

830 CMR 64C.00: CIGARETTE EXCISE

Section

64C.34.1: Penalty for Possession or Transportation of Unstamped Cigarettes

64C.34.1: Penalty for Possession or Transportation of Unstamped Cigarettes

(1) Purpose. The purpose of 830 CMR 64C.34.1 is to describe the conditions under which the Commissioner may assess the civil penalties provided under M.G.L. c. 64C, §§ 34 and 35 against:

(a) Whoever, not being a licensed transportation company or a person specifically authorized by the Commissioner, whether by license or otherwise, holds for sale, offers for sale, sells, possesses with intent to sell, or otherwise disposes of cigarettes within the Commonwealth, unless each individual package containing said cigarettes has affixed thereto a Massachusetts cigarette excise stamp showing that said excise has been paid; or

(b) Whoever, not being a stamper or licensed transportation company or such other person as the Commissioner may specifically authorize, whether by license or otherwise, knowingly possesses, delivers or transports unstamped cigarettes in the Commonwealth.

The procedural requirements set out in M.G.L. 64C, § 8 will govern the criminal fines and penalties authorized under M.G.L. c. 64C, §§ 34 and 35.

The administrative notice and assessment provisions of 830 CMR 62C.26.1, as applicable, will apply to the civil penalties imposed under M.G.L. c. 64C, §§ 34 and 35.

(2) Definitions.

Civil Penalty, a penalty up to, but not more than \$5,000 for each violation.

Commissioner, the Commissioner of Revenue or the Commissioner's duly authorized representative.

Criminal Penalty, a fine of not more than \$5,000 or imprisonment in state prison for not more than five years, or both; provided, however, that a violation involving fewer than 12,000 cigarettes shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

Massachusetts Cigarette Excise Stamp, the adhesive stamp evidencing the payment of the Massachusetts cigarette excise under M.G.L. c. 64C.

Violation, for the purposes of M.G.L. c. 64C, §§ 34 and 35, each instance of the doing of any act forbidden by M.G.L. c. 64C, §§ 34 and 35 and by 830 CMR 64C.34.1(a) and (b) shall constitute a separate violation.

(3) General Rule. No person, other than a licensed transportation company or a person specifically authorized or licensed by the Commissioner, whether by license or otherwise, may hold for sale, offer for sale, sell, possess with intent to sell, or otherwise dispose of cigarettes within the Commonwealth, unless each individual package containing said cigarettes has affixed thereto a Massachusetts cigarette excise stamp showing that said excise has been paid. No person, other than a stamper or licensed transportation company or such other person as the Commissioner may specifically authorize, whether by license or otherwise, may knowingly possess or deliver or transport unstamped cigarettes in the Commonwealth.

(4) Civil penalty for unauthorized persons holding for sale, offering for sale, selling, possessing with intent to sell, or otherwise disposing of cigarettes in the Commonwealth in individual packages not having a Massachusetts cigarette excise stamp affixed Thereto.

(a) General. If the Commissioner determines that a person, other than a licensed transportation company or a person specifically authorized by the Commissioner, whether by license or otherwise, performs any act forbidden by 830 CMR 64C.34.1(1)(a), the Commissioner may assess a penalty against that person under M.G.L. c. 64C, § 34 for the failure to act in a manner as required by M.G.L. 64C in connection with the holding for sale, offering for sale, possession with intent to sell, the sale or other disposition of unstamped cigarettes in the Commonwealth. The amount of the penalty assessed shall not exceed \$5,000 for each violation.

64C.34.1: continued

(b) Notice and Assessment of Penalty. The Commissioner will assess the civil penalty as allowed by M.G.L. c. 64C, § 34 under the notice of intention to assess and notice of assessment provisions of M.G.L. c. 62C and 830 CMR 62C.26.1 for each violation. The Commission may issue a non-compliance warning for a first violation in *lieu* of assessing the civil penalty.

(5) Civil Penalty for unauthorized persons knowingly possessing, delivering or transporting unstamped cigarettes in the Commonwealth.

(a) General. If the Commissioner determines that a person, other than a stamper or licensed transportation company or such other person as the Commissioner may specifically authorize, whether by license or otherwise, performs any act forbidden by 830 CMR 64C.34.1(1)(b), the Commissioner may assess a penalty against that person under M.G.L. c. 64C, § 35 for the failure to act in a manner as required by M.G.L. 64C in connection with the transportation of unstamped cigarettes in the Commonwealth. The amount of the penalty assess shall not exceed \$5,000 for each violation.

(b) Notice and Assessment of Penalty. The Commissioner will assess the civil penalty as allowed by M.G.L. c. 64C, § 35 under the notice of intention to assess and notice of assessment provisions of M.G.L. c. 62C and 830 CMR 62C.26.1 for each violation. The Commission may issue a non-compliance warning for a first violation in *lieu* of assessing the civil penalty.

(6) Persons Wishing to Report Violations. Any person who wishes to report a violation of 830 CMR 64C.00 should write to the Department of Revenue, Cigarette Excise Unit, P.O. Box 7004, Chelsea, MA 02150, file Form CCRP, Cigarette Complaint Referral Form available at www.mass.gov/dor, or call 1-617-887-5090.

REGULATORY AUTHORITY

830 CMR 64C.00: M.G.L. c. 14, § 6(1); c. 62C, § 3;

(PAGES 283 THROUGH 286 ARE RESERVED FOR FUTURE USE.)