

**§4404-A. Importation of tobacco products****(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

**1. Generally.** Except as provided in subsections 2 and 3, only a person licensed pursuant to section 4402 may import tobacco products into this State.

[PL 2005, c. 627, §11 (NEW).]

**2. Manufacturers.** A manufacturer may transport tobacco products into this State and may transport tobacco products from place to place within this State in quantities greater than those excepted in subsection 3 for the purpose of marketing and sales if the sale or distribution of those tobacco products is accounted for and the taxes are paid by a person licensed pursuant to section 4402.

[PL 2007, c. 466, Pt. A, §64 (AMD).]

**3. (TEXT EFFECTIVE UNTIL 1/01/24) Exception for personal use.** A person who is not a licensed distributor may:

A. Import or transport tobacco products other than cigars into this State and transport those tobacco products from place to place within this State for personal use in a quantity not greater than one pound; or [PL 2007, c. 438, §103 (AMD).]

B. Import or transport cigars into this State and transport those cigars from place to place within this State for personal use in a quantity of no more than 125 cigars. [PL 2005, c. 627, §11 (NEW).]

Untaxed tobacco products imported or transported into this State in any quantity are subject to the tax imposed by section 4403.

[PL 2007, c. 438, §103 (AMD).]

**3. (TEXT EFFECTIVE 1/01/24) Exception for personal use.** A person who is not a licensed distributor or licensed remote retail seller may:

A. Import or transport tobacco products other than cigars into this State and transport those tobacco products from place to place within this State for personal use in a quantity not greater than one pound; or [PL 2007, c. 438, §103 (AMD).]

B. Import or transport cigars into this State and transport those cigars from place to place within this State for personal use in a quantity of no more than 125 cigars. [PL 2005, c. 627, §11 (NEW).]

Untaxed tobacco products imported or transported into this State in any quantity are subject to the tax imposed by section 4403.

[PL 2023, c. 441, Pt. E, §23 (AMD); PL 2023, c. 441, Pt. E, §28 (AFF).]

**4. Evidence.** The possession by a person who is not licensed pursuant to section 4402 of more than 125 cigars or one pound of other tobacco product for which the tax imposed by this chapter has not been paid is prima facie evidence of a violation of this section.

[PL 2005, c. 627, §11 (NEW).]

**5. Penalties.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime. [PL 2005, c. 627, §11 (NEW).]

B. A person who violates this section when the person has one or more prior convictions for violation of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [PL 2005, c. 627, §11 (NEW).]

[PL 2005, c. 627, §11 (NEW).]

**(TEXT EFFECTIVE UNTIL 1/01/24)** Violation of this section by a person other than a retailer is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. It is an affirmative defense

to a prosecution under this section that a retailer, alleged to have imported tobacco products or caused tobacco products to be imported, reasonably relied on licensing information annually mailed to the retailer pursuant to section 4402, subsection 6 that listed the company from which the retailer obtained tobacco products as being a licensed distributor. [PL 2005, c. 627, §11 (NEW).]

**(TEXT EFFECTIVE 1/01/24)** Violation of this section by a person other than a retailer is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. It is an affirmative defense to a prosecution under this section that a retailer, alleged to have imported tobacco products or caused tobacco products to be imported, reasonably relied on licensing information provided by the assessor pursuant to section 4402, subsection 6 that listed the company from which the retailer obtained tobacco products as being a licensed distributor. [PL 2023, c. 441, Pt. E, §22 (AMD); PL 2023, c. 441, Pt. E, §28 (AFF).]

#### SECTION HISTORY

PL 2005, c. 627, §11 (NEW). PL 2007, c. 438, §103 (AMD). PL 2007, c. 466, Pt. A, §64 (AMD). PL 2023, c. 441, Pt. E, §§22, 23 (AMD). PL 2023, c. 441, Pt. E, §28 (AFF).

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