

Delivery Sales of Electronic Nicotine Delivery Systems (ENDS)

Changes to PACT Act Reports Effective May 10, 2021

In December 2020, the Prevent All Cigarette Trafficking Act ("PACT Act"), also known as the Jenkins Act, was amended to include electronic nicotine delivery systems ("ENDS") in its definition of "cigarette."

The amended PACT Act provides that any person who sells, transfers, or ships for profit ENDS in interstate commerce, or who advertises such products for sale, must: (1) register with the tobacco tax administrator of the state into which the shipment is made and (2) file monthly reports with the tobacco tax administrator no later than the 10th day of each month. The Tennessee Department of Revenue (the "Department") is the tobacco tax administrator for shipments into Tennessee. The PACT Act registration form and filing instructions are available on the Department's website [here](#).

Who Must File These Reports in Tennessee?

Beginning May 10, 2021, and the 10th of every month thereafter, any entity shipping ENDS into Tennessee from another state is required to report all such shipments to the Department.

Anyone located in Tennessee and shipping ENDS within state lines is not required to file PACT Act reports regarding these shipments with the Department.

Electronic Nicotine Delivery System (ENDS)

- "ENDS" is defined as any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device.

- ENDS include:
 - e-cigarette
 - e-hookah
 - e-cigar
 - vape pen
 - advanced refillable personal vaporizer
 - electronic pipe
 - any component, liquid, part, or accessory of a device described above, without regard to whether the component, liquid, part, or accessory is sold separately from the device.

Penalties

Under § 377(b) of the PACT Act, if you are a delivery seller, violations may result in civil penalties of up to \$5,000 for the first violation, \$10,000 for the second violation, or 2% of the gross sales during the prior 12 months. Additionally, there are penalties for common carriers or other persons providing delivery services of up to \$2,500 for a first violation or \$5,000 for any other violation within one year of a prior violation.

For More Information

If you have any questions pertaining to the PACT Act report, please email Resale.Data@tn.gov or call (855) 286-7423 (if outside Nashville) or (615) 741-9300 (if within Nashville).

You may also visit www.tn.gov/revenue. Click on Revenue Help to search for answers or to submit an information request to one of our agents.

References

15 U.S.C. §§ 375, et. seq., Tenn. Code Ann. § 67-4-1001, et. seq., Tenn. Code Ann. § 67-4-2601, et. seq.