

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1213 Session of 2015

INTRODUCED BY M. DALEY, FRANKEL, KINSEY, BROWNLEE, O'BRIEN,  
McNEILL, COHEN, CALTAGIRONE, SCHREIBER, YOUNGBLOOD, SIMS,  
C. PARKER, ROZZI AND THOMAS, MAY 14, 2015

REFERRED TO COMMITTEE ON FINANCE, MAY 14, 2015

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," in cigarette tax, further providing for incidence  
11 and rate of tax and for floor tax; and providing for tobacco  
12 products tax.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Sections 1206 and 1206.1 of the act of March 4,  
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,  
17 amended October 9, 2009 (P.L.451, No.48), are amended to read:

18 Section 1206. Incidence and Rate of Tax.--An excise tax is  
19 hereby imposed and assessed upon the sale or possession of  
20 cigarettes within this Commonwealth at the rate of [eight]  
21 thirteen cents per cigarette.

22 Section 1206.1. Floor Tax.--(a) The following apply:

(1) A person who possesses cigarettes on which the tax imposed by section 1206 has been paid as of the effective date of this section shall pay an additional tax at a rate of [one and twenty-five hundredths] five cents per cigarette. The tax shall be paid and reported on a form prescribed by the department within ninety days of the effective date of this section.

(2) On or after the effective date of this paragraph, a person that possesses little cigars in a package which is similar to a package of cigarettes other than little cigars and which contains twenty to twenty-five little cigars shall pay a tax at the rate of [eight] five cents per little cigar. The tax shall be paid and reported on a form prescribed by the department within ninety days of the effective date of this paragraph.

(3) [After January 3, 2010,] On or after October 1, 2015, a retailer that possesses little cigars on which the tax imposed by this article has not been paid shall pay a tax at the rate of [eight] five cents per little cigar. The tax shall be paid and reported on a form prescribed by the department within ninety days of the effective date of this paragraph.

(b) If a cigarette dealer fails to file the report required by subsection (a) or fails to pay the tax imposed by subsection (a), the department may, in addition to the interest and penalties provided in section 1278, do any of the following:

(1) Impose an administrative penalty equal to the amount of tax evaded or not paid. The penalty shall be added to the tax evaded or not paid and assessed and collected at the same time and in the same manner as the tax.

(2) Suspend or revoke a cigarette dealer's license.

(c) In addition to any penalty imposed under subsection (b), a person who willfully omits, neglects or refuses to comply with a duty imposed under subsection (a) commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000), to serve a term of imprisonment not to exceed thirty days or both.

Section 2. The act is amended by adding an article to read:

ARTICLE XII-A

TOBACCO PRODUCTS TAX

Section 1201-A. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Cigar." Any roll of tobacco wrapped in tobacco.

"Cigarette." As defined in section 1201.

"Consumer." An individual who purchases tobacco products for personal use and not for resale.

"Contraband." Any tobacco product for which the tax imposed by this article has not been paid.

"Dealer." A wholesaler or retailer. Nothing in this article shall preclude any person from being a wholesaler or retailer, provided the person meets the requirements for a license in each category of dealer.

"Department." The Department of Revenue of the Commonwealth.

"Electronic cigarette." As follows:

(1) An electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substance and the use or inhalation of which simulates smoking.

1       (2) The term includes:

2           (i) A device as described in paragraph (1),  
3       notwithstanding whether the device is manufactured,  
4       distributed, marketed or sold as an e-cigarette, e-cigar  
5       and e-pipe or under any other product, name or  
6       description.

7           (ii) A liquid or substance placed in an electronic  
8       cigarette.

9       "Manufacturer." A person that produces tobacco products.

10      "Person." An individual, unincorporated association,  
11      company, corporation, joint stock company, group, agency,  
12      syndicate, trust or trustee, receiver, fiduciary, partnership,  
13      conservator, any political subdivision of the Commonwealth or  
14      any other state. If used in any of the provisions of this  
15      article prescribing or imposing penalties, the term "person" as  
16      applied to a partnership, unincorporated association or other  
17      joint venture, shall mean the partners or members of the  
18      partnership, unincorporated association or other joint venture,  
19      and as applied to a corporation, shall mean each officer and  
20      director of the corporation.

21      "Purchase price." The total value of anything paid or  
22      delivered, or promised to be paid or delivered, money or  
23      otherwise, in complete performance of a sale or purchase,  
24      without any deduction on account of the cost or value of the  
25      property sold, cost or value of transportation, cost or value of  
26      labor or service, interest or discount paid or allowed after the  
27      sale is consummated, any other taxes imposed by the Commonwealth  
28      or any other expense.

29      "Retailer." A person that purchases or receives tobacco  
30      products from any source for the purpose of sale to a consumer,

1 or who owns, leases or otherwise operates one or more vending  
2 machines for the purpose of sale of tobacco products to the  
3 ultimate consumer. The term includes a vending machine operator  
4 or a person that buys, sells, transfers or deals in tobacco  
5 products and is not licensed as a tobacco products wholesaler  
6 under this article.

7 "Roll-your-own tobacco." Any tobacco which, because of the  
8 tobacco's appearance, type, packaging or labeling, is suitable  
9 for use and is likely to be offered to, or purchased by,  
10 consumers as tobacco for making cigarettes.

11 "Sale." Any transfer of ownership, custody or possession of  
12 tobacco products for consideration; any exchange, barter or  
13 gift; or any offer to sell or transfer the ownership, custody or  
14 possession of tobacco products for consideration.

15 "Taxpayer." Any person subject to tax under this article.

16 "Tobacco products." Cigars, cigarillos, cheroots, stogies,  
17 periques, granulated, plug cut, crimp cut, ready rubbed and  
18 other smoking tobacco, roll-your-own tobacco, snuff, dry snuff,  
19 snuff flour, cavendish, plug and twist tobacco, fine-cut and  
20 other chewing tobaccos, shorts, refuse scraps, clippings,  
21 cuttings and sweepings of tobacco and other kinds and forms of  
22 tobacco, prepared in such manner as to be suitable for chewing  
23 or ingesting or for smoking in a pipe or otherwise, or both for  
24 chewing and smoking, including e-cigarettes. The term does not  
25 include any item subject to the tax under section 1202-A.

26 "Unclassified importer." A person in this Commonwealth that  
27 acquires a tobacco product from any source on which the tax  
28 imposed by this article was not paid and that is not a person  
29 otherwise required to be licensed under the provisions of this  
30 article. The term includes, but is not limited to, a consumer

1 who purchases tobacco products using the Internet or mail order  
2 catalogs for personal possession or use in this Commonwealth.

3 "Vending machine operator." A person who places or services  
4 one or more tobacco product vending machines whether owned,  
5 leased or otherwise operated by the person at locations from  
6 which tobacco products are sold to the consumer. The owner or  
7 tenant of the premises upon which a vending machine is placed  
8 shall not be considered a vending machine operator if the  
9 owner's or tenant's sole remuneration from the vending machine  
10 is a flat rental fee or commission based upon the number or  
11 value of tobacco products sold from the machine, unless the  
12 owner or tenant actually owns the vending machine or leases the  
13 vending machine under an agreement in which any profits from the  
14 sale of the tobacco products directly inure to the owner's or  
15 tenant's benefit.

16 "Wholesaler." A person engaged in the business of selling  
17 tobacco products that receives, stores, sells, exchanges or  
18 distributes tobacco products to retailers or other wholesalers  
19 in this Commonwealth or retailers who purchase from a  
20 manufacturer or from another wholesaler who has not paid the tax  
21 imposed by this article.

22 Section 1202-A. Incidence and rate of tax.

23 (a) Imposition.--A tobacco products tax is imposed on the  
24 dealer, manufacturer or any person at the time a tobacco product  
25 is first sold to a retailer in this Commonwealth at the rate of  
26 40% on the purchase price charged to the retailer for the  
27 purchase of the tobacco product. The tax shall be collected from  
28 the retailer by whomever sells the tobacco product to the  
29 retailer and remitted to the department. Any person required to  
30 collect this tax shall separately state the amount of tax on an

1 invoice or other sales document.

2 (b) Retailer.--If the tax is not collected by the seller  
3 from the retailer, the tax is imposed on the retailer at the  
4 time of purchase at the same rate as in subsection (a) based on  
5 the retailer's purchase price of the tobacco product. The  
6 retailer shall remit the tax to the department.

7 (c) Unclassified importer.--The tax is imposed on an  
8 unclassified importer at the time of purchase at the same rate  
9 as in subsection (a) based on the unclassified importer's  
10 purchase price of the tobacco product. The unclassified importer  
11 shall remit the tax to the department.

12 (d) Exceptions.--The tax shall not be imposed on tobacco  
13 products that:

14 (1) are exported for sale outside this Commonwealth; or

15 (2) are not subject to taxation by the Commonwealth  
16 pursuant to any laws of the United States.

17 Section 1203-A. Floor tax.

18 (a) Payment.--Any retailer that, as of the effective date of  
19 this article, possesses tobacco products subject to the tax  
20 imposed by section 1202-A shall pay the tax on the tobacco  
21 products in accordance with the rates specified in section 1202-  
22 A. The tax shall be paid and reported on a form prescribed by  
23 the department within 90 days of the effective date of this  
24 section.

25 (b) Administrative penalty; license.--If a retailer fails to  
26 file the report required by subsection (a) or fails to pay the  
27 tax imposed by subsection (a), the department may, in addition  
28 to the interest and penalties provided in section 1215-A, do any  
29 of the following:

30 (1) Impose an administrative penalty equal to the amount

1 of tax evaded or not paid. The penalty shall be added to the  
2 tax evaded or not paid and assessed and collected at the same  
3 time and in the same manner as the tax.

4 (2) Suspend, revoke or refuse to issue the retailer's  
5 license.

6 (c) Criminal penalty.--In addition to any penalty imposed  
7 under subsection (b), a person that willfully omits, neglects or  
8 refuses to comply with a duty imposed under subsection (a)  
9 commits a misdemeanor and shall, if convicted, be sentenced to  
10 pay a fine of not less than \$2,500 nor more than \$5,000 or to  
11 serve a term of imprisonment not to exceed 30 days, or both.

12 Section 1204-A. Remittance of tax to department.

13 Wholesalers, retailers, unclassified importers and  
14 manufacturers shall file monthly reports on a form prescribed by  
15 the department by the 20th day of the month following the sale  
16 or purchase of tobacco products from any other source on which  
17 the tax levied by this article has not been paid. The tax is due  
18 at the time the report is due. The department may require the  
19 filing of reports and payment of tax on a less frequent basis at  
20 its discretion.

21 Section 1205-A. Article II provisions.

22 Unless otherwise specifically noted, the provisions of  
23 Article II shall apply to the returns, payments, penalties,  
24 enforcement, collections and appeals of the tax imposed under  
25 this Article.

26 Section 1206-A. Procedures for claiming refund.

27 A claim for a refund of tax imposed by this article under  
28 section 3003.1 and Article XXVII shall be in the form and  
29 contain the information prescribed by the department by  
30 regulation.



1 Section 1207-A. Sales or possession of tobacco product when tax  
2 not paid.

3 (a) Sales or possession.--Any person who sells or possesses  
4 any tobacco product for which the proper tax has not been paid  
5 commits a summary offense and shall, upon conviction, be  
6 sentenced to pay costs of prosecution and a fine of not less  
7 than \$100 nor more than \$1,000 or to imprisonment for not more  
8 than 60 days, or both, at the discretion of the court. Tobacco  
9 products purchased from a wholesaler properly licensed under  
10 this article shall be presumed to have the proper taxes paid.

11 (b) Tax evasion.--Any person that falsely or fraudulently,  
12 maliciously, intentionally or willfully with intent to evade the  
13 payment of the tax imposed by this article sells or possesses  
14 any tobacco product for which the proper tax has not been paid  
15 commits a felony and shall, upon conviction, be sentenced to pay  
16 costs of prosecution and a fine of not more than \$15,000 or to  
17 imprisonment for not more than five years, or both, at the  
18 discretion of the court.

19 Section 1208-A. Assessment.

20 The department is authorized to make the inquiries,  
21 determinations and assessments of the tax, including interest,  
22 additions and penalties, imposed by this article.

23 Section 1209-A. (Reserved).

24 Section 1210-A. (Reserved).

25 Section 1211-A. Failure to file return.

26 When no return is filed, the amount of the tax due may be  
27 assessed and collected at any time as to taxable transactions  
28 not reported.

29 Section 1212-A. False or fraudulent return.

30 If a taxpayer willfully files a false or fraudulent return

1 with intent to evade the tax imposed by this article, the amount  
2 of tax due may be assessed and collected at any time.

3 Section 1213-A. Extension of limitation period.

4 Notwithstanding any other provision of this article, where,  
5 before the expiration of the period prescribed for the  
6 assessment of a tax, a taxpayer has consented, in writing, that  
7 the period be extended, the amount of tax due may be assessed at  
8 any time within the extended period. The period so extended may  
9 be extended further by subsequent consents, in writing, made  
10 before the expiration of the extended period.

11 Section 1214-A. Failure to furnish information, returning false  
12 information or failure to permit inspection.

13 (a) Penalty.--Any taxpayer who fails to keep or make any  
14 record, return, report, inventory or statement or keeps or makes  
15 any false or fraudulent record, return, report, inventory or  
16 statement required by this article commits a misdemeanor and  
17 shall, upon conviction, be sentenced to pay costs of prosecution  
18 and a fine of \$500 or to imprisonment for not more than one  
19 year, or both, at the discretion of the court.

20 (b) Examination.--The department is authorized to examine  
21 the books and records, the stock of tobacco products and the  
22 premises and equipment of any taxpayer in order to verify the  
23 accuracy of the payment of the tax imposed by this article. The  
24 person subject to an examination shall give to the department or  
25 its duly authorized representative, the means, facilities and  
26 opportunity for the examination. Willful refusal to cooperate  
27 with or permit an examination to the satisfaction of the  
28 department shall be sufficient grounds for the suspension or  
29 revocation of a taxpayer's license. In addition, a person who  
30 willfully refuses to cooperate with or permit an examination to

1 the satisfaction of the department commits a misdemeanor and  
2 shall, upon conviction, be sentenced to pay costs of prosecution  
3 and a fine of \$500 or to imprisonment for not more than one  
4 year, or both, at the discretion of the court.

5 (c) Records; dealer or manufacturer.--A dealer or  
6 manufacturer shall keep and maintain for a period of four years  
7 records in the form prescribed by the department. The records  
8 shall be maintained at the location for which the license is  
9 issued.

10 (d) Reports.--A dealer or manufacturer shall file reports at  
11 times and in the form prescribed by the department.

12 (e) Records; manufacturer or wholesaler.--A manufacturer or  
13 wholesaler located or doing business in this Commonwealth who  
14 sells tobacco products to a wholesale license holder in this  
15 Commonwealth shall keep records showing:

16 (1) The number and kind of tobacco products sold.

17 (2) The date the tobacco products were sold.

18 (3) The name and license number of the dealer to whom  
19 the tobacco products were sold.

20 (4) The total weight of each of the tobacco products  
21 sold to the license holder.

22 (5) The purchase price charged to the license holder for  
23 each unit of tobacco products sold.

24 (6) The place where the tobacco products were shipped.

25 (7) The name of the common carrier.

26 (f) Manufacturer or wholesaler.--A manufacturer or  
27 wholesaler shall file with the department, on or before the 20th  
28 of each month, a report showing the information listed in  
29 subsection (e) for the previous month.

30 Section 1215-A. Other violations; peace officers; fines.

Sections 1278, 1279, 1280 and 1291 are incorporated by reference into and shall apply to the tax imposed by this article.

Section 1216-A. Sales reporting.

For purposes of reporting sales of roll-your-own tobacco under the act of June 22, 2000 (P.L.394, No.54), known as the Tobacco Settlement Agreement Act, 0.09 ounces of tobacco shall constitute one individual unit sold.

Section 1217-A. (Reserved).

Section 1218-A. (Reserved).

Section 1219-A. Records of shipments and receipts of tobacco products required.

The department may, in its discretion and at such times as it deems necessary, require a report from any common or contract carrier who transports tobacco products to any point or points within this Commonwealth, and from any bonded warehouseman or bailee who has in the possession of the warehouseman or bailee any tobacco products. The report shall contain the information concerning shipments of tobacco products that the department determines to be necessary for the administration of this article. All common and contract carriers, bailees and warehousemen shall permit the examination by the department or its authorized agents of any records relating to the shipment or receipt of tobacco products.

Section 1220-A. Licensing of dealers and manufacturers.

(a) Prohibition.--No person, unless all sales of tobacco products are exempt from Pennsylvania tobacco products tax, shall sell, transfer or deliver any tobacco products in this Commonwealth without first obtaining the proper license provided for in this article.

1     (b) Application.--An applicant for a dealer's or  
2 manufacturer's license shall complete and file an application  
3 with the department. The application shall be in the form and  
4 contain information prescribed by the department and shall set  
5 forth truthfully and accurately the information desired by the  
6 department. If the application is approved, the department shall  
7 license the dealer or manufacturer for a period of one year and  
8 the license may be renewed annually thereafter.

9 Section 1221-A. Licensing of manufacturers.

10 Any manufacturer doing business within this Commonwealth  
11 shall first obtain a license to sell tobacco products by  
12 submitting an application to the department containing the  
13 information requested by the department and designating a  
14 process agent. If a manufacturer designates no process agent,  
15 the manufacturer shall be deemed to have made the Secretary of  
16 State its agent for the service of process in this Commonwealth.

17 Section 1222-A. Licensing of wholesalers.

18 (a) Requirements.--An applicant for a wholesale license or  
19 renewal of a wholesale license shall meet the following  
20 requirements:

21         (1) The premises on which the applicant proposes to  
22 conduct business are adequate to protect the revenue.

23         (2) The applicant is a person of reasonable financial  
24 stability and reasonable business experience.

25         (3) The applicant, or any shareholder controlling more  
26 than 10% of the stock if the applicant is a corporation or  
27 any officer or director if the applicant is a corporation,  
28 shall not have been convicted of any crime involving moral  
29 turpitude.

30         (4) The applicant shall not have failed to disclose any

1 material information required by the department, including  
2 information that the applicant has complied with this article  
3 by providing a signed statement under penalty of perjury.

4 (5) The applicant shall not have made any material false  
5 statement in the application.

6 (6) The applicant shall not have violated any provision  
7 of this article.

8 (7) The applicant shall have filed all required State  
9 tax reports and paid any State taxes not subject to a timely  
10 perfected administrative or judicial appeal or subject to a  
11 duly authorized deferred payment plan.

12 (b) Multiple locations.--The wholesale license shall be  
13 valid for one specific location only. A wholesaler with more  
14 than one location shall obtain a license for each location.

15 Section 1223-A. Licensing of retailers.

16 An applicant for a retail license or renewal of a retail  
17 license shall meet the following requirements:

18 (1) The premises on which the applicant proposes to  
19 conduct business are adequate to protect the revenues.

20 (2) The applicant shall not have failed to disclose any  
21 material information required by the department.

22 (3) The applicant shall not have made any material false  
23 statement in the application.

24 (4) The applicant shall not have violated any provision  
25 of this article.

26 (5) The applicant shall have filed all required State  
27 tax reports and paid all State taxes due that are not subject  
28 to a timely perfected administrative or judicial appeal or  
29 subject to a duly authorized deferred payment plan.

30 Section 1224-A. License for tobacco products vending machines.

Each tobacco products vending machine shall have a current retail license which shall be conspicuously and visibly placed on the machine. There shall be conspicuously and visibly placed on every tobacco products vending machine the name and address of the owner and the name and address of the operator.

Section 1225-A. License fees and issuance and display of license.

(a) At the time of making any application or license renewal application:

(1) An applicant for a tobacco products manufacturer's license shall pay the department a license fee of \$1,500.

(2) An applicant for a wholesale tobacco products dealer's license shall pay to the department a license fee of \$1,500.

(3) An applicant for a retail tobacco products dealer's license shall pay to the department a license fee of \$25.

(4) An applicant for a vending machine tobacco products dealer's license shall pay to the department a license fee of \$25.

(b) Proration.--Fees shall not be prorated.

(c) Issuance and display.--Upon approval of the application and payment of the appropriate fee, the department shall issue the proper license which must be conspicuously displayed at the location for which it was issued.

Section 1226-A. Electronic filing.

The department may at its discretion require that any or all returns, reports or registrations that are required to be filed under this article be filed electronically. Failure to electronically file any return, report, registration or other information the department may direct to be filed electronically

1 shall subject the taxpayer to a penalty of 5% of the tax due on  
2 the return, up to a maximum of \$1,000, but not less than \$10.  
3 This penalty may be assessed at any time and collected in the  
4 manner provided in this article. This penalty shall be in  
5 addition to any civil penalty imposed in this article for  
6 failure to furnish information or file a return. The criminal  
7 penalty for failure to file a return electronically shall be the  
8 same as the criminal penalty for failure to furnish information  
9 or file a return under this article.

10 Section 1227-A. Expiration of license.

11 (a) Expiration.--A license shall expire on the last day of  
12 June next succeeding the date upon which it was issued unless  
13 the department at an earlier date suspends, surrenders or  
14 revokes the license.

15 (b) Violation.--After the expiration date of the license or  
16 sooner if the license is suspended, surrendered or revoked, it  
17 shall be illegal for any dealer to engage directly or indirectly  
18 in the business conducted by the dealer for which the license  
19 was issued. Any licensee who shall, after the expiration date of  
20 the license, engage in the business conducted by the licensee  
21 either by way of purchase, sale, distribution or in any other  
22 manner directly or indirectly engaged in the business of dealing  
23 with tobacco products for profit shall be in violation of this  
24 article and be subject to the penalties provided in this  
25 article.

26 Section 1228-A. Administration powers and duties.

27 (a) Department.--The administration of this article is  
28 vested in the department. The department shall adopt rules and  
29 regulations for the enforcement of this article. The department  
30 may impose fees as may be necessary to cover the costs incurred



1 in administering this section.

2 (b) Joint administration.--The department is authorized to  
3 jointly administer this article with other provisions of this  
4 act, including joint reporting of information, forms, returns,  
5 statements, documents or other information submitted to the  
6 department.

7 Section 1229-A. Sales without license.

8 (a) Penalty.--Any person who shall, without being the holder  
9 of a proper unexpired dealer's license, engage in purchasing,  
10 selling, distributing or in any other manner directly or  
11 indirectly engaging in the business of dealing with tobacco  
12 products for profit commits a summary offense and shall, upon  
13 conviction, be sentenced to pay costs of prosecution and a fine  
14 of not less than \$250 nor more than \$1,000, or to imprisonment  
15 for not more than 30 days, or both, at the discretion of the  
16 court.

17 (b) Prima facie evidence.--Open display of tobacco products  
18 in any manner shall be prima facie evidence that the person  
19 displaying such tobacco products is directly or indirectly  
20 engaging in the business of dealing with tobacco products for  
21 profit.

22 Section 1230-A. Violations and penalties.

23 (a) Suspension.--The license of any person who violates this  
24 article may be suspended after due notice and opportunity for a  
25 hearing for a period of not less than five days or more than 30  
26 days for a first violation and shall be revoked or suspended for  
27 any subsequent violation.

28 (b) Fine.--In addition to the provisions of subsection (a),  
29 upon adjudication of a first violation, the person shall be  
30 finned not less than \$2,500 nor more than \$5,000. For subsequent

violations, the person shall, upon adjudication, be fined not less than \$5,000 nor more than \$15,000.

(c) Civil penalty.--A person who violates section 1214-A (b), (c) or (d) or 1225-A(c), shall be subject to a civil penalty not to exceed \$300 per violation but shall not be subject to subsections (a) and (b).

Section 1231-A. Property rights.

(a) Incorporation.--Subject to subsection (b), section 1285 is incorporated by reference into and shall apply to this article.

(b) Alterations.--

(1) References in section 1285 to cigarettes shall apply to tobacco products in this article.

(2) References in section 1285 to 2,000 or more unstamped cigarettes shall apply to tobacco products worth at least \$500 in this article.

(3) References in section 1285 to more than 200 unstamped cigarettes shall apply to tobacco products worth at least \$50 in this article.

Section 1232-A. Sample of tobacco products.

(a) Samples.--The department shall, by regulation, govern the receipt, distribution of and payment of tax on sample tobacco products issued for free distribution.

(b) Construction.--Nothing in this article or the regulations promulgated under this article shall prohibit the bringing into this Commonwealth by a manufacturer samples of tobacco products to be delivered and distributed only through licensed dealers or the manufacturers or their sales representatives. The tax shall be paid by the manufacturer provided the packaging for the tobacco products bears the legend

1 "all applicable State taxes have been paid." Under no  
2 circumstances shall any untaxed tobacco products be sold within  
3 this Commonwealth.

4 Section 1233-A. Labeling and packaging.

5 It shall be unlawful to knowingly possess, sell, give,  
6 transfer or deliver to any person any tobacco product, the  
7 packaging of which has been modified or altered by a person  
8 other than the original manufacturer. Modification or alteration  
9 shall include the placement of a sticker, writing or mark to  
10 cover information on the packages. For purposes of this section,  
11 a tobacco product package shall not be construed to have been  
12 modified or altered by a person other than the manufacturer if  
13 the most recent modification or alteration was made by the  
14 manufacturer or person authorized by the manufacturer and  
15 approved by the department.

16 Section 1234-A. Information exchange.

17 The department is authorized to exchange information with any  
18 other Federal, State or local enforcement agency for purposes of  
19 enforcing this article.

20 Section 3. This act shall take effect October 1, 2015, or  
21 immediately, whichever is later.