

56:7-19

LEGISLATIVE HISTORY CHECKLIST

NJSA: 56:7-19

(Cigarette sales act - amend certain definitions)

LAWS OF: 1983

CHAPTER: 441

Bill No: S3030

Sponsor(s): Orechio

Date Introduced: January 20, 1983

Committee:

Assembly: Revenue, Finance and Appropriations

Senate: Labor, Industry and Professions

Amended during passage:

NO

Substituted A3071 (not attached since identical to S3030)

Date of Passage:

Assembly: November 21, 1983

Senate: June 20, 1983

Date of Approval: January 9, 1984

Following statements are attached if available:

Sponsor statement:

YES

Committee statement:

Assembly

YES

Senate

YES

Fiscal Note:

NO

Veto Message:

NO

Message on Signing:

NO

Following were printed:

Reports:

NO

Hearings:

NO

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CHAPTER 441 LAWS OF N. J. 1983
APPROVED 1-9-84

SENATE, No. 3030

STATE OF NEW JERSEY

INTRODUCED JANUARY 20, 1983

By Senator ORECHIO

Referred to Committee on Labor, Industry and Professions

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 2 of P. L. 1952, c. 247 (C. 56:7-19) is amended to read
2 as follows:

3 2. The following words, terms and phrases, when used in this act,
4 shall have the meaning ascribed to them in this section except
5 where the context clearly indicates a different meaning;

6 a. "Person" shall mean and include any individual, firm, asso-
7 ciation, company, partnership, corporation, joint stock company,
8 club, agency, syndicate, municipal corporation or other political
9 subdivision of this State, trust, receiver, trustee, fiduciary and con-
10 servator.

11 b. "Cigarettes" shall mean and include any roll for smoking,
12 made wholly or in part of tobacco, or of any other substance or
13 substances other than tobacco, irrespective of size, shape or flavor-
14 ing, the wrapper or cover of which is made of paper or any other
15 substance or material, excepting tobacco.

16 c. "Sale" shall mean any transfer for a consideration, exchange,
17 barter, gift, offer for sale and distribution in any manner or by
18 any means whatsoever.

19 d. "Wholesaler" shall include any person who:

20 (1) Purchases cigarettes directly from the manufacturer; or

21 (2) Purchases cigarettes from any other person who purchases
22 from the manufacturer and who acquires such cigarettes solely

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

Matter printed in italics *thus* is new matter.

23 for the purpose of bona fide resale to retail dealers or to other
24 persons for the purposes of resale only; or

25 (3) Service retail outlets by the maintenance of an established
26 place of business for the purchase of cigarettes, including, but not
27 limited to, the maintenance of warehousing facilities for the storage
28 and distribution of cigarettes.

29 Nothing contained herein shall prevent a person from qualifying
30 in different capacities as both a "wholesaler" and "retailer"
31 under the applicable provisions of this act.

32 e. "Retailer" shall mean and include any person who operates
33 a store, stand, booth, or concession for the purpose of making sales
34 of cigarettes at retail.

35 f. "Sell at retail," "sale at retail" and "retail sales" shall mean
36 and include any transfer of title to cigarettes for a valuable con-
37 sideration, made in the ordinary course of trade or usual conduct of
38 the seller's business, to the purchaser for consumption or use.

39 g. "Sell at wholesale," "sale at wholesale" and "wholesale
40 sales" shall mean and include any bona fide transfer of title to
41 cigarettes for a valuable consideration, made in the ordinary course
42 of trade or in the usual conduct of the wholesaler's business, to a
43 retailer for the purpose of resale.

44 h. "Basic cost of cigarettes" shall mean the invoice cost of
45 cigarettes to the retailer or wholesaler, as the case may be, or the
46 replacement cost of cigarettes, to the retailer or wholesaler, as
47 the case may be, in the quantity last purchased, whichever is lower,
48 less all trade discounts and [customary discounts] *the normal dis-*
49 *count for cash afforded for prompt payment, but excluding any*
50 *special, extraordinary, or anticipatory discounts for payment*
51 *within a shorter period of time than the prompt payment date re-*
52 *quired for eligibility for the normal discount for cash, to which*
53 shall be added the full face value of any stamps which may be
54 required by any cigarette tax act of this State and by ordinance
55 of any municipality thereof, now in effect or hereafter enacted, if
56 not already included by the manufacturer in his list price.

57 i. "Director" means the Director of the Division of Taxation,
58 in the Department of the Treasury.

59 j. "Business day" shall mean any day other than a Sunday or
60 a legal holiday.

1 2. This act shall take effect immediately.

STATEMENT

The term "customary discounts for cash" has recently been interpreted to include a manufacturer's special or extraordinary discount for prompt payment, reversing a longstanding interpretation to the contrary. This special extraordinary discount is unavailable to all wholesalers and retailers; therefore, resulting in unfair competition. Any action which fosters unfair competition among cigarette wholesalers or retailers is contrary to the policy of the act.

The proposed amendment will take from within the term "customary discounts for cash," the special extraordinary, or anticipatory cash discount thus increasing the basic cost of cigarettes to the wholesaler or retailer in order to place all manufacturers or retailers on a competitive level.

S 3030 (1983)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 3030

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 1983

Senate Bill No. 3030 amends the "Unfair Cigarette Sales Act of 1952" by excluding, from the definition of "discounts for cash", the manufacturer's special, extraordinary or anticipatory cash discounts which were not available to all wholesalers and retailers. This fostered unfair competition among cigarette wholesalers and retailers which is contrary to the policy of the act.

The exclusion of this special discount would result in an increase of the basic cost of cigarettes to wholesalers or retailers.

There is no estimate as to how much this would affect the basic cost.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 3030

STATE OF NEW JERSEY

DATED: MARCH 7, 1983

This bill which amends the "Unfair Cigarette Sales Act of 1952" provides that normal discounts for cash payments of invoices must be deducted from the invoice or replacement cost of cigarettes when the "basic cost of cigarettes" is calculated but any special, extraordinary, or anticipatory discounts for payment within a shorter period of time than the prompt payment date required for eligibility for the normal discount for cash would not be deducted from the invoice or replacement cost of cigarettes when the "basic cost of cigarettes" is calculated.

Under the "Unfair Cigarette Sales Act of 1952," a wholesaler (or retailer) may not sell at less than cost (N.J.S.A. 56:7-20).