

59-14-602 Certifications -- Directories -- Tax stamps.

- (1) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the commission a certification to the attorney general and the commission, no later than April 30th each year, certifying that, as of the date of the certification, the tobacco product manufacturer is either:
 - (a) a participating manufacturer; or
 - (b) in full compliance with Sections 59-14-214 and 59-22-203.
- (2) A participating manufacturer shall:
 - (a) include in its certification a list of its brand families; and
 - (b) update the list 30 calendar days prior to any addition to, or modification of, its brand families by executing and delivering a supplemental certification to the commission and the attorney general.
- (3)
 - (a) A nonparticipating manufacturer shall include in its certification:
 - (i) a list of all of its brand families and the number of units for each brand family that were sold in the state during the preceding calendar year;
 - (ii) a list of all of its brand families that have been sold in the state at any time during the current calendar year;
 - (iii) indicating, by an asterisk, any brand family sold in the state by the manufacturer during the preceding calendar year that is no longer being sold in the state by the manufacturer as of the date of the certification;
 - (iv) identifying by name and address, any other manufacturer of the brand families sold in the state, by the manufacturer submitting the certification, during the preceding or current calendar year;
 - (v) that the nonparticipating manufacturer is registered to do business in the state, or has appointed a resident agent for service of process and provided notice of the registered agent as required by Section 59-14-605;
 - (vi) that the nonparticipating manufacturer has:
 - (A) established and continues to maintain a qualified escrow fund; and
 - (B) has executed a qualified escrow agreement which:
 - (I) has been reviewed and approved by the commission; and
 - (II) governs the qualified escrow fund;
 - (vii) that the nonparticipating manufacturer is in full compliance with the Model Tobacco Settlement Act and this part, and any regulations promulgated pursuant to the Model Tobacco Settlement Act or this part; and
 - (viii) the following information concerning the qualified escrow fund:
 - (A) the name, address, and telephone number of the financial institution where the nonparticipating manufacturer established the qualified escrow fund required by Section 59-22-203;
 - (B) the account number of the qualified escrow fund and any subaccount number for the state;
 - (C) the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the state during the preceding calendar year;
 - (D) the date and amount of each deposit into the fund, and evidence or verification as required by the commission by administrative rule adopted in accordance with Section 59-14-607 as necessary to confirm the information required by Subsection (3)(a); and

- (E) the amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund, or from any other qualified escrow fund into which it ever made escrow payments pursuant to Section 59-22-203.
- (b) The nonparticipating manufacturer shall update the list required by this Subsection (3) at least 30 calendar days prior to any addition to, or modification of, its brand families, by executing and delivering a supplemental certification to the commission and the attorney general.
- (c) A tobacco product manufacturer subject to this Subsection (3) shall:
 - (i) deposit the escrow payments required by Sections 59-14-214 and 59-22-203 on a quarterly basis during the year in which the sale occurred; and
 - (ii) verify the quarterly deposits to the commission in accordance with Subsection (3)(a)(viii)(D).
- (4) A tobacco product manufacturer may not include a brand family in the certification required by this section unless:
 - (a) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family will be considered its cigarette for purposes of:
 - (i) calculating its payments under the Master Settlement Agreement for the relevant year; and
 - (ii) calculating the volume and shares determined pursuant to the Master Settlement Agreement; and
 - (b) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family will be considered its cigarette for purposes of Section 59-22-203.
- (5) Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of Section 59-22-203.
- (6) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for the certification required by this section for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

Enacted by Chapter 204, 2005 General Session