
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2715 Session of
2004

INTRODUCED BY JOSEPHS, CAWLEY, FRANKEL, HORSEY, JAMES, MUNDY,
MANDERINO, THOMAS AND YOUNGBLOOD, JUNE 16, 2004

REFERRED TO COMMITTEE ON FINANCE, JUNE 16, 2004

AN ACT

1 Providing for cigarette tax definitions and imposition; and
2 establishing the Tobacco Control Account.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Cigarette and
7 Other Tobacco Products Tax Act.

8 Section 2. Definitions.

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

12 "Cigarette." Any roll for smoking made wholly or in part of
13 tobacco, the wrapper or cover of which is made of any substance
14 or material other than tobacco regardless of the size or shape
15 of the roll and regardless of whether or not the tobacco is
16 flavored, adulterated or mixed with any other ingredient. The
17 term cigarette shall not include cigars, little cigars or

1 cigarillos.

2 "Smokeless tobacco." A product containing finely cut,
3 ground, powdered, blended or leaf tobacco made primarily for
4 individual consumption which is intended to be placed in the
5 oral or nasal cavity and not intended to be smoked. The term
6 includes chewing tobacco, dipping tobacco and snuff.

7 "Tobacco product." A product containing tobacco for
8 consumption. The term includes a cigar, a little cigar, a
9 cigarillo, pipe tobacco, smokeless tobacco, roll-your-own,
10 smoking tobacco, bidis or beedies and kretek. The term does not
11 include a cigarette.

12 "Tobacco product distributor or wholesaler." A person
13 engaged in the business of selling tobacco products that sells,
14 exchanges or distributes tobacco products to retailers,
15 consumers or other wholesalers or distributors in this
16 Commonwealth. The term includes a tobacco products manufacturer
17 that has within this Commonwealth any office, sales house or
18 other place of business.

19 "Wholesale price." The price for which a tobacco
20 manufacturer sells a tobacco product to a tobacco product
21 distributor or wholesaler, exclusive of any discount, rebate or
22 other reduction.

23 Section 3. Incidence and rate of tax on tobacco products.

24 (a) General rule.--Except as set forth in subsection (d), a
25 tax is imposed on a tobacco product sold or held for sale in
26 this Commonwealth by a tobacco products distributor or
27 wholesaler to a retailer or consumer. The tax is imposed on the
28 tobacco product wholesale price, regardless of the actual price
29 at which the tobacco product is sold and regardless of whether
30 the tobacco product is sold.

1 (b) Purchase of stamp.--A tobacco products distributor or
2 wholesaler that brings tobacco products or causes tobacco
3 products to be brought into this Commonwealth is liable for the
4 tax imposed by this section. The tax imposed is to be paid by
5 the purchase of stamps as provided in this act. The stamp shall
6 be affixed to or impressed upon each package of tobacco product.

7 (c) Tax.--The tax imposed by this section shall be at the
8 rate of 50% of the wholesale price of the tobacco product.
9 Cigars shall be capped at 75¢ per cigar.

10 (d) Applicability.--The tax under this section does not
11 apply to a tobacco product which the Commonwealth is prohibited
12 from taxing under the laws of the United States. It shall be
13 presumed that all tobacco products within this Commonwealth are
14 subject to tax. The burden of proof of exemption under this
15 subsection is on the taxpayer or remitter claiming exemption.

16 (e) Appropriation.--One hundred percent of the tax revenue
17 under this section shall be deposited each fiscal year into the
18 Tobacco Control Account, which is established as a separate
19 account in the State Treasury. The money in the account is
20 continuously appropriated to the account and shall not lapse at
21 the end of any fiscal year. The account shall be used by the
22 Department of Health and by the Insurance Department. Eighty
23 percent of the revenue shall be used for the Adult Basic
24 Coverage Insurance Program. Twenty percent shall be used for
25 tobacco control.

26 (f) Rules and regulations.--The department shall promulgate
27 regulations for enforcement and administration of this act.

28 Section 4. Effective date.

29 This act shall take effect immediately.