

By Mr. Piro of Somerville, petition of Vincent J. Piro relative to regulating credit on the sale of cigarettes. Commerce and Labor.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty.

AN ACT REGULATING CREDIT ON 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. Chapter 138 of the General Laws is hereby  
2 amended by inserting after section 25E the following section: —

3 *Section 25F.* It shall be unlawful for any licensee under section  
4 2 of chapter 64C to receive or extend credit, directly or indirectly  
5 for cigarettes sold or delivered to any licensee engaged in the sale of  
6 cigarettes except in the usual course of business and for a period of  
7 not more than forty-five days. Nothing in this chapter shall require  
8 any manufacturer or wholesaler to extend credit to any licensee.

9 The credit period shall be calculated from the date of the delivery of  
10 the cigarettes to the purchaser to the date when the purchaser  
11 discharges in full the indebtedness for which the credit was  
12 extended. If any licensee does not discharge in full any such in-  
13 debtedness within such forty-five day period, the licensed whole-  
14 saler who extended the credit shall mail within three days a letter  
15 of notice by certified mail to the commission and a copy thereof to  
16 the delinquent licensee. The letter of notice shall be in forms  
17 provided by the commission. The notice shall contain the name of  
18 the delinquent licensee, the date of delivery of the cigarettes and the  
19 amount of the indebtedness remaining undischarged.

20 Within five days after receipt of such a letter of notice, the  
21 commission shall post the name and address only of the delinquent  
22 licensee in a delinquent list containing the names and addresses of  
23 all delinquent licensees. Such posting shall constitute notice to all  
24 licensees of the delinquency of such licensee.

25 If a licensee is seriously damaged in his business by riot, insurrec-  
26 tion, civil disturbance, fire, explosion or by an act of God, so-  
27 called, the licensee may file an application with the commission  
28 requesting that the provisions of the first paragraph of this section  
29 be suspended as to him for a reasonable period. The commission  
30 shall set down the application for hearing within twenty-one days  
31 and shall notify all licensees engaged in selling to said applicant of  
32 the hearing and give all interested parties the right to be heard.  
33 Pending such hearing the commission may, after an investigation  
34 and determination that the facts as stated by the licensee in his  
35 application would constitute reasonable grounds for relief, order  
36 that such licensee shall not be posted as delinquent. If the commis-  
37 sion finds it is in the public interest to do so, it may suspend the  
38 application of said first paragraph with respect to the applicant for  
39 such period as it may consider to be reasonable and in the public  
40 interest. Such action shall not deprive creditors of all legal rights  
41 available to them for the collection of the indebtedness and shall be  
42 contingent on such terms and conditions as the commission shall  
43 determine.

44 No licensee under this chapter shall sell or deliver, directly or  
45 indirectly, cigarettes to a licensee whose name is posted on the  
46 delinquent list, except for payment in cash on or before delivery,  
47 and no licensee who is posted on the delinquent list shall purchase  
48 or accept delivery of any cigarettes except for payment in cash on  
49 or before delivery.

50 No licensee shall sell or deliver any cigarettes to any licensee  
51 under this chapter whose name has appeared on the delinquent list  
52 on forty-five or more consecutive days, and no licensee whose  
53 name has appeared on the delinquent list on forty-five or more  
54 consecutive days shall purchase or accept delivery of any  
55 cigarettes.

56 Upon full discharge of the indebtedness for which a licensee was  
57 posted, the licensee who filed the letter of notice of delinquency  
58 shall, within twenty-four hours thereafter, notify the commission,  
59 by mailing a letter by certified mail addressed to the commissioner  
60 of the discharge of the indebtedness. The commission shall imme-  
61 diately strike the name of the delinquent licensee from the list. The  
62 commission shall by regulations prescribe how licensees, other

63 than the two concerned, shall be notified of the filing of the name of  
64 a licensee on the delinquency list and of the removal of the name of  
65 a delinquent from such list. If, after a hearing, the commission  
66 finds that any licensee has willfully violated this section or partici-  
67 pated in such violation, the commission may suspend the license of  
68 the licensee until full discharge of the indebtedness.

69 Notwithstanding and in lieu of any other penalty in any other  
70 provision of this chapter, any person who violates any provisions  
71 of this section shall be punished by a fine of not more than five  
72 thousand dollars.

73 The posting list shall be available for inspection by any licensee  
74 or his duly authorized agent only.

75 The provisions of this section shall be enforced by the Alcoholic  
76 Beverages Control Commission.

1 SECTION 2. Said chapter 138 is hereby further amended by  
2 inserting after section 20A the following section: —

3 *Section 20B.* Each wholesaler of cigarettes shall pay to the  
4 Alcoholic Beverages Control Commission a fee of two hundred  
5 dollars as an excise for the enforcement of the provisions of Section  
6 25F.

1 SECTION 3. The provisions of section 25F of chapter 138 of  
2 the General Laws inserted by section one of this act, shall not apply  
3 to credit extended prior to the effective date of this act.

1 SECTION 4. This Act shall take effect immediately upon its  
2 passage.

