131.622 When cigarettes deemed contraband -- Seizure and destruction -- Injunction to compel compliance -- Prohibition against sale -- Penalty.

(1) (a) The following shall be contraband and subject to seizure and destruction:

1. Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612; or
2. Any cigarettes in the possession of a retailer after the sixty (60) day grace period as provided in KRS 131.610(5)(c) from a tobacco product manufacturer or brand family that has been removed from the directory.

(b) Whenever any peace officer of this state, or any representative of the department, finds any contraband cigarettes, the cigarettes shall be immediately seized and stored in a depository to be selected by the officer or representative.

(c) The seized cigarettes shall be held for a period of twenty (20) days to allow the owner or any person having an interest in the cigarettes to protest the seizure.

(d) At the time of seizure, the officer or representative shall:

1. Notify the department of the nature and quantity of the cigarettes seized; and
2. Deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face the date of seizure, and a notice that the cigarettes shall be destroyed if the seizure is not protested in writing to the Department of Revenue, Frankfort, Kentucky, within twenty (20) days from the seizure.

(e) The owner or any person having an interest in the seized cigarettes may appeal to the Kentucky Board of Tax Appeals a final determination made by the department pursuant to KRS 131.340.

(f) If the owner or any person having an interest in the seized cigarettes fails to protest the seizure before the end of the twenty (20) day holding period, the department shall destroy the seized cigarettes.

(2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.

(3) No stamping agent or distributor shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.

(4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.

(5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any regulation adopted pursuant to KRS 131.604 to 131.630, the commissioner may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS 131.604 to 131.630.

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