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Rhode Island Tobacco Control Program

Retailer Guidance on Implementation of the Family Smoking Prevention and Tobacco Control Act

I. Background

On June 22, 2009, the *Family Smoking Prevention and Tobacco Control Act* (Tobacco Control Act) was signed into law (Public Law 111-31). The law grants the U.S. Food and Drug Administration (FDA) the authority to regulate the marketing, distribution, and manufacturing of tobacco products.

Under its new authority, the FDA issued a final rule, *Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents*, which was designed to significantly curb youth's access to cigarettes and smokeless tobacco products. The rule, which has the force and effect of law, requires states to enact and enforce laws restricting children's access to these products. The rule went into effect on June 22, 2010, but a number of requirements will be phased in over time.

II. New Retailer Requirements

As the new regulations apply to many retail environments, Rhode Island business owners are encouraged to thoroughly review all requirements of the Tobacco Control Act. A high-level summary follows:

Restrictions on Sales

- Cigarette and smokeless tobacco may not be sold to anyone under 18; retailers must examine a photographic identification card for all tobacco purchasers under the age of 27
- Retailers must remove all self-service product displays. Cigarette and smokeless tobacco sales must be made person-to-person
- Cigarettes and smokeless tobacco may not be sold through vending machines (except in venues where persons under the age of 18 are prohibited from entering)
- Unpackaged cigarettes (or "loosies") are banned in Rhode Island. Retailers may not sell unpackaged smokeless tobacco products either
- Free cigarette samples are restricted; however, manufacturer coupons can be used at retail locations for discounts on tobacco products

Restrictions on Marketing

- Cigarette packaging and tobacco advertisements may no longer include the words, "light," "mild," or "low" as descriptors. However, retailers can draw down inventory received through July 22, 2010
- Samples of smokeless tobacco may not be distributed to sports teams or entertainment groups
- Tobacco manufacturers cannot distribute non-tobacco items bearing a cigarette/smokeless tobacco logo, brand, or other recognizable identifier
- Tobacco manufactures may not be sponsors of athletic, musical, artistic or other social events
- Radio and other audio advertisement for cigarettes and smokeless tobacco products cannot include music and/or sound effects

III. Industry Compliance

Non-compliance with any provision set forth under the Tobacco Control Act may result in a warning letter, monetary fine, license seizure, injunction, and/or criminal prosecution. The Tobacco Control Act does not require retailers to implement employee training programs; however, the law does provide for reduced fines if retailer training can be evidenced. The FDA will soon publish training standards.

Under the Synar provisions included in the FDA's final rule, states are required to perform annual inspections of retail establishments selling cigarettes and/or smokeless tobacco products. The Synar amendment was first enacted by Congress in 1992 as a measure to reduce the sale and distribution of tobacco products to youth. It requires states and territories to have and enforce laws that prohibit tobacco sales to minors as well as to conduct random inspections of tobacco retail or distribution outlets.

The Rhode Island Department of Health is available to assist retailers in their efforts to implement the new regulations. More information is available at www.health.ri.gov or by calling (401)222-3293. Specific questions about the Tobacco Control Act may also be directed to the FDA by calling 1-877-CTP-1373. Complaints and disputes should be directed to the FDA ombudsman via email at les.weinstein@fda.hhs.gov or via phone at (301)796-9239.

IV. Highlights and Effective Dates: Tobacco Control Act

<i>October 2009</i>	Ban on candy, fruit and spice-flavored cigarette additives
<i>January 2010</i>	Deadline for tobacco manufacturers to submit list of tobacco additives
<i>March 2010</i>	Reissued 1996 regulation to limit youth access to cigarettes
<i>June 2010</i>	1) No sponsorship of events 2) No branded products
<i>July 2010</i>	Advertising terms "light," "low," and "mild" prohibited on tobacco products
<i>March 2011</i>	Recommendations due on menthol
<i>June 2011</i>	Final health warning/pictures will be developed to cover 50 percent of product packaging
<i>April 2012</i>	A list of harmful or potentially harmful constituents in tobacco products will be distributed
<i>September 2012</i> ...	New larger health warnings must appear on cigarette packaging