



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
CARVEL STATE BUILDING  
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**DIVISION OF REVENUE**

**TECHNICAL INFORMATION MEMORANDUM 96-3**

**JULY 9, 1996**

**SUBJECT: DISTRIBUTION OF TOBACCO PRODUCTS**

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**I. INTRODUCTION**

House Bill 440, signed April 4, 1996 and effective July 4, 1996, amends Chapter 5, Title 11 of the Delaware Code by adding thereto a new subpart B. The new subpart B, among other things, makes it unlawful for any person to distribute or permit the distribution of tobacco products through the operation of a vending machine in a public place, except such distribution of tobacco products through the operation of a vending machine may occur in a taproom, tavern, tobacco shop, or in premises in which a person who has not attained the age of 18 is prohibited by law from entering.

**II. DEFINITIONS**

The new subpart B also provides the following definition of terms which are pertinent to the removal of tobacco product vending machines in public places:

**"Distribute"** means give, deliver, or sell; offer to give, deliver, or sell; or cause or hire any person to give, deliver, or sell, or offer to give, deliver, or sell.

**"Tobacco Product"** means any product that contains tobacco, including but not limited to cigarettes, cigars, pipe tobacco, snuff, or smokeless tobacco and is intended for human consumption or use.

**"Vending Machine"** means any mechanical, electronic, or other similar device which automatically dispenses tobacco products, usually upon the insertion of a coin, token, or slug.

"Public Place" means any area to which the general public is invited or permitted, including but not limited to parks, streets, sidewalks or pedestrian concourses, sports arenas, pavilions, gymnasiums, public malls, and property owned, occupied, or operated by the State of Delaware or by any agency thereof.

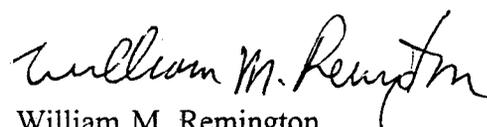
### III. REGULATION

Section 5308(c), 30 Del. C. requires "every vending machine from which tobacco products are offered for sale shall have affixed thereto an identification stamp issued by the State Tax Department for which a fee of \$3.00 shall be charged. Where 2 or more vending machines are fastened together, each set of mechanisms shall require a separate vending machine license."

Section 5311, 30 Del. C. states that "every license shall expire on the last day of December next succeeding the date upon which it was issued, unless sooner suspended, surrendered, revoked, or renewed."

Due to the enactment of House Bill 440, all tobacco product vending machines currently located in a public place must be removed before July 4, 1996. Those tobacco product vending machines with a valid 1996 identification stamp affixed thereto can be relocated to a taproom, tavern, tobacco shop, or in premises in which a person who has not attained the age of 18 years is prohibited by law from entering and keeping the valid 1996 identification stamp affixed to the machine until December 31, 1996. In lieu of relocation of the tobacco product vending machine after removal from a public place, the machine owner may return the valid 1996 identification stamp to the Delaware Division of Revenue for refund of one-half of the \$3.00 cost of the identification stamp.

A completed Claim for Revision Form 1049L-9605 must accompany the returned identification stamps.

  
William M. Remington  
Director of Revenue