

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. Senate Bill 691

PRINTER NO. 1761

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 31, 2015

PRIME SPONSOR

Senator Mensch

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 691 amends Article II-A of the Fiscal Code (Act 176 of 1929) relating to Cigarette Sales and Licensing to increase a retailer's presumptive minimum cost of administering the cigarette tax, require the retention of certain records, provide for violations and penalties, and provide for preemption.

The legislation provides that the cost of doing business by a retailer of cigarettes shall be presumed to be seven percent of the basic cost of cigarettes to the retailer. Under current law, the presumed cost is six percent. This required cost of business mark-up has not changed in more than 60 years and was originally intended to ensure that larger stores were not able to undercut smaller retail competition.

The retailer mark-up is applied after the cigarette stamping agent has applied a 1.7% mark-up on the manufacturer's price, who then sells the cigarettes to a wholesaler who is required to mark up the price by 4%. The consumer then buys the cigarettes and pays a State cigarette tax of \$1.60 per pack and the sales and use tax of 6% on the retail purchase price.

Senate Bill 691 requires records to be kept of each contract of sale in the form of a document or Internet or electronic form at the licensed premises or at corporate headquarters.

The legislation provides that a licensee who fails to pay for cigarettes in full upon delivery within 14 days after delivery shall be in violation of the act.

Senate Bill 691 adds a preemption which stipulates that all powers and jurisdiction over dealers licensed under Article II-A shall reside with the Commonwealth unless they are specifically granted to a political subdivision. As amended, the legislation excludes the City of Philadelphia from this preemption.

The act shall take effect immediately.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

FISCAL IMPACT:

Enactment of this legislation will have no adverse fiscal impact on Commonwealth funds.

The legislation would increase the price of cigarettes by about \$0.05 per pack. Presently, the retail price of cigarettes in Pennsylvania is about \$7.30 per pack, and the retail price per pack is even higher in the City of Philadelphia. A five-cent increase to the price of a \$7.30 pack of cigarettes represents a price increase of well under one percent. Such an immaterial increase in the cost of cigarettes is unlikely to change consumer behavior (e.g. crossing state lines to purchase cigarettes in another state) because the costs and inconvenience of doing so would likely exceed the immaterial price increase.

No additional administrative costs are anticipated.