

2017 -- H 5506

LC001122

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO TAXATION -- CIGARETTE TAX-MINIMUM PRICE OF CIGARETTES

Introduced By: Representatives Phillips, Morin, Corvese, Azzinaro, and Costantino

Date Introduced: February 15, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-20 of the General Laws entitled "Cigarette Tax" is hereby  
2 amended by adding thereto the following section:

3 **44-20-12.6. Minimum pricing of cigarettes.**

4 Notwithstanding any rule, regulation or state law to the contrary, a minimum markup of  
5 fifteen percent (15%) shall be added to the total cost of cigarettes sold by a retailer. The total cost  
6 shall include the invoice cost of the merchandise to the retailer plus the cigarette excise tax  
7 imposed by §44-20-12 plus freight charges and cartage cost to the retail outlet if performed or  
8 paid for by the retailer. The minimum markup of fifteen percent (15%) shall not be deemed to be  
9 an unfair sales practice pursuant to chapter 13 of title 6. The tax administrator shall promulgate  
10 rules and regulations consistent with this section.

11 SECTION 2. Section 6-13-1 of the General Laws in Chapter 6-13 entitled "Unfair Sales  
12 Practices" is hereby amended to read as follows:

13 **6-13-1. Definitions.**

14 (a) "Cost to the retailer" means the invoice cost of the merchandise to the retailer within  
15 thirty (30) days prior to the date of the sale, or the replacement cost of the merchandise to the  
16 retailer within thirty (30) days prior to the date of the sale, in the quantity last purchased,  
17 whichever is lower; less all trade discounts except customary discounts for cash; to which shall be  
18 added:

19 (1) Freight charges not otherwise included in the cost of the merchandise;

1 (2) Cartage to the retail outlet if performed or paid for by the retailer, which cartage cost  
2 shall be deemed to be three-fourths of one percent (0.75%) of the cost of the merchandise to the  
3 retailer, unless the retailer claims and proves a lower cartage cost; and

4 (3) A markup to cover in part the cost of doing business, which markup, in the absence of  
5 proof of a lesser cost, shall be six percent (6%) of the total cost at the retail outlet.

6 (b) "Cost to the wholesaler" means the invoice cost of the merchandise to the wholesaler  
7 within thirty (30) days prior to the date of the sale, or the replacement cost of the merchandise to  
8 the wholesaler within thirty (30) days prior to the date of the sale, in the quantity last purchased,  
9 whichever is lower; less all trade discounts except customary discounts for cash; to which shall be  
10 added:

11 (1) Freight charges not otherwise included in the cost of the merchandise;

12 (2) Cartage to the retail outlet if performed or paid for by the wholesaler, which cartage  
13 cost shall be deemed to be three-fourths of one percent (0.75%) of the cost of the merchandise to  
14 the wholesaler, unless the wholesaler claims and proves a lower cartage cost; and

15 (3) A markup to cover in part the cost of doing business, which markup, in the absence of  
16 proof of a lesser cost, shall be two percent (2%) of the total cost at the wholesale establishment,  
17 provided, for the sales of cigarettes there shall be a minimum markup of fifteen percent (15%).

18 (c) Where two (2) or more items are advertised; offered for sale; or sold at a combined  
19 price; the price of each item shall be determined in the manner stated in subsections (a) and (b).

20 (d) "Sell at retail", "sales at retail", and "retail sale" mean and include any transfer of title  
21 to tangible personal property for a valuable consideration made in the ordinary course of trade or  
22 in the usual prosecution of the seller's business to the purchaser for consumption or use other than  
23 resale or further processing or manufacturing. In this and in the preceding subsection the previous  
24 terms shall include any transfer of property where title is retained by the seller as security for the  
25 payment of the purchase price.

26 (e) "Retailer" means and includes every person, co-partnership, corporation, or  
27 association engaged in the business of making sales at retail within this state; provided, that, in  
28 the case of a retailer engaged in the business of making sales both at retail and at wholesale, the  
29 term shall be applied only to the retail portion of the business.

30 (f) "Wholesaler" means and includes every person, partnership, corporation, or  
31 association engaged in the business of making sales at wholesale within this state; provided, that,  
32 in the case of a wholesaler engaged in the business of making sales both at wholesale and at  
33 retail, the term shall be applied only to the wholesale portion of the business.

34 (g) Whenever any person, partnership, corporation, or association in the course of doing

1 business performs the functions of both wholesaler and retailer without actually being engaged in  
2 the business of making sales at wholesale, the term "wholesaler" means and includes that function  
3 of the business of preparation for sale at the retail outlet, and the term "retailer" shall be applied  
4 only to the retail portion of the business.

5 (h) "Household" means and includes those who dwell under the same roof, house, or  
6 apartment.

7 (i) "Rebate" means a refund of a portion of the purchase price made to consumer to  
8 induce purchase of product.

9 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would require that a fifteen percent (15%) minimum markup be added to the  
2 total cost of cigarettes sold by retailers.

3           This act would take effect upon passage.

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