

**RULES
OF
DEPARTMENT OF REVENUE
MISCELLANEOUS TAX DIVISION**

**CHAPTER 1320-4-3
UNFAIR CIGARETTE SALES LAW AND TOBACCO TAX RULES**

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1320-4-3-.01 AFFIXING AGENT-APPOINTMENT OF.

- (1) The Commissioner of Revenue may, upon receipt of application and appropriate bond, appoint licensed manufacturing distributors and wholesale dealers and jobbers as affixing agents for the purpose of purchasing and affixing cigarette tax stamps to cigarettes and paying tax on cigars and other tobacco products as required by law, except as hereinafter provided tax on cigars and other tobacco products as required by law, except as hereinafter provided.
- (2) The Commissioner may, in his discretion, refuse to appoint a manufacturing distributor or wholesale dealer and jobber as an affixing agent if there is evidence that such applicant or any other individual having a controlling interest in said applicant's business, has, prior to his application, had his license revoked or suspended for violating the Tennessee Tobacco Tax Law or Rules and Regulations promulgated pursuant thereto, or has been found guilty in a court of law of violating the tobacco laws of the State of Tennessee or is delinquent in the payment of the tobacco tax. The Commissioner may also revoke or suspend any appointment as an affixing agent previously made by him after a show cause hearing held pursuant to T.C.A. §67-4-1021.
- (3) Wholesale dealers and jobbers, manufacturing distributors and any other licensee appointed as agent to purchase and affix cigarette tax stamps or pay tax in other prescribed manner shall execute and file with the Commissioner a tobacco tax stamp affixing agent's bond for each separate location or place of business in the amount of \$100.00 for each \$10,000.00 of fraction thereof, of the tax liability on an average month's purchases of tobacco products by a Tennessee domiciled licensee and on an average month's sales of tobacco products in Tennessee by a non-resident licensee. The minimum bond shall be \$2,000.00. A surety bond in the penal sum of \$20,000.00 is required prior to licensing a tobacco manufacturer's warehouse.

Authority: T.C.A. §§67-3108 and 67-101. **Administrative History:** Original rule filed certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987.

1320-4-3-.02 CIGARETTE TAX STAMPS-PURCHASE AND USE OF.

- (1) Agents appointed to affix cigarette tax stamps shall purchase such stamps only from the Commissioner or his authorized agents, and in no instance shall they be permitted to sell stamps not affixed to packages of cigarettes. The act of bartering, loaning, giving away, purchasing, or acquiring unaffixed cigarette tax stamps by and means other than as set out herein is strictly prohibited.

(Rule 1320-4-3-.02, continued)

- (2) Affixing agents desiring to purchase cigarette tax stamps on a deferred payment plan may do so only from the main office of the Department or one of its regional offices, the office from which stamps may be purchased by each agent to be approved in advance by the Commissioner.
- (3) Only licensed manufacturing distributors and wholesale dealers and jobbers may be eligible to purchase cigarette tax stamps at the discount rates set by the Commissioner as authorized by T.C.A. §67-4-1009, provided such licensee is complying with the provisions of the law and the rules and regulations promulgated in accordance therewith.
- (4) Any person using a machine to affix cigarette tax stamps shall so supervise the use of the machine that each and every stamp affixed to a package of cigarettes shall be completely legible and identifiable as a valid stamp. Packages of cigarettes bearing illegible or mutilated cigarette tax stamps shall be deemed to be unstamped and shall be subject to confiscation. Violation of this section shall also be grounds for revocation of license upon proper show cause hearing.
- (5) Persons purchasing unstamped confiscated cigarettes and other tobacco products from the state shall purchase sufficient cigarette tax stamps from the Commissioner and affix same to such cigarettes and pay the applicable tobacco tax on cigars and other tobacco products. Applicable tax on cigars and other tobacco products shall be paid by the purchaser directly to the Commissioner at time of delivery to the purchaser.
- (6) Cigarette tax stamps evidencing payment of the applicable tax shall be applied to the bottom of each individual standard package of twenty (20) cigarettes. However, in those instances where the package of twenty (20) cigarettes is of such dimensions it cannot be processed by the stamping machine, the cigarette tax stamp may be affixed to the side of the package.
- (7) Agents appointed by the Commissioner to affix cigarette tax stamps shall, under the provisions of T.C.A. §67-4-1019, be permitted to perform a service for other licensees by affixing such stamps to cigarettes and/or paying tax on other tobacco products where such cigarettes and other tobacco products belong to such other licensees. Such affixing agents shall issue in duplicate invoices indicating the name and address of the licensee for whom stamps were affixed and the quantity of such stamps. Likewise, affixing agents paying tax on other tobacco products belonging to other licensees shall issue duplicate invoices indicating the name and address of the licensee for whom tax was paid, the date tax was paid and the quantity and type by brand name of such products. One copy of such invoices shall be retained by the affixing agent and one copy shall be given to the licensee for whom cigarette tax stamps were affixed and/or tax was paid on other tobacco products.

Authority: T.C.A. §§67-1-102, 67-4-1002, 67-4-1006, 67-4-1010, 67-4-1011, and 67-4-1019. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987.

1320-4-3-.03 UNSTAMPED TOBACCO PRODUCTS.

- (1) The term "unstamped tobacco products" shall be defined to mean any package of cigarettes subject to the tax imposed under the provision of the Tennessee Tobacco Tax Law which does not bear an official Tennessee cigarette tax stamp that is completely legible and identifiable as a valid tax stamp. Such term shall also include cigarettes bearing tax stamps of another state, as well as cigars and other tobacco products subject to tax on which applicable tax has not been paid.
- (2) Before a license may legally stock any unstamped cigarettes, he shall make application to the Commissioner for permission to stock, warehouse, distribute, sell and/or dispose of such products. Such application shall be by certified statement setting forth his ordinary requirements as defined

(Rule 1320-4-3-.03, continued)

herein. The quantity approved by the Commissioner hereunder shall be shown on the license issued or in a supplemental letter if a larger quantity is allowed under provisions contained herein.

- (3) Stocks of unstamped cigarettes which include those bearing cigarette tax stamps of other states shall be stacked separate and apart from Tennessee stamped stock. The act of persons intermingling unstamped products with stamped products shall be grounds for revocation of license and agency appointment upon proper show cause order.
- (4) Licensees who have qualified with the Commissioner will be permitted to stock unstamped cigarettes for exclusive export purposes and for sale to authorized armed forces installation, government hospitals or to qualified retailers domiciled in another state in such quantity to cover the licensees' "ordinary requirements" for such purposes.
- (5) The term "ordinary requirements" shall mean a specified number of cigarettes which shall not exceed one-twelfth (1/12) of the total quantity of such unstamped products sold during the preceding calendar year. Should a licensee's requirements later exceed the maximum quantity allowance as established under the provisions herein, the Commissioner may at his discretion grant a larger quantity upon written supplemental application.
- (6) In no instance shall a licensee have in his possession for a period greater than 72 hours unstamped cigarettes greater than the quantity established and approved hereunder. Quantities of such unstamped stock in excess of the maximum allowable quantity shall be grounds for revocation of license upon proper show cause hearing. The tax applicable to sales of unstamped cigarettes in excess of the maximum stock allowance shall be assessed against the seller.

Authority: T.C.A. §§67-3-108 and 67-101. **Administrative History:** Original rule filed June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975.

1320-4-3-.04 SALES OF UNTAXED TOBACCO PRODUCTS.

- (1) All sales of untaxed or tax-exempt tobacco products shall be invoiced by licensees. Copies of all invoices and/or bills of lading must accompany all shipments of untaxed or tax exempt tobacco products and must be available for inspection by representatives of the Department. Records of shipments or deliveries of untaxed or tax-exempt products must be maintained by licensees through copies of invoices, receipts, delivery tickets, or bills of lading, and such records shall be made available for inspection by representatives of the Department. Failure to maintain such documentary evidence of sales of untaxed or tax-exempt tobacco products shall void any claim for tax credit on such sales for which the licensee may otherwise be eligible. These records shall be retained for a period of three years unless destruction is sooner authorized by the Commissioner.
- (2) Licensed tobacco dealers domiciled in another state may purchase and transport within the boundaries of Tennessee cigarettes and other tobacco products on which the applicable tax is paid by the affixing agent to the state in which such products are to be sold, provided that products are obtained from a Tennessee appointed affixing agent. Prior to acquiring such products, written application shall be made to the Commissioner requesting authorization to purchase cigarettes and other tobacco products on which the Tennessee tobacco tax has not been paid. This application should contain the following information: Tobacco license number with reproduced copy of the license; the name and address of the Tennessee affixing agent from whom such products will be purchased; the state in which the products are to be sold; the estimated quantity of cigarettes and monetary value of cigars and other tobacco products, shown separately, anticipated to be purchased during a monthly period; and the frequency of trips to be made into Tennessee for the purpose of acquiring such products. It shall be incumbent upon those persons making sales of tobacco products upon which no Tennessee tax has been paid to verify with the Department of Revenue the eligibility of the purchaser of such tobacco

(Rule 1320-4-3-.04, continued)

products to receive and possess the products. Tennessee licensees shall furnish the qualified out-of-state purchaser invoices which shall show the date of sale, the purchaser's name and address, the quantity, type and brand of products and any applicable tax paid thereon. All invoices must be available for inspection, as well as the Commissioner's authorization for possession of such products, during the entire time any cigarettes or other tobacco products on which the Tennessee tax has not been paid are being transported or possessed within this state by the qualified out-of-state tobacco dealer.

- (3) A Tennessee tax affixing agent may not sell cigarettes upon which a Tennessee cigarette tax stamp or a tax stamp of another state has not been affixed except to authorized tax-exempt agencies or through a drop shipment plan where such shipment originates from without the state. Sales of cigarettes bearing tax stamps of another state shall be made only to qualified persons as specified by law. Tennessee sales of tobacco products, other than cigarettes, upon which Tennessee tax has not been paid shall be made only to other Tennessee tax affixing agents, armed forces installation and Veterans Administration hospitals. However, after qualifying with and receiving written authorization from the Commissioner, a Tennessee tobacco licensee may, for the purpose of servicing customers in another state, purchase from an authorized Tennessee appointed and bonded tax affixing agent tobacco products upon which applicable tax of such other state has been paid.
- (4) Interstate and intrastate shipments of untaxed tobacco products shall be accompanied by itemized invoices or manifests of shipment, showing the quantity, origin, and the destination of the products while in transit. Such records shall be made available for inspection by representatives of the Department. Common carriers transporting tobacco products shall preserve their records of a shipment for a period of three (3) years, unless destruction is sooner authorized by the Commissioner, and shall make them available to agents of this Department at any reasonable time or place.
- (5) Licensees may make sales of unstamped cigarettes or other untaxed tobacco products within the geographical boundaries of a fort, base, camp, or post of the armed forces of the United States, to post exchanges, ship-service stores, commissaries and open messes operated by the United States Armed Forces, and to government hospitals where such products are sold only to patients registered and admitted therein. The commanding officer of each armed forces installation or the head of each government hospital entitled to purchase such tobacco products shall notify the Commissioner in writing of this eligibility indicating the agency name, location, and the rate, rank or title of the agency personnel authorized to sign invoices acknowledging receipt of such products. The authorized personnel shall in each instance as provided herein sign the invoices acknowledging receipt of the tobacco products, and shall also sign a certificate, either on a separate sheet or written on the invoice, certifying that the tobacco products were purchased by and delivered to an authorized installation and that such tobacco products will be sold by such authorized installation subject to regulation by the commanding officer thereof and in compliance with official Army, Navy or Air Force regulations or other official directives. The licensee shall secure the signed invoice and certificate as provided in this paragraph and retain in his file the invoice or a duplicate copy of such with the certificate of the receiving officer in verification of unstamped products so sold and delivered. Sales of unstamped tobacco products to armed forces installations or government hospitals shall be allowed only after the licensee has verified through the Commissioner the eligibility of the purchaser to receive such products. Other than under provisions set out in paragraph (2) of this rule, licensees shall make no sale, transfer, distribution or delivery of unstamped cigarettes or other untaxed tobacco products to any persons in Tennessee except to qualified armed forces installations and government hospitals. Actual physical delivery of all unstamped cigarettes or other untaxed tobacco products shall be made by licensee's own conveyance or by duly authorized common carrier.
- (6) National Guard personnel, reservist or other personnel who are not permanent active duty but who engage in brief drill periods from time to time may not lawfully possess untaxed tobacco products.

(Rule 1320-4-3-.04, continued)

- (7) The Commissioner may regulate quantities of unstamped cigarettes or other untaxed tobacco products sold to authorized agencies upon ascertaining that said agency is indiscriminately selling same to unauthorized individuals,
- (8) Cigarettes shall not be sold in a quantity less than that of the manufacturer's standard package.

Authority: T.C.A. §§67-1-102, 67-4-1010, 67-4-1011, 67-3045, and 67-101. **Administrative History:** Original rule filed June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed June 5, 1989; effective September 27, 1989.

1320-4-3-.05 RECORDS AND REPORTS.

- (1) Manufacturing distributors, wholesale dealers and jobbers and tobacco distributors must keep and preserve such adequate and complete records as are necessary to substantiate the payment of all Tennessee tobacco taxes imposed by law. Such records shall include but not necessarily be limited to the following: A receiving record of all such merchandise received during the month or accounting period which shall indicate the date, invoice number, quantity, brand, from whom received, and in the case of cigarettes whether stamped or unstamped or other untaxed tobacco products, or other evidence or records as specified in T.C.A. §1320-4-3-.04. Any licensee failing to maintain adequate records to fully substantiate the receipt and disposition of all tobacco products handled by him shall be unconditionally liable for tobacco taxes on all such products for which proper accounting cannot be made.
- (2) Affixing agents shall keep a record and inventory of all cigarette tax stamps used, and the number of stamps on hand at the end of the month. Every license shall permit an authorized agent of the Department to inspect at any reasonable time, at all locations, including any conveyance for delivery, all tobacco products, invoices, books, papers and memoranda including the general books, both operating and proprietary ledgers, pertaining to the sale, purchase, storage and distribution of tobacco products.
- (3) Manufacturing distributors, wholesale dealers and jobbers and tobacco distributors must maintain and preserve for a period of three (3) years all reports of receipt, purchase, sale and distribution of tobacco products and cigarette tax stamps and make same accessible to the Department for inspection at all reasonable times. Any person operating a tobacco manufacturer's warehouse shall maintain and preserve for a period of three (3) years all reports of receipt and distribution of tobacco products and make same accessible to the Department for inspection at all reasonable times. The Commissioner upon written application may, in his discretion, grant permission for the destruction of records in a lesser period of time.
- (4) (a) Manufacturing distributors and wholesale dealers and jobbers shall submit to the Commissioner a report upon such forms as may be prescribed by the Commissioner. Reports shall be filed on or before the 15th day after the end of the licensee's preceding month's accounting period. An accounting is required of all cigarettes, cigars and other tobacco products handled during the accounting period covered by the report. The payment of tax applicable to all tobacco products other than cigarettes shall accompany the report by wholesale dealers and jobbers. Manufacturing distributors shall be required to report any pay tax on all tobacco products distributed as samples, gifts, etc., and on Tennessee sales to other than licensed Tennessee wholesale dealers and jobbers, such rate of tax being 6 1/2 mills on each cigarette and 6% of the purchaser's cost price of other tobacco products. Failure to file the report and pay such taxes within the time prescribed may result in the assessment of penalty and interest.

(Rule 1320-4-3-.05, continued)

- (b) The Commissioner may at his discretion require other dealers in tobacco products to submit reports of their purchase, sale, and distribution of such products, the reports to be submitted for such period and to contain such information as the Commissioner may require. Incomplete, delinquent, false or fraudulent reports shall be grounds for revocation or suspension of the tobacco license. Direct or indirect assistance in the evasion of the payment of the tobacco tax or in the violation of the Tobacco Tax Law or any rule and regulation promulgated pursuant thereto, will be grounds for revocation or suspension of license.
- (5) It shall be the duty of every wholesaler and retailer, as those terms are defined in T.C.A. §47-25-302, to keep and preserve for a period of three (3) years suitable records of all sales and purchases and such other books of account as may be necessary to determine compliance with the Unfair Cigarette Sales Law, T.C.A. §47-25-301 et seq. Such records and other books of account shall include but not be limited to all invoices, bills of lading, pertinent records whether stored electronically or otherwise, papers and memoranda reflecting sales and purchases, operating and proprietary ledgers, and any other document of information that may be required by the Commissioner, and all such books and records shall be open to examination at all reasonable hours to the Commissioner or any of his authorized agents.

Authority: T.C.A. §§67-3108 and 67-101. **Administrative History:** Original rule certified June 7, 1974. Amendment ruled April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987.

1320-4-3-.06 LICENSES-REQUIREMENT FOR.

- (1) Applicable licenses must be secured for each established place of business where tobacco products are handled or sold for resale and for each automobile, truck or other vehicle from which tobacco products are peddled for resale. Provided, however, separate tobacco licenses shall not be required for automobiles, trucks or other vehicles used by any licensee for the sole purpose of delivering tobacco products in fulfillment of orders previously taken and from which no direct sales are made.
- (2) The sale of manufactured tobacco products through vending machines will not be permitted unless such vending machines are so constructed as to permit representatives of the Department to readily determine whether the tobacco products being sold through such machines have the necessary cigarette tax stamps properly affixed to such products. Tobacco products vending machines shall have as a minimum visibility feature a glass covered opening of such dimensions as to permit visibility of not less than two (2) packages of cigarettes and/or other tobacco products in each column. No tobacco products vending machine shall hereafter be put into use in this state that does not meet such minimum visibility requirement. Any tobacco products vending machine placed on location shall have securely attached to the front of each machine the name and address of the owner and/or servicing agent.
- (3) Persons from without the state selling or delivering tobacco products within Tennessee shall be privileged to obtain licenses, purchase and affix cigarette tax stamps, obtain statutory discounts on cigarette tax stamps purchased and perform all other acts relating thereto in like manner and under the same conditions as Tennessee licensees.

Authority: T.C.A. §§67-1-102, 67-4-1002, 67-4-1006, 67-4-1009, 67-4-1010, 67-4-1015, and 67-4-1020. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975.

1320-4-3-.07 MANUFACTURER-SAMPLE OF GIFT TAX REPAYMENT.

(Rule 1320-4-3-.07, continued)

- (1) Manufacturers of cigarettes and other tobacco products will be allowed to package and distribute their own products as samples or gifts and remit the tax due thereon direct to the Department of Revenue. Each sample or gift package so distributed shall have printed thereon the inscription "State Tax Paid" and/or other inscriptions such as "Complimentary", "Sample", "Gift", or "Not For Sale". On or before the fifteenth (15th) of the month following the month in which such distribution is made the manufacturer shall submit to the Commissioner a copy of each invoice designating shipment of such sample or gift products and pay the tobacco tax applicable to the quantity so distributed. The records of the manufacturer relative to the distribution of sample tobacco products must be retained for a period of three (3) years and be subject to audit by agents of the Department. Destruction of such records may be made with a lesser period of time upon application to and approval by the Commissioner.

Authority: T.C.A. §§67-3108 and 67-101. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975.

1320-4-3-.08 REFUNDS.

- (1) A refund equal to the face value, less the discount received will be made on all unused or mutilated, but identifiable, cigarette tax stamps purchased within a two (2) year period prior to filing of the claim. Unused stamps for which a refund is desired shall be returned to the Department accompanied by a properly executed claim for refund. Likewise, stamps inadvertently affixed to carton flaps shall accompany the claim for refund, however, a representative of the Department must witness the stamping of the packages contained in such cartons and certify to this effect. It will be incumbent upon the affixing agent to retain such cartons containing the cigarette packages and the stamped carton flaps intact until such inspection and certification may be made.
- (2) Licensees filing a claim for refund for cigarette tax stamps on unsalable products to be returned to the manufacturer shall make application to the Department for such refund under oath. There shall be attached:
 - (a) A copy of the bill of lading or similar document covering such goods, under which the goods were returned to the manufacturer: and
 - (b) A certificate from the manufacturer to whom the goods were returned setting forth:
 1. The quantity of products received by him;
 2. The condition of the cigarette tax stamps affixed thereto;
 3. That credit has been issued to the distributor for such products; and
 4. That the cigarette tax stamps have been or will be destroyed.

Any person making oath to a false statement under this rule or attaching any document or certificate which shall be known to be false, with intent to receive a refund in excess of the amount to which the licensee is entitled, shall be guilty of the crime of perjury and punished therefor under the statutes of this state fixing the penalty for the crime of perjury.

- (3) Upon satisfactory receipt by the Department of Revenue of all documents as required in Paragraph (2) of this Rule, the cigarette tax stamps will be deemed to have been canceled by an agent appointed by the commissioner, and proper notation of such will be made thereof on the books and records of the Department of Revenue.

(Rule 1320-4-3-.09, continued)

- (4) All claims for refund shall be completed to the satisfaction of the Commissioner and shall, among other things, show on the face or an appended paper the quantity of cigarette tax stamps, the denomination, and the extended total value. Any applicable discount shall be deducted from the total face value of all stamps. Any extraordinary cost incurred by the Department for the inspection, cancellation, and/or destruction of stamps and/or products to which stamps are affixed shall be paid to the Department by the licensee for whom such stamps are inspected or cancelled.

Authority: T.C.A. §§67-3108 and 67-101. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed October 30, 1980; effective January 28, 1981.

1320-4-3-.09 COMBINATION SALE. In most advertisements by a distributor or a dealer, offers for sale or sales involving two or more items, at least one of which items is cigarettes, at a combined price, or otherwise in combination, all price discounts, rebates, free goods, advertising allowances, or concessions of any nature whatsoever, promised, allowed or given by the distributor or dealer shall be deemed to apply pro rata, in terms of monetary value to all items included within the sale, including cigarettes. Whether a given set of facts constitutes one or more sales shall be determined under the existing case and statute law of Tennessee.

Authority: T.C.A. §§69-411 and 67-101. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975.

1320-4-3-.10 PREMIUMS.

- (1) Manufactures may award discounts, concessions, coupons, or any other premium directly to consumers as sales promotions of their own products, if such sales promotions:
 - (a) are not part of a scheme to give a particular retailer or wholesaler a competitive advantage over retailers and wholesalers generally; and
 - (b) operate evenly among either retailers or wholesalers or both of them generally.
- (2) Any manufacturer engaging in a sales promotion as described in (1) above on the premises of a retailer or wholesaler shall either conduct the promotion through the manufacturer's own employee or place advertisements on the premises plainly stating that the promotion is conducted by the manufacturer.

Authority: T.C.A. §§67-1-102 and 47-25-311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987.

1320-4-3-.11 INVOICES. All invoices evidencing transactions governed by the provisions of the Unfair Cigarette Sales Law must show the selling price of cigarettes separately. The selling price of cigarettes shall include all applicable charges without any itemization of such charges.

Authority: T.C.A. §§69-411, 67-101, 67-1-102, 47-25-303, and 47-25-311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987.

1320-4-3-.12 MINIMUM SALES PRICE.

- (1) Minimum sales prices established by a wholesaler and/or a retailer in compliance with the provisions of T.C.A. §§47-25-301 through 47-25-312, shall apply to, as the case may be, a sale or offer for sale

(Rule 1320-4-3-.13, continued)

to or by any person, distributor, dealer, wholesaler, subjobber, or vending machine operator regardless of the quantity purchased. In establishing minimum selling price per carton of cigarettes at both wholesale and retail levels the statutory formula shall be applied to the basic cost, as defined in T.C.A. §§47-25-302. Minimum selling price of individual packages shall be determined by dividing the minimum carton selling price by the number of packages in a carton. Minimum selling prices so established shall be absolute minimum prices and the products may not be sold below such prices. Fractional cents may be advanced to the next highest cent but fractional cents, regardless of denomination, may not be lowered.

Authority: T.C.A. §§67-1-102 and 47-25-311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987. Amendment filed January 29, 1988; effective April 27, 1988.

1320-4-3-.13 VOLUME DISCOUNTS. If any distributor or dealer offers price discounts based on the volume of items purchased, and if cigarettes are included in those items purchased, the selling price of the cigarettes shall not be used to determine the volume of items purchased for purposes of calculating volume discounts.

Authority: T.C.A. §§69-411, 67-101, 67-1-102, 47-25-303, and 47-25-311. **Administrative History:** Original rule certified June 7, 1974. Amendment filed April 30, 1975; effective May 30, 1975. Amendment filed April 15, 1987; effective July 29, 1987.