

56: 7-22

LEGISLATIVE HISTORY CHECKLIST

NJSA 56:7-22

Laws of 1974 Chapter 45

Bill No. S 831

Sponsor(s) Feldman & Dumont

Date Introduced February 11

Committee: Assembly Taxation

Senate Revenue, Finance & Appropriations

Amended during passage  Yes  No

Date of passage: Assembly May 13

Senate April 25

Date of approval June 24

Following statements are attached if available:

Sponsor statement Yes  No

Committee Statement: Assembly  No

Senate Yes  No

Fiscal Note Yes  No

Veto message  No

Message on signing  No

Following were printed:

Reports  No

Hearings  No

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CHAPTER 45 LAWS OF N. J. 1974  
APPROVED 6-24-74

SENATE, No. 831

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 11, 1974

By Senators FELDMAN and DUMONT

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to amend the "Unfair Cigarette Sales Act of 1952,"  
approved May 19, 1952 (P. L. 1952, c. 247).

1 BE IT ENACTED by the Senate and General Assembly of the State  
2 of New Jersey:

1 1. Section 5 of P. L. 1952, c. 247 (C. 56:7-22) is amended to read  
2 as follows:

3 5. a. The term "cost to the wholesaler" shall mean the "basic  
4 cost of cigarettes" to the wholesaler plus the "cost of doing  
5 business by the wholesaler," as evidenced by the standards and  
6 methods of accounting regularly employed by him in his allocation  
7 of overhead costs and expenses, paid or incurred, and must include,  
8 without limitation, labor costs (including salaries of executives  
9 and officers), rent, depreciation, selling costs, maintenance of  
10 equipment, delivery costs, all types of licenses, taxes, insurance  
11 and advertising.

12 b. In the absence of the filing with the director of satisfactory  
13 proof of a lesser or higher cost of doing business by the wholesaler  
14 making the sale, the "cost of doing business by the wholesaler"  
15 shall be presumed to be **[3½%]** 5.25% of the "basic cost of  
16 cigarettes" to the wholesaler, plus cartage to the retail outlet, if  
17 performed or paid for by the wholesaler, which cartage cost, in  
18 the absence of the filing with the director of satisfactory proof of  
19 a lesser or higher cost, shall be deemed to be ¾ of 1% of the "basic  
20 cost of cigarettes" to the wholesaler.

1 2. This act shall take effect immediately.

STATEMENT

This bill amends the Unfair Cigarette Sales Act which is designed  
to prevent the use of cigarettes as "loss leaders" through sales  
below cost. The bill conforms the 26-year-old presumption of "cost

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.**

of doing business by the wholesaler" with conditions as they exist today. It changes the presumptive cost from 3.5% to 5.25%. The higher level reflects all of today's overhead costs such as labor, rent, fuel and insurance, which have dramatically risen in recent years. The change will protect the State's revenue against the intrusion of "bootleg" cigarettes which flourish when there is an outbreak of "loss leader" competition.

It also should be noted that any wholesaler whose costs are less than the statutory presumption can sell at a lower price by showing proof of such cost to the Director of the Division of Taxation. All competitors are allowed to meet the lower cost.

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SENATE REVENUE, FINANCE AND APPROPRIATIONS  
COMMITTEE

STATEMENT TO  
SENATE, No. 831

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**STATE OF NEW JERSEY**

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DATED: APRIL 16, 1974

This bill amends the Unfair Cigarette Sales Act of 1952 by increasing the presumed cost of doing business by the cigarette wholesaler from 3.5% to 5.25%.

A wholesaler whose costs are below 5.25% would still be permitted to sell cigarettes at a lower price by providing proof of lower cost to the Division of Taxation.

This bill will not have any impact on tax revenues. It could result in an increase in the retail price of cigarettes to the consumer.

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FISCAL NOTE TO  
**SENATE, No. 831**

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**STATE OF NEW JERSEY**

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DATED: MAY 13, 1974

Senate Bill No. 831 amends the Unfair Cigarette Sales Act by increasing the presumptive "cost of doing business by the wholesaler" from 3½% to 5¼% of the "basic cost of cigarettes" to the wholesaler.

The Division of Taxation states that enactment of this legislation has no revenue implications inasmuch as it simply amends the "Unfair Cigarette Sales Act" with respect to the mark-up margin required by wholesalers in connection with cigarette sales.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.