

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2508

Session of
2000

INTRODUCED BY L. I. COHEN, BUNT, CLYMER, DERMODY, FARGO, GANNON,
HENNESSEY, KENNEY, LaGROTTA, LAUGHLIN, MELIO, RAYMOND,
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MAY 3, 2000

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 4, 2000

AN ACT

1 Authorizing a tobacco access control tax credit; and imposing
2 powers and duties on the Secretary of Revenue.

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 Tobacco
7 Access Control Tax Credit 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 "Department." The Department of Revenue of the Commonwealth.

13 "Qualified tax liability." The liability for taxes imposed
14 under Article III, IV or VI of the act of March 4, 1971 (P.L.6,
15 No.2), known as the Tax Reform Code of 1971.

16 "Qualified tobacco access control expense." That expense

1 incurred by a taxpayer for the purchase and use of technology OR <—
2 SOFTWARE intended to control the access of minors to cigarettes
3 and which is capable of:

4 (1) Capturing the information from a magnetic strip on a
5 Pennsylvania driver's license or identification card issued
6 by the Department of Transportation.

7 (2) Producing a declaration of age in print ~~form and~~ <—
8 ~~storing a record of the event in memory.~~

9 ~~(3) Producing an audible, visual and printed result.~~

10 ~~(4) Reporting a history of the events, including the~~
11 ~~ability to transfer the data for archiving and data base~~
12 ~~development purposes.~~

13 ~~(5) Storing at least 1,000 events at any time before~~
14 ~~data is transferred.,~~ AUDIBLE OR VISUAL FORM. <—

15 (3) PROMPTING A CASHIER FOR AGE VERIFICATION WHEN A
16 TOBACCO PURCHASE IS RECORDED BY THE POINT-OF-SALE SYSTEM.

17 "Secretary." The Secretary of Revenue of the Commonwealth.

18 "Taxpayer." An entity licensed by the Department of Revenue
19 to sell cigarettes to a consumer.

20 "Tobacco access control tax credit." The credit provided
21 under this act.

22 Section 3. Credit for tobacco access control expenses.

23 (a) Application for credit by taxpayer.--A taxpayer who
24 incurs a qualified tobacco access control expense in a taxable
25 year may apply for a tobacco access control tax credit as
26 provided in this act. In order to receive the credit, the
27 taxpayer must submit an application to the department by
28 September 15 for a qualified tobacco access control expense
29 incurred in the taxable year that ended in the prior calendar
30 year.

(b) Amount of credit.--A taxpayer that timely applies under subsection (a) shall receive a tobacco access control tax credit for the taxable year up to the amount of \$900 per license per location.

(c) Notification of approval from department.--By December 15 of the calendar year following the close of the taxable year during which the qualified tobacco access control expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's tobacco access control tax credit approved by the department.

Section 4. Use of credit.

(a) Carryover.--

(1) The amount of the tobacco access control tax credit that a taxpayer may use against any one qualified tax liability during any year may not exceed 50% of the qualified tax liability for that taxable year.

(2) If the taxpayer cannot use the entire amount of the tobacco access control tax credit for the taxable year in which the tobacco access control tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years.

(3) Each time that the tobacco access control tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year.

(4) The tobacco access control tax credit provided by this act may be carried over and applied to succeeding taxable years for not more than four taxable years following the first taxable year for which the taxpayer was entitled to

1 claim the credit.

2 (b) Taxable year to which applied.--A tobacco access control
3 tax credit approved by the department for qualified tobacco
4 access control expense in a taxable year first shall be applied
5 against the taxpayer's qualified tax liability for the current
6 taxable year as of the date on which the credit was approved
7 before the tobacco access control tax credit is applied against
8 any tax liability under subsection (a).

9 (c) Limitations.--A taxpayer may not carry back, obtain a
10 refund of or assign an unused tobacco access control tax credit.

11 Section 5. Determination of qualified tobacco access control
12 expenses.

13 In prescribing standards for determining which tobacco access
14 control expense is to be deemed a qualified tobacco access
15 control expense for purposes of computing the credit provided by
16 this act, the department shall require:

17 (1) A copy of the technology OR SOFTWARE specifications <—
18 demonstrating that the specifications meet the definition of
19 a qualified tobacco access control expense.

20 (2) A copy of an invoice to the taxpayer for the
21 technology OR SOFTWARE purchased for qualification as a <—
22 qualified tobacco access control expense.

23 (3) A copy of the check or checks and paid receipts for
24 technology OR SOFTWARE purchased for qualifications as <—
25 qualified tobacco access control expense.

26 Section 6. Time limitation.

27 A taxpayer is not entitled to a tobacco access control tax
28 credit for qualified tobacco access control expenses incurred in
29 taxable years ending after December 31, 2005.

30 Section 7. Limitation on credits.

The total amount of credits approved by the department shall not exceed ~~\$20,000,000~~ \$10,000,000.

Section 8. Pennsylvania S Corporation shareholder pass-through.

(a) General rule.--If a Pennsylvania S Corporation does not have an eligible tax liability against which the tobacco access control tax credit may be applied, a shareholder of the Pennsylvania S Corporation is entitled to a tobacco access control tax credit equal to the tobacco access control tax credit determined for the Pennsylvania S Corporation for the taxable year multiplied by the percentage of the Pennsylvania S Corporation's distributive income to which the shareholder is entitled.

(b) Double use of credit prohibited.--A Pennsylvania S Corporation and a shareholder of a Pennsylvania S Corporation may not claim a credit under this act for the same qualified tobacco access control expense.

Section 9. Report to General Assembly.

The secretary shall submit an annual report to the General Assembly indicating the effectiveness of the credit provided by this act not later than March 15 following the year in which the credits are approved. The report shall include the number of taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized. The report may also include any recommendations for changes in the calculation or administration of the credit.

Section 10. Expiration.

The department may not approve a tobacco access control tax credit under this act for taxable years ending after December 31, 2005.

Section 11. Regulations.

1 The secretary shall promulgate regulations necessary for the
2 implementation and administration of this act.
3 Section 12. Effective date.
4 This act shall take effect immediately.