

2015 -- H 5327

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO TAXATION - CIGARETTE TAX-MINIMUM PRICE OF CIGARETTES

Introduced By: Representatives Phillips, Morin, Casey, Edwards, and Hull

Date Introduced: February 05, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 44-20-12 of the General Laws in Chapter 44-20 entitled "Cigarette  
2 Tax" is hereby amended to read as follows:

3           **44-20-12. Tax imposed on cigarettes sold.** -- A tax is imposed on all cigarettes sold or  
4 held for sale in the state. The payment of the tax to be evidenced by stamps, which may be  
5 affixed only by licensed distributors to the packages containing such cigarettes. Any cigarettes on  
6 which the proper amount of tax provided for in this chapter has been paid, payment being  
7 evidenced by the stamp, is not subject to a further tax under this chapter. The tax is at the rate of  
8 ~~one hundred seventy five (175)~~ one hundred fifty (150) mills for each cigarette.

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

11           **44-20-12.5. Minimum pricing of cigarettes.** -- Notwithstanding any rule, regulation or  
12 state law to the contrary, a minimum markup of fifteen percent (15%) shall be added to the total  
13 cost of cigarettes sold by a retailer. The total cost shall include the invoice cost of the  
14 merchandise to the retailer plus the cigarette excise tax imposed by § 44-20-12 plus freight  
15 charges and cartage cost to the retail outlet if performed or paid for by the retailer. The minimum  
16 markup of fifteen percent (15%) shall not be deemed to be an unfair sales practice pursuant to  
17 chapter 13 of title 6. The tax administrator shall promulgate rules and regulations consistent with  
18 this section.

19           SECTION 3. Section 6-13-1 of the General Laws in Chapter 6-13 entitled "Unfair Sales

1 Practices" is hereby amended to read as follows:

2 **6-13-1. Definitions.** -- (a) "Cost to the retailer" means the invoice cost of the  
3 merchandise to the retailer within thirty (30) days prior to the date of the sale, or the replacement  
4 cost of the merchandise to the retailer within thirty (30) days prior to the date of the sale, in the  
5 quantity last purchased, whichever is lower; less all trade discounts except customary discounts  
6 for cash; to which shall be added:

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

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

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

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

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

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

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

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

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

34 (e) "Retailer" means and includes every person, co-partnership, corporation, or

1 association engaged in the business of making sales at retail within this state; provided, that, in  
2 the case of a retailer engaged in the business of making sales both at retail and at wholesale, the  
3 term shall be applied only to the retail portion of the business.

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

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

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

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

17 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 reduce the cigarette tax by fifty cents (\$0.50) per pack and require a  
2 fifteen percent (15%) minimum markup be added to the total cost of cigarettes sold by retailers.

3           This act would take effect upon passage.

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