

2015 -- H 5559

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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 COMMERCIAL LAW-GENERAL REGULATORY PROVISIONS - UNFAIR
SALES PRACTICES

Introduced By: Representative Raymond E. Gallison

Date Introduced: February 25, 2015

Referred To: House Finance

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:~~

1 ~~(1) Freight charges not otherwise included in the cost of the merchandise;~~
2 ~~(2) Cartage to the retail outlet if performed or paid for by the wholesaler, which cartage~~
3 ~~cost shall be deemed to be three fourths of one percent (0.75%) of the cost of the merchandise to~~
4 ~~the wholesaler, unless the wholesaler claims and proves a lower cartage cost; and~~
5 ~~(3) A markup to cover in part the cost of doing business, which markup, in the absence~~
6 ~~of proof of a lesser cost, shall be two percent (2%) of the total cost at the wholesale~~
7 ~~establishment.~~

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

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

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

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

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

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

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

34 **6-13-2. Computation of cost of tobacco products.** -- For purposes of this chapter:

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

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

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

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

12 CHAPTER 94

13 HEALTH AND SAFETY

14 **23-94-1. Tobacco control program – Establishment and funding.** – The general
15 assembly shall include an appropriate amount in the annual budget for appropriations to the state
16 department of health to implement a tobacco control program and for programs and activities
17 aimed at reducing tobacco in Rhode Island as recommended by the centers for disease control and
18 prevention, or its successor agency, to prevent and reduce tobacco use, reduce exposure to
19 secondhand smoke, encourage cessation effects, and identify and eliminate disparities related to
20 tobacco use and its effects among different population groups.

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

23 **44-20-12.4. Floor stock tax on cigarettes and stamps.** -- (a) Whenever used in this
24 section, unless the context requires otherwise:

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

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

28 (b) Each person engaging in the business of selling cigarettes at retail in this state shall
29 pay a tax or excise to the state for the privilege of engaging in that business during any part of the
30 calendar year ~~2012~~ 2015. In calendar year ~~2012~~ 2015, the tax shall be measured by the number of
31 cigarettes held by the person in this state at 12:01 a.m. on July 1, ~~2012~~ 2015 and is computed at
32 the rate of two (2.0) mills for each cigarette on July 1, ~~2012~~ 2015.

33 (c) Each distributor licensed to do business in this state pursuant to this chapter shall pay
34 a tax or excise to the state for the privilege of engaging in business during any part of the calendar

1 year ~~2012~~ 2015. The tax is measured by the number of stamps, whether affixed or to be affixed to
2 packages of cigarettes, as required by § 44-20-28. In calendar year ~~2012~~ 2015 the tax is measured
3 by the number of stamps, as defined in § 44-20-1(10), whether affixed or to be affixed, held by
4 the distributor at 12:01 a.m. on July 1, ~~2012~~ 2015, and is computed at the rate of two (2.0) mills
5 per cigarette in the package to which the stamps are affixed or to be affixed.

6 (d) Each person subject to the payment of the tax imposed by this section shall, on or
7 before July 10, ~~2012~~ 2015, file a return with the tax administrator on forms furnished by him or
8 her, under oath or certified under the penalties of perjury, showing the amount of cigarettes or
9 stamps in that person's possession in this state at 12:01 a.m. on July 1, ~~2012~~ 2015, and the amount
10 of tax due, and shall at the time of filing the return pay the tax to the tax administrator. Failure to
11 obtain forms shall not be an excuse for the failure to make a return containing the information
12 required by the tax administrator.

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

15 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 definition of "cost to the wholesaler" within the unfair sales
2 practices act. The act would also provide for the establishment of a tobacco control program to
3 prevent and reduce tobacco use. The act would also update the floor stock tax on cigarettes,
4 beginning, in 2015.

5 This act would take effect upon passage.

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