

PUBLIC LAW 111-154—MAR. 31, 2010 124 STAT. 1087

Public Law 111-154

111th Congress

An Act

To prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION I. SHORT TITLE; FINDINGS; PURPOSES.

(a) **SHORT TITLE.**—This Act may be cited as the “Prevent All Cigarette Trafficking Act of 2009” or “PACT Act”.

(b) **FINDINGS.**—Congress finds that—

(1) the sale of illegal cigarettes and smokeless tobacco products significantly reduces Federal, State, and local government revenues, with Internet sales alone accounting for billions of dollars of lost Federal, State, and local tobacco tax revenue each year;

(2) Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps;

(3) terrorist involvement in illicit cigarette trafficking will continue to grow because of the large profits such organizations can earn;

(4) the sale of illegal cigarettes and smokeless tobacco over the Internet, and through mail, fax, or phone orders, makes it cheaper and easier for children to obtain tobacco products;

(5) the majority of Internet and other remote sales of cigarettes and smokeless tobacco are being made without adequate precautions to protect against sales to children, without the payment of applicable taxes, and without complying with the nominal registration and reporting requirements in existing Federal law;

(6) unfair competition from illegal sales of cigarettes and smokeless tobacco is taking billions of dollars of sales away from law-abiding retailers throughout the United States;

(7) with rising State and local tobacco tax rates, the incentives for the illegal sale of cigarettes and smokeless tobacco have increased;

(8) the number of active tobacco investigations being conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives rose to 452 in 2005;

(9) the number of Internet vendors in the United States and in foreign countries that sell cigarettes and smokeless tobacco to buyers in the United States increased from only about 40 in 2000 to more than 500 in 2005; and

(10) the intrastate sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on interstate commerce.

(c) PURPOSES.—It is the purpose of this Act to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

Current through Public Law 117-51,
approved October 19, 2021.

15 U.S.C. § 376. Reports to State tobacco tax administrator

(a) Contents. Any person who sells, transfers, or ships for profit cigarettes or smokeless tobacco in interstate commerce, whereby such cigarettes or smokeless tobacco are shipped into a State, locality, or Indian country of an Indian tribe taxing the sale or use of cigarettes or smokeless tobacco or who advertises or offers cigarettes or smokeless tobacco for such sale, transfer, or shipment, shall—

(1) first file with the Attorney General of the United States and with the tobacco tax administrators of the State and place into which such shipment is made or in which such advertisement or offer is disseminated a statement setting forth his name and trade name (if any), and the address of his principal place of business and of any other place of business, as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person;

(2) not later than the 10th day of each calendar month, file with the tobacco tax administrator of the State into which such shipment is made, a memorandum or a copy of the invoice covering each and every shipment of cigarettes or smokeless tobacco made during the previous calendar

month into such State; the memorandum or invoice in each case to include the name and address of the person to whom the shipment was made, the brand, the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and

(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of the memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian tribes operating within the borders of the State that apply their own local or tribal taxes on cigarettes or smokeless tobacco.

(b) Presumptive evidence. The fact that any person ships or delivers for shipment any cigarettes or smokeless tobacco shall, if such shipment is into a State in which such person has filed a statement with the tobacco tax administrator under subsection (a)(1) of this section, be presumptive evidence that such cigarettes or smokeless tobacco were sold, or transferred for profit, by such person.

(c) Use of information. A tobacco tax administrator or chief law enforcement officer who receives a memorandum or invoice under paragraph (2) or (3) of subsection (a) shall use the memorandum or invoice solely for the purposes of the enforcement of this Act [15 USCS §§ 375 et seq.] and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and

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shall keep confidential any personal information in the memorandum or invoice except as required for such purposes.

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[LOGO]

STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

August 24, 2016

Via Electronic Mail

Leonard Violi, Attorney
Law Offices of Leonard Violi, LLC
650 Halstead Avenue, Suite 200
Mamaroneck, NY 10543

Re: Amended Notice of Determination Not to Include Grand River Enterprises Six Nations, Ltd on the Connecticut Tobacco Directory

Dear Mr. Violi:

On July 6, 2016, the Department of Revenue Services (DRS) issued a “Notice of Determination Not to Include Grand River Enterprises, Six Nations Ltd on the Connecticut Tobacco Directory.” This notice revises and amends the July 6th notice to the extent described herein. As explained in the previous notice, the certification application of Grand River Enterprises, Six Nations Ltd (GRE) was denied because GRE failed to demonstrate its compliance with Conn. Gen. Stat. § 4-28m(a)(3)(C), i.e., to satisfactorily explain a discrepancy of more than a million cigarettes between the total number of cigarettes on which GRE’s importers paid federal excise tax, and the total number of cigarettes that were distributed in the United States by GRE’s importers, through both interstate and intrastate shipments. Pursuant to the federal Prevent All Cigarette Trafficking (PACT) Act, importers and distributors must report interstate shipments of

cigarettes to the tax administrator of the state into which the cigarettes are delivered. 15 U.S.C. 376(a)(2).

In your letter to DRS Revenue Examiner 3 Christine Bacon, dated June 21, 2016, you stated that “two importers of Grand River’s cigarettes – Rock River and Native Wholesale Supply Company – distribute these cigarettes exclusively within Indian Country (as that term is defined under Federal law) in the United States, and these importers do not file PACT Act reports, and are not required to do so.” Whether your legal contention is correct is currently a topic of litigation in three judicial districts within the Second Circuit. See *New York v. Mountain Tobacco Co.*, Civil Action No. 2:12-cv-06276 (E.D.N.Y.); *New York v. Grand River Enterprises, Six Nations Ltd*, Civil Action No. 14-cv-00910(W.D.N.Y.); *Grand River Enterprises, Six Nations Ltd v. Sullivan*, 3:16-cv-1087(D.Conn.)

With respect to GRE’s application for certification to the 2016-17 Connecticut Tobacco Directory, DRS, on the advice of the Office of the Attorney General, will not require GRE to perform the reconciliation required by Conn. Gen. Stat. § 4-28m(a)(3)(C) for Rock River and Native Wholesale Supply, which are the importers that you claim distribute cigarettes exclusively within Indian Country.

However, any other GRE importer that does not deliver cigarettes within Indian Country, regardless of whether its shipments are interstate or intrastate in nature, remains subject to the reconciliation requirement of Conn. Gen. Stat. § 4-28m(a)(3)(C). Either GRE

or the importer must provide DRS with PACT Act reports or other business records sufficient to demonstrate that the total number of GRE's cigarettes on which the importer paid federal excise tax is not more than one million greater than the total number of GRE's cigarettes that were distributed nationwide by the importer, either through interstate or intrastate transactions.

As set forth in the Notice of Determination Not to Include Grand River Enterprises, Six Nations Ltd on the Connecticut Tobacco Directory of July 6, 2016, the DRS specifically informed you that GRE had sixty days, or until September 6, 2016, to protest the decision not to include GRE on the Connecticut Tobacco Directory. Please be advised that this amended notice does not alter or extend the time for filing a protest. That said, the DRS is prepared to hold a hearing, should GRE choose to request one. If a timely request for a hearing is received, the protest will be promptly assigned to a hearing officer, who will set a briefing and hearing schedule after consulting with the parties.

If you should have any questions please feel free to contact me at (860) 541-3228.

Very truly yours,
/s/ Marc Papandrea
Marc Papandrea
Tax Unit Manager
Audit Division-Excise Unit
