

2014 -- H 8173

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO COMMERCIAL LAW -- UNFAIR SALES PRACTICES -- CIGARETTE TAX

Introduced By: Representative Raymond E. Gallison

Date Introduced: May 08, 2014

Referred To: House Finance

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 6-13-1 and 6-13-2 of the General Laws in Chapter 6-13 entitled
2 "Unfair Sales Practices" are hereby amended to read as follows:

3 **6-13-1. Definitions.** -- (a) "Cost to the retailer" means the invoice cost of the
4 merchandise to the retailer within thirty (30) days prior to the date of the sale, or the replacement
5 cost of the merchandise to the retailer within thirty (30) days prior to the date of the sale, in the
6 quantity last purchased, whichever is lower; less all trade discounts except customary discounts
7 for cash; to which shall be added:

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

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

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

14 ~~-(b) "Cost to the wholesaler" means the invoice cost of the merchandise to the wholesaler~~
15 ~~within thirty (30) days prior to the date of the sale, or the replacement cost of the merchandise to~~
16 ~~the wholesaler 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; and~~

1 ~~(2) Cartage to the retail outlet if performed or paid for by the wholesaler, which cartage~~
2 ~~cost shall be deemed to be three fourths of one percent (0.75%) of the cost of the merchandise to~~
3 ~~the wholesaler, unless the wholesaler 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~~
5 ~~of proof of a lesser cost shall be two percent (2%) of the total cost at the wholesale establishment.~~

6 (e)(b) Where two (2) or more items are advertised, offered for sale, or sold at a combined
7 price, the price of each item shall be determined in the manner stated ~~in subsections (a) and (b)~~
8 [herein](#).

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

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

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

23 (g)(f) Whenever any person, partnership, corporation, or association in the course of
24 doing business performs the functions of both wholesaler and retailer without actually being
25 engaged in the business of making sales at wholesale, the term "wholesaler" means and includes
26 that function of the business of preparation for sale at the retail outlet, and the term "retailer" shall
27 be applied only to the retail portion of the business.

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

30 (i)(h) "Rebate" means a refund of a portion of the purchase price made to consumer to
31 induce purchase of product.

32 **6-13-2. Computation of cost of tobacco products.** -- For purposes of this chapter,

33 (1) The tax imposed by chapter 20 of title 44 shall be deemed to be a part of the original
34 cost of cigarettes ~~to the wholesaler~~;

1 (2) The invoice or replacement cost of cigarettes, cigars, smoking tobacco, chewing
2 tobacco, snuff, and other tobacco products, to any ~~wholesaler or~~ retailer, shall be deemed to be
3 the ~~minimum~~ price in this state at which the products ~~may be~~ were purchased in this state by the
4 ~~wholesaler or~~ retailer; and

5 (3) Merchandise given gratis to a ~~wholesaler or to a~~ retailer for display, advertising, or
6 promotion purposes, or otherwise, shall not be considered in determining the cost of merchandise
7 to the ~~wholesaler or~~ retailer, ~~as the case may be~~.

8 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
9 amended by adding thereto the following chapter:

10 CHAPTER 93

11 TOBACCO CONTROL PROGRAM

12 **23-93-1. Tobacco control program – Establishment and funding.** – The general
13 assembly shall include an appropriate amount in the annual budget for appropriations to the state
14 department of health to implement a tobacco control program and for programs and activities
15 aimed at reducing tobacco use in Rhode Island as recommended by the centers for disease control
16 and prevention, or its successor agency, to prevent and reduce tobacco use, reduce exposure to
17 secondhand smoke, encourage cessation efforts, and identify and eliminate disparities related to
18 tobacco use and its effects among different population groups.

19 SECTION 3. Section 44-20-12.4 of the General Laws in Chapter 44-20 entitled
20 "Cigarette Tax" is hereby amended to read as follows:

21 **44-20-12.4. Floor stock tax on cigarettes and stamps.** -- (a) Whenever used in this
22 section, unless the context requires otherwise:

23 (1) "Cigarette" means and includes any cigarette as defined in section 44-20-1(2);

24 (2) "Person" means and includes each individual, firm, fiduciary, partnership,
25 corporation, trust, or association, however formed.

26 (b) Each person engaging in the business of selling cigarettes at retail in this state shall
27 pay a tax or excise to the state for the privilege of engaging in that business during any part of the
28 calendar year ~~2012~~ 2014. In calendar year ~~2012~~ 2014, the tax shall be measured by the number of
29 cigarettes held by the person in this state at 12:01 a.m. on July 1, ~~2012~~ 2014 and is computed at
30 the rate of two (2.0) mills for each cigarette on July 1, ~~2012~~ 2014.

31 (c) Each distributor licensed to do business in this state pursuant to this chapter shall pay
32 a tax or excise to the state for the privilege of engaging in business during any part of the calendar
33 year ~~2012~~ 2014. The tax is measured by the number of stamps, whether affixed or to be affixed to
34 packages of cigarettes, as required by section 44-20-28. In calendar year ~~2012~~ 2014 the tax is

1 measured by the number of stamps, as defined in section 44-20-1(10), whether affixed or to be
2 affixed, held by the distributor at 12:01 a.m. on July 1, ~~2012~~ 2014, and is computed at the rate of
3 two (2.0) mills per cigarette in the package to which the stamps are affixed or to be affixed.

4 (d) Each person subject to the payment of the tax imposed by this section shall, on or
5 before July 10, ~~2012~~ 2014, file a return with the tax administrator on forms furnished by him or
6 her, under oath or certified under the penalties of perjury, showing the amount of cigarettes or
7 stamps in that person's possession in this state at 12:01 a.m. on July 1, ~~2012~~ 2014, and the amount
8 of tax due, and shall at the time of filing the return pay the tax to the tax administrator. Failure to
9 obtain forms shall not be an excuse for the failure to make a return containing the information
10 required by the tax administrator.

11 (e) The tax administrator may promulgate rules and regulations, not inconsistent with
12 law, with regard to the assessment and collection of the tax imposed by this section.

13 SECTION 4. 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 repeal the application of the unfair uniform sales practices law as to
2 transactions between wholesalers and retailers. Also, it would provide for a tobacco control
3 program to prevent and reduce tobacco use. Also, it would update the floor stock tax on cigarettes
4 and stamps to be applicable to the year 2014.

5 This act would take effect upon passage.

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