



# Special Notice

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450 N STREET  
SACRAMENTO, CA 95814

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## California Cigarette and Tobacco Products Manufacturers and Importers

### Assembly Bill 2496 Provisions

On September 24, 2010, Assembly Bill (AB) 2496 (Chapter 265, Statutes 2010), was enacted. Effective January 1, 2011, among other things, AB 2496 enhances the Cigarette and Tobacco Products Licensing Act (Licensing Act) by requiring manufacturers and importers to comply with specific requirements to obtain and maintain a license. AB 2496 also imposes additional requirements for the purpose of enforcement of the Master Settlement Agreement and the Tobacco Directory Law.

### New Certification Requirements

Business and Professions Code (BPC) section, 22979(a)(3) mandates every manufacturer and importer to consent to jurisdiction of the California courts for the purpose of enforcement of the Master Settlement Agreement, sections 104555 to 104557 of the Health and Safety Code, and section 30165.1 of the Revenue and Taxation Code. Specifically, BPC section 22979(a)(4) requires an applicant to waive any sovereign immunity defense that may apply to any enforcement action brought by the California Attorney General (AG) or the California State Board of Equalization (BOE) to enforce the Licensing Act, Master Settlement Agreement, and the Cigarette and Tobacco Products Tax Law. In lieu of such a waiver, the applicant may file a surety bond with the AG for a specified amount.

### Tobacco Directory Violations and Penalties

Importers, distributors, wholesalers, distributors functioning as a wholesaler, or retailer are prohibited from purchasing, obtaining, or otherwise acquiring any package of cigarettes to which a stamp or meter impression may *not* be affixed in accordance with the Tobacco Directory Law. Failure to comply with this provision is a misdemeanor subject to penalties.

### Reporting Obligations

The new provisions impose an obligation on a foreign tobacco products manufacturer whose cigarettes are to be sold in California to submit to the BOE and AG, every applicable return, form, or report required by the United States Department of Treasury's, Alcohol and Tobacco Tax and Trade Bureau, and the United States Customs and Border Patrol that includes any information about cigarettes of that foreign tobacco product manufacturer imported into the United States. The forms required would be those that include any information about cigarettes of that foreign tobacco product manufacturer imported into the United States. Additionally, foreign manufacturers must submit a report of the sales of each brand family in this state, in the form and manner specified by the AG or the BOE.

### Changes to the Inspection Process

A component of AB 2496 also expands the BOE's inspection and enforcement authority to any site where evidence of illegal activities under the Tobacco Directory Law is discovered and expands the legal actions BOE may impose to any person for violations of selling, acquiring, and possessing cigarettes not in the Tobacco Directory.