

By Mr. Stefanini of Framingham, petition of John A. Stefanini for legislation to prohibit the sale of cigarettes as "loss leaders", so-called, under the tax laws. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT RELATIVE TO THE SALE OF CIGARETTES.

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 12 of chapter 64C of the General Laws, as
2 appearing in the Official Edition, is hereby amended by striking
3 section 12 and inserting in place thereof the following new
4 section:—

5 Section 12. No person shall be permitted to sell cigarettes as
6 "loss-leaders" with intent to injure competitors or to destroy compe-
7 tition. In order to maintain prices that will discourage children from
8 attempting to purchase cigarettes, no person shall sell cigarettes
9 below ninety-five per cent of the minimum price determined under
10 the provisions of section thirteen. The commissioner shall enforce
11 sections thirteen to twenty-one, inclusive, in order to prohibit such
12 sales and stabilize and increase collections under this chapter.

1 SECTION 2. Said chapter 64C is hereby further amended in
2 section 13, subparagraph (b) by striking the word "proof" and
3 inserting in place thereof the words "a claim filed with the com-
4 missioner".

1 SECTION 3. Said section 13 of chapter 64C is hereby further
2 amended in sub-paragraph (c) by striking the word "proof" and
3 inserting in place thereof the words "a claim filed with the com-
4 missioner".

1 SECTION 4. Said section 13 of chapter 64C is hereby further
2 amended in sub-paragraph (d) by striking the word "proof" and

3 inserting in place thereof the words “a claim filed with the com-
4 missioner”.

1 SECTION 5. Said section 13 of chapter 64C is hereby further
2 amended in sub-paragraph (f) by adding at the end of the second
3 sentence the words “only to retailers licensed under this chapter.”

1 SECTION 6. Said section 13 of chapter 64C is hereby further
2 amended by adding the following new subparagraph:—

3 (h) Upon receiving a claim of a lesser or higher cost of doing
4 business from a retailer or wholesaler licensed under this chapter,
5 the commissioner shall review documentation of said claim and
6 upon finding said claim to appear to be valid, may authorize the
7 claimant to sell at a price up to, but not less than ninety-five per
8 cent of the minimum price established by the commissioner under
9 the provisions of this section. Such claims are subject to review
10 annually. No retailer or wholesaler may sell below the minimum
11 price unless said retailer or wholesaler has been authorized by the
12 commissioner pursuant to a claim on file except as provided in
13 section 16.

1 SECTION 7. Said Chapter 64C is hereby further amended in
2 section 16 by striking the first sentence and inserting in place
3 thereof the following new sentence:— “Any retailer or wholesaler
4 may advertise, offer to sell or sell cigarettes at a price made in
5 good faith to meet the prices of a competitor in the retailer or
6 wholesaler’s own or contiguous community who is selling the
7 same article at cost to him as a wholesaler or retailer.”

1 SECTION 8. Said Chapter 64C is hereby further amended in
2 section 18 by adding the following new paragraph:—

3 “In determining under any provision of sections thirteen
4 through twenty-one, inclusive, whether the price received by a
5 wholesaler or retailer in a sale of cigarettes is less than the cost of
6 the cigarettes to the wholesaler or retailer, all payments by the
7 manufacturer (whether by means of coupons, stickers, buy-downs,
8 concessions, or otherwise) that are intended as a contribution to
9 the retail price paid by a consumer shall be included in the calcu-
10 lation of the price received by the wholesaler or retailer.”