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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
UNFAIR SALES PRACTICES

Introduced By: Representatives Phillips, Morin, Millea, and Costantino

Date Introduced: February 26, 2020

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 6-13-1 of the General Laws in Chapter 6-13 entitled "Unfair Sales
2 Practices" is hereby amended to read as follows:

3 **6-13-1. Definitions.**

4 (a) "Cost to the retailer" means the invoice cost of the merchandise to the retailer within
5 thirty (30) days prior to the date of the sale, or the replacement cost of the merchandise to the
6 retailer within thirty (30) days prior to the date of the sale, in the quantity last purchased, whichever
7 is lower; less all trade discounts except customary discounts for cash; to which shall be added:

8 (1) Freight charges not otherwise included in the cost of the merchandise;

9 (2) Cartage to the retail outlet if performed or paid for by the retailer, which cartage cost
10 shall be deemed to be ~~three fourths of one percent (0.75%)~~ two percent (2%) of the cost of the
11 merchandise to the retailer, unless the retailer claims and proves a lower cartage cost; and

12 (3) A markup to cover in part the cost of doing business, which markup, in the absence of
13 proof of a lesser cost, shall be ~~six percent (6%)~~ eight percent (8%) of the total cost at the retail
14 outlet.

15 (b) "Cost to the wholesaler" means the invoice cost of the merchandise to the wholesaler
16 within thirty (30) days prior to the date of the sale, or the replacement cost of the merchandise to
17 the wholesaler within thirty (30) days prior to the date of the sale, in the quantity last purchased,
18 whichever is lower; less all trade discounts except customary discounts for cash; to which shall be

1 added:

2 (1) Freight charges not otherwise included in the cost of the merchandise;

3 (2) Cartage to the retail outlet if performed or paid for by the wholesaler, which cartage
4 cost shall be deemed to be ~~three-fourths of one percent (0.75%)~~ two percent (2%) of the cost of the
5 merchandise to the wholesaler, unless the wholesaler claims and proves a lower cartage cost; and

6 (3) A markup to cover in part the cost of doing business, which markup, in the absence of
7 proof of a lesser cost, shall be ~~two percent (2%)~~ four percent (4%) of the total cost at the wholesale
8 establishment; provided, for the sale of cigarettes there shall be a minimum markup of seven percent
9 (7%).

10 (c) Where two (2) or more items are advertised; offered for sale; or sold at a combined
11 price; the price of each item shall be determined in the manner stated in subsections (a) and (b).

12 (d) "Sell at retail", "sales at retail", and "retail sale" mean and include any transfer of title
13 to tangible personal property for a valuable consideration made in the ordinary course of trade or
14 in the usual prosecution of the seller's business to the purchaser for consumption or use other than
15 resale or further processing or manufacturing. In this and in the preceding subsection the previous
16 terms shall include any transfer of property where title is retained by the seller as security for the
17 payment of the purchase price.

18 (e) "Retailer" means and includes every person, co-partnership, corporation, or association
19 engaged in the business of making sales at retail within this state; provided, that, in the case of a
20 retailer engaged in the business of making sales both at retail and at wholesale, the term shall be
21 applied only to the retail portion of the business.

22 (f) "Wholesaler" means and includes every person, partnership, corporation, or association
23 engaged in the business of making sales at wholesale within this state; provided, that, in the case
24 of a wholesaler engaged in the business of making sales both at wholesale and at retail, the term
25 shall be applied only to the wholesale portion of the business.

26 (g) Whenever any person, partnership, corporation, or association in the course of doing
27 business performs the functions of both wholesaler and retailer without actually being engaged in
28 the business of making sales at wholesale, the term "wholesaler" means and includes that function
29 of the business of preparation for sale at the retail outlet, and the term "retailer" shall be applied
30 only to the retail portion of the business.

31 (h) "Household" means and includes those who dwell under the same roof, house, or
32 apartment.

33 (i) "Rebate" means a refund of a portion of the purchase price made to consumer to induce
34 purchase of product.

1 SECTION 2. Chapter 44-20 of the General Laws entitled "Cigarette and Other Tobacco
2 Products Tax" is hereby amended by adding thereto the following section:

3 **44-20-12.7. Minimum pricing of cigarettes.**

4 Notwithstanding any rule, regulation or state law to the contrary, a minimum markup of
5 seven percent (7%) shall be added to the total cost of cigarettes sold by a retailer. The total cost
6 shall include the invoice cost of the merchandise to the retailer plus the cigarette excise tax imposed
7 by § 44-20-12 plus freight charges and cartage cost to the retail outlet if performed or paid for by
8 the retailer. The minimum markup of seven percent (7%) shall not be deemed to be an unfair sales
9 practice pursuant to chapter 13 of title 6. The tax administrator shall promulgate rules and
10 regulations consistent with this section.

11 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would create a minimum markup of seven percent (7%) to the total cost of
2 cigarettes sold by a retailer. This act would change the cost to the retailer for cartage from three-
3 fourth of one percent (.75%) to two percent (2%) of the cost of merchandise and the markup to
4 cover in part the cost of doing business from six percent (6%) to eight percent (8%). Additionally
5 this act would change the cost to the wholesaler for cartage from three-fourth of one percent (.75%)
6 to two percent (2%) of the cost of merchandise and the markup to cover in part the cost of doing
7 business from two percent (2%) to four percent (4%).

8 This act would take effect upon passage.

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