

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1236 Session of
2010

INTRODUCED BY HUGHES, TARTAGLIONE, COSTA, STACK, FONTANA, MUSTO,
O'PAKE, WILLIAMS, WASHINGTON, FARNESE, KITCHEN, LOGAN AND
MELLOW, APRIL 20, 2010

REFERRED TO FINANCE, APRIL 20, 2010

AN ACT

1 Providing for a tobacco product tax; and establishing the
2 Tobacco Product Tax 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 59.2% of the wholesale price of the tobacco product.

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

15 Section 4. Tobacco Product Tax Account.

16 (a) Creation.--A restricted receipts account known as the
17 Tobacco Product Tax Account is created in the State Treasury.

18 (b) Funding.--Funds obtained from the imposition of the tax
19 under section 3 shall be deposited into the Tobacco Product Tax
20 Account to be used to subsidize adult and youth employment
21 programs.

22 (c) Lapse.--Any funds not used for the purpose under
23 subsection (b) by June 30, 2011, shall lapse into the General
24 Fund.

25 Section 20. Effective date.

26 This act shall take effect immediately.