

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 2079** Session of  
1978

INTRODUCED BY REED, PRATT, MILLIRON, BROWN, GRAY, ZITTERMAN,  
BORSKI, JONES, WISE, BITTINGER, STEWART, STUBAN, DeWEESE AND  
MANMILLER, FEBRUARY 21, 1978

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 21, 1978

AN ACT

1 Amending the act of July 22, 1970 (P.L.513, No.178), entitled  
2 "An act imposing a tax on the sale or possession of  
3 cigarettes and providing penalties," removing certain  
4 provisions concerning cigarette stamping agencies.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Clause (4) of section 102, act of July 22, 1970  
8 (P.L.513, No.178), known as the "Pennsylvania Cigarette Tax  
9 Act," is repealed.

10 Section 2. Sections 205 and 301 of the act are amended to  
11 read:

12 Section 205. Liability for Collection of Tax.--Every person  
13 shall be liable to pay into the State Treasury, through the  
14 department, the tax imposed by this act on all cigarettes  
15 received by him to which Pennsylvania cigarette tax stamps have  
16 not been previously affixed, the tax paid, or exempted by the  
17 provisions of this act. [Nothing in this paragraph shall relieve  
18 a cigarette stamping agency from its liability to pay the tax

1 imposed by this act on all cigarettes received by it to which  
2 Pennsylvania cigarette tax stamps have not been previously  
3 affixed, the tax paid, or exempted by the provisions of this  
4 act.]

5 Section 301. Stamp to Evidence the Tax.--(a) The department  
6 shall by regulation require every [cigarette stamping agency  
7 and/or] ultimate consumer, to use cigarette tax stamps to  
8 evidence the payment of the tax imposed by this act unless such  
9 stamps have been affixed to the packs of cigarettes and properly  
10 cancelled before such [cigarette stamping agency and/or]  
11 ultimate consumer received them.

12 (b) The department shall by regulation authorize the sale of  
13 cigarette tax stamps at such places and at such times as it  
14 deems necessary and the department shall prescribe the manner,  
15 time and conditions under which the payment of tax shall be  
16 made.

17 (c) The department shall also prescribe the type of  
18 cigarette tax stamps which shall be used, to evidence payment of  
19 the tax. Nothing in this provision shall be construed as a  
20 limitation upon the department to prescribe various methods of  
21 affixing cigarette tax stamps and said department, shall have  
22 the authority to prescribe one or more of several types of tax  
23 stamps which shall be used [by a particular cigarette stamping  
24 agency] whenever, in the reasonable exercise of its powers, it  
25 shall be deemed necessary for the protection of the revenue.

26 [(d) Under no circumstances shall any cigarette stamping  
27 agency be permitted to sell, transfer or deliver to any person  
28 any packages of unstamped cigarettes, or any unused cigarette  
29 tax stamps unless specifically permitted by the provisions of  
30 this act.

1 (e) The department shall by regulation permit only a  
2 Pennsylvania domiciled cigarette stamping agency to pay for  
3 purchases on a deferred basis, upon the filing of a surety bond,  
4 of the type approved by the department, with the department, in  
5 an amount deemed sufficient by the department to protect the  
6 revenue, said bond to be executed by the cigarette stamping  
7 agency as principal and by a corporate surety company, duly  
8 authorized to engage in such business in the Commonwealth of  
9 Pennsylvania, as surety.]

10 Section 3. Sections 302 and 402 of the act are repealed.

11 Section 4. Sections 405, 901 and subsections (b) and (d) of  
12 section 903 of the act are amended to read:

13 Section 405. Suspension or Revocation of License.--If the  
14 department has reason to believe that any person holding a  
15 license has not, in good faith, complied with all of the  
16 provisions of this act or has violated any of the conditions  
17 and/or requirements imposed under sections 401, [402,] 403 or  
18 404 of this act, the department shall prepare a complaint  
19 stating the facts charged and requesting such person to show  
20 cause why his license should not be suspended or revoked. Said  
21 complaint shall be presented to the Cigarette Tax Board as  
22 mentioned hereinafter, and if after a hearing conducted by the  
23 Cigarette Tax Board as hereinafter mentioned, the department  
24 finds that such person has not in good faith complied with this  
25 act and with the conditions and/or requirements under sections  
26 401 to 404 inclusive in this act, such license shall be  
27 suspended or revoked for such period as the department may deem  
28 proper.

29 Section 901. Sales without License.--Any dealer or other  
30 person who shall, without being the holder of a proper unexpired

1 dealer's license or vending machine license properly affixed as  
2 required by this act, engage in the business of purchasing,  
3 selling, [stamping,] distributing or in any other manner  
4 directly or indirectly engaging in the business of dealing with  
5 cigarettes for profit shall be in violation of this act, and  
6 upon conviction in a summary proceeding shall be sentenced to  
7 pay a fine of not less than twenty-five dollars (\$25) nor more  
8 than one hundred dollars (\$100) and costs of prosecution and in  
9 default of payment thereof to undergo imprisonment for not more  
10 than thirty days.

11 Section 903. Possession of Unstamped Cigarettes.--\* \* \*

12 (b) Any person [other than a duly licensed stamping agency  
13 or other person specifically exempted by the provisions of this  
14 act] who shall possess more than five thousand cigarettes, the  
15 packages of which do not have affixed thereto the proper amount  
16 of genuine Pennsylvania cigarette tax stamps shall be guilty of  
17 a misdemeanor and upon conviction thereof shall be sentenced to  
18 a fine of not less than a thousand dollars (\$1000) nor more than  
19 five thousand dollars (\$5000) and costs of prosecution or in  
20 default thereof to suffer imprisonment for not more than ninety  
21 days.

22 \* \* \*

23 (d) Every person other than a common carrier engaged in  
24 interstate commerce who shall possess or transport more than two  
25 hundred unstamped cigarettes upon the public highways, roads or  
26 streets of this Commonwealth, shall be required to have in his  
27 possession invoices or delivery tickets for such cigarettes. The  
28 invoices or delivery tickets shall show the correct date of  
29 purchase and/or shipment, true name and complete and exact  
30 address of the consignor or seller, the true name and complete

1 and exact address of the consignee or purchaser, the quantity  
2 and brands of the cigarettes so transported and the true name  
3 and complete and exact address of the person who shall assume  
4 the payment of the Pennsylvania State tax or the tax, if any, of  
5 the state or foreign country at the point of ultimate  
6 destination. If the cigarettes are consigned to or purchased by  
7 any person in the Commonwealth of Pennsylvania such consignee or  
8 purchaser must be [a licensed cigarette stamping agency or  
9 otherwise] authorized by this act to possess unstamped  
10 cigarettes within the boundaries of this Commonwealth. The  
11 absence of such invoices or delivery tickets shall be prima  
12 facie evidence that the possession of such cigarettes is  
13 contrary to the provisions of this act and shall subject the  
14 possessor to the penalties imposed herein.

15 \* \* \*

16 Section 5. This act shall take effect in 90 days.