

SENATE No. 491

To accompany the petition of the Associated Greater Boston Tobacco Retailers, Inc., by Wolf Cohen, president, that certain changes be made in the laws relative to the excise on cigarettes. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Nine.

AN ACT MAKING CERTAIN CHANGES IN THE LAWS RELATIVE TO THE CIGARETTE EXCISE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 13 of chapter 64C of the Gen-
2 eral Laws, inserted by section 1 of chapter 547 of the
3 acts of 1945, is hereby amended by striking out para-
4 graphs (a) to (d), inclusive, and inserting in place
5 thereof the following: —

6 (a) The term "cost to the retailer" shall mean the
7 invoice cost of the cigarettes to the retailer, or the
8 replacement cost of the cigarettes to the retailer within
9 thirty days prior to the date of sale, in the quantity
10 last purchased, whichever is lower, less all customary
11 trade discounts, except discounts for cash, plus taxes
12 imposed by this chapter; to which shall be added the
13 cost of doing business by said retailer in the sale of
14 both cigarettes and other merchandise or services as
15 evidenced by the standards and methods of account-

16 ing commonly used in the trade in the allocation of
17 overhead costs and expenses, paid or incurred, and
18 must include, without limitation, labor (including
19 salaries of executives and officers), rent, depreciation,
20 selling costs, maintenance of equipment, delivery costs,
21 interest on borrowed capital, all types of licenses,
22 taxes, insurance, advertising and all other costs.

23 (b) In the absence of proof of a lesser or higher cost
24 of doing business by the retailer making the sale, the
25 cost of doing business by the retailer shall be pre-
26 sumed to be ten per centum of the invoice cost of the
27 cigarettes to the retailer, or the replacement cost of
28 the cigarettes to the retailer within thirty days prior
29 to the date of sale, in the quantity last purchased,
30 whichever is lower, less all customary trade discounts,
31 except cash discounts, plus taxes imposed by this
32 chapter.

33 (c) The term "cost to the wholesaler" shall mean
34 the invoice cost of the cigarettes to the wholesaler, or
35 the replacement cost of the cigarettes to the whole-
36 saler within thirty days prior to the date of sale, in
37 the quantity last purchased, whichever is lower, less
38 all customary trade discounts except discounts for
39 cash, plus taxes imposed by this chapter; to which
40 shall be added a wholesaler's mark-up to cover in
41 part the cost of doing business, which wholesaler's
42 mark-up, in the absence of proof of a lesser or higher
43 cost of doing business by the said wholesaler as evi-
44 denced by the standards and methods of accounting,
45 commonly used in the trade in the allocation of over-
46 head cost and expenses, paid or incurred, including,
47 without limitation, labor, salaries of executives and
48 officers, rent, depreciation, selling costs, maintenance
49 of equipment, delivery, delivery costs, credit losses,

50 interest on borrowed capital, all types of licenses,
51 taxes, insurance and advertising, shall be two per
52 centum of said invoice cost of the cigarettes to the
53 wholesaler plus cartage to the retail outlet if per-
54 formed or paid for by the wholesaler, which cartage
55 cost shall be deemed to be three fourths of one per
56 cent of the cost of the cigarettes to the wholesaler,
57 unless said wholesaler claims and proves a lower
58 cartage cost, or of the replacement cost of the ciga-
59 rettes to the wholesaler within thirty days prior to
60 the date of sale, in the quantity last purchased, which-
61 ever is lower, less all customary trade discounts, except
62 discounts for cash.

63 (d) In the absence of proof of a lesser or higher
64 cost of doing business, the cost of doing business to
65 the retailer, who received in connection with the re-
66 tailer's purchase not only the discounts ordinarily al-
67 lowed upon purchases by a retailer but also in whole
68 or in part the discounts ordinarily allowed upon pur-
69 chases by a wholesaler, shall be presumed to be ten
70 per centum of both the invoice cost of the cigarettes
71 to such retailer or the replacement cost of the ciga-
72 rettes to such retailer within thirty days prior to the
73 date of sale, in the quantity last purchased, whichever
74 is lower, less all trade discounts except discounts for
75 cash, plus taxes imposed by this chapter and "whole-
76 saler's mark-up."

1 SECTION 2. Said section 13 is hereby further
2 amended by striking out paragraph (g) and inserting
3 in place thereof the following: —

4 (g) The wholesaler, vending machine operator,
5 transportation company or unclassified acquirer who
6 purchases cigarettes directly from a manufacturer or

7 from a wholesaler or from an unlicensed person, for
8 sale at retail in determining "cost to the retailer"
9 pursuant to subdivision (a) of this section shall add
10 the "wholesaler's mark-up" to the invoice cost of the
11 cigarettes to said retailer, or the replacement cost of
12 the cigarettes to said retailer within thirty days prior
13 to the date of sale, in the quantity last purchased,
14 whichever is lower, less all trade discounts except dis-
15 counts for cash, plus taxes imposed by this chapter,
16 before adding the "retailer's cost of doing business."

1 SECTION 3. Said chapter 64C is hereby further
2 amended by striking out section 14 and inserting in
3 place thereof the following:—

4 *Section 14.* (a) It shall be unlawful for any retailer,
5 with intent to injure competitors, destroy substantially
6 or lessen competition, to advertise, offer to sell or sell
7 at retail cigarettes at less than cost to the retailer, or
8 to purchase from the wholesalers at a price less than
9 cost to wholesaler, or for any wholesaler, with intent
10 to injure competitors, destroy substantially or lessen
11 competition, to advertise, offer to sell or sell at whole-
12 sale cigarettes at less than cost to the wholesaler.
13 Any such retailer or wholesaler violating this sub-
14 section shall be punished by a fine of not more than
15 five hundred dollars.

16 (b) Evidence of advertisement offering to sell, or
17 sale, of cigarettes by any retailer or wholesaler at less
18 than cost to him, shall be conclusive evidence of intent
19 to injure competitors, destroy substantially or lessen
20 competition.

1 SECTION 4. Said chapter 64C is hereby further
2 amended by striking out section 20 and inserting in
3 place thereof the following:—

4 *Section 20.* Where a cost survey has been made
5 by the trade said survey may be used by the com-
6 missioner in establishing the lowest proof of cost of
7 doing business throughout the commonwealth and said
8 cost survey shall be deemed competent evidence to
9 be used in proving the cost to the person complained
10 against within the provisions of sections thirteen to
11 twenty-one, inclusive.

The first part of the report is devoted to a general description of the country and its resources. It is found that the country is well adapted for agriculture and stock raising. The soil is fertile and the climate is healthy. There is a great abundance of timber and other natural resources. The population is increasing rapidly and the country is becoming more and more settled.

The second part of the report is devoted to a description of the various industries and occupations of the country. It is found that agriculture is the principal occupation of the people. The principal crops raised are wheat, corn, and cotton. Stock raising is also an important industry. The principal animals raised are horses, cattle, and sheep. There is also a considerable amount of mining and other industries.

The third part of the report is devoted to a description of the various towns and cities of the country. It is found that there are several towns and cities of considerable size and importance. The principal towns are [Name of Town], [Name of Town], and [Name of Town]. These towns are all well situated and have a large amount of business. There are also several smaller towns and villages scattered throughout the country.

The fourth part of the report is devoted to a description of the various public buildings and institutions of the country. It is found that there are several public buildings and institutions of considerable size and importance. The principal public buildings are the [Name of Building], [Name of Building], and [Name of Building]. There are also several schools, churches, and other institutions.

The fifth part of the report is devoted to a description of the various public works and improvements of the country. It is found that there are several public works and improvements of considerable size and importance. The principal public works are the [Name of Work], [Name of Work], and [Name of Work]. There are also several bridges, roads, and other improvements.

The sixth part of the report is devoted to a description of the various public charities and institutions of the country. It is found that there are several public charities and institutions of considerable size and importance. The principal public charities are the [Name of Charity], [Name of Charity], and [Name of Charity]. There are also several hospitals, orphanages, and other institutions.

The seventh part of the report is devoted to a description of the various public libraries and schools of the country. It is found that there are several public libraries and schools of considerable size and importance. The principal public libraries are the [Name of Library], [Name of Library], and [Name of Library]. There are also several schools, colleges, and other institutions.

The eighth part of the report is devoted to a description of the various public parks and recreation grounds of the country. It is found that there are several public parks and recreation grounds of considerable size and importance. The principal public parks are the [Name of Park], [Name of Park], and [Name of Park]. There are also several recreation grounds, sports grounds, and other institutions.

The ninth part of the report is devoted to a description of the various public hospitals and medical institutions of the country. It is found that there are several public hospitals and medical institutions of considerable size and importance. The principal public hospitals are the [Name of Hospital], [Name of Hospital], and [Name of Hospital]. There are also several medical institutions, dispensaries, and other institutions.

The tenth part of the report is devoted to a description of the various public asylums and institutions of the country. It is found that there are several public asylums and institutions of considerable size and importance. The principal public asylums are the [Name of Asylum], [Name of Asylum], and [Name of Asylum]. There are also several institutions for the deaf and dumb, the blind, and other institutions.

The eleventh part of the report is devoted to a description of the various public works and improvements of the country. It is found that there are several public works and improvements of considerable size and importance. The principal public works are the [Name of Work], [Name of Work], and [Name of Work]. There are also several bridges, roads, and other improvements.

The twelfth part of the report is devoted to a description of the various public charities and institutions of the country. It is found that there are several public charities and institutions of considerable size and importance. The principal public charities are the [Name of Charity], [Name of Charity], and [Name of Charity]. There are also several hospitals, orphanages, and other institutions.

The thirteenth part of the report is devoted to a description of the various public libraries and schools of the country. It is found that there are several public libraries and schools of considerable size and importance. The principal public libraries are the [Name of Library], [Name of Library], and [Name of Library]. There are also several schools, colleges, and other institutions.

The fourteenth part of the report is devoted to a description of the various public parks and recreation grounds of the country. It is found that there are several public parks and recreation grounds of considerable size and importance. The principal public parks are the [Name of Park], [Name of Park], and [Name of Park]. There are also several recreation grounds, sports grounds, and other institutions.

The fifteenth part of the report is devoted to a description of the various public hospitals and medical institutions of the country. It is found that there are several public hospitals and medical institutions of considerable size and importance. The principal public hospitals are the [Name of Hospital], [Name of Hospital], and [Name of Hospital]. There are also several medical institutions, dispensaries, and other institutions.

The sixteenth part of the report is devoted to a description of the various public asylums and institutions of the country. It is found that there are several public asylums and institutions of considerable size and importance. The principal public asylums are the [Name of Asylum], [Name of Asylum], and [Name of Asylum]. There are also several institutions for the deaf and dumb, the blind, and other institutions.



