
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 837 Session of
2023

INTRODUCED BY FLYNN, FONTANA, COSTA, ARGALL AND CULVER,
JULY 6, 2023

REFERRED TO FINANCE, JULY 6, 2023

AN ACT

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

1 Commonwealth," in cigarette sales and licensing, further
2 providing for definitions and providing for presumed cost of
3 doing business by retailer.

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

6 Section 1. The definition of "cost of the retailer" in
7 section 202-A of the act of April 9, 1929 (P.L.343, No.176),
8 known as The Fiscal Code, is amended to read:

9 Section 202-A. Definitions.--As used in this article--

10 * * *

11 "Cost of the Retailer" shall mean the basic cost of
12 cigarettes to the retailer plus the cost of doing business by
13 the retailer in excess of the basic cost of cigarettes,
14 expressed as a percentage and applied to the basic cost of
15 cigarettes. In the absence of filing of satisfactory proof of a
16 lesser or higher cost of doing business by the retailer making
17 the sale, the cost of doing business by the retailer shall be
18 presumed to be [seven] the per centum as provided in section
19 234-A of the basic cost of cigarettes to the retailer. When a
20 retailer establishes a lesser cost of doing business than the
21 presumptive [seven] per centum cost of doing business as
22 provided in section 234-A, such lesser cost of doing business
23 may be used to compute the cost of the retailer for a period of
24 time no greater than twelve months, at the end of which time the
25 cost to the retailer shall be computed using the presumptive
26 [seven] per centum cost of doing business as provided in section
27 234-A, unless the retailer again establishes a lesser cost of
28 doing business. Any fractional part of a cent in such cost per
29 carton shall be rounded off to the next higher cent. In the case
30 of any person who purchases cigarettes for sale at retail from
31 any manufacturer of cigarettes without resort to a wholesaler as

1 such, such person shall be deemed, for the purposes of this
2 article, to be engaged in the sale of cigarettes as a stamping
3 agent, wholesaler and retailer and as such shall be subject to
4 all mark-up provisions of this article in the order named.

5 * * *

6 Section 2. The act is amended by adding a section to read:

7 Section 234-A. Presumed Cost of Doing Business By

8 Retailer.--The presumed cost of doing business by a retailer
9 making the sale shall be the following per centum:

10 (1) Beginning July 1, 2023, through December 31, 2023, nine
11 per centum.

12 (2) Beginning January 1, 2024, through December 31, 2024,
13 ten per centum.

14 (3) Beginning January 1, 2025, through December 31, 2025,
15 eleven per centum.

16 (4) Beginning January 1, 2026, and thereafter, twelve per
17 centum.

18 Section 3. This act shall take effect immediately.