



December 20, 2018

NOTICE TO ALL LICENSED DISTRIBUTORS AND WHOLESALERS

This Notice is being provided to you pursuant to Revenue and Taxation Code section 30165.1, subdivision (c)(3)(C).

Effective December 20, 2018 the Attorney General's Office **REMOVED** the following Manufacturer/Brand Families in its entirety from the California Tobacco Directory:

- **Smokin Joes**
 - **Exact – all fifteen (15) styles**
 - **Exact Elite – all twelve (12) styles**
 - **Lewiston – all eighteen (18) styles**
 - **Maple Leaf – one (1) style**
 - **Market – all nineteen (19) styles**
 - **Smokin Joes – all twenty-two (22) styles**
 - **Smokin Joes RYO – all three (3) styles**
 - **Smokin Joes Natural – all twenty-one (21) styles**
 - **Smokin Joes Premium – all eighteen (18) styles**

Distributor and Wholesaler Responsibilities

Pursuant to Revenue and Taxation Code section 30165.1, subdivision (c)(3)(C), you must provide a copy of this Notice to each of your existing customers within seven (7) days. (Rev. & Tax. Code, § 30165.1, subd. (c)(3)(C).) Effective immediately, distributors and wholesalers may not sell any cigarettes or tobacco products listed in this Notice to a California retailer unless the retailer was provided a copy of this Notice.

Sell-Off Period

Under California's Tobacco Directory law:

- Distributors have no more than forty (40) days to purchase, stamp, sell, or possess any cigarettes or tobacco products listed in this Notice for sales in California. Wholesalers have no more than forty (40) days to purchase, sell, or possess any cigarettes or tobacco products listed in this Notice for sales in California. (Rev. & Tax. Code, § 30165.1, subd. (c)(3)(B).)
- A licensed retailer may possess, transport, or sell the tax-stamped cigarettes affected by this Notice of removal for no more than sixty (60) days. (Rev. & Tax. Code, § 30165.1, subd. (c)(3)(D).) After sixty (60) days, the brand families identified in this Notice are contraband and may not be sold or purchased in California, and will be subject to seizure and destruction under Revenue and Taxation Code sections 30436, subdivision (e), and section 30449, subdivision (b). (Rev. & Tax. Code, § 30165.1, subd. (c)(3)(E).)

HOWEVER, please review the attached notice from Smokin Joes. Smokin Joes's notice indicates the Food and Drug Administration ("FDA") issued a Not Substantially Equivalent ("NSE") Order that prohibits the sale of certain Smokin Joes cigarettes after December 31, 2018. Moreover, the notice indicates that Smokin Joes will "recall all products not sold at the retail level by December 31, 2018."

The Office of the Attorney General's Notice is limited to Smokin Joes status on the California Tobacco Directory. You should take the steps necessary to ensure that your sales are compliant with all State and federal laws.

If you have questions regarding Smokin Joes' notice, Smokin Joes' products, returning product, or the FDA's NSE Order, please contact the FDA or Smokin Joes. Smokin Joes' notice provides contact information for Smokin Joes.

If you have questions regarding the manufacturers listed on the California Tobacco Directory, you may contact:

OFFICE OF THE ATTORNEY GENERAL
TOBACCO LITIGATION & ENFORCEMENT SECTION
1300 I Street, Suite 125
P. O. Box 944255
Sacramento, CA 94244-2550

VOICE MAIL MESSAGE LINE: (916) 565-6486
FAX: (916) 323-0813

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E-MAIL tobacco@doj.ca.gov

WEBSITE: <http://oag.ca.gov/tobacco/directory>

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33708236.doc

Joseph Anderson DBA Smokin Joes
4900 Indian Hill Rd
Lewiston NY, 14092

To our wholesalers and retailers:

As you may know, the Center for Tobacco Products (CTP) at the Food and Drug Administration (FDA) has decided that insufficient information exists for FDA-CTP to determine that cigarette products made by Smokin Joes (SJs) are substantially equivalent to products sold on February 15, 2007 as required by the Tobacco Control Act (TCA). The Agency issued Not Substantially Equivalence (NSE) Orders on this basis. Those products include all lines of SJs cigarettes including: Reds, Golds, Blues, Naturals and Menthol in 100 and King sizes. Based on discussions with the CTP Division of Enforcement and Manufacturing, SJs has agreed to cease manufacture of these brands, cease distribution of existing inventory no later than November 30, 2018, and recall all products not sold at the retail level by December 31, 2018. There is no allegation or evidence that these cigarette products are defective in any way. The detailed information provided to CTP was simply insufficient to convince the Agency that these products were identical to 2007 predicates.

In the event that state tobacco inspectors visit your business and request removal of these products, please show them this letter, which has been reviewed by FDA. It allows continued distribution by SJs through November 30, 2018 and continued sale at retail through **close of business on December 31, 2018**.

SJs is currently reformulating these brands and models to conform exactly to "grandfathered" products made and sold prior to February 15, 2007, with the exception of use of fire safe (FSC) paper. Once SJs receives CTP approval of an exception request to use the FSC paper, we will return to market with these reformulated products. We hope this timing will not interfere with our existing distribution pipeline. Products affected by this NSE Order may be identified because they contain black dates of manufacturer on the bottom of each package of 10/22/18 or earlier.

Below is a link to CTP's website that contains details concerning NSE Determinations (see <https://www.fda.gov/TobaccoProducts/Labeling/TobaccoProductReviewEvaluation/ucm371765.htm>). If you have additional questions, please contact Brian Lacey, Quality Manager, (716) 261-9308; blacey@smokinjoe.com.

We appreciate your continued business relationship and apologize for any confusion or inconvenience caused by this regulatory action.

Best regards,

Brian Lacey
Quality Manager