

**EXHIBIT A**  
**ITTF Public Meeting #49**  
**June 9, 2022**

**Chapter 62C, Section 16 (c) [Filing of Returns]**

There is a discrepancy with the timing of the taxes to be paid for the various tobacco types. All wholesalers or distributors of smokeless tobacco, cigars, smoking tobacco and ENDS must file a return with DOR on the 20<sup>th</sup> of the month stating the quantity of tobacco products sold by the licensee during the preceding month (or quarter for cigar license). Currently, Section 16 (c) which covers smokeless tobacco exempts retailers and unclassified acquirers from the filing of the return on the 20<sup>th</sup> of the month and instead requires those licensees to file a return with the DOR upon importation of or acquisition of smokeless tobacco into the commonwealth. However, Section 16 (c ½ ) which covers cigars and smoking tobacco and Section 16 (c ¾) which covers ENDS does not exempt retailers, so that retailers could technically import untaxed tobacco products into the commonwealth without having to file a return and pay taxes until the 20<sup>th</sup> of the following month. We are seeking to make the laws consistent with Section 16 (c) and require non-wholesalers of cigars and smoking tobacco and non-distributors of ENDS products to file a return with DOR upon importation of products from unlicensed, non-resident tobacco distributors.

**Chapter 62C, Section 68 [Suspension or Revocation of Tobacco Licenses]**

DOR seeking to clarify two issues with respect to the Commissioner's authority to suspend or revoke a tobacco license.

In Section 68, subparagraph (4), the commissioner may suspend or revoke a license if the licensee has been convicted of a crime provided for under Chapter 62C. We also want to include a federal conviction where the underlying conduct relates to tobacco products as basis for which the commissioner may suspend or revoke a license.

In Section 68, we are considering the addition of another subparagraph so the commissioner may suspend or revoke a license if the licensee willfully refuses access to any portion of their

**EXHIBIT A**  
**ITTF Public Meeting #49**  
**June 9, 2022**

premises where tobacco could be stored during an inspection by the commissioner or his/her agents. This has been an issue in the field and we are seeking to clarify the commissioner's authority in these cases.

**Chapter 62C, Section 73 [Obstruction of Justice]**

DOR seeking to modify the obstruction of justice statute so it matches the federal statute and applies to the administration of this chapter, to include routine administrative procedures.

**Chapter 64C, Section 1 [Definitions]**

DOR seeking to update several definitions. For example, expanding the definition of tobacco products to include cigarettes, smokeless tobacco, cigars, smoking tobacco, and Electronic Nicotine Delivery Systems (ENDS).

**Chapter 64C, Section 5 [Records & Statements Requirements]**

DOR considering the addition of a subparagraph whereby the commissioner or his authorized representatives, have the means, facilities and opportunity to investigate, examine, and search any licensee's premises to determine whether the provisions of this chapter are being obeyed. In addition to other remedies provided by law, the commissioner may assess a civil penalty of not more than \$5,000 for the first offense or not more than \$10,000 for each subsequent offense against any person who hinders, obstructs or prevents the commissioner or his authorized representative from making the examinations or inspections authorized by this section, or who otherwise violates any provision of this section. This addition will clarify the authority of the Commissioner to conduct inspections and for the assessment of a civil penalty for those that violate this section.

**EXHIBIT A**  
**ITTF Public Meeting #49**  
**June 9, 2022**

**Chapter 64C, Section 7(B) [Cigars & Smoking Tobacco]**

DOR considering the addition of a subparagraph whereby the commissioner and his authorized representatives may examine the cigar and smoking tobacco inventory and books, papers and records of any licensee in the commonwealth upon demand, for the purpose of determining whether the excise imposed by this chapter has been fully paid, and may investigate, examine and search any premises where cigars or smoking tobacco are possessed, stored or sold for the purpose of determining whether the provisions of this chapter are being obeyed. This is an attempt to make the authority of the commissioner consistent between the tobacco types. DOR also looking to include cigars and smoking tobacco as part of the definition of tobacco products for enforcement purposes.

**Chapter 64C, Section 7(E) [ENDS]**

DOR considering the addition of a subparagraph whereby the commissioner and his authorized representatives may examine the ENDS inventory and books, papers and records of any licensee in the commonwealth upon demand, for the purpose of determining whether the excise imposed by this chapter has been fully paid, and may investigate, examine and search any premises where ENDS are possessed, stored or sold for the purpose of determining whether the provisions of this chapter are being obeyed. This is an attempt to make the authority of the commissioner consistent between the tobacco types. DOR also looking to include ENDS as part of the definition of tobacco products for enforcement purposes.

**Chapter 64C, Section 8 [Prosecution for Illegal Possession]**

DOR considering the addition of a subparagraph expanding the existing arrest, administrative search warrant, and forfeiture authority to all tobacco products, to include cigarettes, smokeless tobacco, cigars, smoking tobacco, and ENDS.

**EXHIBIT A**  
**ITTF Public Meeting #49**  
**June 9, 2022**

**Chapter 64C, Section 10 [Penalties for Offenses]**

There is currently only a \$50 criminal fine for individuals or businesses who sell cigarettes without a license and there is limited, if any, criminal penalties for individuals or business who sell other tobacco products without a license. DOR considering the addition of a subparagraph creating a felony and misdemeanor crime for dealing in any tobacco products without a license. The felony would require certain product quantity thresholds to be met – similar to the existing criminal charge for possessing or transporting 12,000 cigarettes in Sections 34 and 35.

This next provision has been previously proposed by the task force. DOR considering the addition of a subparagraph so that the payments for all tobacco products, purchased for resale, shall only be made in the form of a check from the purchaser's operating account made payable to the seller of the tobacco products, an electronic funds transfer from the purchaser's operating account directed to an account in the name of the seller of the tobacco products, a debit card linked to the purchaser's operating account, or the purchaser's business or corporate credit card. Payments in cash for tobacco products purchased for resale are prohibited. Any person who willfully violates the provisions of this paragraph shall be punished by a fine and/or imprisonment for not more than five years.

DOR considering a new subparagraph so that in addition to the existing and/or new criminal penalty provided by this chapter or chapter 62C, the commissioner may impose a civil penalty for a violation of any provision of this section of not more than \$5,000 for the first offense and not more than \$25,000 for each subsequent offense.

**EXHIBIT A**  
**ITTF Public Meeting #49**  
**June 9, 2022**

**Chapter 64C, Section 11 [Record Keeping, Investigation, Examination & Search]**

Similar to the changes proposed in Section 7(B) related to cigars/smoking tobacco and 7(E) related to ENDS, DOR is attempting to make the authority of the commissioner consistent related to inspection and examination between the tobacco types by having the same requirements for cigarette and smokeless tobacco licensees.

**Chapter 64C, Section 34 [Possession of Sale of Unstamped Cigarettes]**

DOR seeking to make this criminal penalty consistent with newly proposed dealing without a license provision in Section 10 and make civil penalty assessment amounts provisions consistent.

**Chapter 64C, Section 35 [Possession of Transportation of Unstamped Cigarettes]**

DOR seeking to make this criminal penalty consistent with newly proposed dealing without a license provision in Section 10 as well as Section 34 and make civil penalty assessment amounts provisions consistent.