

ACTS, 1989. - Chap. 60.

Be it enacted, etc., as follows:

Section 34 of chapter 438 of the acts of 1896, as amended by chapter 556 of the acts of 1948, is hereby further amended by striking out, in line 8, clause III and inserting in place thereof the following clause:- III. - A city solicitor, to be confirmed by the board of aldermen. Should the board of aldermen fail to confirm the appointment or reappointment of the city solicitor, the assistant city solicitor shall assume the duties of the city solicitor until the appointment of a city solicitor is confirmed.

Approved May 4, 1989.

Chapter 60. AN ACT FURTHER REGULATING THE WHOLESALER'S MARK-UP ON CIGARETTES.

Be it enacted, etc., as follows:

Section 13 of chapter 64C of the General Laws, as appearing in the 1986 Official Edition, is hereby amended by striking out subdivision (c) and inserting in place thereof the following subdivision:-

(c) The term "cost to the wholesaler" shall mean the invoice cost of the cigarettes to the wholesaler, or the replacement cost of the cigarettes to the wholesaler within thirty days prior to the date of sale, in the quantity last purchased, whichever is lower, less all trade discounts except customary discounts for cash; to which shall be added a wholesaler's mark-up to cover in part the cost of doing business, which wholesaler's mark-up, in the absence of proof of a lesser or higher cost of doing business by the said wholesaler as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead cost and expenses, paid or incurred, including without limitation, labor, salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery, delivery costs, all types of licenses, taxes, insurance and advertising, shall be two per centum of said invoice cost of the cigarettes to the wholesaler, except for sales to chain stores which shall be one-half per centum, plus cartage to the retail outlet if performed or paid for by the wholesaler, which cartage cost shall be deemed to be three-fourths of one percent of the cost of the cigarettes to the wholesaler, unless said wholesaler claims and proves a lower cartage cost, or of the replacement cost of the cigarettes to the wholesaler within thirty days prior to the date of sale, in the quantity last purchased, whichever is lower, less all trade discounts except customary discounts for cash.

For the purpose of this subdivision, the term "chain store" shall mean any person or persons who own or maintain ten or more retail outlets in the commonwealth, having one hundred percent common ownership or any vending machine operator who operates vending machines in twenty-five or more locations.

ACTS, 1989. - Chap. 61.

Approved May 4, 1989.

Chapter 61. AN ACT RELATIVE TO THE HOUSING REVIEW BOARD OF THE TOWN OF AMHERST.

Be it enacted, etc., as follows:

SECTION 1. Section 3 of chapter 72 of the acts of 1986 is hereby amended by striking out paragraphs (b) and (c) and inserting in place thereof the following two paragraphs:-

(b) The board shall consist of seven members who shall be residents of the town of Amherst. The board members shall be appointed by the town manager and approved by the board of selectmen to serve without compensation. Three members shall be appointed to two year terms and two members shall be appointed to one year terms. Thereafter, as the terms of the appointed members expire, their successors shall be appointed to serve two year terms. Vacancies, other than by expiration of terms, shall be filled for the balance of the term by the town manager, with the approval of the board of selectmen. Every member, unless sooner removed, shall serve until the qualification of a successor. A panel of four board members shall be assigned to hear each petition, of whom only three shall preside and vote during the decision. The chair shall appoint the panelists in rotation and according to board members' schedules. If all four members have been present for the full hearing, upon closing the case, one member of the hearing panel shall be eliminated, by lottery, from the discussion of the findings and the vote on the decision.

(c) Five members of the board shall constitute a quorum for all board meetings except meetings of the board to deliberate and decide petitions after the close of the public hearing, for which three members of the panel as constituted pursuant to paragraph (b) shall constitute a quorum. Three members of said panel shall constitute a quorum for all public hearings.

SECTION 2. Clause (2) of paragraph (g) of said section 3 of said chapter 72 is hereby amended by inserting after the word "subsidy", in line 8, the words: - ; provided, however, that nothing in this paragraph shall be construed to exclude any unit from the jurisdiction of the board on the basis that the tenant, or tenants, of such unit receive subsidy from any governmental unit, agency, or authority under the guidelines set forth in the regulations of the relevant governmental unit, agency, or authority; and provided further, that nothing in this paragraph shall be construed to exclude any unit from the jurisdiction of the board where such exclusion will result in the cancellation or withdrawal, by law, of any subsidy provided to the tenant, or tenants, of such unit by any governmental unit, agency, or authority.

SECTION 3. Section 5 of said chapter 72 is hereby amended by striking