigarette permit issued under the provisions of this chapter is defaced, destroyed, or lost, the City Collector shall issue a duplicate permit for the defaced, destroyed, or lost permit, upon the payment of a fee of \$5.

(Prior Code, § 615.070) (Ord. 297, passed 2-1-2000)

§ 112.08 SUSPENSION; REVOCATION OF PERMIT.

The Board of Aldermen may suspend or, after a hearing, revoke a cigarette permit whenever it finds that the holder thereof has failed to comply with any of the provisions of this chapter or any rules or regulations prescribed or promulgated under this chapter, or sells cigarettes to minors in violation of state statute. Upon suspending or revoking any cigarette permit, the Board of Aldermen shall request the holder thereof to surrender to the City Collector immediately all permits or duplicates thereof, and the holder shall surrender promptly all such permits to the City Collector as requested. Whenever the Board of Aldermen shall suspend a cigarette permit, it shall cause the holder to be notified immediately and afford him or her a hearing if desired. After such hearing, the Board of Aldermen shall rescind its order of suspension, or if good cause appears therefor, shall continue the suspension or revoke the permit.

(Prior Code, § 615.080) (Ord. 297, passed 2-1-2000)

§ 112.09 TAX LEVY.

Every dealer, wholesaler, or retailer engaged in the business of selling cigarettes or offering or displaying the same for sale within the city shall pay an occupation tax at the rate of \$40 per thousand packs for all cigarettes sold or offered or displayed for sale. This tax shall be paid but once, as provided in for § 112.12, by the dealer, wholesaler, or retailer. The intent and meaning of this chapter is that the same shall levy an occupation tax based upon and pursuant to the methods provided for by RSMo.

§ 92.040, as amended, and pursuant to the powers therein granted and the powers contained in the state statutes for cities of the classification of the city.

(Prior Code, § 615.090) (Ord. 297, passed 2-1-2000)

§ 112.10 PAYMENT OF TAX REQUIRED.

This tax shall be paid by the dealer, wholesaler, or retailer, as defined in § 112.01, selling cigarettes or offering them for sale within the city limits.

(Prior Code, § 615.100) (Ord. 297, passed 2-1-2000)

§ 112.11 DEALERS AND WHOLESALERS OUTSIDE CITY.

Any dealer or wholesaler selling or offering cigarettes for sale within the corporate limits of the city, whose place of business is outside the city limits, shall be bound by all of the provisions of this chapter.

(Prior Code, § 615.110) (Ord. 297, passed 2-1-2000)

§ 112.12 MONTHLY PAYMENT.

It shall be the duty of every dealer, wholesaler, or retailer, as defined in § 112.01, selling, offering, or displaying for sale any package of cigarettes, to remit the monthly cigarette tax reporting form and full payment by the fifteenth day of each following month. The canceled check, accompanied by the monthly cigarette tax reporting form, shall be proof of payment.

(Prior Code, § 615.120) (Ord. 297, passed 2-1-2000)

§ 112.13 RULES AND REGULATIONS; RECORDS.

For the purpose of enabling the City Collector to enforce the terms of this chapter, the following provisions are enacted.

(A) Each dealer in the city and those wholesalers and retailers, as defined in § 112.01, shall procure and retain invoices showing the amount and value of the shipment of cigarettes received by him or her, the date thereof, and the name of the shipper, and shall retain this invoice for a period of three years subject to the use and inspection of the City Collector.

(B) All dealers, wholesalers, and retailers, as defined in § 112.01, within the city shall maintain and keep for a period of three years such other records of cigarettes received, sold, or delivered within the city as may be required by the City Collector.

(C) The City Collector, or his or her duly authorized representatives, are authorized to examine the books, papers, invoices and other records, stock of cigarettes in and upon any premises where they are

placed, stored, or sold, and equipment of any such dealer, wholesaler, or retailer pertaining to the sale and delivery of cigarettes taxable under this chapter.

(D) To verify the accuracy of the occupation tax imposed and assessed by this chapter, each person, as defined in § 112.01, is directed and required to give to the City Collector, or his or her duly authorized representatives, the means, facilities, and opportunity for such examinations as are herein provided for and required.

(E) In addition to the powers herein granted to the City Collector, he or she is authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to the delegations of his or her powers to a deputy or other employee of his or her office and any other matter or thing pertaining to the administration and enforcement of the provisions of this chapter.

(F) Cigarette tax reporting information received from the state shall be held in confidence and used solely for verifying cigarette tax payments.

(Prior Code, § 615.130) (Ord. 297, passed 2-1-2000)

§ 112.14 REFUNDS.

Whenever any cigarettes offered for sale within the city are withdrawn from sale, have become unfit for use and consumption or unsalable, or have been destroyed, the City Collector is authorized to provide a refund of the amount of the tax paid by him or her with respect to such cigarettes. The City Collector is authorized to adopt, prescribe, and promulgate rules and regulations with regard to the presentation and proof of claim for refunds and credits as he or she may deem advisable.

(Prior Code, § 615.140) (Ord. 297 §§1—2, 2-1-00)

§ 112.15 OATHS AND SUBPOENAS.

The City Collector, or his or her employees or agents duly designated and authorized by him or her, shall have power to administer oaths and take affidavits in relation to any matter or proceedings in the exercise of their powers and duties under this chapter. The City Collector shall have power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the enforcement of this chapter and to examine them in relation thereto.

(Prior Code, § 615.150) (Ord. 297, passed 2-1-2000)

§ 112.16 FRAUDULENT REPORT.

No person shall falsely and fraudulently make, forge, or alter any report required under this chapter. (Prior Code, § 615.160) (Ord. 297, passed 2-1-2000) Penalty, see § 112.99

§ 112.99 PENALTY.

Any person violating this chapter by failing to file the report, make a fraudulent report, or fail to make the payment provided for in § 112.12, shall be punished by a fine of not more than \$500 or imprisoned for not more than 90 days, or be punished by both such fine and imprisonment. Failure to file each monthly report and make each monthly payment shall be deemed a separate offense.
(Prior Code, § 615.170) (Ord. 297, passed 2-1-2000)