

701—231.2(453A) Permits required. Every person selling or distributing cigarettes or using or consuming untaxed cigarettes within the state of Iowa must first obtain the appropriate permit.

231.2(1) Distributor's permit. If a distributor performs any other function that requires a permit, a separate permit must be obtained. If a person is not performing the functions of a distributor, a permit will not be issued.

231.2(2) Wholesaler's permit. A “sale or distribution” of cigarettes connotes a transfer of cigarettes from one person or entity to another person or entity. Therefore, an intraentity transfer is not a transaction that qualifies as a function of a wholesaler. If a person is not performing the functions of a wholesaler, a permit will not be issued.

EXAMPLE: The XYZ Grocery Chain has a warehouse in Des Moines where stamped cigarettes are stored. The stamped cigarettes are purchased from a permitted distributor. XYZ transfers the cigarettes to its retail outlets across the state for the purpose of making retail sales and makes no other sales. The storage of stamped cigarettes and the retail sale of cigarettes are not functions of a wholesaler. Therefore, XYZ would not be eligible for a wholesaler's permit.

231.2(3) Cigarette vendor's permit. The duplicate permit applies to additional places of business from which the cigarette vendor conducts operations and not to those places of business where the cigarette vending machines are installed for retail sales.

EXAMPLE: A cigarette vendor owns three warehouses from which the vendor supplies cigarettes to 100 vending machines located at various retail establishments. The total permit cost for the vendor would be \$110 (\$100 for a regular permit plus \$10 for two duplicate permits at \$5 each).

231.2(4) Retail permits.

a. Location. Retail permits valid only for the location described in the permit and a retailer must obtain a separate permit for each place of business owned or operated by the retailer.

b. Local jurisdiction. The power to grant the retail permit is discretionary with the city council or board of supervisors, and uniform, nondiscriminatory limits may be placed on the issuance of the retail permit. The city or county must submit a copy of any retail permit issued within 30 days of issuance.

c. Mobile retailers. If a cigarette retailer sells cigarettes from a mobile concession vehicle, the vehicle itself is considered a place of business.

(1) If a retailer is selling cigarettes from a mobile concession vehicle within the area of several permit-issuing authorities, the retailer must obtain a permit from each authority.

(2) The retailer is operating a single place of business within the jurisdiction of the several authorities and is, therefore, subject to regulation by each.

(3) The location described on the permit shall include identification of the vehicle and the address of the permanent place of business from which the vehicle is dispatched. If the vehicle is traded in for a new vehicle, the exchange provisions of subrule 231.2(5) shall apply.

231.2(5) Exchange of permits. If a permittee changes the location of an operation requiring a permit but remains within the jurisdiction of the same entity that granted the original permit, the permittee may exchange the invalid permit (valid only for the location described in the permit) for a valid permit free of charge, without the partial payment-partial refund process described in Iowa Code section 453A.13(4).

EXAMPLE 1: City Bar and Grill sells cigarettes at retail and has obtained a retail cigarette permit from the city of Des Moines. The establishment is moved across the street but remains within the city limits of Des Moines. The retail permit is valid only for the location described in the permit, and therefore, the original permit is no longer valid. However, since the establishment has remained within the jurisdiction of the entity that granted the original permit, Des Moines, the original, presently invalid permit may be exchanged for a valid permit with a new location description at no cost.

EXAMPLE 2: Same as Example 1, except the new location of City Bar and Grill is outside the corporate limits of Des Moines and within the unincorporated area of Polk County. City Bar and Grill would have to surrender the old permit to the city of Des Moines and obtain a new permit from Polk County with the schedules set forth in this rule applying.

This rule is intended to implement Iowa Code sections 453A.13, 453A.16, 453A.17, and 453A.23.

[ARC 9039C, IAB 3/19/25, effective 4/23/25]