

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO**

Chapter 61A-10 Cigarette and Tobacco Products Division Rules

RULE NOS.: RULE TITLES

- 61A-10.001 Definitions
- 61A-10.002 Stamps, Sale of
- 61A-10.0021 Stamping Agent – Requirements
- 61A-10.0022 Cigarette Distributing Agent – Requirements
- 61A-10.005 Excise Tax, Imposition and Exemption
- 61A-10.006 Stamps, Method of Affixing
- 61A-10.007 Stamps, Limitation of Use
- 61A-10.008 Refunds
- 61A-10.009 Sample Packages of Cigarettes
- 61A-10.0091 Manufacturer's and Importer's Reporting Requirements.
- 61A-10.010 Sales, Passenger Carriers
- 61A-10.011 Cigarette Monthly Reports
- 61A-10.0111 Cigarette Audit
- 61A-10.0112 Required Documentation for Imported Cigarettes
- 61A-10.012 Manufacturers' and Importers' Representatives, Reports and Responsibilities
- 61A-10.013 Transactions, Wholesale Dealers, Manufacturers' and Importers' Representatives
- 61A-10.014 Wholesale Dealers, Purchase for Resale Prohibited
- 61A-10.015 Transfer, Unstamped Cigarettes (Repealed)
- 61A-10.016 Wholesaler, Distributing Agent or Exporter, Permit Changes (Repealed)
- 61A-10.017 Direct Shipments, Prohibition, Exception, and Excise Taxes
- 61A-10.018 Invoices or Daily Sales Tickets, Cigarette Sales to Retail Dealers
- 61A-10.0181 Invoices, Other Tobacco Products Sales to Retail Dealers (Repealed)
- 61A-10.020 Vending Machines, Permits and Restrictions
- 61A-10.021 Vending Machines, Reports
- 61A-10.026 Sale of Stamped, Untaxed Cigarettes by Stamping Agents or Wholesale Dealers to Indians for Retail Sale, Reporting.
- 61A-10.027 Interest on Excise Tax; Due Dates
- 61A-10.031 New Off Premise Storage of Unstamped Cigarettes (Repealed)
- 61A-10.050 Definitions
- 61A-10.051 Excise Tax Exemption, Reports
- 61A-10.052 Monthly Reports, Required
- 61A-10.053 Records Maintenance
- 61A-10.054 Invoices, Tobacco Products Sales to Retailers
- 61A-10.055 Excise Tax Refunds
- 61A-10.080 Application for Cigarette Permit, Manufacturer or Importer
- 61A-10.081 Application for Cigarette Permit, Wholesale Dealer, Exporter, or Cigarette Distributing Agent
- 61A-10.082 Application for a Tobacco Products Wholesale Dealer Permit
- 61A-10.083 Application for Retail Dealer Permit, Cigarette and Tobacco Products
- 61A-10.084 Permit Changes
- 61A-10.085 Duplicate License Request

**PART I
CIGARETTE AND TOBACCO PRODUCTS DIVISION RULES**

61A-10.001 Definitions.

(1) "Cigarette Distributing Agent" also known as "CDA" means a "distributing agent" as defined in Section 210.01(14), F.S.

(2) "Bill of Lading" means a receipt given by a carrier for goods accepted for transportation.

(3) "Stamping Agent" means an "agent" as defined in Section 210.01(9), F.S.

(4) "Audit" means the process of examining and verifying the records, stock and equipment of manufacturers, importers, distributing agents, wholesale dealers, stamping agents, and retail dealers licensed by the Division.

(5) "Unconditional Guaranty Contract" is similar to an irrevocable letter of credit in that it is issued through a bank and the bank unconditionally guarantees payment under the terms and conditions contained in the contract.

Specific Authority 210.10 FS. Law Implemented 210.01, 210.085, 210.09, 210.15 FS. History—Amended 9-17-73, Reprimulgated 12-19-74, Formerly 7A-10.01, 7A-10.001, Amended 9-2-08.

61A-10.002 Stamps, Sale of.

(1) Stamps will be sold only to stamping agents who have been given permission by the Division to use such stamps to evidence payment of taxes and the Division may sell such stamps in individual units of 1 roll or multiples thereof.

(2) Any such stamps purchased by a stamping agent may not be transferred or sold to any entity including other stamping agents; however, such stamps may be returned to the Division for credit or refund as specified in Rule 61A-10.008, F.A.C.

(3) Stamping agents shall requisition stamps using DBPR form AB&T 4000A-006, Requisition and Invoice for Cigarette Tax Stamps, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Each stamping agent purchasing tax stamps shall file with the Division DBPR form AB&T 4000A-040, Cigarette Stamp Signature Card, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), listing employees authorized to requisition and receive tax stamps. Stamps will not be delivered to unauthorized individuals.

Specific Authority 210.10 FS. Law Implemented 210.05 FS. History—New 12-19-74, Amended 10-8-81, 8-29-84, Formerly 7A-10.02, 7A-10.002, Amended 9-2-08.

61A-10.0021 Stamping Agent – Requirements.

The Division shall authorize a wholesale dealer as a stamping agent to affix stamps to packages of cigarettes provided the dealer furnishes the Division with;

(1) An irrevocable letter of credit, certificate of deposit, unconditional guarantee contract, or a surety bond, issued by a solvent surety company registered to do business in this state, equal to 110% of the estimated monthly tax liability, but not less than \$2,000, as required in Sections 210.05 and 210.08, F.S. The Division shall determine the estimated monthly tax liability based on the packs of unstamped cigarettes purchased for resale within the State of Florida.

(a) Surety amounts will be reviewed with every audit to verify compliance with this rule. The surety amount will be based on the highest month's total liability.

(b) Liability for stamp purchases shall not exceed the surety amount.

(c) Stamping agents will provide the Division with a continuation certificate of the surety when the stamping agents pay their surety premium.

(d) If a surety instrument is cancelled, the stamping agent must cease operation.

(e) Applicants shall properly execute and submit form DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6032 are provided in form DBPR ABT-6032i, Instructions for Completing DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(2) A letter from manufacturers and importers stating that they will ship to the applicant direct.

(3) A letter from the wholesale dealer requesting to be a stamping agent.

(4) If licensed as a stamping agent by another state, authorization from that state to purchase and affix that state's tax indicia within the State of Florida.

Specific Authority 210.10 FS. Law Implemented 210.01, 210.05, 210.08, 210.15, 210.40 FS. History—New 9-2-08.

61A-10.0022 Cigarette Distributing Agent – Requirements.

Any entity permitted as a cigarette distributing agent may not own or sell cigarettes. All product movement by the cigarette distributing agent is to be initiated by manufacturer or importer of the cigarettes who shall remain the owner of such cigarettes. A cigarette distributing agent may not be appointed as a stamping agent.

Specific Authority 210.10 FS. Law Implemented 210.01, 210.05, 210.085, 210.15 FS. History—New 9-2-08.

61A-10.005 Excise Tax, Imposition and Exemption.

The cigarette excise tax is imposed upon the sale, receipt, purchase, possession, handling, consumption, distribution and use of cigarettes in Florida, except as follows:

(1) Cigarettes sold at post exchanges, ship service stores, ship stores, and slop chests when such agencies are operated under regulations of the Armed Forces of the United States or the United States Coast Guard or NASA on Armed Forces Reservations or other Federal Bases and Exchanges in Florida or on ships of the Armed Force Merchant Marines of the United States, may be sold without the payment of the Florida excise tax to members of the Armed Services of the United States only; tax exempt sales may not be made by such agencies to anyone other than members of the Armed Services of the United States and cigarettes sold to other persons must be properly stamped and Florida excise tax due thereon paid.

(2) Cigarettes sold or given by charitable organizations to bona fide patients in regularly established veterans hospitals in Florida or inmates of a federal prison, for personal use or consumption of such patients or inmates, are exempt from the Florida excise tax; cigarettes sold or given to anyone other than a bona fide patient in such hospitals or other personal use of such patients or inmates of a federal prison, must be properly stamped and the Florida excise tax due thereon paid.

(3) Each wholesale dealer or cigarette distributing agent handling any such tax-free cigarettes shall attach to their monthly report a copy of the invoice or sales slip substantiating any such tax-free sale. The invoice or sales slip must be signed by a person authorized to receive such tax-free cigarettes. The name of any person authorized to receive and sign for such tax-free cigarettes must be submitted by the commanding officer of the military installation, hospital, or prison to the Bureau of Auditing office of the Division wherein such installation is situated.

Specific Authority 210.10 FS. Law Implemented U.S.C. Const. Art. VI cl. 2; 4 U.S.C. § 107, 14 U.S.C. §§ 1, 2; 42 U.S.C. §§ 2451; 2472, 210.03, 210.04, 210.05, 210.09, 210.11 FS. History—Repromulgated 12-19-74, Amended 3-1-76, Formerly 7A-10.05, 7A-10.005, Amended 9-2-08.

61A-10.006 Stamps, Method of Affixing.

(1) The stamps affixed to or meter imprints placed on packages of cigarettes for the purpose of evidencing payment of the excise tax due thereon must be placed on the bottom of the package of such cigarettes in such a manner that the stamps are clearly visible, legible and complete.

(2) Wholesale dealers within this state must affix or cause to be affixed such stamps within 10 calendar days of receipt of the cigarettes.

(3) Wholesale dealers within this state may not maintain stocks of unstamped cigarettes unless that part is identified for sale or distribution outside this state or intended as tax exempt sales as defined in Section 210.04(4), F.S. Such unstamped stock must be maintained separately and apart from stamped cigarettes.

(4) Wholesale dealers from outside the state must affix Florida tax stamps prior to shipping cigarettes into this state.

Specific Authority 210.10 FS. Law Implemented 210.04, 210.05, 210.06 FS. History—Repromulgated 12-19-74,

Amended 3-1-76, Formerly 7A-10.06, Amended 3-15-90, 7-9-91, 1-7-92, Formerly 7A-10.006, Amended 9-2-08.

61A-10.007 Stamps, Limitation of Use.

Stamping agents are prohibited from affixing stamps to or placing meter imprints upon any packages of cigarettes not actually owned by such stamping agents unless written permission for such action is received from the Division.

Specific Authority 210.10 FS. Law Implemented 210.06, 210.05 FS. History—Repromulgated 12-19-74, Formerly 7A-10.07, 7A-10.007, Amended 9-2-08.

61A-10.008 Refunds.

(1) No refund or credit will be made for stamps affixed to or meter imprints placed upon packages of cigarettes shipped from a wholesale dealer to a manufacturer or importer unless such wholesale dealer furnishes the Division with an original affidavit issued by the manufacturer or importer acknowledging the receipt of the cigarettes. Such an affidavit must be submitted with a completed DBPR form AB&T 4000A-004, Application for Refund or Credit of Cigarette Stamps, incorporated herein by reference and effective (2/08). Only upon receipt of a properly executed application will the Division make such refunds or credits. Applications for refunds or credits and supporting affidavits must be filed with the Division within nine months from the dates the shipments of such cigarettes were made as set forth in the affidavit.

(2) Unused stamps will be redeemed by the Division only in full rolls or partial rolls that can be re-sold to another stamping agent.

(3) Stamps misapplied to packages or stamps that become unusable may be destroyed by authorized employees of the Division and a credit or refund issued upon the submission of a completed DBPR form AB&T 4000A-004. Out of state stamping agents with misapplied Florida stamps must submit a sworn affidavit for misapplied or unusable stamps.

Specific Authority 210.10 FS. Law Implemented 210.11 FS. History—Amended 8-25-66, Repromulgated 12-19-74, Formerly 7A-10.08, 7A-10.008, Amended 9-2-08.

61A-10.009 Sample Packages of Cigarettes.

The Division may, in its discretion, authorize manufacturers and importers to distribute in the state sample packages of cigarettes containing not less than two (2) nor more than twenty (20) cigarettes without affixing any stamps; provided, the tax due on such sample cigarettes must be paid to the Division by the manufacturer or importer on or before the 10th calendar day of each month for all sample cigarettes distributed during the previous month. Reports shall be made on DBPR form AB&T 4000A-245, Manufacturer's and Importer's Report for Distribution of Samples, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). The manufacturer or importer shall submit to the Division, along with the report and payment of the excise tax, invoices covering all shipments of sample cigarettes for the preceding month. In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, reports and remittances shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

(1) Twenties may be sent directly to individuals, such as stockholders, retired or former employees and as a result of customer's complaints; provided, the manufacturer is able to produce evidence of the address where such quantities of sample packages of twenties were delivered. The volume of sample cigarettes to any one residence shall not exceed 3 cartons or six hundred cigarettes.

(2) Where sample packages of twenties and/or packages of lesser amounts made to resemble packages of twenties are distributed at random by representatives of the manufacturer or by any other persons hired by the manufacturer for distributional or promotional purposes, the manufacturer shall notify the Division in writing at a minimum of fifteen calendar days prior to the beginning of the distributional or

promotional date of such quantities, brands, and locations to be sampled.

(3) Sample packages containing twenty cigarettes which move through commercial channels to the consumer, such as "Buy one, get one free" or "Buy a carton, get two packs free" promotion, must have a Florida excise tax indicia affixed to the free goods by a qualified stamping agent.

Specific Authority 210.10 FS. Law Implemented 210.04, 210.09 FS. History—Repromulgated 12-19-74, Amended 3-1-76, 7-19-82, Formerly 7A-10.09, 7A-10.009, Amended 9-2-08.

61A-10.0091 Manufacturer's and Importer's Reporting Requirements.

Each manufacturer or importer shipping or causing to be shipped cigarettes into this state shall report such shipments to the Division on or before the 10th calendar day of each month for the previous month's shipments. Reports shall be made on the following DBPR forms:

(1) AB&T 4000A-250, Instate Cigarette Manufacturer's Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(2) AB&T 4000A-251, Out of State Cigarette Manufacturer's Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(3) AB&T 4000A-255, Instate Cigarette Importer's Receipt Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(4) AB&T 4000A-256, Out of State Cigarette Importer's Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, monthly reports shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

Specific Authority 210.10 FS. Law Implemented 210.09 FS. History—New 9-2-08.

61A-10.010 Sales, Passenger Carriers.

Railroads, passenger vessels, and airlines are permitted to sell unstamped cigarettes to bona fide travelers while in transit; provided, however, such firm must report all such sales for the previous month to the Division on or before the tenth calendar day of each month. Such reports must be on DBPR form AB&T 4000A-220, Passenger Carrier Cigarette Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08) and shall show all sales for the previous calendar month. A remittance for the amount of excise tax due the State on such sales must be submitted with the report. In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, reports shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

Specific Authority 210.10 FS. Law Implemented 210.09 FS. History—Repromulgated 12-19-74, Formerly 7A-10.10, 7A-10.010, Amended 9-2-08.

61A-10.011 Cigarette Monthly Reports.

(1) Cigarette wholesale dealers, cigarette distributing agents, and exporters shall maintain complete and accurate records of all purchases and sales of cigarettes within or without the state. On or before the 10th calendar day of each month, such wholesale dealers, cigarette distributing agents, and exporters shall report to the Division all such purchases and sales of cigarettes for the preceding month. Monthly reports shall be made on the appropriate and applicable forms which may be obtained as specified in Rule 61A-5.001, F.A.C., and are incorporated herein by reference and effective (2/08); DBPR form AB&T 4000A-200 Cigarette Distributing Agent's Report, DBPR form AB&T 4000A-205 Taxable Cigarette Wholesale Dealers Report, DBPR form AB&T 4000A-210 Cigarette Exporters Report, DBPR form AB&T 4000A-225 Tax Paid Cigarette Wholesale Dealers Report, or DBPR form AB&T 4000A-235 Common Carrier Monthly Report. Such reports shall be prepared in triplicate; the original and one copy of

the report shall be filed with the Division wherein the wholesale dealer's, cigarette distributing agent's, or exporter's place of business is located. The third copy of the report shall be maintained by the wholesale dealer, cigarette wholesale dealer or exporter and kept as part of their accounting records for a period of three years. In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, monthly reports shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

(2) If the Division determines that any amount of gross tax is due from the monthly reports, the Division shall notify the permit holder in writing by personal delivery or U.S. Mail, stating that the permit holder has 10 calendar days from the receipt of written notification in which to correct the report and payment amount. If the permit holder does not correct the report and payment within the allotted time, the Division will assess the amount due together with interest and penalties and initiate administrative proceedings.

Specific Authority 210.09, 210.10 FS. Law Implemented 210.01, 210.09, 210.13 FS. History—Repromulgated 12-19-74, Formerly 7A-10.11, 7A-10.011, Amended 9-2-08.

61A-10.0111 Cigarette Audit.

(1) The term audit is defined in subsection 61A-10.001(4), F.A.C.

(2) When the Division performs an audit on the permit holder, it shall determine the amount of tax due for the audited period. If the Division determines that any amount of additional gross tax is due, it shall notify the permit holder in writing by personal delivery or U.S. Mail, stating that the permit holder has 10 calendar days from the receipt of written notification in which to provide additional information to the Division. If the permit holder does not correct the audit finding and make payment within the allotted time, the Division will assess the proper amount due together with interest and penalties and initiate administrative proceedings according to Rule 61A-10.027, F.A.C.

(3) To determine whether the accounting records of the permit holder are reasonably accurate, the Division shall use the formula of beginning inventory plus purchases for the period, less tax exempt sales, less ending inventory, to ascertain taxable sales for the period. Adjustments made to this formula will be based on factual and substantiated evidence. The results of the formula will represent sales transactions as defined in Section 210.01(3), F.S., for the period under review.

Specific Authority 210.09, 210.10 FS. Law Implemented 210.01, 210.09, 210.13 FS. History—New 9-2-08.

61A-10.0112 Required Documentation for Imported Cigarettes.

Importers must maintain the following documentation and provide it to the Division upon request:

(1) A copy of the importers permit issued by the Internal Revenue Service;

(2) A copy of the Tobacco Tax and Trade Bureau form 5220.6 for the cigarettes showing the cigarette disbursement tax information required by the federal taxing authorities; and

(3) A Federal Trade Commission approval letter certified document demonstrating compliance with federal labeling regulations and ingredient reporting.

(4) A Department of Health and Human Services, Office of Smoking and Health, Certificate of Compliance letter demonstrating compliance with federal ingredient reporting requirements.

Specific Authority 210.10 FS. Law Implemented 210.09, 210.185 FS. History—New 9-2-08.

61A-10.012 Manufacturers' and Importers' Representatives, Reports and Responsibilities.

Manufacturers' and importers' representatives are considered an extension of their respective manufacturer or importer.

(1) Manufacturers' and importers' representatives shall only sell or distribute cigarettes to a wholesale dealer or importer; however, the Division has the discretion to authorize manufacturers' and importers' representatives to distribute free sample packages of cigarettes consistent with Rule 61A-10.009, F.A.C.

(2) Manufacturers and importers shall report their respective representatives' activities as part of their required reports as specified in Rule 61A-10.0091, F.A.C.

Specific Authority 210.10 FS. Law Implemented 210.01, 210.085, 210.09 FS. History—Repromulgated 12-19-74, Formerly 7A-10.12, Amended 1-24-91, 8-28-91, Formerly 7A-10.012, Amended 9-2-08.

61A-10.013 Transactions, Wholesale Dealers, Manufacturers' and Importers' Representatives.

(1) Cigarette transactions between manufacturers' and/or importers' representatives and qualified wholesale dealers are to be reported individually as either purchases or sales, as the case may be. Exchanges of cigarettes, unless on an even package for package basis, are to be reported as both sales and purchases. No net or adjusted totals are permitted. It will be the responsibility of each manufacturer's and importer's representative to issue individual sales slips for all such transactions.

(2) Any wholesale dealer making purchases from a manufacturer's or importer's representative must list on the monthly report the name and permit number of the manufacturer or importer on whose behalf the representative is acting. Each such sale or purchase is to be reported separately.

Specific Authority 210.10 FS. Law Implemented 210.09, 210.01 FS. History—Repromulgated 12-19-74, Amended 2-1-76, Formerly 7A-10.13, 7A-10.013, Amended 9-2-08.

61A-10.014 Wholesale Dealers, Purchase for Resale Prohibited.

Cigarette wholesale dealers are prohibited from purchasing cigarettes from retail dealers for the purpose of resale; however, cigarettes may be returned to a wholesale dealer's inventory by retail dealers if such returns are reported on the wholesale dealer's monthly report.

Specific Authority 210.10 FS. Law Implemented 210.15 FS. History—Repromulgated 12-19-74, Formerly 7A-10.14, 7A-10.014, Amended 9-2-08.

61A-10.017 Direct Shipments, Prohibition, Exception, and Excise Taxes.

(1) No manufacturer or importer may ship cigarettes directly to any retail dealer in the State of Florida; and no wholesale dealer may place orders with a manufacturer or importer for a direct shipment of cigarettes to a retail dealer.

(2) Whenever cigarettes are shipped by a vendor from outside the state directly to individual consumers in Florida, the out-of-state vendor has a responsibility to provide information to the Division as required by the Jenkins Act, Title 15, Chapter 10A, Section 376, United States Code. Any person selling or transferring cigarettes for profit in interstate commerce to other than a wholesale dealer must first report to the Division their intent to sell into Florida by providing their name and trade name, and the address of their places of business. By the 10th calendar day of each month the person must report to the Division all sales or transfers of cigarettes shipped into Florida by providing a memorandum or copy of the invoice covering each and every shipment made during the previous calendar month, and including the name and address of the person to whom the shipment was made, the brand, and the quantity thereof. In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, reports shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

(3) Any person in possession of any cigarettes upon which a tax is imposed and upon which that tax has not been paid is personally liable for the amount of tax imposed. Whenever cigarettes are shipped from an out-of-state vendor to an individual consumer in Florida, the person receiving the cigarettes is responsible for the tax on the cigarettes and the payment of the tax to the state. DBPR Form AB&T 4000A-215, Individual Cigarette And/Or Tobacco Product Excise Tax Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08) is used to report such cigarettes and for payment of the applicable excise taxes due to the Division.

Specific Authority 210.10 FS. Law Implemented 210.02, 210.085 FS. History—Repromulgated 12-19-74, Formerly 7A-

10.17, 7A-10.017, Amended 9-2-08.

61A-10.018 Invoices or Daily Sales Tickets, Cigarette Sales to Retail Dealers.

(1) Cigarette wholesale dealers are required to keep sales tickets or invoices covering all sales of cigarettes to retail dealers.

(2) Invoices of cigarette sales by wholesale dealers to retail dealers must include:

(a) Seller's business name, address, and cigarette wholesale dealer's state permit number;

(b) Invoice number;

(c) Purchaser's business name;

(d) Purchaser's name (individual, partnership, or corporation);

(e) Business address of purchaser, including county name;

(f) Retail dealer state permit number;

(g) Date of delivery;

(h) Number of packages or cartons of each brand sold or delivered; and

(i) If products other than cigarettes are located on an invoice to the retail dealer, cigarettes shall be listed following one another in uninterrupted order.

(3) Invoices which include both cigarettes and other tobacco products must meet the minimum requirements set forth in this rule and Rule 61A-10.053, FAC.

Specific Authority 210.10 FS. Law Implemented 210.09(4)(a), 210.20, 569.007 FS. History—Repromulgated 12-19-74, Amended 3-1-76, Formerly 7A-10.18, 7A-10.018, Amended 12-20-94, 9-2-08.

61A-10.020 Vending Machines, Permits and Restrictions.

(1) Vending machines may only be operated by retail dealers.

(2) Vending machine operators must possess a Florida retail dealer permit issued by the Division. This permit shall cover the vending machine operator's primary business location as well as registered vending machines owned or operated by the vending machine operator. The premises on which a vending machine is located or placed must also possess a Florida retail dealer permit issued by the Division.

(3) Each vending machine dispensing cigarettes must be registered with the Division and have affixed thereto an identification sticker, DBPR form AB&T 4000A-008, Cigarette Vending Machine Identification, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), furnished by the Division.

(4) No vending machines dispensing cigarettes may sell or offer for sale other products which are labeled or packaged in such a manner to resemble, represent or have a tendency to misrepresent cigarette products being sold or offered for sale unless notice is clearly provided that the product being dispensed is not a cigarette product. Notice is sufficient if displayed on or adjacent to the individual lever depressed or extended by the consumer to receive the product.

Specific Authority 210.10(1), 569.009 FS. Law Implemented 210.01, 210.07, 210.085, 569.003 FS. History—Amended 10-20-72, Repromulgated 12-19-74, Amended 3-1-76, Formerly 7A-10.20, Amended 1-16-89, Formerly 7A-10.020, Amended 9-2-08.

61A-10.021 Vending Machines, Reports.

Vending machine operators are required to furnish the Division, DBPR form AB&T 4000A-240 Monthly Changes of Vending Machine Locations, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08) and DBPR form AB&T 4000A-241 Annual Schedule of Vending Machine Locations, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), on July 1st of each year.

Specific Authority 210.10(1) FS. Law Implemented 210.09 FS. History—Repromulgated 12-19-74, Amended 3-1-76, Formerly 7A-10.21, 7A-10.021, Amended 9-2-08.

61A-10.026 Sale of Stamped, Untaxed Cigarettes by Stamping Agents or Wholesale Dealers to Indians for Retail Sale, Reporting.

(1) Stamping agents or wholesale dealers may sell stamped but untaxed cigarettes only to the Seminole Indian Tribe or to an enrolled member thereof exclusively for retail sale on Seminole Indian Reservation or trust lands when such cigarettes have Division approved stamps affixed. For purposes of this section, stamped but untaxed cigarettes will be referred to as "Indian cigarettes."

(2) Indian cigarettes may be sold only to a retail business exclusively owned and operated by the Seminole Indian Tribe or an enrolled member thereof for retail sale exclusively by such Tribe or member on Seminole Reservation or trust lands.

(3) Each designated stamping agent selling any such stamped but untaxed cigarettes to the Seminole Indian Tribe or to an enrolled member thereof shall obtain and provide to the Division the following report and records:

(a) The invoice or sales slip substantiating any such tax-free sale shall be attached to the monthly report. The invoice or sales slip must be signed by a person authorized to receive such stamped but untaxed cigarettes.

(b) The name of any person authorized to receive and sign for such tax-free cigarettes shall be submitted by the designated stamping agent to the Division.

(c) A written statement which sets forth all persons or entities holding a direct or indirect interest in the retail business, located on Seminole Indian Reservation or trust lands, purchasing Indian cigarettes and all persons or entities entitled to share in any profits or income of the retail business purchasing such cigarettes. This statement shall be obtained prior to any sales of stamped but untaxed cigarettes to any retail business located on Indian Reservations or trust lands. Any changes in interest or entitlement to share of profits or income shall be reported to the Division. Statements shall be kept on file for a period of three years and shall be available for inspection and review by the Division.

(4) All inventories of cigarettes bearing stamps which are to be sold to the Seminole Indian Tribe or an enrolled member thereof for sale on Indian Reservations or trust lands must be kept in a separate and secure bonded area of the wholesale dealer's warehouse so as not to allow the commingling of taxed cigarettes bearing stamps with untaxed cigarettes bearing stamps. A log of all receipts and withdrawals must be maintained for the secured area by the stamping agent.

(5) No stamping agent shall be authorized to receive any Indian cigarettes which have been spoiled, damaged, or become stale unless such stamping agent originally applied the stamp to the Indian cigarettes.

(6) All stamping agents who apply stamps to cigarettes must separate taxable cigarettes from nontaxable Indian cigarettes prior to cancellation of cigarette tax stamps by the Division. Since there is no tax paid there can be no refund of tax for spoiled, damaged, or stale Indian cigarettes.

(7) Any sales of stamped but untaxed cigarettes by a stamping agent not in strict conformity with the provisions of this rule shall be deemed a taxable sale and such stamping agent shall be liable for payment of such taxes.

Specific Authority 210.09, 210.10(1), 210.11 FS. Law Implemented U.S.C. Const. Art I §8, cl. 3, U.S.C. Const. Art VI cl. 2, 25 U.S.C. §§ 261-264, 210.05(5), 210.09 FS. History—New 10-14-79, Formerly 7A-10.26, Amended 12-31-85, Formerly 7A-10.026, Amended 9-2-08.

61A-10.027 Interest on Excise Tax; Due Dates.

(1) Excise taxes on cigarettes assessed pursuant to the accounting records and returns of the stamping agent are due not later than the 10th calendar day of the month following the calendar month in which the taxes were incurred. Interest on taxes assessed shall accrue from that date.

(2) Excise taxes on cigarettes owed by a stamping agent which are assessed as a result of a Division audit shall become due not later than the 10th calendar day of the month following the calendar month in which the Division determines the taxes were incurred. Interest on taxes assessed shall accrue from that

date.

(3) Excise taxes on cigarettes owed by a stamping agent which are assessed as a result of a Division audit under circumstances where the Division is unable to allocate the taxes to any particular month shall be due not later than the 10th calendar day of the month following the calendar month which the Division makes its assessment. Interest on taxes owed shall accrue from that date.

(4) In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, remittances shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

Specific Authority 210.10 FS. Law Implemented 210.02(6) FS. History—New 10-31-89, Formerly 7A-10.027, Amended 9-2-08.

PART II TOBACCO PRODUCTS DIVISION RULES

61A-10.050 Definitions.

“Tobacco Products Wholesale Dealer” also known as “TWD” means a “distributor” as defined in Section 210.25(4), F.S.

Specific Authority 210.75 FS. Law Implemented 210.01, 210.25 FS. History—New 9-2-08.

61A-10.051 Excise Tax Exemption, Reports.

Excise taxes imposed by Section 210.30, F.S., shall not apply to the following:

(1) Tobacco products sold at post exchanges, ship service stores, ship stores, slop chests, or other outlets to members of the armed services of the United States when such establishments are operated under the regulations of the Army, Navy, or Air Force of the United States; the United States Coast Guard; or NASA on such reservations in this state; however, it is unlawful for anyone, including members of the armed services of the United States, to purchase such tax-exempt tobacco products for resale within the State of Florida.

(2) Tobacco products shipped directly from the manufacturer or importer to facilities operated by the Federal Bureau of Prisons, located on lands solely owned by the United States government, for consumption by such inmates. Manufacturers or importers shipping such tobacco must notify the Division each month of the facility name and the quantity of tobacco products shipped.

(3) Each tobacco products wholesale dealer selling such tax-free tobacco products shall attach to the monthly report a copy of the invoice substantiating such tax-free sale. The invoice must be signed by a person authorized to receive such tax-free tobacco products. The name of any person authorized to receive and sign for such tax-free tobacco products must be submitted by the commanding officer of the military installation to the auditor supervisor for the district of the Division where the military installation is located.

Specific Authority 210.55, 210.75 FS. Law Implemented U.S.C. Const. Art. VI cl. 2; 4 U.S.C. § 107; 14 U.S.C. §§ 1, 2; 42 U.S.C. §§ 2451, 2472; 210.30 FS. History—New 9-2-08.

61A-10.052 Monthly Reports, Required.

(1) Licensed tobacco products wholesale dealers and manufacturers, both inside and outside this state shall keep complete and accurate records and make full and complete reports reflecting the detail of all transactions on the appropriate and applicable forms furnished by the Division, which may be obtained as specified in Rule 61A-5.001, F.A.C., and are incorporated herein by reference and effective (2/08); DBPR form AB&T 4000A-300 In-State Tobacco Products Wholesale Dealer’s Report, DBPR form AB&T 4000A-305 Out-Of-State Tobacco Products Wholesale Dealer’s Report, and DBPR form AB&T 4000A-310 Tobacco Products Manufacturer’s and Importer’s Report.

(2) Such required reports and remittances shall be deemed to be filed in a timely manner and qualify the tobacco products wholesale dealer for collection allowances under Section 210.55, F.S., when the report and remittance are received by the Division on or before the 10th calendar day of the month following the month being reported. In those cases where the 10th calendar day falls on a Saturday, Sunday, or a legal holiday, monthly reports and remittances shall be accepted as timely filed if postmarked or delivered to the Division on the following business day which is neither a Saturday, Sunday or legal holiday. As used in this rule, legal holiday means those days as designated in Section 110.117, F.S., and Federal holidays.

(3) Mail containing the monthly report or the excise tax remittance must bear a date mark stamp affixed by the U.S. Postal Service, or other established businesses engaged in the delivery of mail, to authenticate the mailing date. Postage meters owned, leased or operated by the tobacco products wholesale dealer or manufacturer shall not serve as proof of mailing date without supporting affidavits, letters or records by the tobacco products wholesale dealer or manufacturer that the reports were placed in the U.S. Mail, or other established businesses engaged in the delivery of mail, on or before the 10th calendar day of the month.

(4) Failure of the tobacco products wholesale dealer to report and remit excise taxes as required shall cause the tobacco products wholesale dealer to be deemed delinquent and to forfeit all rights and privileges of collection allowances authorized by Chapter 210, F.S.

(5) If reports are physically delivered to the Division after the 10th calendar day of the month for reasons beyond the tobacco products wholesale dealer's control, the Division shall consider affidavits and other supporting documentation in determining whether or not an exception should be made to approve the collection allowance.

(6) Tobacco products wholesale dealers receiving tobacco products from manufacturers shall be required to furnish the Division with a list of shipments received each month on forms provided by the Division. Manufacturers shipping tobacco products to Florida tobacco products wholesale dealers shall be required to furnish the Division with a list of shipments made each month on forms provided by the Division.

(7) The Division shall authorize manufacturers to distribute sample packages of tobacco products within the state and provide tobacco products to employees and stockholders; provided, such samples and gifts are reported on DBPR form AB&T 4000A-245, Manufacturer's and Importer's Report for Distribution of Samples, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). The report shall be remitted to the Division along with any applicable excise tax payment on or before the 10th calendar day of each month for samples or gifts distributed during the previous month.

(8) If the Division determines that any amount of gross tax is due from the taxpayer, the Division shall notify the taxpayer in writing by personal delivery or U.S. Mail, stating that the taxpayer has 10 calendar days from the receipt of written notification in which to correct the report. If the taxpayer does not correct the report within the allotted time then the Division will notify the taxpayer in writing by personal delivery or U.S. Mail, that it intends to assess the amount due together with interest, penalties, disallowance of discount, and initiate administrative proceedings.

(9) When the Division performs an audit on the taxpayer, it shall determine the tax due. If the Division determines that any amount of gross tax is due from the taxpayer, it shall notify the taxpayer in writing, stating that the taxpayer has 10 calendar days from the receipt of written notification in which to provide the Division with additional information. After 10 calendar days, the Division will notify the taxpayer in writing, that it intends to assess the proper amount due together with interest, penalties, disallowance of discount, and initiate administrative proceedings.

Specific Authority 210.55, 210.75 FS. Law Implemented 210.55, 210.60 FS. History—New 9-2-08.

61A-10.053 Records Maintenance.

Every manufacturer, tobacco products wholesale dealer and retailer must preserve all books, records, sales/purchase invoices, and other documents as required by Section 210.60, F.S. Such records shall be preserved for a period of 3 years. Records may be maintained on optical storage/retrieval systems capable of being viewed, retrieved and reproduced upon request by the Division.

Specific Authority 210.75 FS. Law Implemented 210.60 FS. History—New 9-2-08.

61A-10.054 Invoices, Tobacco Products Sales to Retailers.

(1) Tobacco products wholesale dealers are required to keep sales tickets or invoices covering all sales of tobacco products to retailers. Invoices of tobacco products sales by tobacco products wholesale dealers to retailers shall include:

(a) Tobacco products wholesale dealer's name, address, and state permit number;

(b) Invoice number;

(c) Purchaser's business name;

(d) Purchaser's name (individual, partnership, or corporation);

(e) Purchaser's business address;

(f) Retailer's state permit number;

(g) Date of delivery;

(h) Number of units of each brand of tobacco products, wholesale price per unit, and discount per unit sold to the retailer;

(i) If items other than tobacco products are listed on the invoice to the retailer, tobacco products shall be listed following one another in uninterrupted order; and

(j) In addition to the above requirements, an out of state tobacco products wholesale dealer licensed by the state of Florida shall list discounts separate and apart from the wholesale price of each unit. All discounts and free units attached to units being sold shall not reduce the unit wholesale price for tax purposes.

(2) Invoices which include both cigarettes and other tobacco products must meet the minimum requirements set forth in this rule and Rule 61A-10.018, F.A.C.

Specific Authority 210.75 FS. Law Implemented 210.25, 210.60 FS. History—New 9-2-08.

61A-10.055 Excise Tax Refunds.

(1) To receive a refund or credit for tobacco products upon which the excise tax has been paid and the products have been subsequently transferred to an out-of-state location, or returned to a manufacturer or importer, or been destroyed, the tobacco products wholesale dealer must provide the following documentation to the Division:

(a) Tobacco products shipped back to a manufacturer or importer must have an affidavit or credit memo from the manufacturer or importer stating that they have received the tobacco products.

(b) Tobacco products sold to tobacco products wholesale dealers, retailers, or consumers located outside of the state of Florida must have a sales invoice listing the quantity and type of tobacco products sold as well as the name, address, and telephone number of the out-of-state destination.

(c) Destroyed tobacco products must be witnessed by an agent of the Division and a copy of the signed destruction form must be provided to the Division.

(2) The amount of the tax reduction can be taken by reporting the transaction on the appropriate details page of DBPR Form AB&T 4000A-300, Instate Tobacco Products Wholesale Dealer's Report, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(3) In lieu of taking the deduction on the monthly report, the tobacco products wholesale dealer can request that the Division pay the refund or credit back to them.

Specific Authority 210.75 FS. Law Implemented, 210.25, 210.67 FS. History—New 9-2-08.

**PART III
CIGARETTE AND TOBACCO PRODUCTS PERMIT RULES**

61A-10.080 Application for Cigarette Permit, Manufacturer or Importer.

(1) In order to be permitted as a manufacturer or importer, or to make changes to an existing manufacturer or importer permit, a completed application must be submitted to and approved by the Division. A completed application shall consist of the following:

(a) Properly executed application on form, DBPR ABT-6024 Application for Wholesale Cigarette Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6024 are provided in form DBPR ABT-6024i, Instructions for Completing Application for Wholesale Cigarette Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(b) Payment of the permit fee of \$100.

(c) A copy of a Federal permit to manufacture or import cigarettes.

(d) If the location for any permit is in the state, the applicant must submit to the Division a sketch of the premises along with a right of occupancy for the location. The sketch of the premises shall display all areas to be covered by the permit being applied for as well as all adjacent areas that currently have or will have another permit issued by the Division.

(2) A separate and complete application must be made for each place of business located within this state. Absent such a place of business in this state a permit is required for wherever its principal place of business is located.

(3) Permits remain in effect until July 1st following their issuance, or until suspended or revoked by the Division, or until surrendered by the permit holder.

(4) Prior to the expiration of the permit, the Department of Business and Professional Regulation will send permittees a renewal notice. The permittee shall comply with the terms of the renewal notice and submit a renewal fee of \$100 prior to July 1st of each year. It is the permittee's responsibility to timely renew a permit. Failure to receive the renewal notice from the Department of Business and Professional Regulation shall not excuse a permittee from penalties associated with late renewal.

(5) The Division shall assess delinquent renewal penalties on permit holders who fail to timely renew their permits. The Division will use the postmark date as evidence of delinquency. Any renewal postmarked after the due date will be considered delinquent and must pay the applicable delinquent renewal penalty in addition to the renewal fee to the Division prior to the permit being renewed. A penalty of \$20 will be assessed for each month or part of a month of such delinquency. Any permit not renewed within 60 days of its expiration shall be cancelled by the Division, unless the permit is involved in litigation. Furthermore, the Division may renew a permit after the 60 days for good and sufficient cause.

(6) A manufacturer or importer permit may not be transferred to a new owner.

(7) The Division may allow a permit to be moved to another location. To request that a permit be moved, a permit holder must follow the procedure set out in paragraph 61A-10.084(1)(b), F.A.C.

(8) If requested and upon application for a permit, the Division shall issue an initial temporary permit to any new applicant who has filed a complete application which does not on its face provide for denying a permit. The initial temporary permit will be valid for up to 90 days and may be extended by the Division for up to an additional 90 days. If the applicant is denied a permit, the initial temporary permit will cease to be valid on that date. The initial temporary permit fee is \$100, which is separate from the permit fee and which shall be submitted to the Division upon request of the initial temporary permit.

Specific Authority 210.10, 210.15 FS. Law Implemented 210.15, 210.151, 210.1605 FS. History—New 9-2-08.

61A-10.081 Application for Cigarette Permit, Wholesale Dealer, Exporter, or Cigarette Distributing Agent.

(1) In order to be permitted as a wholesale dealer, exporter, or cigarette distributing agent, or to make changes to an existing wholesale dealer permit, exporter permit, or cigarette distributing agent permit, a completed application must be submitted to and approved by the Division. A completed application shall consist of the following:

(a) Properly executed application on form, DBPR ABT-6024 Application for Wholesale Cigarette Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6024 are provided in form DBPR ABT-6024i, Instructions for Completing Application for Wholesale Cigarette Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(b) A set of fingerprints for each applicant and for any person or persons interested directly or indirectly with the applicant in the business for which the permit is being sought. Applicants shall properly execute and submit form DBPR ABT-6021 Division of Alcoholic Beverages and Tobacco Fingerprint Affidavit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), along with the official fingerprint card. When making changes to an existing permit, fingerprints will only be required for new applicants and for any new person or new persons interested directly or indirectly with the business for which the permit is changed.

(c) Payment of the permit fee of \$100.

(d) If the location for any permit is in the state, the applicant must submit to the Division a sketch of the premises along with a right of occupancy for the location. The sketch of the premises shall display all areas to be covered by the permit being applied for as well as all adjacent areas that currently have or will have another permit issued by the Division.

(e) Applicants shall properly execute and submit form DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6032 are provided in form DBPR ABT-6032i, Instructions for Completing DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective 2/08).

(2) A separate and complete application must be made for each place of business located within this state. Absent such a place of business in this state a permit is required for wherever its principal place of business is located.

(3) Permits remain in effect until July 1st following their issuance, or until suspended or revoked by the Division, or until surrendered by the permit holder.

(4) Prior to the expiration of the permit, the Department of Business and Professional Regulation will send permittees a renewal notice. The permittee shall comply with the terms of the renewal notice and submit a renewal fee of \$100 prior to July 1st of each year. It is the permittee's responsibility to timely renew a permit. Failure to receive the renewal notice from the Department of Business and Professional Regulation shall not excuse a permittee from penalties associated with late renewal.

(5) The Division shall assess delinquent renewal penalties on permit holders who fail to timely renew their permits. The Division will use the postmark date as evidence of delinquency. Any renewal postmarked after the due date will be considered delinquent and must pay the applicable delinquent renewal penalty in addition to the renewal fee to the Division prior to the permit being renewed. A penalty of \$20 will be assessed for each month or part of a month of such delinquency. Any permit not renewed within 60 days of its expiration shall be cancelled by the Division, unless the permit is involved in litigation. Furthermore, the Division may renew a permit after the 60 days for good and sufficient cause.

(6) A wholesale dealer permit, exporter permit, or cigarette distributing agent permit may not be transferred to a new owner.

(7) The Division may allow a permit to be moved to another location. To request that a permit be moved, a permit holder must follow the procedure set out in paragraph 61A-10.084(1)(b), F.A.C.

(8) If requested and upon application for a permit, the Division shall issue an initial temporary permit to any new applicant who has filed a complete application which does not on its face provide for denying a permit. The initial temporary permit will be valid for up to 90 days and may be extended by the Division for up to an additional 90 days. If the applicant is denied a permit, the initial temporary permit will cease to be valid on that date. The initial temporary permit fee is \$100, which is separate from the permit fee and which shall be submitted to the Division upon request of the initial temporary permit.

Specific Authority 210.10, 210.15 FS. Law Implemented 210.01, 210.15, 210.151, 210.1605 FS. History--New 9-2-08.

61A-10.082 Application for a Tobacco Products Wholesale Dealer Permit.

(1) A tobacco products wholesale dealer permit is required by any entity acting as a distributor as defined in Section 210.25(4), F.S. 2005.

(2) In order to be permitted as a tobacco products wholesale dealer, or to make changes to an existing permit, a completed application must be submitted to and approved by the Division. A completed application shall consist of the following;

(a) Properly executed application on form, DBPR ABT-6005 Application for Tobacco Products Wholesale Dealer's Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6005 are provided in form DBPR ABT-6005i, Instructions for Completing Application for Tobacco Products Wholesale Dealer, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(b) Payment of the permit fee of \$25.

(c) If the location for any permit is in the state, the applicant must submit to the Division a sketch of the premises along with a right of occupancy for the location. The sketch of the premises shall display all areas to be covered by the permit being applied for as well as all adjacent areas that currently have or will have another permit issued by the Division.

(d) Submission of a surety bond issued by a surety company authorized to do business in Florida in the amount of no less than \$1,000. The Division shall have discretion in requiring a larger bond amount if the minimum is insufficient to fully protect the state.

(e) Applicants shall properly execute and submit form DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08). Instructions for filling out form DBPR ABT-6032 are provided in form DBPR ABT-6032i, Instructions for Completing DBPR ABT-6032, Division of Alcoholic Beverages and Tobacco Surety Bond Form, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(3) A separate and complete application must be made for each place of business the distributor proposes to engage in business. The applicant may provide the Division with one bond in an amount determined by the Division for all applications made by the distributor.

(4) The permit shall expire on June 30th of each year. The Department of Business and Professional Regulation will send out renewal notices to permittees prior to the expiration of the permit. The permittee shall comply with the terms of the renewal notice and submit the renewal fee of \$25 prior to July 1st of each year. It is the permittee's responsibility to timely renew a permit. Failure to receive the renewal notice from the Department of Business and Professional Regulation shall not excuse a permittee from penalties associated with late renewal.

(5) The Division shall assess delinquent renewal penalties on permit holders who fail to timely renew their permits. The Division will use the postmark date as evidence of delinquency. Any renewal postmarked after the due date will be considered delinquent and must pay the applicable delinquent renewal penalty in addition to the renewal fee to the Division prior to the permit being renewed. A penalty of \$20 will be assessed for each month or part of a month of such delinquency. Any permit not renewed

within 60 days of its expiration shall be cancelled by the Division, unless the permit is involved in litigation. Furthermore, the Division may renew a permit after the 60 days for good and sufficient cause.

(6) A tobacco products wholesale dealer's permit may not be transferred to a new owner. An attempt to transfer the permit will result in automatic expiration.

(7) If requested and upon application for a permit, the Division shall issue an initial temporary permit to any new applicant who has filed a complete application which does not on its face provide reason for denying a permit. The initial temporary permit will be valid for up to 90 days and may be extended by the Division for up to an additional 90 days. If the applicant is denied a permit, the initial temporary permit will cease to be valid on that date. The initial temporary permit fee is \$25, which is separate from the permanent permit fee and which shall be submitted to the Division upon request of the initial temporary permit.

Specific Authority 210.75 FS. Law Implemented 210.25, 210.35, 210.40, 210.405, 210.45, 210.51 FS. History--New 9-2-08.

61A-10.083 Application for Retail Dealer Permit, Cigarette and Tobacco Products.

(1) For this section the term retail tobacco products dealer shall refer to the definition provided by Section 569.002(4), F.S. For this section the term tobacco products shall refer to the definition provided by Section 569.002(6), F.S. A tobacco products retail dealer permit is required to sell cigarettes and tobacco products at retail.

(2) In order to be permitted as a retail dealer, or to make changes to an existing tobacco products retail dealer permit, the applicant or permit holder must do one of the following:

(a) Retail dealers only interested in applying for a retail dealer tobacco products permit must review form DBPR ABT-6028i, Instructions for Completing Application for Retail Tobacco Products Dealer Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), and shall complete and submit form DBPR ABT-6028, Application for Retail Tobacco Products Dealer Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08); or

(b) Retail dealers interested in applying for both a tobacco products permit and an alcoholic beverage license simultaneously must review form DBPR ABT-6001i, Instructions for Completing Alcoholic Beverage License and Retail Tobacco Products Dealer Permit Application, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), and complete and submit form DBPR ABT 6001, Application for Alcoholic Beverage License and Retail Tobacco Products Dealer Permit, as referenced in Rule 61A-5.700, F.A.C.; or

(c) Retail dealers interested in applying for multiple permits or to make changes thereto must review form DBPR ABT-6028i, Instructions for Completing Application for Retail Tobacco Products Dealer Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), and complete and submit form DBPR ABT 6028 Application for Retail Tobacco Products Dealer Permit, which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08).

(3) The fee for a new tobacco products retail dealer permit shall be \$50.

(a) For applicants applying under paragraph (2)(a) of this rule, the \$50 fee must be paid when the application is submitted to the Division.

(b) Applicants applying under paragraph (2)(a) of this rule must submit the \$50 fee once the application has been approved by the Division. The Division will notify the applicant of their approval and will invoice the applicant for the cigarette and tobacco products retail dealer permit.

(4) The terms "place of business", "place", "the premises", "location", "single location" and "permitted premises" are synonymous. Place of business is defined as rooms where tobacco products are stored or sold or kept for the purpose of sale or consumption.

(a) Where sales of tobacco products are conducted through a vending machine, the premises shall include the place where the vending machine is located and any such vending machine including the area within the unobstructed line of sight of the dealer, or the dealer's agent or employee responsible for preventing sales to persons under 18 years of age.

(b) Where sales of tobacco products are conducted from a cart or person moving about, the place of business and/or the premises shall include any such conveyance.

(c) A theme park complex, a hotel or resort complex, a stadium, an airport facility and the like will be considered a "single location" when all buildings or structures are owned, managed, controlled or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

(d) Itinerant stores, industrial caterers, trains, steamships and similar vehicles and vessels may be permitted for the retail sale of cigarette and tobacco products with the vehicle or vessel being designated as the place of business. In any such case, the location address shall be the office or homeport address in this state where the vehicle or vessel is domiciled.

(5) The permit year for a retail tobacco products dealer permit shall be from January 15 through the following January 15 of each year and shall not be prorated except as follows:

The permit year for a retail tobacco products dealer permit shall be changed so that the alcoholic beverage license and the tobacco permit may be renewed simultaneously. A person who is both an alcoholic beverage licensee and a retail tobacco products dealer permit holder will have a permit year commensurate with the alcoholic beverage license year. The retail tobacco products dealer permit will be renewed at a charge of \$50 and the permit year shall commensurate with the license year of the alcoholic beverage license which is either April 1 through March 31 or October 1 through September 30 as specified by county.

(6) A cigarette and tobacco products retail dealer permit may not be transferred to a new owner.

(7) The Division shall issue at the request of the applicant a temporary retail tobacco products permit whenever an applicant is also filing a temporary alcoholic beverage license of any kind. There shall be no fee for the issuance of the temporary retail tobacco products dealer permit.

(8) If a permit is lost or destroyed, a retail tobacco products permit holder may apply to the Division for the issuance of a duplicate permit. This request shall be in the form of an affidavit advising that the permit has been lost or destroyed and shall be accompanied by payment of a \$15 fee.

(9) Prior to the expiration of the permit, the Department of Business and Professional Regulation will send permittees a renewal notice. The permittee shall comply with the terms of the renewal notice and submit a renewal fee of \$50 prior to the permit expiration date. It is the permittee's responsibility to timely renew a permit. Failure to receive the renewal notice from the Department of Business and Professional Regulation shall not excuse a permittee from penalties associated with late renewal.

(10) The Division shall assess delinquent renewal penalties on permit holders who fail to timely renew their permits. The Division will use the postmark date as evidence of delinquency. Any renewal postmarked after the due date will be considered delinquent and must pay the applicable delinquent renewal penalty in addition to the renewal fee to the Division prior to the permit being renewed. A penalty of \$5 will be assessed for each month or part of a month of such delinquency.

Specific Authority 569.009 FS. Law Implemented 569.002, 569.003 FS. History—New 9-2-08.

61A-10.084 Permit Changes.

(1) Any permittee desiring to make a change in the business name and/or the location of the place of business must secure a supplemental permit reflecting the new business name and/or location prior to initiating the change. Application for such supplemental permits must be made to the Division on the appropriate forms.

(a) To request a change of business name or change of mailing address, a permittee must complete and submit DBPR form ABT-6009 Change of Business Name or Change of Mailing Address Application,

which may be obtained as specified in Rule 61A-5.001, F.A.C., and is incorporated herein by reference and effective (2/08), to the Division.

(b) To make changes to a permit not covered by paragraph (a), the permittee shall submit a complete application to the Division as specified in Rules 61A-10.080, 61A-10.081 and 61A-10.082, F.A.C.

(2) Any wholesale dealer, distributing agent, or exporter desiring to make any changes in business name and/or location must furnish the Division with satisfactory evidence that the bond covering the wholesale dealer's, distributing agent's or exporter's business has been properly changed to reflect the new business name and/or place of business.

Specific Authority 210.10 FS. Law Implemented 210.15 FS. History—New 9-2-08.

61A-10.085 Duplicate License Request.

Any permittee desiring to replace a lost or destroyed permit, may make a request to the Division for the issuance of a duplicate permit. This request shall be in the form of an affidavit advising that the permit has been lost or destroyed.

Specific Authority 20.165, 120.536, 210.10, 455.2035, 569.009 FS. Law Implemented 210.15, 455.219, 569.003 FS. History—New 9-2-08.

For additional information regarding these rules, please visit the Florida Administrative Code website at <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=61A-10>.