

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1704 Session of
2007

INTRODUCED BY BIANCUCCI, EACHUS, FABRIZIO, McCALL, BRENNAN,
CALTAGIRONE, CURRY, DeLUCA, DeWEESE, GERGELY, GIBBONS,
GOODMAN, GRUCELA, HARHAI, HENNESSEY, W. KELLER, KOTIK,
NAILOR, PETRONE, RAMALEY, SAINATO, SANTONI, SIPTROTH,
SOLOBAY, STURLA, SURRA, TANGRETTI, J. TAYLOR, WANSACZ AND
YOUNGBLOOD, JULY 6, 2007

REFERRED TO COMMITTEE ON COMMERCE, JULY 6, 2007

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,
2 as amended, "An act relating to the finances of the State
3 government; providing for the settlement, assessment,
4 collection, and lien of taxes, bonus, and all other accounts
5 due the Commonwealth, the collection and recovery of fees and
6 other money or property due or belonging to the Commonwealth,
7 or any agency thereof, including escheated property and the
8 proceeds of its sale, the custody and disbursement or other
9 disposition of funds and securities belonging to or in the
10 possession of the Commonwealth, and the settlement of claims
11 against the Commonwealth, the resettlement of accounts and
12 appeals to the courts, refunds of moneys erroneously paid to
13 the Commonwealth, auditing the accounts of the Commonwealth
14 and all agencies thereof, of all public officers collecting
15 moneys payable to the Commonwealth, or any agency thereof,
16 and all receipts of appropriations from the Commonwealth,
17 authorizing the Commonwealth to issue tax anticipation notes
18 to defray current expenses, implementing the provisions of
19 section 7(a) of Article VIII of the Constitution of
20 Pennsylvania authorizing and restricting the incurring of
21 certain debt and imposing penalties; affecting every
22 department, board, commission, and officer of the State
23 government, every political subdivision of the State, and
24 certain officers of such subdivisions, every person,
25 association, and corporation required to pay, assess, or
26 collect taxes, or to make returns or reports under the laws
27 imposing taxes for State purposes, or to pay license fees or
28 other moneys to the Commonwealth, or any agency thereof,
29 every State depository and every debtor or creditor of the
30 Commonwealth," providing for legislative intent; further

1 providing for retention of records and for violations and
2 penalties; and providing for property rights and for prompt
3 payment.

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

6 Section 1. The act of April 9, 1929 (P.L.343, No.176), known
7 as The Fiscal Code, is amended by adding a section to read:

8 Section 201.1-A. Legislative Intent.--It is hereby declared
9 to be in the public interest of this Commonwealth:

10 (1) To prohibit advertising or offering cigarettes for sale
11 below cost if the intent is to increase the incidence of
12 cigarette usage or to injure, destroy or substantially lessen
13 competition.

14 (2) To declare such practice to be unfair, deceptive and
15 adverse to the collection of taxes from the sale of cigarettes.

16 (3) To license cigarette dealers to effect the orderly
17 collection of taxes, to prevent fraudulent sales and to control
18 the marketing of cigarettes.

19 (4) To promote fair competition.

20 (5) To lessen the incidence of sales to minors.

21 Section 2. Section 214-A of the act, added July 2, 1993
22 (P.L.250, No.46), is amended to read:

23 Section 214-A. [Retention of] Required Records.--(a) Every
24 licensed dealer shall keep and maintain for a period of four
25 years such records in such form as the department shall by
26 regulation prescribe. The records shall be maintained at the
27 location for which the license is issued.

28 (b) A contract of sale complying with the provisions of this
29 article shall be signed by the parties to a sale of cigarettes
30 and shall be kept on file by each party at the location for
31 which the license is issued.

1 Section 3. The act is amended by adding a section to read:

2 Section 216.1-A. Property Rights.--A purchasing dealer shall
3 not have any property rights in any cigarette package to which a
4 tax stamp is affixed until the purchasing dealer pays in full
5 for the package.

6 Section 4. Section 229-A(c.1) of the act, added December 15,
7 1999 (P.L.942, No.66), is amended and the section is amended by
8 adding a subsection to read:

9 Section 229-A. Violations and Penalties.--* * *

10 (c.1) A person who violates section 217.1-A shall be subject
11 to a civil penalty equal to two hundred per centum of the value
12 of the cigarettes or two thousand five hundred dollars (\$2,500),
13 whichever is greater. The cigarettes, vending machine,
14 machinery, equipment or vehicles involved in a violation of
15 section 217.1-A shall be confiscated by the [department] office
16 and forfeited to the Commonwealth in accordance with section
17 1285 of the act of March 4, 1971 (P.L.6, No.2), known as the
18 "Tax Reform Code of 1971." Upon a second or subsequent violation
19 of section 217.1-A, the department may revoke the license of the
20 person. The licensee and any other person with an equitable
21 interest in the license may be prohibited from holding an
22 interest in any license issued pursuant to this act for a period
23 of up to two years.

24 * * *

25 (g) Any licensee who fails to pay for cigarettes in full
26 upon delivery or according to the contract of sale, but in no
27 event not more than fourteen (14) days after delivery, violates
28 this article and the licensee's license shall be suspended until
29 payment is made in full. The licensee and any other person with
30 an equitable interest in the license shall be prohibited from

1 holding an interest in any other license issued pursuant to this
2 article. Payment on delivery by a check that is dishonored
3 constitutes a failure to pay in full upon delivery.

4 Section 5. This act shall take effect immediately.