

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-7-1-.22

Rule Title: Procedures Pertaining to Manufacturers of Tobacco Products Relating to Commercial Cigarette-Making or Rolling Machines

XX New; \_\_\_ Amend; \_\_\_ Repeal; \_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

\*\*\*\*\*  
Does the proposed rule have any economic impact? Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

\*\*\*\*\*  
Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 7/20/11

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-7-1-.22

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New  Amend  Repeal  Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

**1. NEED/EXPECTED BENEFIT OF RULE:**

This rule would define a cigarette-making or rolling machine, categorize the entity maintaining the machine as a manufacturer of tobacco products, and set forth the tobacco requirements for an entity maintaining such machine. The entity or manufacturer would be responsible for payment of cigarette taxes, filing the appropriate monthly tobacco reports, and subject to the Escrow Provisions and Tobacco Master Settlement Agreement Complementary Legislation.

**2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**

Same as above

**3. EFFECT OF THIS RULE ON COMPETITION:**

This rule would eliminate any unfair advantage and ensure the market share of any entity/manufacturer either depositing monies into escrow or making MSA (Master Settlement Agreement) payments directly to the State.

**4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

N/A

**5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**

N/A

**6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Appropriations

**7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

The entity maintaining the cigarette-making machine, which will be considered a tobacco products manufacturer, will be made aware of its responsibilities to maintain such equipment. The entity maintaining the machine will bear the cost of remitting the cigarette excise taxes, and either depositing monies into escrow or making MSA payments directly to the State.

**8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:**

N/A

**9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:**

The rule would require the entity maintaining the cigarette-making machine and manufacturing cigarettes to deposit monies into escrow based on cigarette units sold, should they choose not to become signatory to the tobacco Master Settlement Agreement. Should they decide to become a manufacturer participating in the Master Settlement Agreement, monies will be deposited into a disbursement fund created by the MSA settlement, based on cigarette units sold, and would be disbursed from the fund to the States. Alabama's share of the settlement funds would include amounts to defray tobacco related health care costs due to smoking-related illnesses.

**10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**

If the rule is not implemented, these entities making cigarettes or facilitating the making of cigarettes may not pay the cigarette excise tax or pay monies into escrow or to the State for cigarettes which have been manufactured and consumed in Alabama.

**11. OTHER COMMENTS:**

APA-2  
11/96

**ALABAMA DEPARTMENT OF REVENUE**  
**Sales, Use & Business Tax Division**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE:**

810-7-1-.22

Procedures Pertaining to Manufacturers of Tobacco Products Relating to Commercial Cigarette-Making or Rolling Machines

**INTENDED ACTION:**

Adopt a new rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to promulgate a new rule to define a cigarette-making or rolling machine and set forth the tobacco requirements for an entity maintaining such machine.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **2:00 p.m.** on **Thursday, September 8, 2011, in the Office of the Legal Division, Room 3114**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at [www.revenue.alabama.gov/rulehear.html](http://www.revenue.alabama.gov/rulehear.html).

All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Thursday, September 8, 2011

**CONTACT PERSON AT AGENCY:**

Patricia Toles  
Alabama Department of Revenue  
4131 Gordon Persons Building  
Montgomery, Alabama 36132  
(334) 242-1380



Michael E. Mason, Deputy Commissioner  
Alabama Department of Revenue

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810-7-1-.22 Procedures Pertaining to Manufacturers of Tobacco Products Relating to Commercial Cigarette-Making or Rolling Machines. (NEW RULE)

(1) A cigarette-rolling machine is any type of machine that is made available to the public in a retail store to roll loose tobacco and tubes into cigarettes. Any person maintaining, or offering it for use to others, a cigarette-making or rolling machine in their place of business, or offering it for use to others, in this state, shall be considered a manufacturer of tobacco products. These procedures shall apply to any person maintaining a commercial cigarette-making or rolling machine in their place of business, in this state, whether the proprietor of the business makes the cigarettes or facilitates the making of cigarettes by or for others with the use of said machine. Persons maintaining a cigarette-making or rolling machine in their place of business, or offering it for use to others, are required to:

(a) Register with the Alabama Department of Revenue (ADOR) and report and pay the appropriate cigarette excise tax through the use of tax stamps for all products processed or manufactured on the machine.

(b) Comply with the Escrow Fund for Certain Tobacco Product Manufacturers provisions codified at Title 6, Chapter 12, and the Tobacco Master Settlement Complementary Legislation codified at Title 6, Chapter 12A for all products processed or manufactured on the machine to include:

1. Filing the tobacco products manufacturer (TPM) certification in order for the manufacturer and brand to be approved for listing on ADOR's Directory.

2. Establishing an escrow fund account with a qualified banking institution and providing ADOR with a copy of the escrow agreement, if elected to be a manufacturer not participating (NPM) in the tobacco Master Settlement Agreement.

3. Depositing required monies into escrow and providing verification of the deposit, if a NPM.

4. Filing the required non-participating manufacturer (NPM) certification, if a NPM.

5. Filing the applicable monthly tobacco reports.

(c) Affix the applicable state and state-administered county tax stamp to the cigarette packaging for all products processed or manufactured on the machine.

Author: Loretta Nelson  
Authority: Section 40-2A-7(a)(5), Code of Alabama 1975  
History: