
Alcohol & Tobacco Control

May 9, 2016

Catherine Brindley
Office of the State Register
P.O. Box 94095
Baton Rouge, Louisiana 70804-9095

RE: LAC 55:VII.3101, 3121

Enclosed are the FEIS and *Notice of Intent* to amend LAC 55:VII.3101 and to adopt LAC 55:VII.3121 under the authority of R.S. 26:909.1 relative to the sale of tobacco products. The proposed rules provide for the regulation of the enforcement of the payment and purchase of tobacco products and the default of payment.

If adopted, this amendment will become effective upon publication in the *Louisiana Register* on August 20, 2016.

Please direct any inquiries regarding the above referenced Notice of Intent and FEIS to Jacqueline Wilson at (225) 925-4392 or by email at Jacqueline.wilson@atc.la.gov.

Sincerely,



Juana Lombard
Commissioner

Enclosures

CC:

The Honorable John Alario, President, Louisiana State Senate
The Honorable Taylor Barras, Speaker, Louisiana House of Representatives
The Honorable Jean-Paul Morrell, Chairman, Revenue & Fiscal Affairs Committee
The Honorable Neil Abramson, Chairman, Ways and Means Committee

OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.08/02)
Claiborne Building 1201 North Third Street Suite 3-220 Post Office Box 94095
Baton Rouge, LA 70804-9095 (225)342-5015 FAX (225)342-0284

(SUBMIT A SEPARATE INSERTION ORDER PER DOCUMENT)

[] EMERGENCY RULE [x] NOTICE OF INTENT [] RULE [] POTPOURRI

REFER TO INSTRUCTIONS ON REVERSE SIDE

This is your authority to publish in the (month) May, 20 16 Louisiana Register the document indicated above.

Alcohol and Tobacco Control
Office/Board/Commission promulgating this document

Department of Revenue
Department under which office/board/commission is classified

Juana Lombard Commissioner
(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

Jacqueline Wilson 225-925-4392 225-925-3975
(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document
jacqueline.wilson@atc.la.gov
E-mail address of contact person

Provide a short descriptive listing for this document to be used in the Louisiana Register's TABLE OF CONTENTS/INDEX (note: this description should match the fiscal statement title, if sending a Notice of Intent:

*If sending a diskette, indicate the name of the file on diskette:

LAC 55:VII.3101, 3121

Important: If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, AND if the rule text in the ER is identical to the rule text in the NOI, check here: []

[Signature]
Signature of Agency Head or Designee
Juana Lombard, Commissioner
Print Name and Title of Agency Head or Designee

CERTIFICATION OF AVAILABLE FUNDS

DOCUMENT # _____

[x] ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

Table with 5 columns: AGENCY, ORGANIZATION #, OBJECT, SUB-OBJECT, REPORTING CATEGORY. Values: 440, 3801, 5100, 8V, 9315

[] NON-ISIS AGENCY: I certify the availability of fiscal year _____ appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

Billing Address for Agencies:
Alcohol and Tobacco Control
Agency Name
8585 Archives Avenue, Suite 305
Street Address or Post Office Box
Baton Rouge LA 70809
City State Zip Code

[Signature]
Signature of Agency Head or Designee - Phone #
Lines/Other Charges _____ Typesetting \$ _____ TOTAL \$ _____

NOTICE OF INTENT
Department of Revenue
Office of Alcohol and Tobacco Control

LAC 55:VII.3121

Under the authority of R.S. 26:909.1 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to amend LAC 55.VII.3101 and to enact LAC 55.VII.3121 relative to the payment and purchase of tobacco products for wholesale and retail dealers.

The proposed amendment and enactment of the above-referenced rules is offered under the authority delegated by R.S. 26:909.1 to provide for a procedure to enforce the cash or short-term sales law between tobacco manufacturers or wholesalers and tobacco retailers.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control

Chapter 31. TOBACCO PERMITS

§3101. Definitions

A. For purposes of this Chapter, the following terms are defined.

Cash or Cash Delivery – the payment of tobacco products by currency or coin at the time of delivery of the merchandise.

On Terms – the payment of tobacco product at a date subsequent to the delivery of the merchandise, as established by an agreement between the parties or as listed on the invoice provided at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:901.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1320 (July 1998), amended LR 38:145 (January 2012), LR 40:114 (June 2014).

§3121. Cash or Short-Term Sales Only; Notification; Penalty

A. If any manufacturer or wholesaler does not receive payment when due or payment is returned for insufficient funds, the vendor shall within five business days notify the commissioner thereof on a form prescribed by the commissioner, as well as provide any additional information as may be required. The vendor shall concurrently send a copy to the retailer of the notification supplied to the commissioner.

B. All delinquent retail dealers reported to the commissioner by the close of business each Monday shall be placed on a cash delivery order. Notice shall be sent electronically to all manufacturer and wholesale dealers.

C. No sale of tobacco products, other than for cash, shall be made to a delinquent retail dealer, after being placed on a delinquent list by the commissioner. A retail dealer shall remain in default until a list on which his name does not appear has been published by the commissioner, or all manufacturers and wholesalers are notified to the contrary by the commissioner.

D. Manufacturers and wholesalers must report each Monday all delinquent accounts until paid in full.

E. The retailer who is in default must pay his obligation in full within thirty days of the date that it became due. A sale made for cash is due at the time of the delivery of the merchandise. A sale made on terms is due on the last day of the term stated on the invoice. Failure of a retail dealer to pay his obligation in full within 30 days of the date it became due will subject the retailer's permit to suspension as set forth in Subsection F.

F. Any person who violates R.S. 26:909.1 or this Section may have his permit suspended for not more than five days for the first offense and not more than thirty days for any subsequent offense. Additionally, the commissioner may require a retail dealer to make payment in cash for all tobacco products subsequently sold or delivered to him. Each failure of a retail dealer to make payment for any default before the end of the period of suspension constitutes a subsequent offense.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 26:909.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, LR: ##### (?????).

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed rulemaking will have no adverse impact on small businesses as described in LSA-R.S.49:965.2 *et seq.*

Provider Impact Statement

The proposed rulemaking has no known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments until 4:00pm on June 30, 2016 to Commissioner Juana Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at juana.lombard@atc.la.gov.

Public Hearing

A public hearing will be held on June 30, 2016 at 4:00 p.m. in the Office of Alcohol and Tobacco Control at 8585 Archives Avenue, Ste. 305 in Baton Rouge, Louisiana.

Juana Lombard
Commissioner

NOTICE OF INTENT
Department of Revenue
Office of Alcohol and Tobacco Control

LAC 55:VII.3101, LAC 55:VII.3121

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AUTHORITY NOTE: Promulgated in accordance with La. R.S. 26:909.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, LR: #:### (April 2015).

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