

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies\* are true, full and correct copies of the PERMANENT Rule(s) adopted on [ 7/15/2010 ] by the  
Date prior to or same as filing date  
Department of Revenue, Business Division 150

Agency and Division Administrative Rules Chapter Number

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to become effective [ 7/31/2010 ]. Rulemaking Notice was published in the [ June 2010 ] Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

Tobacco license denial includes noncompliance with other tax programs.

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

**RULEMAKING ACTION**

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:** 150-323.107; 150-323.130; 150-323.530

**REPEAL:**

**RENUMBER:**

**AMEND & RENUMBER:**

Stat. Auth.: ORS 305.100

Other Auth.:

Stats. Implemented: ORS 323.107; 323.130; 323.530

**RULE SUMMARY**

150-323.107, *Denial of Wholesaler's License*; 150-323.130, *Denial of Cigarette Distributor's License*; 150-323.530, *Denial of Other Tobacco Products Distributor's License* are amended to provide that criteria for denying a cigarette wholesaler 's license, a cigarette distributor's license or an "other tobacco products" distributor's license include noncompliance with any tax program administered by the Department of Revenue.

Elizabeth Harchenko

7/23/2010

Authorized Signer

Printed name

Date

\*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. \*\*The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005



### **150-323.107**

#### **When Cigarette Wholesaler's License is Required; Denial of Application**

(1) Any person selling cigarettes as defined in ORS 323.010(17) must obtain a cigarette wholesaler's license. A wholesaler must obtain a license for each place of business at which the wholesaler engages in the sale of cigarettes.

(2) The Department of Revenue may deny a license application under ORS 670.280 if there is false or incomplete information on the application or if the department determines that the applicant will not comply with the provisions of ORS 323.005 to 323.482. When deciding whether to deny a wholesaler's license, the department may consider, but is not limited to, the following factors:

(a) Whether the applicant has previously failed to pay a tobacco related tax or any other tax administered by the Oregon Department of Revenue;

(b) Whether the applicant has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws; or

(c) Whether the applicant has violated any part of ORS Chapter 323 or any rule adopted under that chapter;

(3) If the applicant is other than an individual, the department will apply the factors described in subsection (2) both to the applicant and, if the applicant is an organization, to the individual(s) within the organization with the primary responsibility for ensuring compliance with cigarette tax laws;

(4) If the department denies a license application, the applicant has 30 calendar days from the date of denial to file an appeal in the manner provided in ORS 305.404 to 305.560.

Stat. Auth.: ORS 305.100, 323.440

Stats. Implemented: ORS 323.107

### **150-323.130**

#### **Denial of a Cigarette Distributor's License**

(1) Any person engaging or seeking to engage in the sale of cigarettes as a distributor as defined in ORS 323.015 must obtain a cigarette distributor's license. A distributor must obtain a license for each place of business at which the distributor engages in the sale of cigarettes.

(2) The Department of Revenue may deny a license application if there is false or incomplete information on the application or if the department determines that the applicant will not comply with the provisions of ORS 323.005 to 323.482. When deciding whether to deny a distributor's license, the department may consider, but is not limited to, the following factors:

(a) Whether the applicant has previously failed to pay a tobacco related tax or any other tax administered by the Oregon Department of Revenue;

(b) Whether the applicant has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws; or

(c) Whether the applicant has violated any part of ORS Chapter 323 or any rule adopted under that chapter;

(3) If the applicant is other than an individual, the department will apply the factors described in subsection (1) both to the applicant and, if the applicant is an organization, to the individual(s) within the organization with the primary responsibility for the payment of the cigarette taxes on behalf of the applicant;

(4) If the department denies a license application the applicant has 30 calendar days from the date of denial to file an appeal in the manner provided in ORS 305.404 to 305.560.

Stat. Auth.: ORS 305.100, 323.440  
Stats. Implemented: ORS 323.107

**150-323.530**

**Other Tobacco Product (OTP) Distributor License Application Denial**

(1) Any person engaging or seeking to engage in the sale of other tobacco products as a distributor, as defined in ORS 323.500(6), must obtain an OTP distributor's license. A distributor must obtain a license for each place of business at which the distributor engages in the sale of other tobacco products.

(2) The Department of Revenue may deny a license application if there is false or incomplete information on the application or if the department determines that the applicant will not comply with the provisions of ORS 323.500 to 323.640. When deciding whether to issue or deny a distributor's license, the department may consider, but is not limited to, the following factors:

- (a) Whether the applicant has previously failed to pay a tobacco related tax or any other tax administered by the Oregon Department of Revenue;
- (b) Whether the applicant has engaged in conduct punishable as a crime under ORS Chapter 323 or any other state's or federal tobacco laws;
- (c) Whether the applicant has violated any part of ORS Chapter 323 or any rule adopted under that chapter.

(3) If the applicant is other than an individual, the department will apply the factors described in subsection (1) both to the applicant and, if the applicant is an organization, to the individual(s) within the organization with the primary responsibility for the payment of the tobacco taxes on behalf of the applicant;

(4) If the department denies a license application, the distributor has 30 calendar days from the date of denial to file an appeal in the manner provided in ORS 305.404 to 305.560.

Stat. Auth.: ORS 305.100, 323.575  
Stats. Implemented: ORS 323.530