

DIVISION 180
CIVIL PENALTIES FOR NON PARTICIPATING MANUFACTURERS OF
THE MASTER SETTLEMENT AGREEMENT

150-180.455

Civil Penalties for Violation of Non Participating Manufacturers Statutes

(1) The Department of Revenue may assess a civil penalty against any person who sells, holds or possesses cigarettes for sale in Oregon that are cigarettes of a tobacco product manufacturer or brand family that were acquired at a time that the particular tobacco product manufacturer or brand family was not included on the nonparticipating manufacturer directory developed by the Oregon Department of Justice.

(a) The department will apply the following guidelines to determine the amount of the penalty, including the factors described in subsection (3) of this rule:

<u>Incident</u>	<u>Penalty Not to Exceed</u>	<u>Minimum Penalty</u>
First	Warning notice	
Second	\$100 per pack	\$1,000
Third	\$500 per pack	\$1,000
Fourth	\$1,000 per pack	\$1,000
Fifth and subsequent	\$5,000 per pack	\$1,000

(b) For any single incident, including each sale, possession for sale or offer to sell, the department will not impose a total penalty that exceeds the greater of \$5,000 or 500 percent of the retail value of the cigarettes.

(2) The Department of Revenue may assess a civil penalty against any person who affixes an Oregon tax stamp to a package of cigarettes produced by a tobacco product manufacturer or brand family that, at the time the stamp was affixed, was not included on the Department of Justice's directory of nonparticipating manufacturers.

The department will apply the following guidelines to determine the amount of the penalty, including consideration of the factors described in subsection (3) of this rule:

<u>Incident</u>	<u>Penalty Not to Exceed</u>	<u>Minimum Penalty</u>
First	Warning notice	
Second	\$100 per stamp affixed	\$1,000
Third	\$500 per stamp affixed	\$1,000
Fourth	\$1,000 per stamp affixed	\$1,000
Fifth and subsequent	\$5,000 per stamp affixed	\$1,000

(3) The department may consider the following factors when determining the civil penalty for the violations listed in subsection (1) and (2) of this rule:

- (a) Number of previous inspections by the Department of Revenue held at the business;
- (b) Number of previous violations of Chapter ORS 323 provisions;
- (c) Frequency of violations and time since the last violation;
- (d) Size of business, and
- (e) Any other factors the department considers relevant to its determination.

(4) A person upon whom a penalty has been imposed may appeal to the Oregon Tax Court within the time allowed under ORS 305.280.

Stat. Auth.: ORS 305.100, 323.440

Stats. Implemented: ORS 180.455

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