

March 2008



TTB LAUNCHES NEW TOBACCO NEWSLETTER

This is the inaugural edition of TTB TOBACCO NEWS. Our goal is simply to provide you with periodic TTB regulatory information, as well as articles covering court decisions, State changes, and other updates.

TTB'S TRADE ANALYSIS AND ENFORCEMENT DIVISION

TTB's Trade Analysis and Enforcement Division (TAED) is part of the Office of Field Operations. TAED's mission is to protect the revenue and promote voluntary compliance by monitoring the domestic alcohol and tobacco trades, ensuring only qualified applicants enter these trades, ensuring compliance with the tax laws relating to alcohol, tobacco and firearms, and facilitating TTB's enforcement functions in cases of non-compliance.

If you suspect illegal activity regarding the diversion of tobacco products or cigarette papers or tubes outside the legal distribution chain, please contact TAED. Diversion includes tax evasion, theft, distribution of counterfeit products, and distribution in the United States of products marked for export or for use outside the U.S. Diversion may also include Internet sales of tobacco products not in compliance with Federal, State, or local laws.

We work closely with State agencies, and have several programs available, including information sharing and training opportunities. If you are interested, please contact TAED at 202-927-0508, or email IndustryAnalyst.Tobacco@ttb.gov.

REGISTER NOW TO ATTEND TTB EXPO 2008

TTB Expo 2008 will target alcohol, tobacco, firearms and ammunition industry members as well as relevant trade associations, consultants, lawyers, and State government officials on June 17 - 18, 2008, in Covington, Kentucky. [Click here for more information.](#)

THIS ISSUE

- Trade Analysis and Enforcement Division Overview
- TTB Expo 2008
- International Tobacco Meeting
- Supreme Court Tobacco Decision
- Tobacco Contact Information

If you have content ideas or questions for the editors please send them to:

Executive Liaison for Industry Matters
IndustryLiaison@ttb.gov

State Liaison
stateliasion@ttb.com



U.S. DELEGATION TO INTERGOVERNMENTAL MEETING

TTB officials participated as members of the U.S. delegation to the first session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products (INB) in Geneva, Switzerland, from February 11-15, 2008. The purpose of the negotiation was to develop a protocol on illicit trade in tobacco products under the Framework Convention on Tobacco Control (FCTC). The FCTC is the first global public health treaty negotiated under the auspices of the World Health Organization and is viewed by many countries as an important basis for advancing tobacco control measures internationally. The FCTC targets both the demand and the supply of tobacco products by requiring parties to adopt a variety of measures, including measures on smoking prevention and cessation, the placement of health warnings on packaging, restrictions on tobacco advertising and sponsorship, prohibition on cigarette sales to minors, establishment of clean indoor air controls, and implementation of effective measures to combat illicit tobacco trade.

The FCTC entered into force on February 27, 2005, and has 168 signatories, 151 of whom have ratified. The United States has signed but not ratified. This means that the United States can participate in the Conference of Parties under the FCTC and any protocol negotiation under the FCTC as an observer. This was the role of the United States at the first INB.

The parties and observers to the INB discussed issues that could be covered under the protocol. This included subjects ranging from licensing, recordkeeping, tracking and tracing of products, destruction and disposal of contraband and counterfeit products, and "know your customer" rules to anti-money laundering measures, forfeiture and seizure, enhanced law enforcement capacity, and international cooperation. The discussions also covered Internet sales, extradition, and jurisdictional issues. The Chairperson to the INB was tasked to consider the comments and to use them as the basis for writing a draft protocol text that will be considered at the next INB, which is likely to be held in Geneva, Switzerland, from October 20- 25, 2008. The delegates hope to have the protocol completed by sometime in 2010.

SUPREME COURT TOBACCO DECISION

In a unanimous decision issued on February 20, 2008, the United States Supreme Court in *Rowe v. New Hampshire Motor Transportation Association*, found that a State of Maine statute relating to direct shipments of tobacco to consumers was unconstitutional because the Federal Government had enacted a wide ranging statute that pre-empted Maine's attempt to insert itself in an area of law covered by the Federal statute in a manner inconsistent with the Federal statute.

In order to help prevent minors from obtaining cigarettes, the State of Maine enacted a law which required tobacco retailers to use a shipment service that required:

- (1) A purchaser to be the addressee on the shipped packages of tobacco products;
- (2) The addressee to be of legal age to purchase tobacco products and that such addressee was required to sign for the delivered packages; and

(3) If the addressee was under 27 years of age, the addressee had to show valid picture-government-issued identification that indicated that the addressee was of legal age to purchase tobacco products.

In addition, the Maine statute prohibited unlicensed tobacco shipments into the State and deemed that the shipper knew that a package contained tobacco if it was marked as originating from a Maine-licensed tobacco retailer or if it was received from someone whose name appeared on an official list of *un*-licensed tobacco retailers distributed to package-delivery companies.

The Supreme Court held that the above requirements were contrary to the Federal Aviation Administration Authorization Act of 1994 (FAAA Act), which forbids States to "enact or enforce a law . . . related to a price, route, or service of any motor carrier." The Court found that the FAAA Act did not contain any implied "public health" exemption to the Federal Government's authority and that Maine could achieve its objective through other means such as by requiring adults to sign deliveries. In other words, Maine's statute was an incursion into an area of law already covered by the Federal Government through the FAAA Act and such incursion was inconsistent with the Federal statute.

CONTACT A TTB TOBACCO EXPERT

You may contact a TTB tobacco expert via e-mail at IndustryAnalyst.tobacco@ttb.gov. If you have general questions, before submitting a question or concern, please visit our [Frequently Asked Questions](#). If you still need assistance, you may reach us by:

- E-mail: ttbquestions@ttb.treas.gov
- Phone: 1-877-TTB-FAQS (877-882-3277).

If you are seeking an application for a tobacco permit, you may obtain an application by:

- E-mail: ttbtobacco@ttb.treas.gov
- Phone: (513) 684-6882 / toll free 1-877-882-3277
- Mail: TTB's National Revenue Center
550 Main Street, Room 8002
Cincinnati OH 45202

You must return the completed application to the TTB National Revenue Center at the address given above.

Please direct your tax questions to the National Revenue Center's Wine and Tobacco Excise Tax Group at the e-mail and mailing addresses above. The tobacco tax phone number is:

- Phone: (513) 684-7137 / toll free 1-877-882-3277

[View Past Editions](#)

To download a free copy of Adobe Reader, [click here](#).