

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1394 Session of
2008

INTRODUCED BY HUGHES, KITCHEN, COSTA, FUMO, C. WILLIAMS, MUSTO
AND KASUNIC, MAY 7, 2008

REFERRED TO FINANCE, MAY 7, 2008

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing, in cigarette tax, for the
11 incidence and rate of tax, for floor tax, for the Health Care
12 Provider Retention Account and for commission on sales.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 1206, 1206.1, 1211 and 1216 of the act
16 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
17 1971, amended or added December 23, 2003 (P.L.250, No.46), are
18 amended to read:

19 Section 1206. Incidence and Rate of Tax.--An excise tax is
20 hereby imposed and assessed upon the sale or possession of
21 cigarettes within this Commonwealth at the rate of [six and
22 seventy-five hundredths cents] seven and twenty-five hundredths

1 cents per cigarette.

2 Section 1206.1. Floor Tax.--(a) A person who possesses
3 cigarettes on which the tax imposed by section 1206 has been
4 paid as of the effective date of this section shall pay an
5 additional tax at a rate of [one and seventy-five hundredths
6 cents] one-half cent per cigarette. The tax shall be paid and
7 reported on a form prescribed by the department within ninety
8 days of the effective date of this section.

9 (b) If a cigarette dealer fails to file the report required
10 by subsection (a) or fails to pay the tax imposed by subsection
11 (a), the department may, in addition to the interest and
12 penalties provided in section 1278, do any of the following:

13 (1) Impose an administrative penalty equal to the amount of
14 tax evaded or not paid. The penalty shall be added to the tax
15 evaded or not paid and assessed and collected at the same time
16 and in the same manner as the tax.

17 (2) Suspend or revoke a cigarette dealer's license.

18 (c) In addition to any penalty imposed under subsection (b),
19 a person who wilfully omits, neglects or refuses to comply with
20 a duty imposed under subsection (a) commits a misdemeanor and
21 shall, upon conviction, be sentenced to pay a fine of not less
22 than two thousand five hundred dollars (\$2,500) nor more than
23 five thousand dollars (\$5,000), to serve a term of imprisonment
24 not to exceed thirty days or both.

25 Section 1211. Health Care Provider Retention Account.--
26 [There is established in the General Fund a special account to
27 be known as the Health Care Provider Retention Account. Eighteen
28 and fifty-two hundredths] Seventeen and twenty-four hundredths
29 per cent of the proceeds of the tax imposed by section 1206
30 shall be deposited in the [account. Funds in the account shall

1 be subject to an annual appropriation and shall be administered
2 as provided by law.] Health Care Provider Retention Account
3 established under section 1112 of the act of March 20, 2002
4 (P.L.154, No.13), known as the "Medical Care Availability and
5 Reduction of Error (Mcare) Act."

6 Section 1216. Commissions on Sales.--A cigarette stamping
7 agent shall be entitled to a commission for the agent's services
8 and expenses in affixing cigarette tax stamps. The commission
9 shall be equal to [ninety-eight] ninety-two hundredths per cent
10 of the total value of Pennsylvania cigarette tax stamps
11 purchased by the agent from the department or its authorized
12 agents to be used in the stamping of packages of cigarettes for
13 sale within this Commonwealth. The cigarette stamping agent may
14 deduct from the moneys to be paid to the department or its
15 authorized agents for the stamps an amount equal to [ninety-
16 eight] ninety-two hundredths per cent of the value of the stamps
17 purchased. This section shall not apply to purchases of stamps
18 by a cigarette stamping agent in an amount less than one hundred
19 dollars (\$100).

20 Section 2. This act shall take effect in 15 days, or July
21 18, 2008, whichever is later.