

AMENDATORY SECTION (Amending WSR 96-19-018, filed 9/6/96, effective 10/7/96)

WAC 314-10-090 ((Tobacco sampling Licenses.)) What tobacco products may be used for sampling promotions? (1) No person may engage in providing ((tobacco)) samples of tobacco products other than cigarettes within Washington state.

(2) No person may engage in providing samples of cigarettes without a valid sampler's license. A firm contracting with a tobacco manufacturer to distribute samples of a manufacturer's product is deemed to be the person engaged in the business of sampling. The liquor control board will issue any sampler's licenses.

((+2)) (3) The annual fee for a manufacturer's cigarette samplers license within the state is \$500 and is designated a Class T1 license. The fee for independent businesses that provide samples of ((tobacco products)) cigarettes is \$50 and is designated a Class T2 license. All sampler's licenses expire on the 30th day of June each year and must be renewed annually.

In adopting the language of ((WAC 314-10-090(3))) subsection (4) of this section, the board affirms that sampling does have a direct impact upon the availability of product to minors. Many sampling activities, because of the large volume of product offered, promote secondary distribution to bystanders, especially minors. Addiction to nicotine can occur quickly after the use of a relatively small amount of product. It is the board's intention to limit this amount thereby reducing the opportunity and potential for product to be redistributed to minors.

((+3)) (4) A sample is the smallest portion representative of the product that is available for retail sales and distribution. T1 and T2 license holders may distribute samples of ((tobacco products)) cigarettes pursuant to chapter 70.155 RCW and chapter 314-10 WAC as follows:

(a) Cigarettes: No more than one sample package may be furnished per eligible customer per day. Such sample shall not contain more than twenty cigarettes per sample package.

~~(b) ((Cigars: No more than one sample of any single brand and type and no more than two samples may be furnished per eligible customer per day. Such sample shall not contain more than one cigar per sample package.~~

~~(c) Smokeless tobacco products: No more than one sample can, package or pouch may be furnished per eligible customer per day. Such sample can, package or pouch shall not exceed the size of the smallest unit available for sale at retail.~~

~~(d) All other tobacco products: No more than one sample unit may be furnished per eligible customer per day. Such sample unit shall not exceed the size of the smallest unit available for sale~~

at retail.

(e)) T1 and T2 licensees that have sample packages available that contain (~~less tobacco product~~) fewer cigarettes than allowed by this section are encouraged to provide such alternative sizes.

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-100 (~~(Samplers license--Distribution of tobacco products.)~~) How may cigarette sampling activity be conducted? (1)

The cigarette sampler's license entitles the licensee, and employees or agents of the licensee, to distribute samples at any lawful location in the state during the term of the license. The person engaged in sampling shall carry the Class T1 or T2 license or a copy of the license at all times and produce same at the request of an enforcement officer as defined in RCW 7.80.040.

(2) No person may distribute or offer to distribute samples in a public place. This prohibition does not apply to:

(a) An area to which persons under 18 years of age are denied admission,

(b) A store or concession to which a cigarette retailers license has been issued, or

(c) At or adjacent to a production, repair or outdoor construction site or facility.

(3) Notwithstanding subsection (2) (~~(above)~~) of this section, no person may distribute or offer to distribute samples within or on a public street, sidewalk, or park that is within 500 feet of a playground, school, or other facility where that facility is being used primarily by persons under 18 years of age for recreational, educational or other purposes.

(4) Class T1 and T2 licensees shall provide the board, (~~upon request~~) forty-five days prior to a sampling event, the locations, dates and times sampling activities will take place.

(5) All T1 and T2 licensees must provide to the liquor control board, in a format prescribed by the board, a listing of the location, date, hours and quantities of (~~tobacco products~~) cigarettes distributed in the state for the previous six months.

(a) A report for the period covering January 1st through June 30th of each year is due by no later than July 31st of each year.

(b) A report for the period covering July 1st through December 31st is due by no later than January 30th of the immediately following year.

(c) The board may take administrative action against any (~~tobacco~~) cigarette sampler who fails to submit the required reports.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-10-050

Sales to persons under 18 years of age.